



SUBGRAVITY CLOSED CIRCUIT REBREATHER LIABILITY RELEASE AND EXPRESS ASSUMPTION OF RISK AGREEMENT

Please fill in the blanks in blue or black ink, initial each page, sign and have it witnessed. Please then return to SubGravity via e-mail to info@sub-gravity.com or by mail to SubGravity, 12356 S. 900 E., Suite 103, Draper, Utah 84020, USA.

Date _____

Location _____

Name _____

City _____

State _____

DOB _____

Cell phone _____

Level of Training _____

Instructor _____

Facility _____

Address _____

Email _____

Zip code _____

Phone _____

Fax line _____

Agency _____

READ CAREFULLY! BY SIGNING THIS AGREEMENT YOU WILL BE WAIVING IMPORTANT LEGAL RIGHTS!

By signing this Liability Release and Express Assumption of Risk Agreement (“Agreement”) for the SubGravity Defender Closed Circuit Rebreather (“CCR”) you are knowingly and voluntarily agreeing to the terms contained within. Furthermore, you fully recognize that you are waiving important legal rights for yourself, your family, estate, heirs and assigns by doing so. This is an important legal document, and Thornton Distribution LLC d/b/a SubGravity (“SubGravity”) encourages you to seek legal counsel before signing it if you do not understand any aspect of this agreement. **DO NOT** sign it unless you understand and agree to each and every term.

You hereby agree to fully inform your family of the potential for injury or death when using the SubGravity Defender CCR and understand this is a legal and binding contract between SubGravity and all of their officers, employees, volunteers, agents, assigns, directors, board members, parent and subsidiary companies (the “Released Parties”) and you as the purchaser/user of the SubGravity Defender CCR and by signing this document on behalf of yourself, your family, estate and heirs, **YOU ARE KNOWINGLY AND VOLUNTARILY GIVING UP ALL RIGHTS TO SUE THE RELEASED PARTIES SET FORTH BELOW FOR STRICT PRODUCT LIABILITY, NEGLIGENCE OR ANY OTHER LEGAL CLAIM SHOULD YOU BE INJURED OR KILLED AS A RESULT OF DIVING WITH THE SubGravity Defender CCR.**

Please read each paragraph carefully. Your initials indicate you understand and agree to all of the information and terms contained therein. **Each numbered paragraph and subparagraph must be initialed by you. You and your witness must each initial at the bottom of each page. Your signature must be witnessed and dated.**

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I, (print name), on behalf of myself, my executors, heirs, successors, and assigns, hereby agree to release, discharge, waive, and relinquish any and all legal claims, including, without limitation, claims for strict product liability and/or negligence, that could be asserted against SUBGRAVITY and all of their officers, employees, volunteers, agents, assigns, directors, board members, parent and subsidiary companies (hereinafter the "Released Parties"), should I be injured or killed in connection with diving with the SubGravity Defender CCR, and I furthermore expressly agree to the following additional terms and provisions:

_____ (1) I hereby affirm that I have been truthful and honest in setting forth my experience, training and capabilities IN THE INFORMATION I PROVIDED IN THIS AGREEMENT. Further, that I have the proper training and experience in the sport of scuba diving necessary to freely and voluntarily assume any and all risks of advanced/technical diving and advanced life support equipment in general, and diving with the SubGravity Defender CCR in particular.

_____ (2) I have taken a formal training course of instruction from a dive training organization or dive training professional approved by SUBGRAVITY, and I have received certification in the use of the SubGravity Defender CCR, or that I am currently taking or enlisted in a SubGravity Defender CCR certification course from a dive training organization or dive training professional approved by SUBGRAVITY. Furthermore, I WILL NOT USE the SubGravity Defender CCR without said approved instructor's supervision until I receive certification in its use. I hereby state that my SUBGRAVITY approved instructor in the use of the SubGravity Defender CCR is/was:

Print instructor's name

Print name of instructor's training agency

_____ (3) I represent and warrant that I have no physical infirmity that is a contraindication to diving or to exposure to hyperbaric and hyperoxic conditions / environments / breathing media.

_____ (4) I understand, and I am fully aware, that there are many inherent risks and hazards associated with using any closed circuit rebreather, including the SubGravity Defender CCR. I understand that no piece of equipment is foolproof, and while diving a SubGravity Defender CCR, I will, or may, be exposed to a number of hazards, including, but not limited to, the risks of equipment malfunction or failure, including that which may result from the design, assembly, or manufacturer of the SubGravity Defender CCR, or from lack of or inadequate instruction or warning, as well as those risks arising from improper and/or negligent operation of the SubGravity Defender CCR, and those inherent hazards related to diving in a hyperbaric environment, including, but not limited to: decompression sickness, barotrauma including arterial gas embolism, hyperoxia, hypoxia, hypercapnia, narcosis, other hyperbaric injuries, drowning, and other hazards relating to scuba diving. I know full well that by participating in this activity I may be seriously injured or killed, even if I do nothing wrong while diving. I expressly assume all such risks.

_____ (5) I understand that all electronic controls, instruments, and breathing loops associated with rebreathers are inherently subject to random and spontaneous failure, and that those subjected to aquatic environments are especially prone to failure. As such, I agree and acknowledge that I will not conduct any dive operations using the SubGravity Defender CCR without the appropriate redundant breathing gas supply and decompression tables that I can use in the event of failure of the breathing loop, my controller or other chosen decompression system.

_____ (6) I also fully understand that problems may arise pre, post, and during diving operations when using a SubGravity Defender CCR, that when not dealt with properly may have fatal or near fatal consequences. It is therefore mandatory that I understand specifically how the SubGravity Defender CCR works, the purpose of every component, maintenance of the components, the contingency planning necessary for the dive if problems or anything reasonably foreseen or unforeseen may arise and the operational planning necessary for a diving operation.

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_____ (7) I understand that it takes time to become fully familiar with using the SubGravity Defender CCR for diving, and it takes time diving with the SubGravity Defender CCR to become proficient with the apparatus and operational procedures. I understand that experience comes with time and that experience will be built up gradually, and I will dive the SubGravity Defender CCR on a reasonable and consistent basis to maintain proficiency in its use, including practicing buoyancy control. I fully understand that, as part of the operational planning of diving a SubGravity Defender CCR, I will properly plan the diving operation to cover all those reasonably foreseeable contingencies that may appear during the diving operation, especially complete failure of the SubGravity Defender CCR, and that I will be equipped to safeguard myself and those that I am diving with.

_____ (8) **I VOLUNTARILY RELEASE, DISCHARGE, WAIVE, AND RELINQUISH ANY AND ALL LAWSUITS, ACTIONS, CLAIMS, OR CAUSES OF ACTION** for injuries, death or damages to my person or property whether arising as a result of or based on any **PRODUCT DEFECT, WHETHER BY DESIGN, MANUFACTURE, OR FAILURE TO WARN, OR NEGLIGENT ACT OR OMISSION OF THE RELEASED PARTIES** in connection with the design, materials, assembly, structural integrity, performance, instructions for operating or warnings regarding the use or for operation of the SubGravity Defender CCR.

_____ (9) **I EXPRESSLY AND VOLUNTARILY ASSUME ANY AND ALL RISK OF INJURY, DEATH, OR DAMAGE** to my person or property arising from or in conjunction with the use or operation of the SubGravity Defender CCR.

_____ (10) I understand and am aware that Closed Circuit Rebreather diving with the SubGravity Defender CCR (or any other closed circuit rebreather) is an inherently dangerous and hazardous activity, and **I VOLUNTARILY AND EXPRESSLY ASSUME ALL RISK OF INJURY, DEATH, DAMAGE, OR LOSS OF ANY KIND** occurring to me while diving or working with the SubGravity Defender CCR, or while relying on the SubGravity Defender CCR for any diving or life support purpose whatsoever.

_____ (11) I agree that I will not make a claim against or sue the Released Parties for any injuries or damage to me or my property arising in conjunction with the use of, or working with, the SubGravity Defender CCR. Further, I agree to **INDEMNIFY, SAVE, HOLD HARMLESS, AND REIMBURSE** the Released Parties for any and all awards, judgments, costs, attorney fees, or settlements in any and all actions, claims, or causes of action for injuries, wrongful death or damage to persons or property arising in conjunction with the use of, or working with, the SubGravity Defender CCR due to strict product liability, negligence or otherwise, wherever and by whomever such action, claim or cause of action is asserted.

_____ (12) I understand the Released Parties make this sale or use of the SubGravity Defender CCR without any express or implied warranties of merchantability or fitness for a particular use or purpose, and that the SubGravity Defender CCR is hereby accepted in “as is” condition by me.

_____ (13) I understand that any modifications or alterations to the SubGravity Defender CCR of any kind other than those made by the SUBGRAVITY or their principals, employees, or authorized agents, are **EXTREMELY DANGEROUS** and are **STRICTLY PROHIBITED**. I hereby agree that under no circumstances will I ever make any modifications or alterations to the SubGravity Defender CCR for any purpose whatsoever.

_____ (14) I understand the use of the SubGravity Defender CCR is permitted only upon completing and signing this Agreement. I agree, and understand, that the SubGravity Defender CCR is only to be used without instructor supervision after successful completion of a SubGravity Defender CCR training course approved by SUBGRAVITY.

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_____ (15) I agree that this SubGravity Defender CCR is for my use only. I further agree that I will not allow any person who is not properly trained and certified to use the SubGravity Defender CCR to use this SubGravity Defender CCR, and that if I do so notwithstanding this Agreement, that I hereby agree to **INDEMNIFY, SAVE, HOLD HARMLESS, AND REIMBURSE** the Released Parties for any and all costs, attorneys' fees, awards, settlements or judgments associated with any and all actions, claims, or causes of action for injuries or damage to persons or property arising in conjunction with the use of the SubGravity Defender CCR by an unauthorized user wherever and by whomever such action, claim, or cause of action is asserted.

_____ (16) I agree that all terms of and any disputes relating to this Agreement are to be governed by the laws of the State of North Carolina, USA.

_____ (17) I HEREBY AGREE THAT IF I CHOOSE TO BREACH THIS AGREEMENT BY BRINGING A LAWSUIT OR OTHER CLAIM FOR DAMAGES OR INJUNCTIVE RELIEF OF ANY KIND, THAT I WILL BRING SAID LAWSUIT OR OTHER CLAIM FOR RELIEF ONLY IN THE UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF NORTH CAROLINA, WAIVING ANY RIGHT I MAY HAVE TO TRIAL BY JURY, AND THAT SAID LAWSUIT OR OTHER CLAIM SHALL BE BROUGHT NO LATER THAN ONE (1) YEAR FROM THE DATE OF THE ACCIDENT, INCIDENT, OR OCCURRENCE UPON WHICH THE LAWSUIT OR OTHER CLAIM FOR RELIEF IS BROUGHT.

_____ (18) I agree that the terms and provisions of this Agreement shall be severable, and should any term or provision be found unenforceable by the law of any state, commonwealth, territory or province, then the remainder of the Agreement shall be binding and enforceable in accordance with its terms to the full extent permitted by law.

_____ (19) I agree and acknowledge that the terms and conditions of this Agreement shall continue in force and effect now and in the future and all times during which I participate in the activities covered by this Agreement, and shall be binding upon my heirs, executors, administrators, personal representatives, and/or anyone else claiming on my behalf.

I finally agree and acknowledge that:

_____ (20) **DIVING IS AN INHERENTLY DANGEROUS ACTIVITY THAT MAY RESULT IN INJURY OR DEATH EVEN IF PERFORMED PROPERLY AND WITH ALL DUE CARE TO SAFETY**

_____ (21) **NO DIVING PROFILE WITH ANY DECOMPRESSION ALGORITHM CAN ASSURE ME THAT I WILL NOT BE INJURED OR KILLED.**

_____ (22) **REBREATHER DIVING, DECOMPRESSION DIVING, DEEP DIVING, CAVE & WRECK PENETRATION DIVING AND THE USE OF MIXED GAS WHILE DIVING ARE EXTREMELY HAZARDOUS ASPECTS OF AN ALREADY DANGEROUS ACTIVITY.**

_____ (23) **I REAFFIRM THAT SCUBA DIVING/ REBREATHER DIVING/ DECOMPRESSION DIVING IS A POTENTIALLY HAZARDOUS ACTIVITY AND THAT ACCIDENTS CAN HAPPEN EVEN IF THE DIVER AND EQUIPMENT PERFORM TO THE BEST OF THEIR ABILITY AND EQUIPMENT PERFORMANCE. IT IS, AGAIN, MY INTENTION TO RELEASE AND RELIEVE THE RELEASED PARTIES FROM LIABILITY FOR INJURIES OR DAMAGES TO ME OR MY PROPERTY – INCLUDING MY DEATH -- ARISING FROM STRICT PRODUCT LIABILITY, NEGLIGENCE OR ANY OTHER CAUSE OF ACTION.**

_____ (24) **I HAVE READ AND FULLY UNDERSTAND THE TERMS AND PROVISIONS OF THIS AGREEMENT AND VOLUNTARILY SIGN AND AGREE TO BE LEGALLY BOUND BY IT.**

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Name (Please Print Legibly)

Date (please spell out month)

Signature

Address City State Zip

Telephone

E-Mail Address

Witness Name (Please Print Legibly)

Date (please spell out month)

Witness Signature

Witness Address City State Zip

Witness Telephone

E-Mail Address