

PURE ATHLETE CENTER

CUSTOMER RELEASE, ASSUMPTION OF RISK, WAIVER OF LIABILITY, AND INDEMNIFICATION AGREEMENT

This Assumption of Risk, Waiver of Liability, and Indemnification Agreement (Agreement) is entered into on the date this Agreement is executed by the Adult Participant as identified by signature below, and if any minor(s) is/are named below, the Adult Participant on behalf of and as parent or legal guardian for such Child Participant(s) as identified below in favor of the Pure Athlete Center. Collectively and severally, Adult Participant and Child Participant are referred to as the Participant. In consideration of the Pure Athlete Center permitting Participant to enter the Premises and participate in the Activities, as defined below, including any of those Activities that may occur in, about, or near 2621 Summit Avenue, Suite 500, Plano, Texas 75074 (Premises) or any other premises wherever located, Participant agrees as follows:

1. Nature of the Activities. The Pure Athlete Center is an indoor sports and fitness facility, which offers clients the opportunity to participate actively or passively, in general in sports activities, including, but not limited to, volleyball, basketball, soccer, futsal, tennis, pickleball, badminton, field hockey, hockey, dodgeball, wrestling, football, and/or handball, yoga, aerobics, martial arts, use of any equipment, instruction, weight lifting, sports training, fitness training, classes, observation, use of the restroom area, use of the dining area, use of the lounge area, use of the reception area, use of any portion of the Premises, including, but not limited to, the associated sidewalks and parking lots, and any competition, event, or program sponsored by or affiliated with the Protected Parties as defined below in Section 5 of this Agreement, (collectively, "Activities"). These activities can help produce many benefits, including pleasure, improved physical fitness, more attractive appearance, more energy, greater enjoyment of life, and many health benefits. It is important that the Participants know that Activities are active and vigorous and consequently, involve some risks of injury that are inherent to the activity. Even though the Pure Athlete Center (a) has designed the facility with safety in mind, (b) provides instruction in some activities, (c) provides general supervision of activities, and (d) has developed rules and policies that focus on safety, **it is impossible to eliminate all risk and possibility of injury.**
2. Types of Risks. By signing below, Participant acknowledges there are inherent risks in participating in the Activities, including, but not limited to, cuts, bruises, muscle strain, twisted or sprained ankles, knees, shoulders, or wrists, burns, dirt or other materials in eye, concussions, broken bones, physical or emotional injuries, paralysis, death, disability or other injury or damage to Participant, property or to third persons. Inherent risks might be divided into two types. The first type of risks is those inherent in any physical activity and sport (e.g., landing wrong, over-exertion, unexpected failure of equipment). The second type of risks are those related to the type of Activity (e.g., when playing dodgeball: being injured by the ball or colliding with other participants; volleyball: being injured by the ball, colliding with another participant, or colliding with the standard supporting the net; and aerobics: over-exertion or muscle strains). Other inherent risks in the Activities include erratic co-participant behavior, unexpected equipment failure, and error of judgment by staff members. Due to the nature of the Activities, there are more hazards and risks than are enumerated here, and there are also unknown and unforeseeable hazards. **By signing below, Participant acknowledges the inherent risks of the Activities and no amount of care, caution, instruction or expertise can eliminate the inherent dangers associated with the Activities.**
3. Types of Injuries. It is important that the Participants understand the three types of injuries that can typically occur when participating in the Activities. First is the common minor injury. This type includes, but is not limited to, muscle strains and sprains, bruises, abrasions, and contusions. The second type of injury is the serious injury. Examples of serious injuries are broken bones, ligament and joint injuries, concussions, and eye injuries. These are rare, but do occasionally occur. The third type of injury is the catastrophic injury. Some examples of catastrophic injury are brain injury, paralysis, heart attack, and death. Participant on his/her own behalf and as the parent or legal guardian of the Child Participant(s), acknowledges that he/she is aware of and voluntarily assumes all such risks.
4. Assumption of Risks.
 - A. Participant on his/her own behalf and as the parent or legal guardian of the Child Participant(s), warrants Participant has read this Agreement in its entirety, acknowledges the Activities contain inherent risks, which vary with the activity, understands the demands of the Activities relative to Participant's physical condition and skill level, appreciates the types of injuries that may occur as a result of the Activities and their potential impact on our safety, well-being, and lifestyle, and asserts that participation is voluntary and all Participants knowingly assume all risks inherent with the Activities. **PARTICIPANT ACKNOWLEDGES THAT THE PROTECTED PARTIES (AS DEFINED BELOW) WILL NOT HAVE ANY RESPONSIBILITY FOR ANY INJURY TO PARTICIPANT OR PAY FOR ANY COST OR EXPENSES INCURRED BY PARTICIPANT IF PARTICIPANT IS INJURED.**
 - B. Participant agrees to exercise ordinary and reasonable care and to not consume alcohol to the extent Participant's judgment is impaired. Participant understands the potential risks associated with the consumption of alcohol and acknowledges Participant does not have and is not aware of any medical condition that would result in any injury or damage to Participant because of Participant's consumption of alcohol. Participant assumes the risks associated with alcohol consumption and takes full responsibility for Participant's own actions, safety, and welfare. **NOTWITHSTANDING ANYTHING HEREIN TO THE CONTRARY, ANY FEES PAID BY PARTICIPANT FOR ENTRY INTO THE PREMISES, OR ANY REPRESENTATIONS MADE BY ANY EMPLOYEES, IN ABSOLUTELY NO EVENT WILL PARTICIPANT BE ALLOWED TO PARTICIPATE IN ANY ACTIVITIES ONCE THE PARTICIPANT HAS CONSUMED ANY ALCOHOL. THIS PROHIBITION WILL NOT BE WAIVED.**
5. Release of Claims. In full appreciation of the foregoing risks, and in consideration for the right to use, access and enjoy the Premises and voluntarily participate in the Activities, **TO THE FULLEST EXTENT PERMITTED BY LAW, PARTICIPANT (AND ON BEHALF OF ANY CHILD PARTICIPANT AND HIS/HER HEIRS, EXECUTORS AND REPRESENTATIVES) RELEASES AND AGREES NOT TO SUE THE PURE ATHLETE CENTER, PURE ATHLETE VOLLEYBALL CLUB, INC, ELITE PERFORMANCE ACADEMY, LLC, UNTOUCHABLES, LLC, PURE ATHLETE CENTER'S LANDLORD ("LANDLORD"), LANDLORD'S MORTGAGEES AND MANAGEMENT COMPANY OF THE PREMISES, AND ANY OF THEIR AFFILIATES OR SUBSIDIARIES, RESPECTIVE OFFICERS, DIRECTORS, SHAREHOLDERS, MEMBERS, MANAGERS, PARTNERS, AGENTS, EMPLOYEES, VOLUNTEERS, CONTRACTORS, REPRESENTATIVES, HEIRS, ASSIGNS, VOLUNTEERS, INDEPENDENT CONTRACTORS, EQUIPMENT PROVIDERS, AND INSURERS OF ALL OF THEM (COLLECTIVELY, THE "PROTECTED PARTIES") FROM AND AGAINST ALL LIABILITIES, LOSSES, DAMAGES, CLAIMS, DEMANDS, ACTIONS, SUITS, CAUSES OF ACTION, COSTS, FEES, AND EXPENSES (INCLUDING REASONABLE ATTORNEY'S FEES AND COURT OR OTHER COSTS) RELATING TO, RESULTING FROM, OR ARISING OUT OF OR ALLEGED TO HAVE ARISEN OUT OF (IN WHOLE OR IN PART) ANY BODILY INJURY TO, DISABILITY, OR DEATH OF PARTICIPANT OR DAMAGE TO OR LOSS OF PARTICIPANT'S PROPERTY (A) THAT MAY ARISE IN CONNECTION WITH PARTICIPANT'S USE OF THE PREMISES AND/OR DURING OR RELATING TO PARTICIPANT'S PARTICIPATION, WHETHER ACTIVELY OR PASSIVELY, IN ANY ACTIVITIES, EXERCISING AND OTHER MISCELLANEOUS PURE ATHLETE CENTER ACTIVITIES, USE OF ANY EQUIPMENT, INSTRUCTION, TRAINING, CLASSES, OBSERVATION, USE OF THE RESTROOM AREA, USE OF ANY PORTION OF THE PREMISES, INCLUDING, BUT NOT LIMITED TO, THE ASSOCIATED SIDEWALKS AND PARKING LOTS, AND ANY COMPETITION, EVENT, OR PROGRAM SPONSORED BY OR AFFILIATED WITH THE PROTECTED PARTIES (COLLECTIVELY, "ACTIVITIES"), (B) OCCURRING IN OR ABOUT THE PREMISES (INCLUDING THE PREMISES) WHERE ANY OF THE ACTIVITIES ARE TAKING PLACE, CONDUCTED, OR PERFORMED BY PARTICIPANT OR ANYONE ELSE, OR IN TRANSPORTATION TO AND FROM ANY OF THE ACTIVITIES, (C) RESULTING IN PERSONAL INJURY, INCLUDING MINOR INJURY, SERIOUS INJURY, OR CATASTROPHIC INJURY AS DESCRIBED ABOVE IN SECTION 3 OF THIS AGREEMENT ARISING FROM, GROWING OUT OF, OR CAUSED DIRECTLY OR INDIRECTLY BY THE NEGLIGENT OR GROSSLY NEGLIGENT ACTS OR OMISSIONS OR STRICT LIABILITY OF THE PROTECTED PARTIES, (D) RESULTING FROM DAMAGE TO, LOSS OF, OR THEFT OF PERSONAL PROPERTY OF PARTICIPANT AND DUE TO THE NEGLIGENCE, GROSS NEGLIGENCE, OR WILLFUL MISCONDUCT OF THE PROTECTED PARTIES, (E) RESULTING FROM THE CONSUMPTION OF ALCOHOL AT THE PREMISES BY PARTICIPANT OR ANY OTHER INVITEE OF THE PURE ATHLETE CENTER, THE RELEASE CONTAINED IN THIS PARAGRAPH, INCLUDING ALL SUBPARTS, SHALL APPLY EVEN IF ANY SUCH INJURY OR DAMAGE IS CAUSED IN WHOLE OR IN PART BY THE NEGLIGENCE OR STRICT LIABILITY OF THE PROTECTED PARTIES OR PARTICIPANT.**
6. Indemnity. **ADULT PARTICIPANT, ON BEHALF OF HIMSELF AND HIS HEIRS, ASSIGNS, EXECUTORS AND REPRESENTATIVES AGREES TO INDEMNIFY, DEFEND, RELEASE, AND HOLD HARMLESS THE PROTECTED PARTIES FROM AND AGAINST ALL CLAIMS, CAUSES OF ACTION, SUITS, LOSSES, LIABILITIES, DAMAGES, FINES, PENALTIES, LIENS, JUDGMENTS, SETTLEMENTS, PROCEEDINGS, COSTS, FEES, AND EXPENSES (INCLUDING REASONABLE ATTORNEY'S FEES AND COURT OR OTHER COSTS) OF ANY NATURE WHATSOEVER FOR OR RELATING TO INJURY, DEATH AND/OR DISABILITY, BODILY INJURY OR PROPERTY DAMAGE IN ANY WAY RESULTING FROM, RELATING TO, OR CAUSED BY (WHETHER IN WHOLE OR IN PART) ANY OF THE FOLLOWING MATTERS (WHICH NECESSARILY INCLUDE ALL CLAIMS THAT DO OR MAY BELONG TO THE CHILD PARTICIPANT(S)): (A) PARTICIPANT'S ACTS, OMISSIONS OR PRESENCE ON OR ABOUT ANY PART OF THE PREMISES OR OTHER PREMISES WHERE ACTIVITIES ARE TAKING PLACE, CONDUCTED, OR PERFORMED BY PARTICIPANT OR ANYONE ELSE, (B) PARTICIPANT'S ACTIVE OR PASSIVE PARTICIPATION IN, OR OBSERVANCE OF, ANY OF THE ACTIVITIES; (C) ANY CLAIMS ARISING OUT OF THE NEGLIGENT, GROSSLY**

NEGLIGENT, OR WILLFUL ACTS OR OMISSIONS OF THE PROTECTED PARTIES, PARTICIPANT OR ANY GUEST OR INVITEE OF THE PROTECTED PARTIES, PARTICIPANT, OR ANY OTHER PERSON PARTICIPATING IN ACTIVITIES ON THE PREMISES (D) PARTICIPANT'S USE OF ANY FIXTURES, EQUIPMENT OR PERSONAL PROPERTY IN, ON OR ABOUT PREMISES OR OTHER PREMISES WHERE ACTIVITIES ARE TAKING PLACE, CONDUCTED, OR PERFORMED BY PARTICIPANT OR ANYONE ELSE, OR (E) PARTICIPANT'S CONSUMPTION OF ALCOHOL AT THE PREMISES. THE INDEMNITY CONTAINED IN THIS PARAGRAPH, INCLUDING ALL SUBPARTS, WILL APPLY EVEN IF ANY SUCH INJURY, LOSS, DISABILITY, DEATH, OR DAMAGE IS CAUSED IN WHOLE OR IN PART BY THE NEGLIGENCE OR STRICT LIABILITY OF THE PROTECTED PARTIES OR PARTICIPANT, BUT WILL NOT APPLY TO THE EXTENT ANY SUCH INJURY OR DAMAGE IS CAUSED BY THE WILLFUL MISCONDUCT OF THE PROTECTED PARTIES.

7. **Dispute Resolution.**

- A. **Arbitration.** Any dispute or claim arising out of or relating to this Agreement, breach thereof, the Premises, Activities, property damage (real or personal), personal injury (including death), or the scope, arbitrability, or validity of this arbitration agreement (**Dispute**) shall be brought by the parties in their individual capacity and not as a plaintiff or class member in any purported class or representative capacity, and settled by binding arbitration before a single arbitrator administered by the American Arbitration Association (AAA) per its Commercial Industry Arbitration Rules in effect at the time the demand for arbitration is filed. Judgment on the arbitration award may be entered in any federal or state court having jurisdiction thereof. No award shall exceed the amount of the claim by either party and the arbitrator shall have no authority to award punitive or exemplary damages. If the Dispute cannot be heard by the AAA for any reason, the Dispute shall be heard by an arbitrator mutually selected by the parties. If the parties cannot agree upon an arbitrator, then either party may petition an appropriate court to appoint an arbitrator. Arbitration and the enforcement of any award rendered in the arbitration proceedings shall be subject to and governed by 9 U.S.C. § 1 et seq. If either party files suit in violation of this paragraph (except to toll the statute of limitations), such party shall reimburse the other for their costs and expenses, including attorneys' fees, incurred in seeking abatement of such suit and enforcement of this paragraph.
- B. **Waiver Of Jury Trial. TO THE EXTENT PERMITTED BY LAW, ADULT PARTICIPANT ON BEHALF OF HIM/HERSELF AND THE CHILD PARTICIPANT AND THE PURE ATHLETE CENTER KNOWINGLY AND VOLUNTARILY, WITH FULL AWARENESS OF THE LEGAL CONSEQUENCES,** after consulting with counsel (or after having waived the opportunity to consult with counsel) **AGREE TO WAIVE THEIR RIGHT TO A JURY TRIAL OF ANY DISPUTE AND TO RESOLVE ANY AND ALL DISPUTES THROUGH ARBITRATION.** THE RIGHT TO A TRIAL BY JURY IS A RIGHT PARTIES WOULD OR MIGHT OTHERWISE HAVE HAD UNDER THE CONSTITUTIONS OF THE UNITED STATES OF AMERICA AND THE STATE IN WHICH THE PREMISES IS LOCATED.

8. **Acknowledgments by Participant.** Participant acknowledges on behalf of him/herself and the Child Participant(s) that Participant would not be granted access to the Premises or the ability to participate in the Activities but for these acknowledgments:

- Child Participant(s) and Adult Participant possess a sufficient level of skill and physical fitness for safe participation in the Activities. Participant also agrees to attempt only activities that Participant feels he/she is capable of performing safely. Further, Participant agrees to stay in areas that will not place Participant in undue danger.
- Neither Adult Participant nor the Child Participant(s) has any health problems that would not allow him/her to participate in the Activities.
- Participant has received either medical clearance from his/her physician prior to participation in the Activities or has determined that such clearance is not necessary for his/her safe participation in the Activities.
- Pure Athlete Center may (but shall not be obligated or required to) administer to Participant emergency aid, CPR, and use an AED (defibrillator) when deemed necessary by the Pure Athlete Center.
- Pure Athlete Center may (but shall not be obligated or required to) secure emergency medical care or transportation (i.e., EMS) when deemed necessary by the Pure Athlete Center and Participant shall assume all costs of emergency medical care and transportation.
- It is Participant's duty to inform the Pure Athlete Center and cease participation in the Activities if Participant should feel any unusual discomfort (e.g., faintness, shortness of breath, high anxiety, chest pains, etc.).
- Pure Athlete Center may (but shall not be obligated or required to) terminate Participant's participation when it determines Participant to be incapable of safely participating in the Activities.
- Participant agrees to obey all safety rules while participating in the Activities and alert the staff of any rule violations or dangerous behavior.

9. **Authority.** As the parent or legal guardian of the Child Participant(s), the undersigned represents to the Protected Parties that he/she has the legal capacity and authority to act for and on behalf of the Child Participant(s), and agrees to **INDEMNIFY AND DEFEND THE PROTECTED PARTIES FROM AND AGAINST ALL CLAIMS OR LIABILITIES RESULTING FROM OR RELATING TO ANY INSUFFICIENCY OF THE UNDERSIGNED'S LEGAL CAPACITY OR AUTHORITY TO ACT FOR OR ON BEHALF OF THE CHILD PARTICIPANT(S).**

Misc. Terms. This Agreement constitutes the entire agreement between the Protected Parties and the Participant, supersedes all previous oral or written promises or agreements, and may only be modified in writing. Participant expressly agrees that this Agreement is intended to be as broad and inclusive as is permitted by the laws of the state in which the Premises is located and that if any portion thereof is held invalid, it is agreed that the balance shall, notwithstanding, continue in full legal force and effect. Venue for any action brought hereunder or due to Participant's use of the Premises or participation in the Activities shall lie in the County in which the Premises is located. The substantive laws of the state in which the Premises is located shall apply. By signing below, Participant authorizes the Pure Athlete Center to communicate with Participant via email with updates, news, advertisements, and offers. Wherever any words are used herein in the masculine or feminine gender, they shall be construed as though they were also used in another gender in all cases where they would so apply.

10. **Acknowledgment & Understanding.** Participant represents to the Protected Parties that Participant thoroughly understands this is a complete and final release and indemnity agreement, that Participant is voluntarily entering into this Agreement, and no representations, promises, or statements made by any of the Protected Parties has influenced Participant in signing this Agreement. Participant agrees that there are no oral agreements, representations, promises, or warranties that are not expressly set forth herein and that Participant is not relying on any statements or representations of the Protected Parties that are not expressly contained herein. Participant acknowledges that Participant has read this Agreement in its entirety, fully understands its terms, and understands that he/she is giving up substantial rights herein, including his/her right to sue. Participant acknowledges that Participant is signing this Agreement freely and voluntarily, and intends by Participant's signature, to completely and unconditionally release the Protected Parties from all liability due to ordinary negligence and the inherent risks of the Activities to the greatest extent permitted by the laws of the state in which the Premises is located.
11. **License.** For good and valuable consideration the receipt of which is hereby acknowledged, Adult Participant on behalf of him/herself and the Child Participant irrevocably grants the Pure Athlete Center, Pure Athlete Volleyball Club, Inc., Elite Performance Academy, LLC, Untouchables, LLC, and all franchisees, affiliates, managers, members, directors, officers, employees, and/or volunteers (collectively and severally, **Company**) and Company's assigns, licensees and successors the right to use all or a portion of my image (including real and personal property owned by me) and name in all forms and media including composite or modified representations for all purposes, including advertising, trade or any commercial purpose throughout the world and in perpetuity. **ADULT PARTICIPANT ON BEHALF OF HIM/HERSELF AND THE CHILD PARTICIPANT WAIVES THE RIGHT TO INSPECT OR APPROVE VERSIONS OF IMAGES USED FOR PUBLICATION OR THE WRITTEN COPY THAT MAY BE USED IN CONNECTION WITH THE IMAGES. ADULT PARTICIPANT ON BEHALF OF HIM/HERSELF AND THE CHILD PARTICIPANT RELEASE COMPANY AND COMPANY'S ASSIGNS, LICENSEES AND SUCCESSORS FROM ANY CLAIMS THAT MAY ARISE REGARDING THE USE OF MY STATEMENTS OR IMAGES INCLUDING ANY CLAIMS OF DEFAMATION, INVASION OF PRIVACY, OR INFRINGEMENT OF MORAL RIGHTS, RIGHTS OF PUBLICITY OR COPYRIGHT.** Company is permitted, although not obligated, to include my name as a credit regarding the image. Company is not obligated to utilize any of the rights granted in this Agreement.

IF I AM SIGNING THIS DOCUMENT ON BEHALF OF MY SPOUSE, CHILD, FAMILY MEMBER, FRIEND, MINOR CHILD, OR OTHER PERSON, I EXPRESSLY WARRANT AND REPRESENT TO THE PURE ATHLETE CENTER THAT I HAVE SUCH PERSON'S ACTUAL AND IMPLIED AUTHORITY TO EXECUTE THIS AGREEMENT ON THEIR BEHALF, INCLUDING, BUT NOT LIMITED TO, THE ARBITRATION CLAUSE, WAIVER AND RELEASE, AND INDEMNITY AGREEMENT.

I HAVE HAD SUFFICIENT OPPORTUNITY TO READ THIS AGREEMENT. I HAVE READ AND UNDERSTAND THIS AGREEMENT, AND I AGREE TO BE BOUND BY ITS TERMS.

Please select who will be participating: Adult Minor

Adult/Parent/Guardian's Name

Minor's Name

Adult/Parent/Guardian's Date of Birth

Minor's Date of Birth

Adult/Parent/Guardian's Phone Number

Adult/Parent/Guardian's E-Mail Address

Emergency Contact's Name

Emergency Contact's Phone Number

I, the Parent/Guard

I, the Parent/Guardian, on behalf of myself and that of the minor identified above, as applicable, have read the above Assumption of Risk, Waiver of Liability, and Indemnification Agreement and fully understand and agree to its terms. I understand that I am giving up substantial rights, including my right to sue, by executing this Agreement. I further acknowledge that I am agreeing to indemnify the Pure Athlete Center, as provided above, for all claims the referenced minor may have against the Pure Athlete Center. Lastly, I acknowledge that I am signing this Agreement freely and voluntarily, and intend my signature to constitute a complete and unconditional release of the Pure Athlete Center for all liability due to (1) ordinary negligence of the Pure Athlete Center and those parties named herein and (2) to the inherent risks of the activity, to the greatest extent permitted by the laws of the state in which the Pure Athlete Center is located. By signing below, the Parent or Court-Appointed Legal Guardian agrees that they are also subject to all the terms of this document, as set forth above.

Adult/Parent/Guardian's Signature

Date