

1. *Rental Payments.* The rental amount(s) shown in the “Equipment Rented” section of Page 1 of this Agreement is/are payable in advance at the time this Agreement is signed by Lessee.

2. *Security Deposit.* In addition to the rental amount(s), Lessee shall pay Tracked Out Adventures and Trails, LLC the Security Deposit specified in the “Equipment Rented” section on Page 1 of this Agreement which is payable in advance. The Security Deposit will be refunded to Lessee at the termination of the Agreement, the return of the Equipment in good condition and repair, and the payment in full of all amounts due under this Agreement, or at the option of Tracked Out Adventures and Trails, LLC, may be credited against any unpaid rental charges, damages to the Equipment, or other sums owed by Lessee to Tracked Out Adventures and Trails, LLC. Any amounts refundable to Lessee shall be paid within ten (10) working days after the Equipment is returned to Tracked Out Adventures and Trails, LLC in good condition and repair.

3. *Condition of Equipment.* Lessee acknowledges that by taking possession of and operating the Equipment, Lessee has had the opportunity to inspect the Equipment and that it has been received in good working condition and repair. Lessee agrees to return the Equipment in the same good condition and repair, reasonable wear and tear excepted.

Lessee acknowledges that each item of the Equipment is new or is a recent model and is rented **AS IS**.

Tracked Out Adventures and Trails, LLC is not a manufacturer of the equipment and has not made and does not make any representation, warranty, or covenant, express or implied, with respect to the condition, quality, durability or suitability of the equipment, nor of its merchantability or fitness for any particular purpose.

4. *Risk of Loss or Damage.*

- a. Insurance. Lessee understands that there is no insurance covering the Equipment.
- b. Responsibility. Lessee acknowledges that Lessee is fully and solely responsible for any damages, loss, injury or death which may arise from Lessee’s or any other person’s use of the Equipment during the term of this Agreement, other than use by Tracked Out Adventures and Trails, LLC, it’s agents, employees and representatives.
- c. Payment. LESSEE ASSUMES ALL RISK OF LOSS OR DAMAGE TO THE EQUIPMENT FROM ANY CAUSE and shall pay Tracked Out Adventures and Trails, LLC for all loss and damage to the Equipment during the term of this Agreement, including but not limited to, scratches, dents, cracks, breakage, bent parts or mechanical damage, ordinary

wear and tear excepted. Lessee shall make payment upon demand, but no later than when the Equipment is or should have been returned.

- d. Tracked Out Adventures and Trails LLC has authority to hold LESSEE's credit card for 24 hours after the equipment has been returned from the Lessee's possession back to Tracked Out Adventures and Trails, LLC. . Tracked Out Adventures and Trails, LLC will fully inspect equipment with less than 1 mile of travel added to any machine. Tracked Out Adventures and Trails, LLC has 24 hours to report any damage to LESSEE and is authorized to charge card for full damaged amounts.
- e. Amount of Damages. The measure of damages shall be the retail costs of new replacement parts, plus labor, plus Equipment down time, towing charges and such other costs and expenses, all as shall reasonably be determined by Tracked Out Adventures and Trails, LLC. Lessee acknowledges that making the Security Deposit or the Lessee's signing of a VISA, MasterCard, Discover, or other credit card authorization acceptable to Tracked Out Adventures and Trails, LLC, Lessee's signing of the Agreement is Lessee's authorization to pay Tracked Out Adventures and Trails, LLC the amount(s) determined by Tracked Out Adventures and Trails, LLC for any damages or loss arising from or related to Lessee's use of the Equipment. Tracked Out Adventures and Trails, LLC may require Lessee to leave Lessee's driver's license with Tracked Out Adventures and Trails, LLC as additional security. The driver's license shall be returned to Lessee upon satisfactory completion by Lessee of all the terms and conditions of the Agreement.

Lessee acknowledges that use of the motorized Equipment CAN BE DANGEROUS AND ASSUMES THE RISK OF ANY HARM, ACCIDENT OR DAMAGE WHICH MAY BE DONE TO OR SUFFERED BY LESSEE AND ANY PERSON WHO OPERATES OR USES THE EQUIPMENT, OR ANY OTHER PERSON, AND TO THE PROPERTY OF ANY OF THEM RELATED TO THE USE, MAINTENANCE, OPERATION AND TRANSPORTATION OF THE EQUIPMENT, INCLUDING THE RISK OF ANY DAMAGE, HARM OR ACCIDENT CAUSED BY ANY DEFECTS IN THE EQUIPMENT, UNTIL IT IS RETURNED TO TRACKED OUT ADVENTURES AND TRAILS, LLC AT THE END OF RENTAL TERM.

5. Indemnification. Hold Harmless and Release. Lessee agrees to RELEASE, DEFEND, INDEMNIFY AND HOLD HARMLESS Tracked Out Adventures and Trails, LLC, and its agents, officers, employees and representatives against any and all claims, losses, causes of action, and expenses, including legal expenses and reasonable attorney's fees, for damages arising out of injury to property or injury or death to persons which are in any way related to the use, maintenance, operation or transportation of the Equipment during the term of this Agreement, whether by Lessee or any other persons. Lessee's obligation to RELEASE, DEFEND, INDEMNIFY, AND HOLD HARMLESS SHALL apply regardless of whether the injury, death or damages was caused in part by Tracked Out Adventures and Trails, LLC, its agents, officers,

employees, and representatives. Lessee's obligation to RELEASE, DEFEND, INDEMNIFY AND HOLD HARMLESS shall not apply to damages, injury, or death arising solely from the intentional misconduct or the gross negligence of Tracked Out Adventures and Trails, LLC, its agents, officers, employees and representatives.

LESSEE HEREBY RELEASES AND WAIVES ANY AND ALL CLAIMS, ACTIONS AND CAUSES OF ACTION LESSEE MAY HAVE AGAINST TRACKED OUT ADVENTURES, LLC, ITS AGENTS, EMPLOYEES AND REPRESENTATIVES FOR INJURIES OR DAMAGES ARISING FROM OR IN ANY WAY RELATED TO THE OPERATION, USE AND TRANSPORTATION OF THE EQUIPMENT DURING THE TERM OF THIS AGREEMENT.

6. Care and Operation of Equipment. The Equipment may only be used and operated in a careful and proper manner, consistent with applicable laws, ordinances and regulations including the rental rules and regulations of Tracked Out Adventures and Trails, LLC. Lessee shall not allow any person to drive or operate any of the motorized Equipment who is under the age of eighteen (18) years and who does not have a valid driver's license and who has not received instructions in use of the motorized Equipment by Tracked Out Adventures and Trails, LLC. Lessee represents that Lessee fully understands how to operate the Equipment in a safe and proper manner and that any other persons who operate said Equipment during the rental term shall be properly instructed in its use and operation. Lessee agrees to observe and cause to be observed by all users of the Equipment all proper safety precautions and agrees not to use or allow others to use the Equipment in a manner other than that intended by the manufacturer.

7. Title to Equipment and Assignment. Title to each item of the Equipment shall remain in the Tracked Out Adventures and Trails, LLC at all times and Lessee may not sublease, rent or convey any interest in any of the Equipment to others.

8. Maintenance and Fuel. Lessee shall be responsible for fuel and oil used by the motorized Equipment during the rental term.

9. Binding Effect. This Agreement shall be binding upon and inure to the benefit of the parties, their heirs, successors, assigns and person representatives.

10. Governing Law and Venue. This Agreement and any disputes arising there under shall be governed by the laws of the State of Utah, and any suit brought to enforce the terms thereof shall be undertaken in Salt Lake County.

11. Rights on Default. If Lessee defaults under the terms of this Agreement, Tracked Out Adventures and Trails, LLC, in addition to any other remedies it may have at law, without notice or demand on the Lessee, may take possession of the Equipment and Lessee shall be responsible for the payment of the costs of recovery and repair, including attorneys' fees and

costs, in addition to any other sums owed to Tracked Out Adventures and Trails, LLC under the terms of the Agreement. The remedies under this Agreement by Tracked Out Adventures and Trails, LLC and pursuant to law are cumulative.

12. Location of Equipment. The Equipment, during its use under this Agreement, shall not be taken outside the State of Utah, without written consent from Tracked Out Adventures and Trails, LLC.

13. Entire Agreement and Modification. This Agreement constitutes the entire agreement between the parties, and no modification or amendment shall be effective unless it is in writing and signed by all parties. This Agreement replaced any and all prior agreements between the parties. *14. Severability.* If any portion of this Agreement shall be held to be invalid or unenforceable for any reason, the remaining provisions shall continue to be valid and enforceable. If a court finds that any provision of this Agreement is invalid or unenforceable, but that by limited such provision the Agreement would become valid and enforceable, then the revision shall be deemed to be so written, and the Agreement interpreted and enforced as so limited.

14. Survival of Covenants. The covenants and obligations by Tracked Out Adventures and Trails, LLC hereunder shall survive the termination of the Agreement.

15. Attorney's Fees and Costs. The defaulting party shall pay all costs and reasonable attorney's fees incurred by the non-defaulting party in enforcing the terms of this Agreement or in interpreting its provisions.