

# **RELEASE, INDEMNIFICATION, AND HOLD HARMLESS AGREEMENT AND AGREEMENT NOT TO SUE**

1. The United States of America (the "Government"), and the State of Texas (the "State") acting by and through the Department of Defense, and Texas National Guard, believes it to be mutually beneficial to both the Government, State and news media organizations ("media organizations") to place selected news media organization employees ("media employees") with selected military units ("military units") for the purpose of providing news media coverage before, during, and after military operations. The placement of media employees with military units is referred to in this Agreement as "embedding" or the "embedding process" and will require media employees to live, travel, eat, sleep, and conduct all professional and personal activities with the military unit to which the media employees are "embedded."

## **2. Definitions.**

a. The term "Government" means the United States Government, including its departments, subdivisions, agencies, instrumentalities, officers, employees (including military and civilian personnel), servants, contractors, volunteers, and agents.

b. The term "State" means the State of Texas Government, including its departments, subdivisions, agencies, instrumentalities, officers, employees (including military and civilian personnel), servants, contractors, volunteers, and agents.

c. The term "media organization" means the "media employee's" employer, a registered U.S. or foreign profit or not-for-profit organization, its successors, and assigns.

d. The term "media employee" means an employee or agent of a "media organization", his or her guardians, executors, administrators, heirs, and assigns.

3. Media organizations and media employees understand and agree that the embedding process will expose media employees to the same risks and hazards as those to which the military members of military units are exposed, including the extreme and unpredictable weather environments, high risk rescue operations, and direct support to civil authorities, as well as common and uncommon hazards of military living. Media organizations and media employees fully understand and appreciate the following:

a. The embedding process will expose media employees to all hazards of a military environment, including but not limited to the extreme and unpredictable hazards of the environment, direct support to civil authorities and extreme rescue operations. The military environment is inherently dangerous and may result in death or personal injury of media employees or damage to personal property.

b. The embedding process may include strenuous and inherently dangerous activities, including transportation in, and close proximity to, military tactical vehicles, aircraft, watercraft, and other Government, State (and Government contracted) vehicles and may involve substantial

risk of serious injury or death as the result of the media employee's own actions or inaction, the actions or inactions of others including agents, contractors, officers, service members, and employees of the Government and/or State, the conditions of the Government facility and the natural environment, the known or unknown condition of any government-furnished equipment, and the inherent dangers of military operations and those operations in direct support of the civil authorities.

c. The embedding process requires media employees to be in overall good physical health and condition. Persons who are not in overall good physical health and condition should not participate in the embedding process. Media employees should consult their physicians prior to embedding to be certain they are qualified to do so. Persons with a history of heart or lung disease or conditions, or coronary disease, or other chronic or pervasive diseases or conditions may not participate. Likewise, those women currently pregnant may not participate. Anyone suffering from any injuries, conditions, ailments or pre-existing conditions that could be affected by the embedding process may not participate.

4. The media employee agrees to:

a. Participate in the embedding process and to follow the direction and orders of the Government and State related to such participation. The media employee further agrees to follow Government regulations. The media employee acknowledges that failure to follow any direction, order, regulation, or ground rule may result in the termination of the media employee's participation in the embedding process.

b. Voluntarily, willingly, and knowingly **ASSUME ANY AND ALL RISKS**, known and unknown, in any way associated with the embedding process.

c. **RELEASE, INDEMNIFY, AND HOLD HARMLESS** the Government and State from and against any claims, demands, actions, liens, rights, subrogated or contribution interests, debts, liabilities, judgments, costs, and attorney's fees, arising out of, claimed on account of, or in any manner predicated upon the media employee's participation in the embedding process, including any loss or damage to property or the personal injury or death of any person which may occur as a result of the media employee's participation in the embedding process, even where that loss, damage, personal injury, or death is caused or contributed to, in any manner, by the Government and/or State.

5. The media organization agrees to permit its media employees to participate in the embedding process. As a condition of being permitted to participate in the embedding process, the media organization agrees to **RELEASE, INDEMNIFY, AND HOLD HARMLESS** the Government and/or State from and against any claims, demands, actions, liens, rights, subrogated or contribution interests, debts, liabilities, judgments, costs, and attorney's fees arising out of, claimed on account of, or in any manner predicated upon the media employee's participation in the embedding process, including any loss or damage to property or the personal injury or death of any person, even where that loss, damage, personal injury, or death is caused or contributed to, in any manner, by the Government and/or State.

6. The media organization and media employee hereby covenant and agree they will never institute, prosecute or in any way aid in the institution or prosecution of any demand, claim or suit against the Government and/or State for any destruction, loss, or damage to the media organization's property or the media employee's property, or the personal injury or death of media employees which may occur as a result of the media employee's participation in the embedding process.
7. The media organization and media employee grant express, voluntary, and knowing consent to the rendering of all emergency medical or dental treatment that may, in the professional judgment of a Government and/or State medical or dental officer, become necessary while participating in the embedding process. Transportation to a definitive Government and/or State or commercial care facility may be required as an adjunct to authorized emergency medical or dental care. Persons receiving Government medical or dental care who are not otherwise eligible to receive such care shall be obligated to reimburse the Government and/or State.
8. The media organization and the media employee understand and agree that the Government and/or may terminate the embedding process at *any time* and for *any reason*, as the Government and/or State determines appropriate in its sole discretion.
9. This Release, Indemnification, Hold Harmless Agreement and Agreement Not to Sue shall be interpreted according to federal law and laws of the State of Texas. It is to be construed as broadly and inclusively as is permitted by relevant federal law and the laws of the State of Texas. If any portion of this document is held invalid, the balance shall continue in full force and effect.

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Media Employee's Signature

Date

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Media Organization

By: \_\_\_\_\_

Date