

# Waiver and Release of Liability, Assumption of Risk, and Indemnity Agreement

## VIRTUAL REALITY EQUIPMENT

Permitted use location: Activity Room

Permitted time period of usage: \_\_\_\_\_

For and in consideration of the Petersburg Borough ("Borough") allowing me, the undersigned, to use the virtual reality equipment (Oculus Meta Quest 2) ("the equipment") available at the Petersburg Borough Parks and Recreation Community Center, I, for myself, and on behalf of my spouse, children, guardians, heirs, beneficiaries, distributees and next of kin, and any legal and personal representatives, executors, administrators, successors, and assigns, hereby make the following representations, and agree to the following, pursuant to this Waiver and Release of Liability, Assumption of Risk, and Indemnity Agreement ("Agreement"):

1. **REPRESENTATIONS:** I hereby represent that (i) I am at least eighteen (18) years of age or older; (ii) I am in proper physical and psychological condition to use the equipment; and (iii) I am not and will not be under the influence of alcohol or any illicit or prescription drugs that would in any way impair or negatively affect my ability to safely use the equipment. I AGREE THAT IT IS MY SOLE RESPONSIBILITY TO DETERMINE WHETHER I AM IN PROPER PHYSICAL AND PSYCHOLOGICAL CONDITION TO USE THE EQUIPMENT, AND THAT I AM SOLELY RESPONSIBLE FOR MY OWN SAFETY AND WELL BEING AT ALL TIMES AND UNDER ALL CIRCUMSTANCES WHILE USING THE EQUIPMENT AND THEREAFTER.

2. **ASSUMPTION OF RISK:** I acknowledge the unpredictable nature of the human response to virtual reality, and that this technology may involve certain risks. Those risks include, without limitation, injury resulting from possible malfunction or failure of the equipment; slips, trips, and falls, and physical contact with others; possible negative reactions to virtual reality including but not limited to feelings of nausea, dizziness, seizures, and disorientation; inadequate safety measures; my own negligence, inexperience, or physical or psychological condition; negligence of Borough employees and volunteers, and inadequate hiring, training, or supervision of Borough employees and volunteers; if participating in a group event, participants of varying skill levels, and the negligence, inexperience, or physical or psychological condition of other participants; and other undefined risks and dangers, including those foreseeable and those not readily foreseeable, and those presently known and those presently unknown (since virtual reality is a new technology, there are unknown and non-obvious risks associated with this technology). I further acknowledge the continuing risks existing after use of the equipment, including without limitation, seizures; loss of awareness; eye strain; eye or muscle twitching; involuntary movements; altered, blurred, or double vision or other visual abnormalities; dizziness; disorientation; impaired balance; impaired hand-eye coordination; excessive sweating; increased salivation; nausea; light-headedness; discomfort or pain in the head or eyes; drowsiness; fatigue; or motion sickness, all of which can persist and become more apparent hours after use and which may lead to an increased risk of injury when engaging in normal activities after conclusion of use of the equipment and after leaving the premises. (All risks and continuing risks referred to hereinafter, cumulatively, as "Risks"). I am voluntarily using the equipment with full knowledge of the Risks involved.

I understand that these Risks may be caused in whole or in part by my own actions or inactions, the actions or inactions of others, or the negligent acts or omissions of the Released Parties defined below. I HEREBY FREELY AND KNOWINGLY EXPRESSLY ACCEPT AND ASSUME ANY AND ALL RISKS, BOTH KNOWN AND UNKNOWN, AND ASSUME FULL RESPONSIBILITY FOR ANY DAMAGES, LIABILITIES, LOSSES, OR EXPENSES I INCUR AS A RESULT OF MY USE OF THE EQUIPMENT, INCLUDING THOSE INCURRED DURING AND AFTER SUCH USE. I understand that this description of the Risks in no way affects or diminishes the *Release of All Claims, Including Claims of Negligence and Future Negligence*, set out in the following paragraph, and that I am intentionally and knowingly giving up all claims of negligence and future negligence against the Released Parties, including claims beyond those associated with the inherent risks of use of the equipment.

3. **RELEASE OF ALL CLAIMS, INCLUDING CLAIMS OF NEGLIGENCE AND FUTURE NEGLIGENCE:** I, for myself, and on behalf of my spouse, children, guardians, heirs, beneficiaries, distributees and next of kin, and any legal and personal representatives, executors, administrators, successors, and assigns, hereby Release, Waive, and Covenant Not to Sue, and further agree to Indemnify, Defend, and Hold Harmless the Borough, and its officers, officials, agents, representatives, employees, and volunteers (Individually and Collectively, the "Released Parties"), from and with respect to any and all liability(ies), claim(s), suit(s), demand(s), action(s), cause(s) of action, damage(s), loss(es), or expense(s) (including court costs and reasonable attorneys fees) of any kind or nature, including without limitation claims for death, bodily or personal injury, disability, or damages, including property damages (collectively, "Liability"), which may arise out of, result from, or relate in any way, directly or indirectly, to my use of the equipment. **This specifically includes release of all claims of Liability based in whole or in part upon the negligent acts or omissions of the Released Parties, including without limitation any claim based upon a failure to meet any standard of care as to safety and any claim based upon any failure to warn of or remedy, or misrepresentation regarding, an unsafe physical condition or characteristic. I HEREBY EXPRESSLY STATE THAT IT IS MY INTENT TO RELEASE THE RELEASED PARTIES FROM ALL LIABILITY REGARDLESS OF THE CAUSE(S) OF SAID INJURY, DAMAGE, OR LOSS, INCLUDING LIABILITY FOR THE RELEASED PARTIES' OWN NEGLIGENCE AND FUTURE NEGLIGENCE.** I expressly understand and agree that this means that I am waiving any and all rights I have to make a claim of any nature or type against or sue the Borough, or its officers, officials, agents, representatives, employees, and volunteers for any injury, loss, or damage sustained.

I agree that I, my spouse, children, guardians, heirs, beneficiaries, distributees and next of kin, and any legal and personal representatives, executors, administrators, successors, and assigns, will not make any claim of any nature or type for Liability against any of the Released Parties that may arise out of, result from, or relate in any way, directly or indirectly, to my use of the equipment. I further agree that if, despite and contrary to this Agreement, I, or anyone listed above, makes a claim for Liability against any of the Released Parties, I will indemnify, defend, and hold harmless each of the Released Parties from any such Liabilities which may be incurred as the result of such claim.

4. **RULES FOR USE:** I have been provided a copy of (a) the equipment manufacturer's health and safety warnings, and (b) any rules established by the Borough for use of the equipment. I agree to be familiar with and abide by such health and safety warnings and use rules. I accept sole and complete responsibility for my own conduct and actions while using the equipment, whether the conduct and

action is or is not in compliance with any such warnings or use rules, and regardless of whether any such use rules have in fact been established. I further understand and agree that I will use the equipment only in the specified permitted use location, for the permitted time period of usage, and will at no time use the equipment at any other location within the facility or take the equipment outside of the facility. I agree to be responsible and reimburse the Borough for any damage to the equipment sustained during my usage.

5. **PROMOTIONAL MATERIALS:** I give the Borough the absolute right and permission to use photograph(s) and video(s) of me in its promotional materials and publicity efforts. I understand that the photograph(s) and video(s) may be used in a publication, print ad, direct-mail piece, electronic media, or other form of promotion. If I do not wish to give the Borough permission to use such photograph(s) or video(s), I must initial here: \_\_\_\_\_ I release the Borough, and its officers, officials, agents, representatives, employees, and volunteers, from Liability for any violation of any personal or proprietary right I may have in connection with such photographs(s) or video(s) or use thereof.

### **Signature:**

**I hereby warrant that I am of legal age and competent to enter into this Agreement, that I have had sufficient opportunity to read this entire document, that I have read this Agreement carefully, and that I fully understand its terms and conditions. I AM AWARE THAT THIS INCLUDES A RELEASE OF LIABILITY, INCLUDING A RELEASE OF ALL CLAIMS OF NEGLIGENCE AND FUTURE NEGLIGENCE AGAINST THE BOROUGH, AND ITS OFFICERS, OFFICIALS, AGENTS, REPRESENTATIVES, EMPLOYEES, AND VOLUNTEERS, AND UNDERSTAND AND ACKNOWLEDGE THAT I HAVE GIVEN UP SUBSTANTIAL LEGAL RIGHTS BY SIGNING IT** (including the rights of my spouse, children, guardians, heirs, beneficiaries, distributees and next of kin, and any legal and personal representatives, executors, administrators, successors, and assigns). I sign this Agreement freely and voluntarily of my own free will, acknowledge that I have signed this Agreement without any inducement, assurance, or guarantee, and intend for my signature to serve as confirmation of my complete and unconditional acceptance of the terms and conditions of this Agreement. This Agreement represents the complete understanding between the parties regarding these issues and no oral representations, statements, or inducements have been made apart from this Agreement. I expressly agree that this Agreement is intended to be as broad and inclusive as permitted by the laws of the State of Alaska, and that if any provision of this Agreement is held to be unlawful, void, or for any reason unenforceable, then that provision shall be deemed severable from this Agreement and shall not affect the validity and enforceability of any remaining provisions, which shall remain in full force and effect.

Printed Name: \_\_\_\_\_

Birth date: \_\_\_\_\_

Signature: \_\_\_\_\_

Dated: \_\_\_\_\_