

NORTHFORK FARMS & OUTBACK, LLC
PARTICIPATION AGREEMENT, WAIVER, AND LIABILITY RELEASE
READ CAREFULLY BEFORE SIGNING

I agree to the following Agreement with NORTHFORK FARMS AND OUTBACK, LLC (hereinafter referred to as "Camp") as a condition for its allowing me, and the person identified below, to do any or all the following- *now or in the future*: enter the Camp's premises and surrounding land (hereafter referred to as "Camp Property"), be on the Camp Property, be near horses or ponies, handle horses or ponies, ride horses or ponies, lead horses or ponies, receive instruction or guidance, ride or be near a children's train, on or near a children's outdoor activity center/children's play set, do arts and crafts, be on or near a small truck- drawn people hauler, drive a golf cart on a set golf course (ages 8 and up only), ride horses or ponies on a trail ride (ages 7 and up), be in or near the Camp's swimming and fishing ponds, engage in horse or pony drawn wagon rides, be near and/or pet farm animals and puppies in the Camp's petting zoo. We will refer to those activities throughout this document as "the camp activities."

NAME OF CONTRACTING PARTY: _____

NAME OF OTHER CONTRACTING PARTY (Spouse or other parent) _____

ADDRESSES OF CONTRACTING PARTIES: _____

PHONE (Home) _____ (Business) _____ (Cell/Other) _____

I also make this Agreement on behalf of the following, who is/are my child/ren or legal ward(s):

1. Name _____ Age _____ 2. Name _____ Age _____

Child's Date of Birth: _____ Child's Date of Birth: _____

All parts of this Agreement shall apply to me, and the children/legal wards listed above. (We will collectively call ourselves "I," "me," or "my" throughout this Agreement.) This Participation Agreement, Waiver, and Liability Release is intended to be valid and binding *at all times, now and in the future*, when the Camp permits me (directly or indirectly) to engage in any or all of the Camp Activities.

IT IS HEREBY AGREED AS FOLLOWS:

1. I have requested to engage in any or all of the Camp Activities, now or in the future. If engaging in these activities, I affirm that I am in adequate health to participate.
2. *Risks of Camp Activities in General.* I am fully aware of the risks inherent in the Camp Activities. In particular, I am aware that these activities pose a risk of personal injury or even death. Precautionary measures and/or supervision may limit the risk of harm, but the risk can never be prevented completely.
 - 2.1 *Risks of Horse or Pony (*Equine*) Related Camp Activities.* I understand that participation in activities involving horses or ponies (these animals will be called "equines" throughout this Agreement) poses special risks of harm. Among other things, equines are unpredictable by nature. For example, when frightened, angry, or under stress, the natural instincts of an equine are to jump forward or sideways, back, rear up, spin around, strike, or bite. I know that equines can do any of these things without warning. I also understand that all equines, even if they have no history of inflicting injury, are powerful and have the potential to be dangerous. **I understand these risks and danger and I agree to assume them. I also understand that these are just some of the risks, and I agree to assume others not mentioned above. I am not relying on Camp to list all possible risks for me.**
 - 2.2 Further, I understand that riding or even being near an equine can expose me to numerous hazards, which could include, *for example*: the propensity of an equine to behave in a way that may result in injury, harm, or death to persons on or around them; the unpredictability of an equine's reaction to sounds, sudden movements, and unfamiliar objects, persons, or other animals; certain hazards such as surface or subsurface conditions on, near, or off of the Camp Property; and/or collisions with other equines, persons, animals, or objects. **I understand these risks and dangers and I agree to assume them. I also understand that these are just some of the risks, and I agree to assume others not mentioned above. I am not relying on Camp to list all possible risks for me.**

Initials _____

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3. **WAIVER AND LIABILITY RELEASE:** As consideration for Camp allowing me, and if applicable my minor children, to engage in any or all the Camp Activities now or in the future, I agree to assume full responsibility for any and all bodily injuries, losses, or damages sustained. The term “damages,” means, for example, medical expenses, losses uncured because of bodily injuries or property damages, lost wages, and/or personal property damages. I, for myself and for my heirs, administrators, personal representatives or assigns, release and discharge Northfork Farms & Outback, LLC, its sole member Todd Showerman, its principle agent Christie Showerman, and their respective employees, agents, representatives, heirs, attorneys, assigns, and others acting on their behalf of and from any and all claims, demands, damages, actions, omissions, suits, or causes of action (present or future), whether the same be known or unknown, anticipated or unanticipated, resulting from or arising out of damages sustained as a result of engaging in any of the Camp Activities at any time now or in the future. Camp is not responsible for any injuries, losses or damages which arise from the ordinary negligence of Camp and its employees, agents, representatives, and other acting on their behalf (except if injury or damage is directly caused by Camp’s gross negligence or wanted and willful misconduct)

WARNING

Under the Michigan Equine Activity Liability Act (1994 P.A. 351), an equine professional is not liable for an injury to or the death of a participant in an equine activity resulting from an inherent risk of the equine activity. ITS IS MUTALLY UNDERSTOOD AND AGREED THAT THE WAIVER AND LIABILITY RELEASE IN THIS DOCUMENT CONSTITUTES A WAIVER OF LIABILITY BEYOND THE PROVISIONS OF THE MICHIGAN EQUINE ACTIVITY ACT, 1994 P.A. 351. BY SIGNING THIS PARTICIPATION AGREEMENT WAIVER AND LIABILITY RELEASE, I AGREE NOT TO BRING ANY CLAIMS OR SUITS AGAINST CAMP, ITS EMPLOYEES, AGENTS, HEIRS, REPERSENTATIVES, OR AFFILIATED PERSONS ON THE BASIS OF ANY EXCEPTION IN THAT LAW. IN PARTICULAR, I AGREE NOT TO BRING A CLAIM OR SUIT FOR: (1) FAULTY TACK OR EQUIPMENT; (2) FAILURE TO MAKE REASONABLE AND PRUDENT EFFORTS TO DETERMINE AN EQUINE ACTIVITY PARTICIPANT’S ABILITY TO SAFLEY MANAGE A HORSE; (3) A DANGEROUSLY LATENT CONDITION ON OR OFF OF THE CAMP PROPERTY; OR (4) ANY ACT OR OMISSION THAT MAY CONSTITUTE ORDINARY NEGLIGENCE BY CAMP, ITS EMPLOYEES, AGENTS, REPERSENTATIVES, OR THOSE AFFILIATED WITH CAMP.

4. **INDEMNIFICATION.** I also agree to indemnify and hold harmless Northfork Farms and Outback, LLC, Todd Showerman, its sole member, Christie and Todd Showerman, as the real property owners/leases to Northfork Farms and Outback, LLC, and their respective employees, agents, representatives, heirs, assigns, attorneys, and others acting on their behalf against all damages which are sustained or suffered by any third person(s) (“third persons” are any and all people who are not parties to this agreement), including any and all injuries or damages whatsoever that I may cause, directly or indirectly, while engaging in any or all of the Camp Activities. The indemnification shall include reimbursement of Camp’s reasonable attorney fees and costs.
5. **ASTM/SEI Headgear.** Camp has advised that I should wear properly fitted and secured ASTM standard/SEI-certified protective equestrian headgear when riding or when near horses.
6. **Emergencies.** Person(s) to contact in Case of Emergency: _____
Phone Number(s): _____ Relationship: _____
7. **Health and Disabilities.** Many disabilities have accompanying conditions that pose special physical risks to participant. I understand that Camp recommends that I seek the advice of a physician *before* participating in the Camp Activities.
Also, I want Camp to be aware of the following disabilities that may affect my ability to engage in any or all the Camp Activities: _____

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8. This Participation Agreement, Waiver, and Liability Release is governed by Michigan law and is intended to be as broad and inclusive as Michigan law permits. Should any clause conflict with Michigan law, only the clause will be null and void and the remainder of this document shall stay in full force and effect. This document can only be modified in writing and signed by Todd and Christie Showerman on behalf of Camp. Should I breach this Participation Agreement, Waiver, and Liability Release (or any part of it) I agree to pay the attorney's fees and court costs related to such breach incurred by Camp and/or persons directly affiliated with Camp. It is also agreed that any disputes arising under this Participation Agreement, Waiver, and Liability Release, or any activities undertaken pursuant to this document, shall be litigated in a court of proper jurisdiction located in or nearest Ingham County, Michigan.

9. **ALSO, I REPRESENT THAT:**

I AM AT OR OVER 18 YEARS OF AGE AND (IF I AM SIGNING ON BEHALF OF A CHILD OR LEAGAL WARD) I AM THE MINOR'S PARENT OR LEAGALLY-APPOINTED GAURDIAN;

I AM OF SOUND MIND AND NOT SUFFERING FROM SHOCK OR UNDER THE INFLUENCE OF ALCOHOL, DRUGS, OR INTOXICATION;

I UNDERSTAND THAT THIS PARTICIPATION AGREEMENT, WAIVER, AND LIABILITY RELEASE IS INTENDED TO BE VALID AND BINDING TODAY AND IN THE FUTURE;

I HAVE READ THIS ENTIRE PARTICIPATION AGREEMENT, WAIVER, AND LIABILITY RELEASE (ALL PAGES), AND I FULLY UNDERSTAND IT;

THE INFORMATION I HAVE PROVIDED IN THIS PARTICIPATION AGREEMENT, WAIVER, AND LIABILITY RELEASE IS TRUE AND ACCURATE.

10. **General Contract Provisions**

10.1 **Entire Understanding.** This Agreement contains and comprises the entire understanding of the parties, and supersedes all previous Agreements between the parties. There are no additional promises, representations, terms, or provisions.

10.2 **Termination.** This Agreement shall terminate thirty (30) days after written notice from the contract party to Northfork Farms and Outback, LLC, but any representations, promises, guarantees, or warranties made by Contract Party shall survive the termination and bind the Contracting Party.

10.3 **Mutually Drafted.** This Agreement has been negotiated between the parties and therefore shall be deemed to have been mutually drafted by them. Accordingly, no court construing this Agreement shall construe it more strictly against any party hereto.

10.4 **Amendments.** No modifications or amendments to this Agreement shall be binding upon either party unless assented to in writing by an authorized representative. If this Agreement is amended, modified, rescinded or otherwise altered during its term, then it shall be done by an express written "Modification," denominated as such, signed by each of the parties hereto.

10.5 **Severability.** If any provision, or any portion thereof, contained in this Agreement is held unconstitutional, invalid or unenforceable, the remainder of this Agreement, or portion thereof, shall be deemed severable, shall not be affected and shall remain in full force and effect. Further, the parties agree that the Agreement shall be reformed to replace such stricken provision or part thereof with a valid and enforceable provision that comes as close as possible to expressing the intention of the stricken provision.

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- 10.6. **Waiver.** No waiver of any provision of this Agreement shall be deemed a waiver of any preceding or succeeding breach or of any other provision. No extension of time for performance or any obligation or acts or any failure or delay on the part of either party in exercising any right, power or remedy under this Agreement, shall be deemed an extension of the time for performance of any other obligations or acts or shall operate as a waiver of any such right, power or remedy. No waiver of any provision of this Agreement shall be effective unless it is in writing and it is signed by duly authorized representatives of both parties. No single or partial exercise of any right, power or remedy under this Agreement shall preclude any other or further exercise thereof or of any other right, power or remedy. No waiver of any provision of this Agreement shall be effective unless it is in writing and it is signed by duly authorized representatives of both parties.
- 10.7. **Governing Law.** This Agreement shall be governed by the laws of the State of Michigan as to all matters, including, but not limited to, matters of validity, enforceability, interpretation, construction, effect, performance, and remedies. It is further understood and agreed that it is the intention of the parties hereto that this Agreement and the performance hereunder and all suits and special proceedings hereunder be construed in accordance and pursuant to the laws of the State of Michigan, without regard to its conflict of Law principles. In the event that any action is brought under this Agreement in Federal Court, the venue for such action shall be the Federal Judicial District of Michigan, Western District, Southern Division. In the event any action is brought under this Agreement in the State of Michigan Courts, the venue for such an action shall be the Ingham County Court System.
- 10.8. **Non-Assignment.** This Agreement, including each and every right and obligation of the parties, is personal to the parties; and neither of the parties to this Agreement may assign this Agreement or any right or obligation derived from this Agreement without specific written consent of the other party.
- 10.9. **Counterparts.** This Agreement shall be executed in two or more counterparts, each of which, when executed, shall be deemed to be an original, and all of which when taken together shall constitute but one and the same agreement.
- 10.10. **Payment of Costs and Attorney Fee Agreement.** If either party must take action to enforce the terms of this Agreement, including but not limited to court action, then the party found in breach of the Agreement agrees to be responsible for the prevailing party's reasonable attorney fees, costs, and expenses related to that enforcement action.
- 10.11. **Notices.** Any and all notices required by this Agreement shall be deemed to be sent or delivered when personally delivered to the recipients or when mailed first class, with proof of mailing and with proper first class postage attached hereto, to the parties hereto at the addresses set forth herein. Any notice required to be made within a stated period of time shall be considered timely made, if deposited before midnight of the last day of the stated period.
- 10.12. **Authority to Act.** The persons signing this Agreement on behalf of each party certify by their signatures that they are duly authorized to sign this Agreement on behalf of the respective party, any minor, and, if applicable, the terms of this Agreement have been authorized by Resolution or any other required Company/Corporate action.
- 10.13. **Bind Effect.** This Agreement shall be binding upon and inure to the benefit of the heirs at law and/or personal representatives of the parties.
- 10.14. **References to Gender and Number Terms.** In construing this Agreement, feminine or neuter pronouns shall be substituted for those masculine in form and visa-versa, and plural terms shall be substituted for singular and singular for plural in any place in which the context so requires.

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- 10.15 **References to Statutes.** All references in this Agreement to Acts or laws shall apply to all revisions, re-codifications, or replacements of such Acts or laws, and shall include any amendment, replacement or re-codification of such statute.
- 10.16 **Advice of Council.** Each party states that it had an opportunity to obtain advice from an independent attorney of their own choosing, before executing this Agreement. Further each party understands that the Agreement and executes same with full knowledge of its legal consequences and consents to same.
- 10.17 **Force Majeure.** A party will not be liable for failure or delay in performing its obligations if such failure or delay is due to circumstances beyond its reasonable control, including but not limited to acts of any governmental body, war, insurrection, sabotage, embargo, fire, flood, strike or other labor disturbance, interruption of or delay in transportation, unavailability of, interruption or delay in telecommunications or third party services (including DNS propagation), failure of third party software or hardware or inability to obtain raw materials, supplies or power used in or equipment needed for provision of the services provided under this Agreement.
- 10.18 **Waiver of Jury Trial.** The parties hereby waive trial by jury in any action or proceeding arising out of or in any way relating to the performance or non- performance of their respective duties under this Agreement/Contract by either party.
- 10.19 **Dates of Performance.** If any date for performance of any obligation hereunder falls on a Saturday, Sunday, or nationally established holiday (wherein the U.S. Post Office is closed), the time for performance of such obligation shall be extended until the next business day following such date.
- 10.20 **Inferring Intent of Parties.** The absence from this Agreement of provisions appearing in drafts hereof shall not be used in construing the intent of the parties hereto.
- 10.21 **Rights Cumulative.** All rights and remedies existing under this Agreement are cumulative to, and not exclusive of, any rights or remedies otherwise available. This Agreement is intended to be for the benefits of the parties hereto.
- 10.22 **Agreement Accepted.** I acknowledge that I have read this Agreement and that I was free to negotiate its terms. Also, the Company encouraged me, if I so chose, to seek a legal opinion concerning this Agreement.
- 10.23 **Survival.** This Agreement and the obligations hereunder shall survive indefinitely.
- 10.24 **Original Counterparts.** Photocopies of this signed Agreement shall be treated as original counterparts.
- 10.25 **Multiple Copies.** This Agreement may have been made in multiple copies, if so each of which shall constitute an original.

SIGNATURE OF CONTRACTING PARTY: _____
Parent/Legal Guardian of minor under 18

PRINT NAME HERE: _____ DATE: _____

SIGNATURE OF STAFF REPRESENTATIVE: _____ DATE: _____