

## **RELEASE, WAIVER, INDEMNIFICATION, AND ASSUMPTION OF RISK AGREEMENT**

WHEREAS, in consideration of the provision by APEX RACKET & FITNESS LLC (dba APEX RACKET AND FITNESS), a Maine corporation (the "Company") of the voluntary use by the undersigned of the premises owned by the Company located at 2445 Congress Street, Portland, Maine, including without limitation any buildings, fixtures, equipment, or improvements thereon (the "Premises"), and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the undersigned (the "Releasor") enters into this release, waiver, indemnification, and assumption of risk agreement (the "Release") and agrees to the following:

Releasor voluntarily, fully, unconditionally, and forever releases and discharges the Company, its parents, subsidiaries, and other affiliates, its and their respective members, shareholders, partners, officers, directors, employees, agents, and representatives, and its and their respective successors, heirs, and assigns (collectively, the "Released Parties"), from any and all past, present, and future claims, demands, controversies, causes of action, damages, liabilities, obligations, and expenses (including, without limitation, attorneys' fees) of any kind, character, or description, whether joint or several, direct or indirect, known or unknown, suspected or unsuspected, asserted or unasserted, disputed or undisputed, absolute or contingent, due or to become due, vested or unvested, or otherwise, arising from or in connection with or relating to, directly or indirectly, in whole or in part, the Releasor's use of or presence on the Premises, including, without limitation, the use by Releasor of any fitness equipment on the Premises, the participation by the Releasor in any fitness programs, classes or instruction on the Premises, the use by Releasor of shower, sauna or other amenities or features of the Premises, act or omissions by others on the Premises, or any act, omission, or negligence of any of the Released Parties in connection therewith, whether arising under the laws of the United States or of any State, or under any theory of law or equity (the "Claims").

Releasor promises, covenants, and agrees never to bring, commence, file, or prosecute, and never to advise or encourage any other person or entity to bring, commence, file, or prosecute, any action, suit, or proceeding of any kind, character, or description, at law or in equity, including for negligence, arising from on in connection with or relating to, directly or indirectly, in whole or in part, the Claims or this Release.

Releasor further agrees to indemnify, hold harmless, make whole, and defend the Released Parties from any and all Claims, including for negligence, including, but not limited to, the cost of any and all past, present, and future damages, liabilities, obligations, settlements, judgments made or rendered against any of the Released Parties, whether individually, jointly, or in solido with the Releasor, or other expenses of any kind, including attorneys' fees.

Releasor hereby acknowledges that the use of the Premises, including but not limited to participation in fitness activity, presents and exposes Releasor to numerous risks, both known

and unknown, which could result in personal injury, illness, death, or other damage to Releasor's person or property, or to the person or property of other parties. Releasor further acknowledges that his or her, as applicable, presence on and use of the Premises is entirely voluntary and is not related to Releasor's employment. Releasor hereby knowingly accepts and assumes all responsibility for and risk of personal injury, illness, death, or other damage to Releasor's person or property, or to the person or property of other parties, whether caused by the act, omission, or negligence of any of the Released Parties or otherwise.

Releasor hereby represents and warrants that he or she, as applicable (a) is at least eighteen (18) years of age; (b) has carefully reviewed this Release and fully understands and accepts its terms and conditions without reservation of any kind; (c) has had ample time to review this Release; (d) has not relied upon any representation or statement of any of the Released Parties, or any of their respective representatives or agents, with respect to the subject matter of this Release; (e) understands that this Release effects a full and final release of all Claims that the Releasor have or may have against any of the Released Parties; (f) enters into this Release voluntarily; and (g) has all necessary legal capacity to execute and deliver this Release.

Any part, provision, representation, or warranty of this Agreement which is prohibited or which is held to be void or unenforceable shall be ineffective to the extent of such prohibition or unenforceability without invalidating or otherwise affecting the remaining provisions hereof.

No consent or waiver, express or implied, to or of any breach or default in the performance of any obligation hereunder, shall constitute a consent or waiver to or of any other breach or default in performance of the same or any other obligation hereunder.

This instrument is binding on the Releasor and his or her executors, administrators, representatives, assignees, or heirs.

**I HAVE READ THIS RELEASE, FULLY UNDERSTAND ITS TERMS, UNDERSTAND THAT I HAVE FORFEITED SUBSTANTIAL RIGHTS BY SIGNING IT, AND INTEND MY SIGNATURE TO BE A COMPLETE AND UNCONDITIONAL RELEASE OF ALL LIABILITY OF THE RELEASED PARTIES TO THE GREATEST EXTENT ALLOWED BY APPLICABLE LAW.**

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SIGNATURE OF RELEASOR

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PRINTED NAME

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DATE