

WAIVER AND RELEASE OF LIABILITY

The Cascade Public Library, Cascade Iowa

By borrowing an item (the "Tool") from the Cascade Public Library Tool Library (the "Library"), the undersigned hereby agrees as follows:

- I agree to abide by all applicable library rules, safety guidelines and directives of City staff and/or officials.
- I will not allow any other individual to use any Tool I borrow from the Library. I understand that it is solely my responsibility to ensure I am the only individual using the Tool borrowed.
- I will pay full repair and/or replacement costs should the Tool or components of the Tool be stolen, lost, damaged, or not returned, for any reason whatsoever.
- By the execution hereof, I acknowledge that the Library has not provided any training or advice regarding operation or use of the Tool.
- By the execution hereof, I further acknowledge that I have been advised of my responsibility to inspect the tool for defects and suitability for the uses I intend to use the Tool for, and that the Library has not made any independent examination of the Tool for defects or otherwise determined that it is suitable for my intended uses.
- By the execution hereof, I further acknowledge that I am capable and experienced in using the Tool I am borrowing, I will use the Tool in the proper manner, and I will only use the Tool in a way for which it is designed and comply with all applicable laws and regulations pertaining to such use.
- By the execution hereof, I further acknowledge that I have the right to review this Waiver and Release of Liability to an attorney of my choosing for review before executing same, and that by executing same, I acknowledge that I have either had this Waiver and Release of Liability reviewed by an attorney of my choosing, or am knowingly waiving my right to have such a review performed on my behalf. I acknowledge that no one with the City of Cascade, or the Library, whether and employee, agent, contractor, or otherwise representing the City or Library in any capacity, has offered me any legal advice regarding the contents of this document.

In consideration of the risk of injury while participating in the borrowing, use, and application of a Tool from The Cascade Public Library's Tool Library (the "Activity"), and as consideration for the right to participate in the Activity, I hereby, for myself, my heirs, executors, administrators, assigns, or personal representatives, knowingly and voluntarily enter into this waiver and release of liability and hereby waive any and all rights, claims or causes of action of any kind whatsoever arising out of my participation in the Activity, and do hereby release and forever discharge the City of Cascade, Iowa, the board members of the City of Cascade Public Library Board, and any affiliates, managers, members, agents, attorneys, staff, volunteers, heirs, representatives, predecessors, successors and/or assigns, elected or appointed officials, and employees (together hereinafter referred to as "Releasees") from any and all claims, actions or demands of any kind, nature, and description, including claims or actions for damages for death, personal injury, psychological injury, emotional injury, or property damage and from any and all liabilities,

damage, injuries, action or causes of action either at law or in equity, whether caused by any defect in the Tool, my participation in what has been referred to herein as the Activity, negligent act or omission of the Releasees, or otherwise arising out of or in any way related to or connected with my borrowing the Tool.

Assumption of Risk. I am aware of the risks associated with participating in the aforementioned Activity and I am voluntarily participating in the aforementioned Activity entirely at my own risk. I understand that injuries or outcomes may arise from my own or others' negligence. Nonetheless, I assume all related risks, both known or unknown to me, of my participation in this Activity.

I agree to keep and maintain the Tool in good condition and, if the Tool becomes unsafe or in a state of disrepair, I will immediately discontinue use of the Tool and notify the Library of the issue. I understand that the Library does not provide supervision or instruction for the use of the Tool. I understand and acknowledge that the use of the Tool involves risk of serious injury, which may include permanent disability and death. I assume all responsibility for the Tool loaned to me from the Library.

Representations; Warranties; Waiver. I am aware that the Library, its directors, officers, trustees, agents, and employees claim no expertise and make no representation concerning the use or fitness of any Tool. Nothing contained herein shall be construed as a waiver of any immunity or limitation of liability the Library may be entitled to under applicable law. The Library reserves the right to refuse the loan of any Tool at its sole discretion. No warranties, expressed or implied, including without limitation: suitability, durability, fitness for a particular purpose, condition, or quality have been made by the Library, directly or indirectly in connection with the Tool and I am borrowing the Tool "as is."

Voluntary Examination; Penalty. I acknowledge that I have examined the Tool and that its condition is acceptable. I agree to surrender the Tool to the Library in as good order and condition as when received, except for reasonable wear and tear resulting from proper use, and if returned unclean, I may be charged a reasonable cleaning fee. I agree that in the event any borrowed tool is not returned within the stated time period, including but not limited to, theft, loss, damage, or refusal to return, the Tool Library may take appropriate action to recover its property, including but not limited to: (a) assessing replacement and processing fees; and (b) reporting the non-return to local law enforcement as potential theft or conversion of Library property. I expressly consent to the Tool Library providing my identifying information, including contact information and a description of the unreturned tool(s), to law enforcement authorities for this purpose. I understand that failure to return Library property may result in civil or criminal liability under applicable law.

Indemnification. I agree to indemnify, defend and hold harmless the City of Cascade, Iowa, and the Cascade Public Library Board, and any affiliates, managers, members, agents, attorneys, staff, volunteers, heirs, representatives, predecessors, successors and/or assigns, elected or

appointed officials, and employees, from and against any and all claims, suits or actions of any kind whatsoever for liability, damages, compensation or otherwise brought by me or anyone on my behalf, including attorney's fees and any related costs, if litigation arises pursuant to any claims made by me or by anyone else acting on my behalf. If the City of Cascade, or any of the others released by this Waiver and Release of Liability, incur any of these types of expenses, I agree to reimburse them in full. I acknowledge that I have carefully read this "Waiver and Release" and fully understand that it is a release of liability. I expressly agree to release and discharge the City of Cascade, the City of Cascade Public Library Board, and any affiliates, managers, members, agents, attorneys, staff, volunteers, heirs, representatives, predecessors, successors and/or assigns of any of the above, 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 any of the above and foregoing for personal injury or property damage.

Severance. In the event that any provision contained within this Waiver and Release of Liability 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, the remainder of this agreement shall remain in full force and effect, so long as the clause severed does not affect the intent of the parties. If a court finds that any provision of this agreement is invalid or unenforceable, but that by limiting said provision it would become valid and enforceable, then said provision shall be deemed to be written, construed and enforced as so limited so as to be enforceable.

This Agreement was entered into without duress or coercion, and is to be interpreted as an agreement between parties of equal bargaining strength. Both the Participant, _____, and the City of Cascade, Iowa, as owner of the City of Cascade Public Library, 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.

I, the undersigned Participant, affirm that I am of the age of 18 years or older; that I am freely signing this agreement, that I have read this agreement, that I fully understand its content and further acknowledge that this release cannot be modified orally. I am aware that this is a release of liability and a contract and that I am signing it of my own free will.

Participant's Name: _____

Participant's Address: _____

Signed and dated this _____ day of _____, _____.

Signature