

### **Ability360 Waiver of Liability and Assumption of Risk**

In consideration of the services of Ability360 Sports & Fitness Center and Ability360 and any of their respective subsidiaries, affiliates, directors, officers, employees, servants, agents, attorneys and successors and assigns and all other persons or entities acting in any capacity on their behalf (collectively, "Ability360" or "Released Parties"), I hereby agree to release, indemnify, and discharge Ability360, on behalf of myself, my children, my parents, my heirs, assigns, personal representatives and estate, as follows.

I understand and acknowledge that the use of Ability360's fitness, climbing and pool facilities is at my own risk with the understanding that Ability360 neither accepts nor assumes any responsibility for injuries that occur as a result of my use of the facilities, fitness or climbing equipment or pool.

I understand and acknowledge that Ability360 has encouraged me to check with my doctor or other qualified medical professionals prior to participating in any physical workout activities and that I hereby acknowledge that I am able to participate in said activities. I certify that I am independently capable of entering, using and leaving the pool area, climbing area and fitness facilities safely and without assistance from any of the Ability360 personnel.

I understand and acknowledge that utilizing Ability360's fitness, climbing and pool facilities entails known and unanticipated risks. I further acknowledge and agree that utilizing any of Ability360's climbing related equipment entails inherent, extreme and significant risks both known and unknown.

I understand and acknowledge that the risks of engaging in Ability360's fitness, climbing and pool training or activities or utilizing Ability360's fitness, climbing and pool facilities include, but are not limited to: physical or emotional injury, death, paralysis, pain, cuts, abrasions, bruising, musculoskeletal injuries or strains and sprains, joint and other soft tissue injuries, broken bones and neurological or cardiovascular complications (including heart attack, stroke and exhaustion).

I understand and acknowledge the risks of engaging in Ability360's fitness, climbing and pool training or activities or utilizing Ability360's fitness, climbing and pool facilities include injury or death due to known and unknown causes, including but not limited to: slips, trips, falls, painful crashes, falling from a structure or equipment, falling on other users, being fallen on by other users, misuse, bad decision making, negligence or inattention of others (including belayers), intentional acts of others, climbing out of control or beyond one's personal limits, failure of or contact with equipment, including, but not limited to ropes, slings, webbing, harnesses, shoes, climbing hardware, anchor points, ladders, lifts or any part of the climbing wall or building or structure whether rented, permanent or temporary.

I understand and acknowledge that Ability360's staff and volunteers have difficult jobs to perform and while they seek safety, they are not infallible. Ability360's staff and volunteers might be unaware of any participant's fitness or abilities. I understand that Ability360's staff and volunteers may give incomplete warnings or instructions and that any equipment or facilities used may malfunction.

I understand and acknowledge that I have full understanding of the nature and extent of all of the aforementioned risks both known and unknown.

I UNDERSTAND, ACKNOWLEDGE AND AGREE THAT MY PARTICIPATION IN ABILITY360'S FITNESS ACTIVITIES, CLIMBING ACTIVITIES, TRAINING AND PROGRAMS (ANYWHERE) AND MY USE OF ABILITY360'S FITNESS, CLIMBING AND POOL FACILITIES AND EQUIPMENT (INCLUDING PARTICIPATION IN ANY GUIDED FITNESS OR EXERCISE CLASS OR TRAINING) IS AT MY OWN RISK AND I AM SOLELY RESPONSIBLE FOR AND EXPRESSLY ACCEPT AND ASSUME ALL RISK (INCLUDING THE RISK OF INJURY OR DEATH) INHERENT IN UTILIZING SAID FACILITIES AND EQUIPMENT OR PARTICIPATING IN SAID TRAINING OR ACTIVITIES.

I UNDERSTAND AND ACKNOWLEDGE THAT THERE MAY BE NO LIFEGUARD OR CARE ATTENDANT ON DUTY AT THE POOL, CLIMBING FACILITY OR IN THE FITNESS CENTER AND I MUST DETERMINE MY OWN ABILITY TO USE ABILITY360'S FITNESS FACILITY, CLIMBING FACILITY OR POOL AND DO SO AT MY OWN RISK, AS NOTED HEREIN.

I understand and acknowledge that nothing contained within this Waiver of Liability and Assumption of Risk grants me the authority to utilize Ability360's fitness center, climbing facility or pool unattended.

I hereby release, waive, discharge and covenant not to sue Ability360 Sports & Fitness Center and Ability360 (collectively, "Ability360") or any of their respective subsidiaries, affiliates, directors, officers, employees, servants, agents, attorneys, and successors and assigns (hereinafter collectively referred to as "Released Parties") from all liability to me, my personal representatives, assigns, heirs and next of kin for any loss or damage, and any claims or demands on account of injury to me or any other person or property or resulting in my death or the death of another, whether caused by the negligence of the Released Parties or otherwise while I am in, upon, or about the Released Parties' fitness, climbing or pool facility area or otherwise using the fitness or climbing equipment and/or the pool located therein or otherwise engaged in any fitness activity, training or program of the Released Parties.

I hereby agree to indemnify and save and hold harmless the Released Parties and each of them from any loss, liability, damage, or cost they may incur due to my presence in, upon or about the Released Parties' fitness, climbing or pool facility area or otherwise resulting from my use of the equipment or the pool located therein or otherwise resulting from my being engaged in any of the Released Parties' fitness activities, training or programs, regardless whether caused by the negligence of the Released Parties or otherwise.

I have read and voluntarily sign this Waiver of Liability and Assumption of Risk, and further agree that no oral representations, statements, or inducement apart from the foregoing written agreement have been made to me.

I understand and acknowledge that Ability360 has warranted that the equipment provided by the Ability360, if any, has been previously used in connection with athletic activities. This warranty is the only warranty that has been made to me and is in lieu of any other warranties, express or implied, including but not limited to a warranty of merchantability or fitness for a particular purpose.

I affirm and acknowledge that I have read this Waiver of Liability and Assumption of Risk and that I understand and appreciate the meaning of the terms and conditions herein.

In the event that any material term, covenant, condition or provision of this Waiver of Liability and Assumption of Risk shall be held by a court of competent jurisdiction to be invalid or against public policy, the remaining provisions of this Waiver of Liability and Assumption of Risk shall continue in full force and effect.

I agree that any action or proceeding initiated relative to this Waiver of Liability and Assumption of Risk or any claim I (or my heirs, successors or assigns) may have against any of the Released Parties shall be brought solely in the state or federal courts within the City of Phoenix, Arizona, and I hereby irrevocably submit to the exclusive jurisdiction of these courts.

I understand and acknowledge that this Waiver of Liability and Assumption of Risk shall be deemed to have been executed within the State of Arizona, and my rights and obligations hereto shall be construed and enforced in accordance with, and governed by, the laws of the State of Arizona.

I expressly represent and warrant that I am neither a resident of California nor an employee in California for purposes of § 1542 of the Civil Code of California.

I understand and acknowledge that this Waiver of Liability and Assumption of Risk supersedes any and all other agreements or understandings relating to the subject matter of this Waiver of Liability and Assumption of Risk.

**I HAVE CAREFULLY READ THE FOREGOING WAIVER OF LIABILITY AND ASSUMPTION OF RISK, KNOW THE CONTENTS THEREOF, AND SIGN THE WAIVER OF LIABILITY AND ASSUMPTION OF RISK, VOLUNTARILY, BEING AWARE OF ITS FINAL AND BINDING EFFECT.**

**IF I AM A MINOR, THE UNDERSIGNED PARENT OR LEGAL GUARDIAN HAS CAREFULLY READ THE FOREGOING WAIVER OF LIABILITY AND ASSUMPTION OF RISK, KNOWS THE CONTENTS THEREOF, AND SIGNS THIS WAIVER OF LIABILITY AND ASSUMPTION OF RISK, VOLUNTARILY, BEING AWARE OF ITS FINAL AND BINDING EFFECT, ON MY BEHALF.**

Print Participant's Name: \_\_\_\_\_

Name: \_\_\_\_\_ Name: \_\_\_\_\_

Name: \_\_\_\_\_ Name: \_\_\_\_\_

Name: \_\_\_\_\_ Name: \_\_\_\_\_

Participant's Signature \_\_\_\_\_:

Date: \_\_\_\_\_