

Texas Historical Commission Youth Camp

Acknowledgment and Assumption of Risks and Release, Indemnity, and Medical Treatment Authorization Agreement

For all adult or minor participants, volunteers, teachers, and sponsors

I. INTRODUCTION

Please read this entire Acknowledgment and Assumption of Risks, Release, Indemnity, and Medical Treatment Authorization Agreement (hereafter “Document”) carefully before signing. If participant is under 18 years of age (hereafter “minor” or “child”), a parent or legal guardian (hereafter collectively “parent”) must also sign. Participants 18 years of age or older, volunteers, teachers, and sponsors (hereafter “participant”) must also sign.

In consideration of the services of the Texas Historical Commission (hereinafter “THC”) and its employees, directors, advisors, agents, representatives, volunteers (other than the participant), independent contractors, suppliers, sponsors, community/project partners and all other persons or entities associated with the services, and allowing participant to participate in the TEXAS HISTORICAL COMMISSION YOUTH CAMP, I (participant and/or parent of minor participant) acknowledge and agree as follows:

II. ACKNOWLEDGMENT AND ASSUMPTION OF RISKS

2.1 TEXAS HISTORICAL COMMISSION YOUTH CAMP’s (hereinafter “THC YOUTH CAMP”) educational, instructional, service, recreational and/or adventure activities that participant may participate in and/or assist with (whether attending, observing, or actively participating) include risks. These activities may take place in various locations on public or private land in the United States and may include, but are not limited to: walking, hiking, climbing, travel in public or private transportation vehicles or other vehicles, using tools and instruments, sports and/or games, artistic and/or creative activities, any tasks requiring physical effort, socializing, use of any equipment, facilities or premises, or other related physical activities (collectively referred to in this Document as “Activities”). Activities can be scheduled or unscheduled, led by THC agency employees or contractors, supervised or unsupervised, and include Activities undertaken during participant’s free and/or independent time. **Participant (and the parent of a minor) acknowledge that the inherent and other risks, hazards, and dangers (collectively referred to in this Document as “Risks”) of these Activities can cause injury, damage, death, or other loss to participant or others.** The parent of a minor gives permission for their child to participate in all Activities and agrees to discuss the nature of these Activities and Risks with their child.

2.2 The following includes some, but not all of the Risks:

(a) Physical activity risks. Activities can include time spent outdoors engaging in physical activities including but not limited to walking, hiking, climbing and descending steps, crossing water, digging, bending, lifting, pulling, pushing, carrying various objects long or short distances.

(b) Outdoor activity risks. These risks include but are not limited to that a participant may overestimate his/her abilities or fitness, be inattentive, lose control and trip or fall and/or collide with, for example, other participants, the ground, rocks or trees, encounter other animal/water/terrain/road/trail hazards, not understand the functioning or misuse of equipment and/or tools/instruments/supplies, encounter the unpredictable or dangerous

behavior of a domesticated or wild animal, fail to negotiate steep, uneven, or difficult terrain, experience equipment failure.

(c) Outdoor environmental risks. These risks include but are not limited to participant's travel being subject to wind, rain, storms, lightening, extremely hot, humid, or cold weather or water. Additional risks include but are not limited to fast-moving water bodies, falling or unstable rocks, falling or fallen timber, stinging, venomous or disease-carrying domesticated or wild animals, insects, or microorganisms, poisonous plants. Other risks include but are not limited to traversing wilderness terrain and/or trails, other natural or man-made hazards (both on land and above and/or below water level) which may not be marked or visible.

(d) Equipment/instrument/tool risks. Risks include but are not limited to misuse, breakage, failure, or malfunction of equipment/instruments/tools used in an activity. This includes the participant's personal equipment/instruments/tools, THC agency staff/contractors or others' equipment/instruments/tools, or any other equipment/instruments/tools. Participant (and the parent of a minor) assume full responsibility for choosing appropriate personal gear and for the fit and condition of personal gear. THC agency staff/contractors or others require the use of hard hats and other safety gear for some Activities and participants are responsible for wearing safety equipment during these Activities. Safety gear may prevent or lessen injuries in some instances. However, use of safety gear is not a guarantee of safety, and injury can occur even with the use of safety gear.

(e) Work or service project risks. Risks include but are not limited to Activities associated with digging, lifting, repairing, cleaning up, painting, organizing materials/objects, planting, watering, general gardening, serving hot or cold food items, and other Activities associated with work or service project tasks.

(f) Judgment and decision-making risks. THC agency staff/contractors or others must make various judgments and decisions as they conduct Activities in changing environments that are, by their nature, imprecise and subject to error. Consequently, there are risks involved in judgment and decision-making, including the risk that a THC agency staff/contractors or others may misjudge a participant's (or others') capabilities, health or physical condition, or misjudge some aspect of instruction, medical treatment, weather, terrain, water conditions or level, or travel route.

(g) Personal health and participation risks. Risks include but are not limited to the participant's mental, physical (including allergy/diet requirements, fitness level), or emotional (including use or abuse of prescription and/or nonprescription drugs) condition, whether disclosed or undisclosed, known or unknown, combined with participation in these Activities potentially resulting in injury, damage, death, or other loss. THC agency staff/contractors or others cannot anticipate or eliminate risks or complications posed by participant's mental, physical, or emotional condition.

(h) Personal conduct risks. Risks include but are not limited to careless and/or reckless behavior by participant, other participants, or third parties.

(i) Independent/free time risks. Participants may have independent/free time and/or independent unsupervised time (including free or independent time spent alone or with others) before, during, and after THC YOUTH CAMP daily Activities. During both supervised and unsupervised Activities, all participants share in the responsibility for their own well-being and that of others.

(j) **Other risks associated with instructional, educational, recreational, service activities.** Risks include but are not limited to injuries, damage, or death during travel, collision with objects, people, or animals, weather-related injuries, damage, or death, medical conditions/complications related to weather conditions, allergies, or other environmental conditions.

2.3 I, (participant and/or parent of a minor participant) acknowledge and agree:

- To review all THC YOUTH CAMP information received, including but not limited to all such information regarding the Activities and Risks associated therewith;
- to consider carefully, in consultation with my/my child's physician, whether these Activities are appropriate for me/my child. In addition, I agree that I will bring or send with my minor child any first-aid supplies recommended by participant's personal physician or medical care provider, including those needed to counteract potential serious allergic reaction and/or to address and remedy non-emergency illnesses or injury;
- to disclose to THC agency staff/contractors any mental, physical, or emotional condition(s) or imitation(s) which might affect my/my child's ability to participate, and to represent that the participant is fully capable of participating without causing harm to him/herself and/or others,
- that the information provided above is not exhaustive; other unknown or unanticipated Activities, Risks, and outcomes may exist; and THC agency staff/contractors cannot assure participant's safety or eliminate any of these Risks;
- that THC agency staff/contractors are and have been available should I have further questions about the Activities or associated Risks;
- to complete and sign all required forms and abide by those forms and any other rules and policies;
- to pay all participation fees or apply for applicable scholarships; and
- that I/my child must follow the instructions of the activity leaders at all times.

2.4 PARTICIPANT IS VOLUNTARILY PARTICIPATING IN THESE ACTIVITIES WITH KNOWLEDGE OF THE RISKS. THEREFORE, THE PARTICIPANT (AND THE PARENT OF A MINOR), EXPRESSLY ASSUME(S) AND ACCEPT(S) FULL RESPONSIBILITY FOR THE PARTICIPANT, FOR THE INHERENT AND OTHER RISKS (BOTH KNOWN AND UNKNOWN) OF THESE ACTIVITIES, AND FOR ANY INJURY, DAMAGE, DEATH, OR OTHER LOSS SUFFERED BY THE PARTICIPANT (AND THE PARENT OF A MINOR) RESULTING FROM THOSE RISKS, AND/OR RESULTING FROM THE PARTICIPANT'S OWN NEGLIGENCE OR OTHER MISCONDUCT.

III. RELEASE OF LIABILITY, INDEMNITY, and MEDICAL TREATMENT AUTHORIZATION

Please read this carefully. This Release and Indemnity Agreement contains a surrender of certain legal rights.

I, (adult participant, or parent for themselves and on behalf of their participating minor child), AGREE as follows:

3.1 EXCULPATORY CLAUSE. In consideration for receiving permission for my/my child's participation in any and all Activities of THC YOUTH CAMP I hereby release, waive, discharge, covenant not to sue, and agree to hold harmless for any and all purposes The THC, the State of Texas, and their members, officers, servants, agents, volunteers, or employees (herein referred to as

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RELEASEES/INDEMNITEES) from any and all liabilities, claims, demands, injuries (including death), or damages, including court costs and attorney's fees and expenses, that may be sustained by me/my child while participating in such Activity, while traveling to and from the Activity, or while on the premises owned or leased by RELEASEES/INDEMNITEES, **including injuries sustained as a result of the sole, joint, or concurrent negligence, negligence per se, statutory fault, or strict liability RELEASEES/INDEMNITEES.** I understand this waiver does not apply to injuries caused by intentional or grossly negligent conduct of the RELEASEES/INDEMNITEES.

3.2 INDEMNITY CLAUSE. I am fully aware that there are inherent risks to my child, myself and others involved with the Activities, including but not limited to all events and activities, and I choose to voluntarily participate/allow my child to participate in said activity with full knowledge that the activity may be hazardous to me, my child and my property, and to the person and property of others. I acknowledge there may be physically strenuous activities. I know of no medical reason why I/my child should not participate. **I agree to indemnify and hold harmless RELEASEES/INDEMNITEES** from any and all liabilities, claims, demands, injuries (including death), or damages, including court costs and attorney's fees and expenses, which may occur to myself, my child, other participants, and third- persons as a result of my/my child's participation in said Activities, **including injuries sustained as a result of the sole, joint, or concurrent negligence, negligence per se, statutory fault, or strict liability of RELEASEES/INDEMNITEES.**

3.3 NO INSURANCE. I understand that RELEASEES/INDEMNITEES may or may not maintain any insurance policy covering any circumstance arising from my/my child's participation in these Activities or any event related to that participation. As such, I am aware that I should review my personal insurance coverage and understand that it is strongly recommended that I obtain my own accident and health insurance to cover myself/my child prior to participating. THC and/or the State of Texas may not carry general liability insurance to cover claims arising from these Activities so THC herein seeks a waiver of claims as additional consideration for the right to participate so THC, can (a) provide the THC YOUTH CAMP and Activities at the lowest possible cost to participants; and (b) provide access to a greater number of participants by expending limited resources on program materials rather than on liability insurance.

3.4 MEDICAL AUTHORIZATION, INDEMNITY FOR MEDICAL EXPENSES, and WAIVER. I understand RELEASEES/INDEMNITEES cannot be expected to control all of the Risks contemplated by this document and RELEASEES/INDEMNITEES may need to respond to accidents and potential emergency situations. Therefore, I hereby authorize the THC, agency staff, contractors, and/or other medical personnel to obtain or provide medical care for me/my child, to transport me/my child to a medical facility and give my consent for any medical treatment that may be required, as determined by a medical professional at the medical facility, with the understanding that the cost of any such treatment will be my responsibility. I agree to pay all costs associated with such medical care and transportation and I agree to the release (to or by the THC, agency staff, and contractors) relevant medical records necessary for treatment, referral, billing, or insurance purposes. I agree to indemnify and hold harmless RELEASEES/INDEMNITEES for any costs incurred to treat me/ my child, even if a RELEASEE/INDEMNITEE has signed hospital documentation promising to pay for the treatment due to my inability to sign the documentation. I further agree to release, waive, discharge, covenant not to sue, and agree to hold harmless for any and all purposes, RELEASEES/INDEMNITEES from any and all liabilities, claims, demands, injuries (including death), or damages, including court costs and attorney's fees and expenses, that may be sustained by me/my child while receiving medical care or in deciding to seek medical care, including while traveling to and from a medical care facility, including injuries sustained as a result of the sole, joint, or concurrent negligence, negligence per se, statutory fault, or strict liability of RELEASEES/INDEMNITEES. I understand this waiver does not apply to injuries caused by intentional or grossly negligent conduct of the RELEASEES/INDEMNITEES.

IV. DIGITAL IMAGE/PHOTO/STATEMENT CONSENT, RELEASE, AND WAIVER

4.1 Use of name, likeness, photographic image, video and biographical data. I hereby irrevocably consent to and authorize the use my and/or my child's name, likeness, photographic image, video and biographical data ("Materials") by the THC, and parties authorized by THC by and on behalf of the THC, its officers and employees as follows: THC shall have the right to photograph, publish, re-publish, adapt, exhibit, reproduce, edit, copy, distribute, display or otherwise use or reuse the Materials in print, video, audio recordings, reproductions, digital representations, publications, advertisements, promotions, educational materials, on the internet and in all markets, media or technology now known or hereafter developed by the THC, for purposes of THC and/or the State of Texas without any compensation to myself/my child. I hereby acknowledge receipt of good and valuable consideration in exchange for this Document, which may be the opportunity to represent the THC and/or the State of Texas in its promotional, advertising, and educational materials.

4.2 Ownership Rights. The Materials shall become the property of THC for all purposes, and I, on behalf of myself/ my minor child, hereby irrevocably transfer and assign all right, title and interest in the Materials to THC. THC shall have the right to obtain and to hold in its name any and all copyrights or such other protection as may be appropriate to the subject matter. I hereby agree to give THC and/or the State of Texas assistance in the form of signatures on documents and additional information required to perfect the rights granted herein without any compensation.

4.3 Waiver of Approval Rights and Royalties. I hereby waive the right to inspect or approve the Materials, including all photographic, written, or electronic copies wherein my/my child's likeness, appearance, image, voice, name or words appear. I understand and agree that my/my child's image will become part of the THC's photograph file and that it may be distributed to other organizations or individuals for use in publication. I also understand that I will receive no compensation in connection with the use of my and/or my child's Materials. I hereby irrevocably waive any right to royalties or other compensation arising from, or related to, the use of my/my child's Materials.

4.4 Release and waiver of liability. I hereby hold harmless and release and forever discharge THC, others working under its authority or with its permission, and the State of Texas from all claims, demands, liability and causes of action, including without limitation, right of publicity and invasion of the right to privacy, which myself/my child, our heirs, representatives, executors and any other persons acting on my/my child's behalf or on behalf of my/my child's estate have or may have by reason of this Document.

V. OTHER PROVISIONS

5.1 VOLUNTARY SIGNATURE. In signing this Document, I acknowledge and represent that I have read it, understand it, and sign it voluntarily as my own free act and deed; THC has not made and I have not relied on any oral representations, statements, or inducements apart from the terms contained in this Document. I execute this Document for full, adequate and complete consideration fully intending to be bound by the same, now and in the future. I understand I can choose not to sign this Document and free myself and my child from its terms and the associated risks of the activity by simply not participating in the THC YOUTH CAMP or associated Activities and choosing some other activity available to me/my child that has a lower level of risk to myself and my child. I further understand this is a voluntary, extracurricular activity. While I understand, alternative activities are available to me/my child that do not

have the risks associated with this activity I still desire to voluntarily engage/ permit my child to engage in this activity.

5.2 VOLUNTEER PARTICIPATION. I hereby acknowledge and agree that I/my child has voluntarily agreed to participate in these Activities as a volunteer. I understand that I/my child will not be paid for his/her participation.

5.3 HEALTH CONDITION CERTIFICATION. I hereby certify to the best of my knowledge that my and/or my child's current physical condition is satisfactory for participation in the THC YOUTH CAMP and that my child is free of any health problems which would endanger the child's participation in the kind, nature, and type of Activities contemplated by this Document;

5.4 DISMISSAL OF PARTICIPANTS. The THC and agency staff reserve the right to dismiss any participant from the THC's YOUTH CAMP or any of its individual Activities whom staff believe, in their discretion, presents a safety concern or medical risk, is disruptive, or otherwise conducts him/herself in a manner detrimental to the THC YOUTH CAMP or any of its Activities. If the participant is dismissed for any reason, the participant (and his/her parent(s)) are responsible for all costs of early departure, whether for medical reasons, dismissal, personal emergency, or otherwise. These costs include, but are not limited to, those associated with evacuation, medical treatment, transportation, meals and lodging, and expenses for the THC YOUTH CAMP staff who may accompany the participant.

5.5 VENUE AND GOVERNING LAW. This Document shall be governed by and construed in accordance with the laws of the State of Texas. The venue of any suit arising under this Document is fixed in any court of competent jurisdiction of Travis County, Texas.

5.6 PUBLIC INFORMATION. Notwithstanding any provisions of this Document to the contrary, I understand that the THC will comply with the Texas Public Information Act, Texas Government Code, Chapter 552, as interpreted by judicial opinions and opinions of the Texas Office of the Attorney General.

5.7 AMENDMENT. The provisions of this Document may be amended, in whole or in part, only upon the prior written consent of participant/parent and the THC.

5.8 SEVERABILITY. If any term of this Document is found or otherwise held to any extent be illegal, void, voidable, otherwise invalid, or incapable of being enforced, such term shall be excluded to the extent of such invalidity or unenforceability; all other terms hereof shall remain in full force and effect; and, to the extent permitted and possible under the laws and the Constitution of the State of Texas, the invalid or unenforceable term shall be deemed replaced by a term that is valid and enforceable and that comes closest to expressing the intention of such invalid or unenforceable term.

5.8 FINAL AGREEMENT. This Document replaces and supersedes any former THC Acknowledgment and Assumption of Risks and Release and Indemnity Agreement signed by me. This Document is effective in regard to my or my child's participation in all Activities from the date signed until another THC **Acknowledgment and Assumption of Risks and Release, Indemnity, and Medical Treatment Authorization Agreement** is signed by me.

PLEASE SIGN AND SUBMIT

PARTICIPANT AND PARENT OF A MINOR PARTICIPANT AGREE:

I have carefully read, understood, and voluntarily sign this Document, and acknowledge that it shall be effective and legally binding upon me, my spouse, participating child and other children, and participant's/parent's other family members, heirs, executors, representatives, subrogors, and estate.

Participant must sign below. A parent must also sign if participant is a minor (under 18 years of age).

Participant Signature

Date

Printed Name

I, as the parent and/or guardian of the participating minor child, by signing below do hereby certify that I am the legal guardian of the participant and do possess the full legal authority to execute the foregoing Document on behalf of my child. I have read the above, understand fully the legal implications thereof, and voluntarily permit my child to participate in THC YOUTH CAMP. I have had the opportunity to seek legal counsel to the extent necessary in connection with the signing of this Document.

Parent/Guardian Signature

Date

Printed Name
