



**ASSUMPTION OF RISK AND WAIVER OF LIABILITY AGREEMENT**

This is an important legal document; you must read the entire document (hereinafter “Agreement”). Anyone who does not acknowledge and agree to this Agreement in its entirety, which consists of 4 pages for all participants and volunteers, and 5 pages for participants who are minors or legally incapacitated, cannot participate. My signature and initials indicate that I have read and understood this Agreement. All volunteers, participants, and legal guardians of any participants who are minors or legally incapacitated (hereinafter collectively referred to as “I” or “Participant” throughout this Agreement) are required to sign this Agreement. This Agreement includes an Assumption of Risk, a General Release and Waiver of Liability, and other provisions. Among other things, signing and initialing this Agreement means that:

- **I understand that adaptive scuba diving involves additional risk of serious injury or death, over and above such risks that are generally associated with recreational scuba diving. Despite these risks, I voluntarily participate and agree to assume all financial responsibility for any injury to me and/or my death. I also agree not to hold Diveheart Foundation, or its staff or volunteers, (“Diveheart”) responsible in any way for any injury to me and/or my death.**
- **I agree not to sue Diveheart for any injury to me and/or my death which is caused by the failure to exercise reasonable care [negligence] or serious carelessness [gross negligence] by Diveheart.**
- **As the legal guardian of a Participant, I agree to all the above on behalf of myself and the Participant. I also agree not to sue Diveheart for my own loss due to the Participant’s injury and/or death.**
- **I agree to resolve all disputes in binding arbitration without a jury.**

**This Agreement is effective for all present and future participation in all Diveheart Activities, as defined below, whenever or however they may occur.**

**Participant Name:** \_\_\_\_\_

**If Participant is a Minor or Otherwise Legally Incapacitated, Parent/Guardian Name(s):**  
\_\_\_\_\_

**Participant Email:** \_\_\_\_\_



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## **I. ASSUMPTION OF RISK AGREEMENT**

I understand that my participation in any and all activities with Diveheart, a non-profit tax exempt 501(c)(3) organization chartered in the state of Illinois, including, but not limited to, skin diving, scuba diving, educational trainings, shore dives, boat trips, travel, promotional events, and other activities (each and collectively, a “Diveheart Activity”) is voluntary. In consideration of being allowed to participate in a Diveheart Activity today and on all future dates, I voluntarily and expressly understand, acknowledge, appreciate, accept and personally assume all inherent risk of injury and/or death from any and all causes including, but not limited to, travel and/or transport risks, severe weather, marine life, actions (including negligent acts) of other Participants, Participant’s inability to correctly operate equipment, equipment failure, lack of compressed air, drowning and near drowning, decompression sickness, embolism, and other hyperbaric/air expansion injury that may require treatment in a recompression chamber. I further understand that the Diveheart Activities may be conducted at a remote site (by time, distance or both) from medical care and/or a recompression chamber. I choose to proceed in spite of these risks. Due to my possible physical and/or cognitive disabilities, I may have an increased risk of injury or death from my participation in a Diveheart Activity. I freely and voluntarily understand that my scuba instructors, the Diveheart Foundation, Dive Charterer/Operator, Scuba Schools International, and/or any other scuba education, training, or instruction organization, and any of their affiliates or subsidiary corporations, and any of their respective employees, officers, directors, agents, contractors, staff, volunteers, or assigns (hereinafter referred to as “**Released Parties**”), are not and will not be liable or responsible in any way for injury, death, or other damages to me, my family, estate, heirs, or assigns, and I and they will not hold the Released Parties responsible. My full and complete assumption of risk is a material covenant, without which I would not be allowed to participate in a Diveheart Activity. **I know, understand, and appreciate the inherent risks involved and am voluntarily still participating in Diveheart Activities.**

## **II. RECOGNITION OF ADDITIONAL RISK INHERENT TO ADAPTIVE DIVING**

I understand that even though I may have received medical clearance to participate, due to my possible physical and/or cognitive disabilities and the physically strenuous nature of a Diveheart Activity, I acknowledge that I may have an increased risk of death or injury, including, but not limited to, exhaustion, heart attack, stroke, panic attack, hyperventilation, emotional stress, anxiety, panic, diminished comprehension and timely response to problem solving and emergent situations, an increased risk of decompression sickness, embolism, hyperbaric/air expansion injury, autonomic dysreflexia (hyperreflexia), heat exhaustion, thermal regulation related injuries, abrasions and lacerations due to sensory impairment or loss, hypothermia, hypertension, hypotension and muscle spasticity, drowning or near drowning, as well as other, foreseen and unforeseen medical injuries or complications.

I additionally recognize that due to my possible physical and/or cognitive disabilities, I may not be able to perform independently all scuba skills, including, but not limited to, self-rescue, and, therefore, there is a greater inherent risk of injury or death, including, but not limited to, the possible failure of my dive buddies or instructors to timely and effectively provide assistance, including, but not limited to, assistance with controlled ascents and descents, equalization, out of air emergencies and/or the usage of a full face mask.

I also understand that past or present medical conditions and medications may be contraindicative to my participation in Diveheart Activities, and recognize that some medical and/or scuba experts may opine that scuba is contraindicated in view of my medical condition and possible physical and/or cognitive disabilities. Despite such medical contraindications or expert opinions, I still choose to proceed.

I recognize there is a risk of bodily injury and/or death related to transfers or other similar activities, including, but not limited to, transfers in and out of the dive boat, where assistance may be provided to help me move my body.



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I understand and agree that Diveheart may provide confidential information, including, but not limited to, information about my physical and/or cognitive disabilities, to other entities and affiliates deemed necessary for participation in Diveheart Activities, which may include, but are not limited to, dive boat operators, hotels, airlines, and travel agents.

**I know, understand, and appreciate these additional inherent risks involved in adaptive scuba diving and am voluntarily still participating in Diveheart Activities.**

### **III. GENERAL RELEASE AND WAIVER OF LIABILITY**

In consideration of being allowed to participate in a Diveheart Activity, today and on all future dates, I voluntarily and expressly waive, excuse, absolve and release the Released Parties from *any and all present and future claims* (including claims for injury and/or death to me), resulting from or incident to my participation in a Diveheart Activity, *including without limitation any claims resulting from the ordinary or gross negligence of the Released Parties.*

I understand and agree that I am not only giving up my right to sue the Released Parties, but also any rights my heirs, assigns, beneficiaries, personal representatives or guardians may have to sue the Released Parties resulting from my death or injury. I further represent that I have the authority to do so, and my heirs, assigns, beneficiaries, personal representatives or guardians will be estopped from claiming otherwise.

I understand and agree that all of the instructors and other individuals and volunteers are dedicating their time and services to make a Diveheart Activity possible and provide me an opportunity to participate; they are relying on and would not be willing to do so without my representation to fully release and waive any and all claims against the Released Parties as consideration for the services they are providing me. While these individuals seek safety, they are not infallible, and may be ignorant of a participant's fitness or abilities, may misjudge the weather or conditions, or otherwise make judgment errors. I understand and acknowledge that I AM ULTIMATELY RESPONSIBLE for my own safety.

### **IV. APPLICABLE LAW; ARBITRATION**

**PLEASE READ THIS SECTION CAREFULLY. BY SIGNING THIS, I AM KNOWINGLY AND VOLUNTARILY WAIVING MY CONSTITUTIONAL RIGHT TO GO TO COURT, INCLUDING THE RIGHT TO A TRIAL BY JURY AND THE RIGHT TO PARTICIPATE IN A CLASS ACTION, OR ENGAGE IN DISCOVERY BEYOND AS PROVIDED FOR IN THE RULES. IN ARBITRATION, A DISPUTE IS RESOLVED BY AN ARBITRATOR INSTEAD OF A JUDGE OR JURY.** The laws of Florida shall govern this Agreement without giving effect to conflict of laws principles. We agree that any dispute, claim or disagreement between us (a "Dispute") shall be resolved exclusively by arbitration in Chicago, Illinois. The arbitration will be administered by JAMS, under its Streamlined Arbitration Rules (the "Rules") by a single neutral arbitrator agreed on by the parties within thirty (30) days of the commencement of the arbitration. The arbitration will be governed by the Federal Arbitration Act (Title 9 of the U.S. Code). Either party may initiate the arbitration process by filing the necessary forms with JAMS. To learn more, call any JAMS office or visit [www.jamsadr.com](http://www.jamsadr.com). We will each bear all of our own attorneys' fees and costs. Disputes must be brought in the name of an individual person or entity and must proceed on an individual non-class, non-representative basis. The arbitrator, whose decision shall be final and binding, shall have the authority to award any legal or equitable remedy or relief that a court could order or grant. The arbitrator's decision may be enforced in any court having jurisdiction. The arbitrator is not authorized to change or alter the terms of this Agreement. All statutes of limitations that are applicable to any dispute shall apply to any arbitration. **(Please initial\_\_\_\_\_)**



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**V. WAIVER, ENTIRE AGREEMENT**

I am of lawful age and legally competent to sign this Agreement, or I have acquired the written consent of my parents or guardians who also sign this Agreement. I understand the terms herein are contractual and not a mere recital and that I have signed this Agreement of my own free will and with the knowledge that I hereby agree to waive my legal rights. I further agree that if any provision of this Agreement is found to be unenforceable or invalid, such provision shall be severed from this Agreement and the remainder of this Agreement shall then be construed as though the unenforceable provision had never been contained herein. Any delay or failure of a party to enforce any of the provisions of this Agreement shall not be construed to (i) be a waiver of such provisions or a party's right to enforce that provision; or (ii) affect the validity of this Agreement. I affirm that this Agreement *supersedes any and all previous oral or written promises or agreements*. Accordingly, I am not relying upon any representation made by Diveheart that is not expressly specified in this Agreement, including without limitation any statements regarding the likelihood of injury or lack thereof. This Agreement is the entire agreement regarding my participation in Diveheart activities, and cannot be modified or changed in any way by representations or statements by any agent or employee of Diveheart. This Agreement may only be modified by a written document signed by all parties.

**ACKNOWLEDGEMENT OF UNDERSTANDING: I, \_\_\_\_\_, HAVE READ THIS ENTIRE AGREEMENT AND FULLY UNDERSTAND ITS TERMS. I UNDERSTAND THAT BY SIGNING, I COVENANT NOT TO SUE THE RELEASED PARTIES AND AGREE TO EXEMPT AND RELEASE THE RELEASED PARTIES FROM ALL LIABILITY AND RESPONSIBILITY WHATSOEVER, HOWEVER CAUSED, INCLUDING BUT NOT LIMITED TO, THE NEGLIGENCE OF THE RELEASED PARTIES, WHETHER PASSIVE OR ACTIVE. I AM AWARE THAT I AM RELEASING LEGAL RIGHTS THAT MAY OTHERWISE EXIST. I FURTHER ACKNOWLEDGE THAT I AM FREELY AND VOLUNTARILY SIGNING THIS AGREEMENT, AND BY SIGNING I UNDERSTAND THAT DIVEHEART IS NOT LIABLE FOR ANY INJURIES OR DEATH I MAY SUSTAIN AS A PARTICIPANT; I ASSUME ALL RISK OF INJURY OR DEATH.**

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

Date: \_\_\_\_\_

Parent/Legal Guardian if Minor  
or Otherwise Incapacitated: \_\_\_\_\_  
Signature

Date: \_\_\_\_\_

\_\_\_\_\_  
Signature

Date: \_\_\_\_\_

Diveheart Representative: \_\_\_\_\_

Date: \_\_\_\_\_



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**MINORS AND OTHER LEGALLY INCAPACITATED PARTICIPANTS:**  
**LEGAL GUARDIAN'S AGREEMENT TO HOLD HARMLESS**

**NOTICE TO MINOR'S OR LEGALLY INCAPACITATED PERSON'S GUARDIAN:**

Please read this release agreement completely and carefully. By signing below, you are agreeing to let your minor child or ward engage in a potentially dangerous activity. **THERE IS A CHANCE YOUR MINOR CHILD OR WARD MAY BE SERIOUSLY INJURED OR KILLED BY PARTICIPATING IN A DIVEHEART ACTIVITY.** You have the right to refuse to sign this form, and the Released Parties have the right to prohibit participation by your ward or minor child.

I, the PARENT OR GUARDIAN of \_\_\_\_\_, have carefully reviewed the **ASSUMPTION OF RISK AND WAIVER OF LIABILITY AGREEMENT** above, and have fully understood and voluntarily agreed to its terms. I affirm that I have explained the Diveheart Activity risks and safety rules to my minor child or ward, and the child or ward understands both the risks and the rules.

I AM AWARE THERE ARE CERTAIN INHERENT RISKS, INCLUDING THOSE DESCRIBED IN SECTION I AND II ABOVE WHICH CANNOT BE AVOIDED OR ELIMINATED. I UNDERSTAND THAT I AM GIVING UP SUBSTANTIAL RIGHTS, INCLUDING MY RIGHT AND MY WARD'S OR MINOR CHILD'S RIGHT TO RECOVER FROM THE RELEASED PARTIES IN A LAWSUIT FOR ANY PERSONAL INJURY, INCLUDING, BUT NOT LIMITED TO, DEATH TO THE CHILD OR WARD, OR ANY PROPERTY DAMAGE.

I further acknowledge that I am voluntarily signing this form, and **intend my signature to be a complete and unconditional release of all liability, including that due to ordinary or gross negligence by the Released Parties, to the greatest extent allowed by the law of the State of Florida.** In consideration of my child or ward being allowed to participate in a Diveheart Activity, today and on all future dates, I AGREE TO LET MY MINOR CHILD OR WARD ENGAGE IN A POTENTIALLY DANGEROUS ACTIVITY, AND EXPRESSLY WAIVE, EXCUSE, ABSOLVE, AND RELEASE THE RELEASED PARTIES FROM ANY AND ALL PRESENT AND FUTURE CLAIMS (INCLUDING CLAIMS FOR SERIOUS INJURY OR DEATH TO MY MINOR CHILD OR WARD) RELATED TO OR ARISING FROM THEIR PARTICIPATION IN A DIVEHEART ACTIVITY, INCLUDING, BUT NOT LIMITED TO ANY CLAIMS RELATING TO FAILURE TO WARN OF THE INHERENT RISKS, ORDINARY OR GROSS NEGLIGENT ACT BY THE RELEASED PARTIES, OR A NEGLIGENT ACT BY MY CHILD OR WARD.

I understand and agree with all of the terms set forth above:

Parent/Legal Guardian: \_\_\_\_\_  
Signature

Date: \_\_\_\_\_

Parent/Legal Guardian: \_\_\_\_\_  
Signature

Date: \_\_\_\_\_

Print Name: \_\_\_\_\_

Address: \_\_\_\_\_

Telephone: \_\_\_\_\_

\_\_\_\_\_



**AUTHORIZATION TO RELEASE MEDICAL INFORMATION**

I authorize Diveheart and its affiliates to disclose any and all of my medical information to my insurer and/or to Diveheart employees, officers, directors, agents, contractors, staff, volunteers, or assigns, Diveheart affiliates and/or dive boat operators, hotels, airlines, and travel agents as necessary to assure that I get the assistance I need when participating in a Diveheart Activity. To the extent applicable, I understand that my medical record may contain information that is considered sensitive under law, and hereby further authorize Diveheart and its affiliates to disclose HIV/AIDS, mental health, sexually transmitted disease, genetic, and alcohol and/or drug abuse information if such information exists in my records. I understand that my medical information is protected under the federal and state privacy laws and regulations, and cannot be disclosed without my written consent except as otherwise specifically provided by law. I understand that if the person(s) or entity(ies) that receives the medical information is not a health care provider or health plan covered by federal privacy regulations, the information described above may be re-disclosed and is no longer protected by those regulations. Therefore, I release Diveheart, its employees and my physicians from all liability arising from disclosure of my health information as authorized hereby. It is my understanding that this authorization will expire upon my discontinuation of participation in Diveheart activities. I understand that I may revoke this authorization by notifying Diveheart, in writing, but I understand that any such health information disclosed prior to the date of such written revocation request would not be subject to such revocation request.

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

Date: \_\_\_\_\_

Participant's Guardians if Minor  
or Otherwise Incapacitated:

\_\_\_\_\_  
Signature

Date: \_\_\_\_\_

\_\_\_\_\_  
Signature

Date: \_\_\_\_\_





**VOLUNTARY PRIVACY WAIVER AND MEDIA RELEASE FORM**

**THIS IS NOT PART OF THE PARTICIPATION AGREEMENT; YOU MAY PARTICIPATE WITHOUT CONSENTING.**

I hereby grant Diveheart and its affiliates permission to take photographs, including videotape footage and/or photographs, of me, and/or to use photographs or video footage in which I appear, for purposes of Diveheart promotional materials and activities, including, but not limited to applying for funds to support Diveheart's purpose and activities.

I grant Diveheart, its officers, employees, legal representatives and assigns, permission to use, re-use, display, distribute, copy, modify, publish and re-publish such photographs, videotape or digital images in connection therewith, in whole or in part, severally or in conjunction with other photographs or writings, in any medium and for any purpose whatsoever, including, without limitation, training, illustration, press releases, media, promotion, advertising and trade materials. These materials might include printed or electronic publications, audio/video materials, websites or other electronic communications.

I grant Diveheart all rights, title and interest to the finished pictures, negatives, reproductions and copies of the original prints and negatives, as well as any video footage or copies thereof, including the right to give, sell, transfer, display, distribute, copy, modify and exhibit the negatives, original prints, video footage, or copies thereof. I agree that I am not entitled to any compensation for any such use of my name, likeness, photographs or video footage. I hereby waive any right to inspect or approve the finished video footage, photographs or printed or electronic material and any printed matter to be used in connection therewith.

I hereby release and discharge Diveheart, its officers, employees, legal representatives and assigns, now and forever from any and all claims and demands which I or my heirs or representatives ever had, now have or may have arising out of, or in connection with, the use of my name, writings, photographs, or video footage including, without limitation, to all claims for libel or alleged misrepresentation by virtue of alterations, visual or audio manipulation or faulty mechanical reproduction.

I have read the preceding voluntary privacy waiver and media release, before signing below, and warrant that I fully understand the terms and contents therefore.

Participant / Volunteer: \_\_\_\_\_ Date: \_\_\_\_\_  
Signature

Participant's Guardians if Minor \_\_\_\_\_ Date: \_\_\_\_\_  
or Otherwise Incapacitated: Signature

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