



June 29, 2022

DISCLAIMER AND OTHER CONDITIONS OF DONATION

As an authorized representative of Firefighter Aid Ukraine, (Donee), I have read, understand, and accept the conditions of donation of the below donated equipment ("Donated Equipment"), as outlined herein this Disclaimer and Other Conditions of Donation ("Disclaimer"), on behalf of the Donee:

<u>Item Description</u>	<u>Quantity</u>	<u>Condition</u>
SCOTT SCBA AIR CYLINDER*	73	AS-IS
3M SCOTT AIR-PAK 75*	294	AS-IS
AV-3000 FAE PIECE*	140	AS-IS
3M SCOTT VOICE AMPLIFIER*	166	AS-IS
SCOTT MASK MOUNTED REGULATOR*	311	AS-IS

* All above Donated Equipment is non-compliant with National Fire Protection Association standards ("NFPA Standards"), which recommends ceasing operations of Donated Equipment as of [2021].

The following conditions are hereby incorporated as conditions to the donative transfer of the Donated Equipment from the City of San José, California ("City") to the Donee.

1. DISCLAIMER. THE DONATED EQUIPMENT WILL BE TRANSFERRED ON AN "AS-IS" BASIS WITHOUT WARRANTY, EXPRESS OR IMPLIED, INCLUDING WITHOUT LIMITATION ANY WARRANTY OF MERCHANTABILITY, WARRANTY OF FITNESS FOR A PARTICULAR PURPOSE, WARRANTY OF TITLE, WARRANTY AGAINST INFRINGEMENT OF PATENT OF SIMILAR RIGHTS, OR WARRANTY THAT THE DONATED EQUIPMENT CAN BE SAFELY USED AT ALL, AND NO AFFIRMATION OF THE CITY, BY WORDS OR ACTION, WILL CONSTITUTE A WARRANTY AS TO THE DONATED EQUIPMENT. THE ENTIRE RISK AS TO THE QUALITY, CONDITION AND PERFORMANCE OF, AND TITLE OR OTHER RIGHTS TO, THE DONATED EQUIPMENT IS WITH THE DONEE, AND SHOULD THE DONATED EQUIPMENT OR TITLE OR OTHER RIGHTS THERETO PROVE DEFECTIVE FOLLOWING THE TRANSFER, THE DONEE, AND NOT THE CITY ASSUMES THE ENTIRE RISK OF USE AND COST OF ALL NECESSARY SERVICING, REPAIR OR DEFENSE.

THE DONEE ACKNOWLEDGES THAT DONATED EQUIPMENT IS NOT IN COMPLIANCE WITH NFPA STANDARDS AND THE CITY MAKES NO REPRESENTATION, EXPRESS OR IMPLIED, THAT THE DONATED EQUIPMENT IS IN COMPLIANCE WITH NFPA STANDARDS OR ANY OTHER HEALTH OR SAFETY STANDARDS NOR DOES THE CITY MAKE ANY REPRESENTATION, EXPRESS OR IMPLIED, OF THE DONATED EQUIPMENT'S FITNESS FOR A PARTICULAR PURPOSE, INCLUDING ITS FITNESS TO BE USED BY THE DONEE OR ANY PARTY AS PERSONAL FIRE PROTECTION EQUIPMENT.

2. INDEMNIFICATION. The Donee agrees to defend, indemnify, and hold harmless the City, its officers, agents, and employees, from and against any and all claims, losses, damages, injuries, expenses or liabilities that – directly or indirectly, or in whole or in part – arise out of, pertain to, or relate to the condition of the Donated Equipment or its ownership or use by the Donee or subsequent transferee of the Donated Equipment.

3. WAIVER AND RELEASE. The Donee waives and releases any and all claims against the City, its officers, agents, and employees with respect to any and all injury, disability, death, loss, or damage to property resulting from possession, use, or misuse of the Donated Equipment, regardless of the cause and even if caused by a negligent act or omission of the City. The Donee agrees not to sue any of the City, its officers, agents, or employees on the basis of these waived and released claims.

The Donee acknowledges and agrees that by signing this Disclaimer the Donee is forever giving up the right to sue or attempt to recover money, damages, or any other relief from the City for all claims the Donee may have with respect to the released matters (even if any such claim is unforeseen as of the date hereof). By the authorized signature below, the Donee affirms that it understands California Civil Code Section 1542, which provides as follows:

"A general release does not extend to claims that the creditor or releasing party does not know or suspect to exist in his or her favor at the time of executing the release and that, if known by him or her, would have materially affected his or her settlement with the debtor or released party."

Having been so appraised, the Donee assumes all risk for claims, known or unknown, heretofore or hereafter arising from the subject of this release, and specifically waives any rights the Donee may have under Section 1542.

4. USE OF DONATED EQUIPMENT. The Donee covenants that the Donated Equipment shall be used for the benefits which are described in the Donation Request Form submitted by the Donee with respect to the Donated Equipment.

5. INSPECTION; NO PROFIT OR FEE. The Donee certifies that: (i) the Donee acknowledges condition of the Donated Equipment, as described above, that the City

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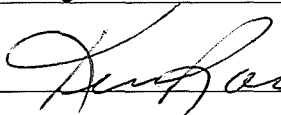
offered the Donee the opportunity to fully inspect the Donated Equipment and demanded that the Donee inspect the Donated Equipment, and that the Donee undertook such inspection; and (ii) no one involved in the donative process has received or shall receive a profit or fee in relation to the Donated Equipment.

6. SHIPMENT OF DONATED EQUIPMENT. The City shall ship the donated equipment to the Donee.

7. GOVERNING LAW; VENUE. This Disclaimer shall be governed by the laws of the State of California. Any action related to this Disclaimer between the Donee and the City shall be filed and maintained exclusively in the Superior Courts of the County of Santa Clara, State of California, or in the United States District Court for the Northern District of California.

8. SEVERABILITY. The invalidity, in whole or in part, of any provision of this Disclaimer shall not void or affect the validity of any other provision of this Disclaimer.

Organization: Firefighter Aid Ukraine

Signature: 

Name: KEVIN ROYLE

Title: PROJECT DIRECTOR

Date: JULY 04, 2022