



U.S. Rotary Club & District General Liability Insurance Program **Guidelines for Contracts, Permits and Waivers**

While the information contained in this document may be helpful as your club or district looks at the potential use of contracts, permits and other liability shields, do not regard this document as a substitute for the advice of legal counsel. Please consult an experienced attorney for advice on your club or district's particular circumstances.

General

Indemnification provisions, waivers and other liability shields are risk management tools that you can use to help reduce the likelihood of a claim or lawsuit being brought against your club or district. The tools can also enhance communication and understanding between all participating the parties.

When negotiating contracts, attempt to avoid conflict of interest situations. For example, as a club director or officer you may be involved in decisions regarding contracts or other business relationships. In the event your club is contemplating entering into a contract or obtaining a permit with an organization you own, work for or have an interest in, it may be wise to not participate in the decision to enter into this contract or business relationship. This will prevent any accusations that decisions were made for reasons not in the best interest of the club.

Understand EVERYTHING in a contract, permit or other documents that apply to your club and its business arrangements. This may seem self-evident, but it is surprising how often contracts or terms and conditions are not read. Know what you are signing. Know what you are promising and what is being promised to you. Ask, don't assume. When it comes to your club or district, you cannot afford to not understand a legal document. Many clubs have members experienced in contract law. Perhaps these individuals can assist in reviewing such documents.

Some liability claims manifest themselves years after an accident. As a result it is imperative to maintain contracts, certificates, permits, and other documents pertaining to the event for at least five years after an event takes place.

Before signing, RI Risk Management would like to review any agreements, contracts or permit applications your organization will enter into. Often the indemnification & insurance provisions contained in contracts include inappropriate language that contradicts the coverage provided through the U.S. Rotary Club & District General Liability Program.

Contracts

While it may be common for your club to conduct business through handshakes or conversations, RI strongly recommends that your club document these agreements in the form of written (and signed) contracts. A contract attempts to clearly define the roles and responsibilities of each party.

Within contracts, indemnification and insurance provisions are particularly useful in averting or mitigating losses.

Indemnification

An indemnification provision is a provision where one party agrees to assume the financial responsibility for the liability of another. For example, an indemnification might attempt to state that both Organization One and Organization Two are responsible for their own acts. As such, if a claim is filed against Organization One as a result of the actions or omissions of Organization Two, Organization Two will indemnify, defend and hold Organization One harmless (and perhaps vice versa).

Insurance

An insurance provision details the particular insurance that one (or both parties) must secure and maintain. It is quite reasonable to request that a contracting party have general liability insurance. Workers compensation insurance might be required when entering into a contract with an organization that has employees. Some organizations or individuals may have specialized insurance coverage:

- Physicians and other medical professionals should carry medical malpractice insurance, a.k.a. Professional Liability or Errors & Omissions Coverage.
- Air shows and other aviation organizations, as well as owners of aircraft, should have Aviation Liability insurance, and hull (physical damage) coverage on all aircraft.
- Marinas and boat owners should have some marine coverage that includes liability insurance and physical damage coverage on owned vessels.

Additional Insured Status

In addition to specifying insurance requirements, it is recommended that the contracting organization names your club/district, Rotary International and The Rotary Foundation as “additional insureds” on their liability policy(ies). As “additional insureds,” the Rotary entities would be entitled to receive coverage under the other party’s insurance policy for losses stemming from the other party’s acts or omissions. Additional insured status can be obtained on most liability insurance policies. However, professional liability and directors & officers liability policies will not provide such status.

To ensure that your club has, in fact, been named as an additional insured under the contracting party’s insurance, a certificate of insurance (or proof of insurance) evidencing the “additional insured” coverage should be obtained.

Permits

Many municipalities require permits to hold an event on government grounds. Before signing a permit, read and understand ALL terms and conditions. If necessary, review the document with RI Risk Management and legal counsel. Many permits have indemnification and insurance requirements that may or may not be reasonable.

Waiver Forms

A waiver form relinquishes claims one party may have against another. Consider requiring participants to sign waiver forms for events where your club can identify the persons participating in the activity prior to the event (such as a 5K race, a baseball league, Poker runs, etc.) Remember, waivers are not an appropriate substitute for the careful supervision of your club’s activities.

Waiver forms should detail the risks associated with the activity. For example, a 5K race includes (but is not limited to) the inherent dangers of changing weather conditions, natural obstacles such as trees and rocks, and the possibility of severe injury resulting from a fall.

Waiver forms will not always protect your club from claims, but they will more likely be held as valid when worded properly. Consult an attorney to draft these forms.

Permission Slips

For activities that involve minors or other persons not legally competent to sign waivers or similar agreements, your club should consider the use of permission slips. Permission slips must explain clearly and fully the nature of the activity. For example, a trip to the zoo could include a visit to the animal petting section, which may be important information to a parent of a child with allergies. The more parents know, the less likely they are to claim, "had I known, I would not have let my child participate." As with waiver forms, consult an attorney to draft these forms.

Disclaimers

A disclaimer is an express disavowal, repudiation, or limitation of liability by one party to a transaction. Disclaimers may be posted on signs or printed on tickets or flyers and may be beneficial in instances where your club cannot identify all participants to an activity (for example, sponsoring a fireworks demonstration or holding a musical event). Disclaimers are roughly equivalent to an advisory or warning of risks that an individual may choose to accept or avoid.