

WAIVER OF LIABILITY AGREEMENT

Please fill out this waiver, sign (electronic signature is permitted) and return to Kate Lewis at kate@traversetrails.org.

This WAIVER OF LIABILITY AGREEMENT (“Agreement”) is entered into on _____, 2020, by and between _____ (“Volunteer”), and the TART TRAILS, INC., a Michigan non-profit corporation at 148 East Front St. Suite 201, Traverse City, Michigan 49685 (“TART”) in accordance with the following:

Acknowledgements

WHEREAS, on March 10, 2020, the Governor of the State of Michigan declared a state of emergency as a result of the Coronavirus (COVID-19) outbreak (which remains in effect until at least May 28, 2020); and

WHEREAS, on March 11, 2020, the World Health Organization declared the COVID-19 outbreak a pandemic, and on March 13, 2020, the President of the United States declared a National Emergency as a result of the COVID-19 outbreak; and

WHEREAS, on March 23, 2020, the Governor of the State of Michigan issued Executive Order (EO) 2020-21, ordering all people in Michigan to stay home and stay safe to avoid exposure to COVID-19, which was followed by various recessions, modifications, and/or extensions through EOs 2020-42, 2020-59, 2020-70, 2020-77, 2020-92, 2020-96, and 2020-110; and

WHEREAS, on May 21, 2020, the Governor issued EO 2020-97, allowing for the resumption of “operations whose work is primarily and traditionally performed outdoors” subject to certain conditions, including (a) a prohibition on gatherings where people are unable to maintain six feet of distance between one another; (b) limiting in-person interactions to the maximum extent possible; (c) requiring the provision and use of personal protective equipment (PPE) as appropriate for the activity being performed; and (d) requiring the adoption of protocols to limit the sharing of tools to the maximum extent possible and to ensure frequent and thorough cleaning and disinfecting of tools, equipment, and frequently touched surfaces; and

WHEREAS, on June 1, 2020, the Governor issued EO 2020-110, providing that any individual “who leaves his or her home or place of residence must: (a) Follow social distancing measures recommended by the Centers for Disease Control and Prevention (CDC), including remaining at least six feet from people from outside the individual’s household to the extent feasible under the circumstances; (b) Wear a face covering over his or her nose and mouth—such as a homemade mask, scarf, bandana, or handkerchief—when in any enclosed public space, unless the individual is unable medically to tolerate a face covering.”; and

WHEREAS, TART has adopted protocols and operational guidelines limiting interaction(s) between TART employees, contractors, property owners, volunteers and other third-party individuals in conjunction with the performance of volunteer activities; and

WHEREAS, the parties to this Agreement wish to ensure that the Volunteer’s activities for TART proceed only in accordance with applicable protective measures and that all PPE, hygiene/cleaning, and social-distancing requirements are followed to the maximum extent possible;

NOW THEREFORE, in consideration of the foregoing and for other good and valuable consideration, including the right to participate in volunteer activity(ies) with TART, the receipt and sufficiency of which are hereby acknowledged, the parties hereby agree to the following:

1. **Representations and Acknowledgement of TART's Protective Measures.**

- A. TART has made available and/or directly provided Volunteer with PPE as well as background and informational materials on the Coronavirus and its associated health risks, and has instructed Volunteer to utilize the PPE and abide by the protective measures set forth in the aforementioned EOs and other applicable guidance as issued from public health entities such as the United States Centers for Disease Control (CDC), the MDHHS, the Benzie-Leelanau District Health Department, and the Grand Traverse County Health Department;
- B. TART has instructed the Volunteer to maintain social-distancing of at least six (6') feet between the Volunteer and any co-workers, contractors, property owners, other Volunteers or other third-party individuals the Volunteer may come into contact with at all times during the effective period of the emergency declarations set forth above;
- C. Volunteer, by their signature below, fully understands these instructions related to protective measures to be maintained at all times prior to, during, and after the volunteer activity to be conducted by the Volunteer, and agrees to comply with and abide by these instructions;
- D. The Volunteer recognizes that engaging in in-person interaction could involve the risk of serious illness (and potentially even the loss of life), and that, due to the nature of the coronavirus as a "novel" virus, unanticipated consequences are also possible. Should the Volunteer choose to undertake such in-person interaction(s), the Volunteer would be knowingly assuming such risks; and
- E. The Volunteer affirms that they are 18 years or older, and that they intend this Agreement to be a complete and unconditional release of all liability of TART to the greatest extent allowed by law in Michigan for risks related to the in-person interactions described above.

2. **Waiver of Liability.** By the signature set forth below, and in consideration of the right and opportunity to participate in volunteer activity(ies) for TART, the Volunteer agrees on behalf of themselves, their heirs, personal representatives, and assigns, to release, waive, and discharge TART and all TART agents from liability from any and all claims, losses, damages, or liabilities in connection with in-person third party contacts, including without limitation claims arising out of the negligence of TART and TART agents, to the extent permitted by Michigan law. This includes but is not limited to: (i) personal illness (including disability and/or death); and (ii) any and all claims resulting from the coronavirus.

3. **Indemnification.** In further consideration of the right and opportunity to participate in volunteer activity(ies) for TART, the Volunteer shall indemnify and hold harmless TART and any TART agents against any losses, claims, damages, or liabilities to any such person in connection with the Volunteer's in-person interaction(s) with third-party individuals against the express written instructions of TART and the recommendations and guidelines issued by the public health authorities listed above.

4. **Covenant Not to Sue.** By my signature below, I covenant not to sue TART or any TART agents for any present or future claim I might have arising out of or related to in-person interactions with third-party individuals while traveling to/from volunteer activity sites and visiting properties to perform volunteer activities on behalf of TART. This includes but is not limited to any and all claims, losses, damages, or liabilities in connection with in-person third-party contacts, including without limitation claims arising out of the negligence of TART and TART agents, personal illness (including disability

and/or death), and any and all claims resulting from contraction of the coronavirus in conjunction with these volunteer activities.

5. **Interpretation of Agreement.** This Agreement was entered into at arm's length, without duress or coercion, and is to be interpreted as an agreement between two parties of equal bargaining strength. Both the Volunteer and TART agree that this Agreement is clear and unambiguous as to its terms, and that no other evidence will be used or admitted to alter or explain the terms of this Agreement, but that it will be interpreted based on the language in accordance with the purposes for which it is entered into. In the event that any provision contained within this Agreement shall be deemed to be severable or invalid, or if any term, condition, phrase, or portion of this Agreement shall be determined to be unlawful or otherwise unenforceable by a court of competent jurisdiction, the remainder of this Agreement shall remain in full force and effect.

VOLUNTEER

I have carefully read this waiver of liability agreement, and fully understand its contents, including the release of liability. I expressly agree to release and discharge TART and all of its Directors, staff, agents, representatives, Volunteers, successors and assigns, from any and all claims or causes of action and I agree to voluntarily give up or waive any right that I otherwise have to bring a legal action against TART for personal illness. I am aware that by signing below I am entering a contract between myself and TART Trails, Inc. and I sign this contract of my own free will.

Volunteer

Signature (Participant, Parent, or Guardian)

Date: _____, 2020.

Print Name of Parent or Legal Guardian if under 18

Telephone Contact Number: (____) _____

Emergency Contact: _____ Telephone Number: (____) _____

On behalf of TART Trails, Inc., I acknowledge the representations, duties, and obligations set forth above, and agree to the terms of this Agreement.

TART Representative

Signature

Date: _____, 2020.