

PARTICIPANT WAIVER, RELEASE AND INDEMNIFICATION AGREEMENT FOR ALL CLAIMS INCLUDING THOSE FROM COVID-19 AND OTHER COMMUNICABLE DISEASES

This **WAIVER, RELEASE AND INDEMNIFICATION AGREEMENT** (“Agreement”) is entered into this ____ day of _____ by and between _____ (“Participant”) and the Town of Florence, Arizona, a municipal corporation (“Town”). The Town and Participant are sometimes referred to in this Agreement collectively as the “parties” and each individually as a “party”.

Participant agrees to release the Town of Florence from any claims or causes of action as set forth in detail below, in exchange for the Town of Florence’s permission for Participant to take part in _____ (the “Activity”).

AGREEMENT

1.0 Unconditional Waiver and Release of all Claims.

1.1 The undersigned, being of lawful age, for the sole consideration of participating in _____ (the “Activity”) do/does hereby and for my/our/its heirs, executors, administrators, successors and assigns release, acquit, relinquish any and all rights, claims for relief and the like, demands, liens and forever discharge the Town of Florence, his, her, their, or its elected officials, officers, officials, agents, representatives, employees, volunteers, servants, successors, heirs, executors, administrators and all other persons, firms, corporations, associations or partnerships of and from any and all claims, actions, causes of action, demands, rights, damages, costs, loss of service, attorneys’ fees, expenses and compensation whatsoever, which the undersigned now has/have or which may hereafter accrue on account of or in any way growing out of any and all known and unknown, foreseen and unforeseen damages and/or injuries, whether arising at law, under contract, in tort, in equity, or otherwise, and the consequences thereof resulting or to result from the Participant’s participation in the Activity herein which the undersigned has now, may have had or may hereafter have. The Participant waives any and all claims of every type and description, known and unknown, which the Participant may have against the Town of Florence, including its Mayor and Council members, and its agents, representatives, employees, and officials arising directly or indirectly in any manner from the Activity. This

unconditional waiver and release applies to all facts, acts, events, circumstances, charges, constructive or actual, and the like which have occurred or may be claimed to have occurred. The undersigned freely and voluntarily chooses to accept the terms and conditions of this Waiver, Release and Indemnification Agreement in return for attending, taking part in (“participation”) the Activity (the “Release”).

- 1.2 Participant expressly waives and assumes risk for any and all claims for damages that exist as of this date, but of which Participant does not know or suspect to exist whether through ignorance, oversight, error, negligence, or otherwise, which, if known, would materially affect Participant’s decision to enter into this Agreement. Participant assumes the risk that facts or law may be other than Participant believes.
- 1.3 This Release, on the part of the Participant, shall be fully binding between the Participant and the Town and their respective heirs, assigns and successors.
- 2.0 Terms for the Activity. In consideration for the releases and waivers set forth herein, the Town agrees to allow the Participant to attend, take part in (“participation”) the Activity subject to the Town’s sole and absolute discretion.
- 3.0 Covid-19 and Other Communicable Diseases: In consideration of being allowed to attend or take part in the Activity and related events and activities, the undersigned acknowledges, appreciates and agrees that:
 - 3.1 Participation includes possible exposure to and illness from infectious diseases including but not limited to MRSA, influenza, and COVID-19. While particular rules and personal discipline may reduce this risk, the risk of serious illness and death does exist; and,
 - 3.2 I knowingly and freely assume all such risks, both known and unknown, even if arising from the negligence of the Releasees or others, and assume full responsibility for my participation, and agree to indemnify, pay and defend the Town of Florence, its Mayor and Council members, and employees, agents, representatives, volunteers from any loss I may suffer resulting, directly or indirectly, from my participation in any way with the Activity; and
 - 3.3 I willingly agree to comply with the stated and customary terms and conditions for participation as regards to protection against infectious diseases. If, however, I observe and/or experience any unusual or significant hazard during my presence or participation, I will remove myself from participation and bring such to the attention of the nearest official immediately; and,
 - 3.4 I, for myself and on behalf of my heirs, assigns, personal representatives and rest of kin, hereby release and hold harmless the Town of Florence,

its Mayor and Council members, employees, agents, representatives, volunteers, other participants, other sponsoring agencies, sponsors, promoters, advertisers, and if applicable, owners and lessors of premises used to conduct the Activity (“Releasees”), with respect to any and all illness, disability, death or loss or damage to person or property, whether arising directly or indirectly from the negligence, gross negligence or intentional conduct of Releasees or otherwise, to the fullest extent permitted by law.

- 4.0 Equipment AS-IS. All equipment/item(s) involved and related to the Activity is used and accepted by Participant “AS IS”, “WHERE IS”, “WITH ALL FAULTS” without warranty of effectiveness, condition, value, operability, authenticity or description. The Town of Florence does not attest to the effectiveness, condition or authenticity of the items, and Participant uses and accepts the equipment at his/her own risk. The Town makes no guarantee, warranty or representation of any kind, expressed or implied, as to the effectiveness, condition, usability, operability, condition, merchantability, authenticity, fitness for any purpose or value of any item, even if used after an inspection. If the equipment could be handled and could possibly cause injury, no matter how remote, Participant acknowledges and agrees that he/she has the sole duty to inspect the equipment by a qualified individual prior to using the equipment. Any liability of the Town shall not exceed the actual value of the participation fee for the Activity. Participant acknowledges and agrees to be bound by these terms upon using and accepting the equipment.
- 5.0 Review by Attorney. The Parties to this Agreement agree that they have read and understand this Agreement, and that the Agreement has been reviewed by their respective attorneys. The Parties to this Agreement agree and understand that no promises or representations other than those that appear in this Agreement have been made to them by the other party or by the attorney representing the other party.
- 6.0 Counterparts. This Agreement may be executed in one or more counterparts, and each originally executed duplicate counterpart of this Agreement shall be deemed to possess the full force and effect of the original, but all of which together shall constitute one and the same instrument, binding on all of the Parties. The Parties agree that this Agreement may be transmitted between them via facsimile or so called “PDF” signature. The Parties intend that faxed or “PDF” signatures constitute original signatures and that a fully collated agreement containing the signatures (original, faxed or PDF) of all the Parties is binding upon the Parties.

- 7.0 Governing Law. This Agreement shall be deemed to be made under, shall be construed in accordance with, and shall be governed by the laws of the State of Arizona, without reference to choice of law or conflicts of laws principles thereof.
- 8.0 Construction. The terms and provisions of this Agreement represent the results of negotiations between the Parties, each of which has been or has had the opportunity to be represented by counsel of its own choosing, and neither of which has acted under any duress or compulsion, whether legal, economic or otherwise. Consequently, the terms and provisions of this Agreement shall be interpreted and construed in accordance with their usual and customary meanings, and the Parties each hereby waive the application of any rule of law which would otherwise be applicable in connection with the interpretation and construction of this Agreement that ambiguous or conflicting terms or provisions contained in this Agreement shall be interpreted or construed against the Party whose attorney prepared the executed Agreement or any earlier draft of the same.
- 9.0 Indemnification. To the fullest extent permitted by law, Participant, its successors, assigns and guarantors, shall indemnify, defend, hold harmless the Town of Florence, its Mayor, Council members, agents, representatives, officers, directors, officials and employees from and against all allegations, demands, proceedings, suits, actions, claims, damages, losses, expenses, including but not limited to damages for personal injury, wrongful death or personal property damage, attorney fees, court costs, and the cost of appellate proceedings, and all claim adjusting and handling expense, related to, arising from or out of, or resulting from any negligent or intentional actions, acts, errors, mistakes or omissions caused in whole or part by Participant relating to participation in the Activity, including but not limited to, any subcontractor or anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable and any injury or damages claimed by any of Participant's and subcontractor's employees.

The undersigned is authorized to execute and has read this Waiver, Release and Indemnification Agreement and has personal knowledge of all facts set forth herein. The undersigned further declares and represents that no promise, inducement or agreement not herein expressed has been made to the undersigned, and that this release and waiver of rights and indemnification contains the entire agreement among the Parties hereto, and that the terms of this Agreement are contractual and not a mere recital.

NOTICE: This document waives rights unconditionally and states that you have been given consideration in exchange for giving up those rights.

I HAVE READ THIS RELEASE OF LIABILITY AND ASSUMPTION OF RISK AND INDEMNITY AGREEMENT, FULLY UNDERSTAND ITS TERMS, UNDERSTAND THAT I HAVE GIVEN UP SUBSTANTIAL RIGHTS BY SIGNING IT, AND SIGN IT FREELY AND VOLUNTARILY WITHOUT ANY INDUCEMENT.

Town of Florence

its Town Manager, or designee

Participant