

In consideration of the loan by The City of Raleigh (“Lender”), to the individual or entity named below (“Borrower”), of the tools and equipment (“Equipment”) and/or the donation of supplies and materials (“Materials”) listed on the EQUIPMENT AND MATERIAL LIST, which is attached to the Borrower’s Equipment Loan Application (“Application”) and is incorporated herein by reference, Borrower agrees to borrow the Equipment and use the Materials in accordance with the terms and conditions set out in this Tool Loan Agreement with Release of Liability and Assumption of Risk (“Agreement”):

1. Borrower accepts the Equipment and Materials in “AS IS” condition. Borrower has had an opportunity to inspect the Equipment and Materials. Borrower shall store the Equipment and Materials in a secure location while not in use and agrees to notify Lender immediately if the Equipment becomes inoperable or is stolen/missing. Borrower will not attempt to repair any of the Equipment.
 2. Borrower agrees to return the Equipment and any unused Materials to Lender before or on the due date stated on the Application. Borrower agrees to comply with the Pick-Up or Delivery schedule as required. Equipment and unused Materials are to be returned in the same condition as when they were issued, barring normal wear and tear. Borrower shall clean all Equipment and unused Materials before return.
 3. Borrower must be age 18 years or older to borrow and use the Lender’s Equipment and/or Materials. Borrower must (a) complete the required Application and this Agreement, and (b) provide a valid photo identification with address at the time Borrower takes receipt of Equipment and/or Materials.
 4. Lender reserves the right to use appropriate steps to retrieve Equipment and unused Materials not returned on or before the due date set out in the Application, including criminal and/or civil legal action.
 5. Borrower agrees that Lender is not the manufacturer or distributor of the Equipment or Materials and is not responsible or liable in any way for any manufacturing, design, or performance defects or failures of the Equipment or Materials. LENDER EXPRESSLY DISCLAIMS ANY WARRANTY REGARDING THE MANUFACTURE, DESIGN, CONDITION OR FITNESS FOR A PARTICULAR PURPOSE OR USE OF ANY OF THE EQUIPMENT OR MATERIALS PROVIDED HEREUNDER. BORROWER ACCEPTS THE EQUIPMENT AND MATERIAL IN AN AS-IS CONDITION.
 6. Borrower hereby acknowledges that Borrower is trained and knowledgeable in the use of the Equipment and Materials and will be responsible to ensure that any users of the Equipment and Materials are also as trained and knowledgeable. BORROWER ACKNOWLEDGES THAT USE OF THE EQUIPMENT AND MATERIALS MAY INVOLVE THE RISK OF SERIOUS INJURY, DISABILITY, DEATH, AND/OR PROPERTY DAMAGE. BORROWER ACKNOWLEDGES THAT ANY INJURIES THAT BORROWER OR BORROWER’S OFFICERS AND DIRECTORS, EMPLOYEES, AGENTS, AND VOLUNTEERS SUSTAIN MAY RESULT FROM OR BE COMPOUNDED BY THE ACTIONS, OMISSIONS, OR NEGLIGENCE OF LENDER. NOTWITHSTANDING THE RISK, BORROWER ACKNOWLEDGES THAT BORROWER AND BORROWER’S OFFICERS AND DIRECTORS, EMPLOYEES, AGENTS AND VOLUNTEERS ARE VOLUNTARILY USING THE EQUIPMENT AND MATERIALS WITH KNOWLEDGE OF THE DANGER INVOLVED AND HEREBY AGREE TO ACCEPT AND ASSUME ANY AND ALL RISKS OF INJURY, DISABILITY, DEATH, AND/OR PROPERTY DAMAGE ARISING FROM SAID USE, WHETHER CAUSED BY THE ORDINARY NEGLIGENCE OF LENDER OR OTHERWISE.
 7. Borrower agrees to comply with all terms of this Agreement as it may be amended from time to time, including but not limited to the provisions regarding release and indemnification set forth in the agreement. Lender will notify Borrower of any changes to said policies.
 8. To the fullest extent permitted by law, Borrower agrees to indemnify, hold harmless, and to defend the Lender, its Council Members, employees, contractors, and agents (collectively, the “Indemnified Parties”) from and against any and all liabilities, claims, losses, damages, fines, penalties, and expenses (including reasonable attorneys’ fees), arising out of, or in any way related to (i) Borrower’s or Borrower’s volunteers, contractors, agents, or employees failure to comply with all provisions in this Agreement and all applicable laws; or (ii) injuries to persons, death, or damage to property arising out of, resulting from, or in connection with Borrower’s or Borrower’s volunteers, contractors, agents, or employees use of the Equipment or Materials. If any part of this Agreement is determined to be invalid by a court of the competent jurisdiction, Borrower agrees that this clause shall be enforceable to the fullest extent permitted by law.
-

9. Borrower, on behalf of itself, any heirs or assigns, and its employees, contractors, and agents, hereby waives and releases any and all claims, now known or hereafter known, against Lender, arising out of or attributable to the use of the Equipment and/or Materials, whether arising out of the ordinary negligence of the Lender or otherwise. Borrower covenants not to make or bring any such claim against Lender, and forever releases and discharges Lender from liability under such claims.
10. Borrower attests that its use of the Materials and Equipment are strictly for charitable purposes, that no services or materials are being provided to any recipient for any charge of cost outside of the scope of the Borrowers mission, and that no Equipment or Materials are being re-sold or returned to any retailer, vendor, or manufacturer for refund, or being used in any manner inconsistent with this Agreement.
11. Borrower acknowledges by the signature below that it has read and understood this Agreement and executes this agreement on behalf of the Borrower and the Borrower's heirs and assigns.

Print Borrower's Full Name and, if applicable, Title and Organization

Signature of Borrower

Date

The Borrower's signature is required as acceptance of this Agreement and will be obtained at the time Borrower takes receipt of the tool(s) and/or equipment to be loaned.

Name of City of Raleigh Staff Member Acknowledging Receipt of Agreement

Print Full Name

Signature of City of Raleigh Staff Member

Date
