

## How and when to use the affirmation and liability release form

Since 1972, Kiwanis International has provided a program of general liability insurance for its local clubs and their members. The purpose of this insurance is to protect Kiwanis clubs against claims for bodily injury or property damage caused by the negligence or the wrongful actions of a club member during a Kiwanis activity or event.

However, because of the highly litigious nature of our society, claims have been filed, in the past, against Kiwanis clubs for simple accidents that occur during an event even though the accident was not in any way caused by Kiwanis. Certainly if someone is injured due to the negligence of a Kiwanian, Kiwanis should be held accountable, but frivolous claims have been filed under this insurance for accidents incurred accidentally for which no one is to blame.

After many years of study and working with the insurance company to resolve this problem, the Kiwanis Board of Trustees, together with the Kiwanis insurance advisor and legal counsel, is recommending to all local clubs the use of a Waiver of Liability form.

### INSTRUCTIONS FOR USE

1. This sample liability release is intended to serve only as an example to assist your attorney in drafting one appropriate for your event. It may need to be modified to meet the specific needs of your event or your local laws. Neither Kiwanis International nor Hylant accepts any responsibility for your failure to seek competent legal advice prior to using this document.
2. A release of liability is only valid when it is an informed release. Therefore, you should supply written information to each participant concerning the hazards and risks inherent in your event. They should acknowledge receiving, reading and understanding it

The purpose of this form is to require people to take responsibility for their own actions and to assume the risk of foreseeable injuries when they voluntarily choose to participate in a Kiwanis event. We are requesting that every local club ask each participant in an athletic event to sign a Waiver of Liability. The forms should be retained, on file, by your club for a period of two years following the event. This form is designed to cover participatory events such as:

1. Marathon or 10K races
2. Basketball, football, and various leagues and tournaments
3. Bike-A-Thon and Walk-A-Thon events
4. Tennis and golf tournaments
5. Baseball leagues and tournaments

Kiwanis feels that there is a foreseeable risk of injury as a participant (not a spectator) in these types of athletic events and that this risk should not be borne by Kiwanis as sponsor, but by the participant.

in writing, and this acknowledgment should be kept on file with the affirmation and liability release.

3. It is critical that all individuals signing the release be of legal age in your jurisdiction or have the co-signature of parents or guardians. Whenever in doubt about the age of an individual, ask for proper proof of age. A release improperly signed by a minor is worthless.
4. Please refer any questions to your attorney. Since local laws vary, neither Kiwanis International nor its insurers can give you specific advice about how to proceed.

# Sample: Affirmation and liability release form

I, \_\_\_\_\_, hereby affirm that I have been well advised and thoroughly informed of the inherent hazards and policies of the event. I know that participating in a (type of event) is a potentially hazardous activity. I should not participate unless I am medically able. I hereby personally assume all risks associated with my voluntary participation in this event for any harm, injury or damage that may befall me as a result of my participation, whether foreseen or unforeseen, including but not limited to (list incidents most likely to occur in the specific event).

I understand and agree that neither Kiwanis International nor \_\_\_\_\_ club located in the city of \_\_\_\_\_ and state of \_\_\_\_\_ may be held liable in any way for any occurrence in connection with my participation in (name of event) that may result in injury, death, or other damages to me or my family, heirs, or assigns, and in consideration of being allowed to participate in this event, I hereby personally assume all risks in connection with said event for any harm, injury or damage that may befall me, including all risks connected therewith, whether foreseen or unforeseen; and further to save and hold harmless said event and persons from any claim by me, or my family, estate, heirs, or assigns arising out of my participation in this event.

I further state that I am of lawful age and legally competent to sign this affirmation and release, or that I have acquired the written consent of my parents or guardians; that I understand the terms herein are contractual and not a mere recital; and that I have signed this document of my own free will.

It is my intention by this instrument to exempt and release Kiwanis International and \_\_\_\_\_ club from all liability whatsoever for personal injury, property damage or wrongful death arising out of or in the course of my participation in this event.

**I HAVE FULLY INFORMED MYSELF OF THE CONTENTS OF THIS AFFIRMATION AND RELEASE BY READING IT BEFORE I SIGNED IT.**

\_\_\_\_\_  
Signature of participant

\_\_\_\_\_  
Date

\_\_\_\_\_  
Signature of parents or guardians where applicable

\_\_\_\_\_  
Date

Blank copies of all forms are available for download at [www.KiwanisOne.org/liability](http://www.KiwanisOne.org/liability)

## Sample: Hold-harmless agreement

### INSTRUCTIONS FOR USE

1. Kiwanis International requires that local clubs obtain a hold-harmless agreement from contractors and service providers in most instances. (Refer to the risk management program for Kiwanis International.) This sample wording is provided in order to give your attorney a starting point in drafting language appropriate for your specific circumstances. The drafting of a contract is a complex matter, and neither Kiwanis International nor Hylant can accept any responsibility for the use of this language without review by your attorney.
2. Your basic contract with contractors and service providers should contain the hold-harmless agreement. A separate hold-harmless agreement is confusing at best and may well be voided by the merger provision of your basic contract.
3. The degree to which one party can hold the other party harmless varies, depending on the nature of the activity and local law. However, you can almost never be held harmless for your own gross negligence or recklessness. Be sure to have your attorney review your agreement to be sure it does not go too far.

### SAMPLE WORDING FOR A HOLD-HARMLESS AGREEMENT

Contractor/service provider agrees that it will indemnify and hold harmless Kiwanis International and \_\_\_\_\_, a Kiwanis club, from and against all losses, claims, suits or other legal liability and legal expenses of any nature imposed upon or brought against them by reason of any act or omission of the contractor/service provider or its agent or employees in the course of performing the work of providing the services that are the subject of this contract.

Blank copies of all forms are available for download at [www.KiwanisOne.org/liability](http://www.KiwanisOne.org/liability)

# Sample: Waiver of subrogation

This agreement is between \_\_\_\_\_, a Kiwanis club and \_\_\_\_\_,  
an owner or lessor of property located at \_\_\_\_\_.

Whereas the Kiwanis club wishes to use the property for an event to be held on or around \_\_\_\_\_;  
and whereas owner/lessor wishes to make the premises available for their use;

Therefore, in consideration of the exchange of promises contained herein and other valuable consideration, the Kiwanis club and owner/lessor agree as follows:

1. Owner/lessor agrees to waive all rights of subrogation against Kiwanis International, the Kiwanis club and their insurers for damages to the premises to the extent that such damages are covered by the owner's/lessor's insurance or would have been covered but for the application of a deductible.
2. Kiwanis club agrees to waive all rights of subrogation against owner/lessor and its insurers for damages to property belonging to the Kiwanis club or its members to the extent that such damages are covered by the Kiwanis club's or member's insurance or would have been covered but for the application of a deductible.
3. This agreement is separate and distinct from any other lease or other agreement regarding or relating to the use of the premises. It is expressly agreed that this Agreement is not a part of the consideration offered under any other agreement, and that no merger clause of any other agreement shall serve to extinguish this separate and distinct agreement.

Signed this day of \_\_\_\_\_  
Month Day Year

by: \_\_\_\_\_

\_\_\_\_\_  
For owner/lessor

\_\_\_\_\_  
For Kiwanis club

# How to report a liability claim



## Using the incident investigation report

All claims should be reported using the incident investigation report form (at right). The form should be completed with as much detail as possible, and a copy sent to:

**Hylant**  
**Attn: Claims Department**  
**301 Pennsylvania Parkway**  
**Suite 201**  
**Indianapolis, IN 46280**

If you receive a letter of representation from an attorney or are served with a summons and complaint, immediately phone Hylant. These are time-sensitive documents and require special handling and immediate attention. Prompt reporting of occurrences is critical in keeping claim costs at a minimum.

Keep a photocopy of the incident investigation report form for your club files. Any serious bodily injury claims should be reported to Hylant by telephone at 1-800-678-0361 or +1-317-817-5000, or by fax at +1-317-817-5151, and then followed up with a completed incident investigation report form. After 5 p.m. CST, call 1-800-252-1363.



# Incident investigation report

CLUB INFO	Club name:	Key number:
	Club president name:	Email address:
	Address:	Phone number:

OCCURRENCE	Date of occurrence:	Time:	Date reported:
	Kiwanis event:	Location:	Name of injured party/ owner of damaged property:
	Kiwanis member: (YES) (NO)	Address:	Phone number:
	Email address:	Date of birth:	Occupation:
	Work phone number:	Nature of injury:	Medical treatment sought: (YES) (NO)
	Medical provider/hospital:	Police/fire/paramedics:	Police/fire/paramedics report number if applicable:

DESCRIPTION	Describe clearly and in full detail what occurred. Include all materials, equipment and people involved (Why-What-Where-When-Who-How)

WITNESS	Witness name:	Witness address & phone number:
	Kiwanis member: (YES) (NO)	Email address:

COMMENTS	(Please attach any supporting documentation and/or photographs. Use the reverse side of this form to draw a diagram, if needed.)

REPORT BY	Name:	Address & phone number:
	Kiwanis member: (YES) (NO)	Email address:

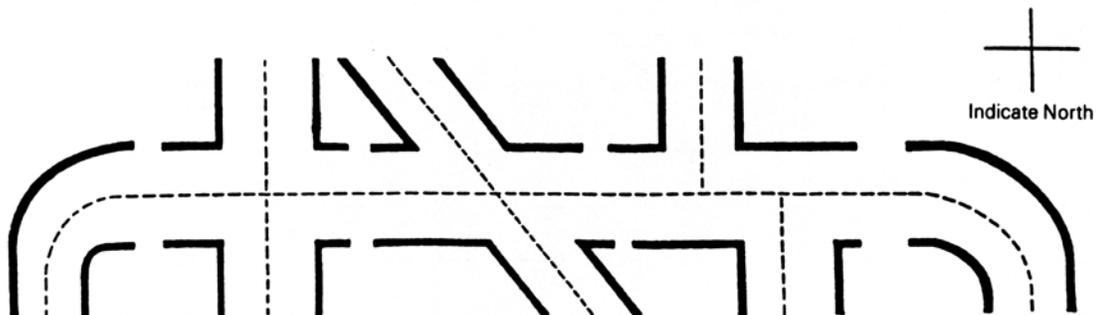
Blank copies of all forms are available for download at [www.KiwanisOne.org/liability](http://www.KiwanisOne.org/liability)

GET THE FACTS BY STUDYING THE JOB AND SITUATION INVOLVED. QUESTION EACH MANAGEMENT CONTROL TO DETERMINE THE DEFICIENCIES AND THE CORRECTIVE ACTION WHICH MUST BE TAKEN TO CONTROL THE ACTUAL CAUSES OF THE LOSS. THE QUESTIONING GUIDE WILL ASSIST BUT MAY NOT CONTAIN ALL OF THE QUESTIONS NECESSARY.

OPERATING FACTORS	MANAGEMENT CONTROLS	QUESTIONING GUIDE
P E O P L E	PLACEMENT	WHO WAS INVOLVED? What qualifications are necessary to perform the task? Who is most qualified? Why was this employee selected if not most qualified?
	TRAINING	What instructions or training were provided? What additional training is needed?
	ENFORCEMENT	What instructions or rules were not followed? What additional rules or enforcement action should be established?
E Q U I P M E N T	DESIGN AND ARRANGEMENT	WHAT EQUIPMENT WAS INVOLVED? Why was this equipment used? What equipment should be used? What guards were or were not used? What arrangement problems were present? What additional design and arrangement controls are necessary?
	PURCHASING	How did the quality or hazards of the equipment contribute to the loss? What additional purchasing controls are necessary?
	MAINTENANCE	What maintenance problems were evident? When should maintenance be performed? How can maintenance be improved?  What Personal Protective Equipment is provided? When should Personal Protective Equipment be used? What Personal Protective Equipment should be provided?
M A T E R I A L	DESIGN AND ARRANGEMENT	WHAT MATERIAL (CARGO) WAS INVOLVED? What design characteristics contributed to the loss? How should the material be designed? How was the material arranged, handled and used? How should the material be arranged, handled and used? Where should the material be arranged?
	PURCHASING	Why was this material being used? What material should be used?
E N V I R O N M E N T	DESIGN AND ARRANGEMENT	WHAT ENVIRONMENTAL FACTORS (BUILDING, NOISE, VAPOR, ILLUMINATION, ETC.) WERE INVOLVED? Why was it designed and arranged this way? How should it be designed and arranged?
	PURCHASING	What purchasing controls are necessary?
	HOUSEKEEPING	When should housekeeping be performed? How should housekeeping be improved?
	MAINTENANCE	What maintenance problems are evident? When should maintenance be performed? How should maintenance be improved?

### MOTOR VEHICLE DIAGRAM

Complete the following diagram showing direction & positions of vehicles involved, designating clearly point of contact.



#### INSTRUCTIONS:

(1) Show vehicles and direction of travel

YOUR VEH. OTHER VEH.

(2) Use solid line to show path of each vehicle before accident dotted line after accident...

(3) Give street names

# Loss prevention worksheet

Event: \_\_\_\_\_ Dates: \_\_\_\_\_

Location: \_\_\_\_\_ Times: \_\_\_\_\_

Description: \_\_\_\_\_

Events  Sponsored (low hazard): Complete Part A & D  
 Sponsored (high hazard): Complete Part A & B & D  
 Service activity: Complete Part A & C & D

Report completed by \_\_\_\_\_  
 Signature \_\_\_\_\_

## Loss Prevention Worksheet - Part A

- Have certificates of insurance been obtained?  
State policy limits  Yes  No Comments \_\_\_\_\_
- Have hold-harmless agreements been executed?  Yes  No \_\_\_\_\_
- Have buildings and grounds self-inspection been completed?  
All deficiencies corrected?  Yes  No \_\_\_\_\_
- Have all Kiwanians been briefed on responsibilities?  
Accident/incident response reporting?  Yes  No \_\_\_\_\_
- Will members trained in first aid, or other emergency  
medical care, be available at the event at all times?  Yes  No \_\_\_\_\_

## Loss Prevention Worksheet - Part B

- Provide detailed description of event and hazards presented.  
What action has been taken to address these hazards? Comments \_\_\_\_\_
- Has event been reviewed with the Kiwanis International  
insurance coordinator?  Yes  No \_\_\_\_\_  
Date and time: \_\_\_\_\_  
Name of contact: \_\_\_\_\_

## Loss Prevention Worksheet - Part C

- Has written release/permission been obtained  
for all minors involved?  Yes  No Comments \_\_\_\_\_
- Have certificates of insurance been obtained  
from transportation provider?  
State limits \_\_\_\_\_  Yes  No \_\_\_\_\_
- Have adequate chaperones been planned?  Yes  No \_\_\_\_\_
- Are chaperones trained in first aid?  Yes  No \_\_\_\_\_

Blank copies of all forms are available for download at [www.KiwanisOne.org/liability](http://www.KiwanisOne.org/liability)

## Loss Prevention Worksheet - Part D

**IMPORTANT:** Periodic inspection of your organization's buildings and grounds can alert you and your maintenance staff to potential danger to your property and those who use it. This form is provided for periodic self-inspection and is recommended for use on a quarterly inspection basis and prior to any event to assist you in discovering hazards before an accident can occur. Correct all negative conditions immediately.

**INSTRUCTIONS:** Please check Yes, No, or NA (not applicable) answers to all questions. All "No" answers indicate an area of unsatisfactory conditions and a comment regarding same should be made in the space provided on the back of this form. Use a separate sheet for each building.

NAME OF ORGANIZATION: \_\_\_\_\_ (if other than Kiwanis building or grounds)

BUILDING LOCATION: \_\_\_\_\_

NAME OF INSPECTOR: \_\_\_\_\_ DATE OF INSPECTION: \_\_\_\_\_ THIS IS PAGE NO. \_\_\_\_ OF \_\_\_\_ PAGES

### SECTION I GROUNDS

- |  |   |   |
|--|---|---|
| <p>1. Are parking areas, walkways, stairs, driveways, etc. free from conditions that may cause clipping or falling?</p> <p>2. Is exterior lighting adequate in all areas?</p> <p>3. Are exterior fire escapes in good condition?</p> <p>4. Are exterior fire escapes painted regularly?</p> <p>5. Do exterior fire escapes have securely attached handrails?</p> <p>6. Are exterior fire escapes kept clear of storage and obstructions?</p> | <p><input type="checkbox"/> Yes   <input type="checkbox"/> No   <input type="checkbox"/> NA</p> <p><input type="checkbox"/> Yes   <input type="checkbox"/> No   <input type="checkbox"/> NA</p> <p><input type="checkbox"/> Yes   <input type="checkbox"/> No   <input type="checkbox"/> NA</p> <p><input type="checkbox"/> Yes   <input type="checkbox"/> No   <input type="checkbox"/> NA</p> <p><input type="checkbox"/> Yes   <input type="checkbox"/> No   <input type="checkbox"/> NA</p> <p><input type="checkbox"/> Yes   <input type="checkbox"/> No   <input type="checkbox"/> NA</p> | <p style="text-align: center;">Describe deficiencies and corrective action taken</p> <p>_____</p> <p>_____</p> <p>_____</p> <p>_____</p> <p>_____</p> |
|--|---|---|

### SECTION II INTERIOR DOORS AND STAIRWAYS

- |   |   |   |
|---|---|---|
| <p>1. Are all exit doors properly marked?</p> <p>2. Are all exit doors easily accessible?</p> <p>3. Do all exit doors open outward?</p> <p>4. Are all exit doors equipped with panic hardware?</p> <p>5. Are all doors easily opened and closed?</p> <p>6. Are all doorways and areas adjacent to them free of obstructions?</p> <p>7. Are full-length, clear-glass doors and windows properly identified?</p> <p>8. Do all interior stairs have anti-slip treads?</p> <p>9. Are stairway and exit doors kept closed at all times?</p> <p>10. Do all interior stairways have properly secured hand rails?</p> <p>11. Are interior stairways kept free of storage and obstructions at all times?</p> <p>12. Are interior stairways properly lighted?</p> | <p><input type="checkbox"/> Yes   <input type="checkbox"/> No   <input type="checkbox"/> NA</p> <p><input type="checkbox"/> Yes   <input type="checkbox"/> No   <input type="checkbox"/> NA</p> <p><input type="checkbox"/> Yes   <input type="checkbox"/> No   <input type="checkbox"/> NA</p> <p><input type="checkbox"/> Yes   <input type="checkbox"/> No   <input type="checkbox"/> NA</p> <p><input type="checkbox"/> Yes   <input type="checkbox"/> No   <input type="checkbox"/> NA</p> <p><input type="checkbox"/> Yes   <input type="checkbox"/> No   <input type="checkbox"/> NA</p> <p><input type="checkbox"/> Yes   <input type="checkbox"/> No   <input type="checkbox"/> NA</p> <p><input type="checkbox"/> Yes   <input type="checkbox"/> No   <input type="checkbox"/> NA</p> <p><input type="checkbox"/> Yes   <input type="checkbox"/> No   <input type="checkbox"/> NA</p> <p><input type="checkbox"/> Yes   <input type="checkbox"/> No   <input type="checkbox"/> NA</p> <p><input type="checkbox"/> Yes   <input type="checkbox"/> No   <input type="checkbox"/> NA</p> | <p style="text-align: center;">Describe deficiencies and corrective action taken</p> <p>_____</p> |
|---|---|---|

### SECTION III HEATING AND AIR CONDITIONING EQUIPMENT

- |  |  |  |
|--|--|--|
| <p>1. Has heating equipment been thoroughly inspected by a qualified service man within the past year?<br/>Service date: _____</p> | <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> NA | <p>Describe deficiencies and corrective action taken</p> <p>_____</p> <p>_____</p> |
| <p>2. Is heating equipment (including flues and pipes) properly insulated from combustible materials?</p>                          | <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> NA | <p>_____</p> <p>_____</p>  |
| <p>3. Are heating and air conditioning equipment rooms free of storage?</p>  | <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> NA | <p>_____</p> <p>_____</p>  |
| <p>4. Are heating and air conditioning rooms restricted areas?</p>   | <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> NA | <p>_____</p>   |
| <p>5. Is air conditioning equipment cleaned and serviced annually?</p>   | <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> NA | <p>_____</p>   |

### SECTION IV ELECTRICAL EQUIPMENT & CONTROL PANELS

- |   |  |  |
|---|--|--|
| <p>1. Are electrical panels always kept closed?</p>   | <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> NA | <p>Describe deficiencies and corrective action taken</p> |
| <p>2. Are electrical panels always kept clean of storage and obstruction?</p>   | <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> NA | <p>_____</p>   |
| <p>3. Is circuitry adequate to handle load demand (not requiring frequent fuse replacement or circuit breaker resetting)?</p> | <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> NA | <p>_____</p> <p>_____</p>                                |
| <p>4. Was electrical system installed by a competent electrician? Date of installation: _____</p>                             | <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> NA | <p>_____</p>   |
| <p>5. Is electrical system regularly maintained by a competent electrician?</p>   | <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> NA | <p>_____</p> <p>_____</p>                                |
| <p>6. Are all electrical appliances properly grounded and cleaned?</p>  | <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> NA | <p>_____</p>   |
| <p>7. Are electric motors adequately ventilated to prevent overheating and are they cleared regularly?</p>                    | <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> NA | <p>_____</p> <p>_____</p>                                |
| <p>8. Are proper size electrical cords used and are they in good condition?</p>   | <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> NA | <p>_____</p>   |



## CONTACT INFORMATION

### **Kiwanis International**

Human Resources & Risk Services  
3636 Woodview Trace  
Indianapolis, IN 46268-3196 USA  
Telephone: +1-317-875-8755  
Telephone (toll free): 1-800-KIWANIS (549-2647)  
Fax: +1-317-875-7919

### **Hylant**

301 Pennsylvania Parkway  
Suite 201  
Indianapolis, IN 46280  
Telephone: +1-317-817-5000  
Telephone: 1-800-678-0361, ext. 15139 (U.S. only)  
Telephone: 1-317-817-5139 (Canada)  
Fax: +1-317-817-5151  
Certificate requests: [KiwanisCert@hylant.com](mailto:KiwanisCert@hylant.com)

## ONLINE RESOURCES

For complete club information,  
visit the Kiwanis website:

**[www.KiwanisOne.org](http://www.KiwanisOne.org)**

Blank copies of all insurance forms  
are available for download at:

**[www.KiwanisOne.org/liability](http://www.KiwanisOne.org/liability)**