

**PARTICIPANT AGREEMENT, RELEASE,
ACKNOWLEDGMENT AND ASSUMPTION OF RISK**

THIS PARTICIPANT AGREEMENT, RELEASE ACKNOWLEDGMENT AND ASSUMPTION OF RISK is made and entered into this _____ day of _____, 201____, by and between Tammara Beck-Guterman (hereinafter “Tammara”) and the CENTER OF HEALING, LLC, an Idaho limited liability company (hereinafter referred to as “Center of Healing”, collectively with Tammara the “Released Party”), and _____, whose address is _____ (hereinafter referred to as “Participant”).

WITNESSETH:

WHEREAS, Tammara permits Center of Healing, LLC to use approximately three (3) acres of certain land and improvements thereon, including a geothermal pool and a residence, that Tammara owns in Buhl, Gooding County, Idaho, more commonly known as 1128 B. Banbury Road, Buhl, ID 83316, which real property is suitable for a variety of recreational activities (hereinafter the “Real Property”); and

WHEREAS, Participant desires to enter upon and use the Real Property for recreational purposes and RELEASED PARTY is willing to allow Participant access to the Real Property for recreational purposes upon the condition that Participant sign and execute this Participant Agreement, Release Acknowledgment and Assumption of Risk (“Agreement”);

NOW THEREFORE, for good and valuable consideration, the receipt and adequacy of which the Participant hereby acknowledges, the Participant, for himself/herself and his/her heirs, successors, and assigns, does hereby acknowledge and agree as follows:

1. **Term of Participant’s Use of the Real Property.** RELEASED PARTY will allow Participant to enjoy non-exclusive use of the Real Property, which use is limited to the following dates: _____.

2. **Acknowledgement and Assumption of the Risk.** Participant understands, appreciates and acknowledges that the purposes for which he/she shall enter upon the Real Property are inherently dangerous and that there is a substantial risk of physical or emotional injury, death, or damage to self, property, and third parties. These risks include, **but are not limited to:**

- a. falling as a result of crossing unimproved land, which may contain stumps, holes, pits, hedges, partially buried wires and old fences, burrows, and other hidden or open dangers which, when walked across, jumped across, jumped on or fallen into, will likely cause harm and injury to persons;
- b. cold weather and heat related injuries and illness including but not limited to frostnip, frostbite, heat exhaustion, heat stroke, sunburn, hypothermia and dehydration;

- c. exposure to outdoor elements, including but not limited to avalanche, rock fall, falling tree limbs, inclement weather, thunder and lightning, severe and/or varied wind, temperature and all weather conditions;
- d. attack by or encounter with insects, reptiles, and/or animals;
- e. accidents or illnesses occurring in remote places where there are no available medical facilities; fatigue, chills, and/or dizziness, which may diminish reaction time and increase the risk of accident;
- f. accidents or illnesses occurring as a result of using the personal property found on the Real Property, to include injury from personal property that is sharp, heavy, flammable, poisonous, and/or improperly maintained or stored;
- g. relative to the geothermal pool: drowning; injury to neck, head, or other body parts as a result of diving or falling; contracting viruses or illnesses that may be transmitted through water; and being exposed to potentially harmful minerals and/or chemicals. **PARTICIPANTS ARE HEREBY ADVISED THAT THERE IS NO LIFEGUARD ON DUTY AT THE REAL PROPERTY AND THAT ANY AND ALL SWIMMING IS DONE AT THE PARTICIPANT'S OWN RISK.** Elderly persons, pregnant ladies, infants and anyone subject to heart disease, diabetes, low or high blood pressure, strokes, epilepsy or similar afflictions should not enter the geothermal pool alone or without consulting their physician;
- h. Relative to the river which borders the Real Property: there are dangers of drowning, currents, river outflows, watercraft, wildlife, sharp and/or slippery rocks, hidden depth, and pollution.

***Participant understands that the description of these risks is not complete and that unknown or unanticipated risks may result in injury, illness, or death.**

PARTICIPANT EXPRESSLY AGREES AND PROMISES TO ACCEPT AND ASSUME ALL THE RISKS ASSOCIATED WITH THE USE OF THE REAL PROPERTY, even if the risks arise out of the negligence, negligence per se, gross negligence, intentional recklessness, or willful act or omission of Released Party, or its members, affiliates, agents, officers, employees, successors, lawyers, insurers or assigns. Participant's use of the Real Property is purely voluntary, and Participant elects to enter upon and use the Real Property in spite of the risks involved therein.

3. **Release and Waiver of Liability.** Participant hereby knowingly and voluntarily releases, forever discharges, and agrees to defend with counsel of Released Party's choosing, and indemnify and hold harmless, Released Party, its owners, agents, servants, employees and any other person connected with it, from any and all claims, causes of action, injuries, damages, lawsuits, liens, judgments, losses and expenses, including, without limitation, attorneys' fees and costs of litigation, which are in any way connected with or incidental to, or which in any way arise from or relate, directly or indirectly, to Participant's use of the Real Property, wherever or however the same may occur, and whether or not said claims arise from the alleged negligence, negligence per se, gross negligence, intentional recklessness, or willful act or omission of

Released Party, and its members, affiliates, agents, officers, employees, successors, lawyers, insurers, assigns, or third parties. For purposes of clarification, Participant hereby specifically acknowledges that there are or may be, third parties, meaning persons or entities who are authorized by Released Party to use the Real Property, but who are otherwise in no way associated with the Released Party, which third parties may provide supervision, classes, training, instruction, guiding or other type of interaction with Participant. Such third parties are specifically covered by this Release, meaning that Participant does knowingly and voluntarily release, forever discharge, and agree to defend with counsel of Released Party's choosing, and indemnify and hold harmless Released Party, from any and all claims, causes of action, injuries, damages, lawsuits, liens, judgments, losses and expenses, which are any way connected with or incident to the action or inaction of a third party on the Real Property. Participant further agrees that Released Party shall not be responsible for any loss or theft of personal property. Participant further agrees that Released Party shall have no duty to warn against known or unknown hazards or dangers.

4. Covenant not to Sue. Participant covenants not to file suit against Released Party, its members, affiliates, agents, officers, employees, successors and assigns, and all other persons or entities associated directly or indirectly with Released Party for any loss, liability or claim which Participant may have as a result of, or in connection with, or arising from Participant's use of the Real Property, including personal injury, death, or property damage suffered by Participant or others, whether or not said claims arise from the alleged negligence, negligence per se, gross negligence, intentional recklessness, or willful act or omission of Released Party or its members, affiliates, agents, officers, employees, successors and assigns, or any third party.

5. Rules and Regulations. Participant agrees that prior to, and during the entire time that Participant is using the Real Property, that Participant shall diligently observe and follow all applicable laws, rules and regulations, and that it shall be the Participant's sole responsibility for knowing all applicable laws, rules, and regulations. Participant shall observe all posted rules and warning and shall follow any oral instructions given by the Released Party, or the employees, members, affiliates, agents, officers, representatives, or agents of the Released Party. Additionally, Participant agrees that prior to, and during the entire time that Participant is upon the Real Property, Participant shall diligently observe the following:

- a. Participant shall respect the rights of other participants.
- b. Participant shall be responsible for knowing the boundaries of the Real Property and shall at all times stay within the same.
- c. Participant shall not use unlawful drugs at any time while Participant is upon the Real Property.
- d. Participant shall not litter.
- e. Participant shall leave fences and gates the way they were found.
- f. Participant shall not make any fires on the Real Property without the prior consent of the Released Party.

- g. Participant shall not engage in any illegal activity while on the Real Property.
- h. Participant shall not drive off of developed roads and trails.
- i. Participant shall not damage or harm in any way any buildings, fences, gates, equipment, roads or other improvements on the Real Property. Participant agrees to reimburse Released Party for any damages caused to the Real Property as a result of Participant's acts or omissions.
- j. Participant shall not dive into the Geothermal Pool.

6. **Choice of Law.** In the event Participant files a lawsuit against Released Party, Participant agrees to do so solely in the State of Idaho, County of Twin Falls and further agrees that the substantive law of the state of Idaho shall apply in that action without regard to the conflict of law rules of the state of Idaho. This provision in no way releases Participant for his or her covenant not to sue as provided in Paragraph 4 hereinabove.

7. **Attorney Fees.** Should Released Party or anyone acting on its behalf, be required to incur attorney's fees and costs to enforce this agreement, Participant agrees to indemnify and hold Released Party harmless for all such fees and costs.

8. **Severability.** By signing this document, Participant acknowledges that if anyone is hurt or property is damaged during Participant's use of the Real Property, Participant may be found by a court of law to have waived his or her right to maintain a lawsuit against Released Party on the basis of any claim from which Participant has released them herein. Participant agrees that if any portion of this agreement is found to be void or unenforceable, the remaining portion shall remain in full force and effect. Participant agrees that this Agreement is intended to be as broad and inclusive as is permitted by the laws of the State of Idaho.

PARTICIPANT HEREBY ACKNOWLEDGES THAT HE OR SHE HAS HAD SUFFICIENT OPPORTUNITY TO READ THIS ENTIRE DOCUMENT AND TO ASK QUESTIONS RELATIVE THERETO AND TO HAVE LEGAL COUNSEL REVIEW THIS AGREEMENT AT PARTICIPANT'S DISCRETION. PARTICIPANT IS UNDER NO DURESS OR UNDUE INFLUENCE TO SIGN THIS AGREEMENT. PARTICIPANT HAS READ AND UNDERSTANDS THE TERMS, PROVISIONS, CONDITIONS, RELEASES AND WAIVERS AND AGREES TO BE BOUND BY ALL TERMS, PROVISIONS, CONDITIONS, RELEASES AND WAIVERS AND SIGNS THIS AGREEMENT OF HIS OR HER OWN FREE WILL.

"Participant"

X _____
 Printed Name: _____
 Address: _____
 Phone: _____
 Date: _____

Parents or Guardians Additional Indemnification
(Must be completed for Participants under the age of 18)

In consideration of _____ (print minor's name) ("Minor") being permitted by Released Party to enter upon and use the Real Property, I further agree in addition to the terms and conditions set forth above, to indemnify and hold harmless Released Party from any and all claims which are brought by, or on behalf of Minor, and which are in any way connected with Minor's use of the Real Property. I hereby represent I am the authorized parent or guardian of Minor.

PARENT OR GUARDIAN SIGNATURE:

X _____
Printed Name: _____
Date: _____