



Liability Waiver and Participant Agreement

Please print legibly

Participant Name: _____ Birth Date: _____ Age: _____

Whose Guest are You? (If you came with a Member) _____

Address: _____ Zip: _____

Email: _____ Phone Number: _____

Emergency Contact Name: _____

Relationship: _____ Phone Number: _____

USER TERMS AND CONDITIONS

1. Vital Climbing, LLC and any of its employees, directors, officers, agents, representatives, or assigns (hereinafter "VITAL") reserves the right in its sole discretion to refuse entry, or to remove any user ("Participant") including his/her Guest(s) from VITAL's property (the "Facility") or from participation in any activity organized by VITAL outside of the Facility, including but not limited to portable wall climbing or guided instruction in the outdoors (hereinafter "Outside Activities") for any reason whatsoever. Any such refusal of entry or removal by VITAL shall be in its sole discretion.
2. VITAL shall not be responsible for the safekeeping, loss, theft or damage of any Participant's property or the property of any Guest of Participant that is brought into the Facility or brought on any Outside Activity.
3. Participant has had ample opportunity and acknowledges review of the rules and regulations of entry and participation at the Facility that are provided to Participant or posted at the Facility. Participant shall comply with and observe all rules and regulations of VITAL including, but not limited to the terms and conditions of this Agreement, the General Rules of Use and Operation Agreement, the Membership Rules of Use and Operation Agreement, and any rules provided or posted at the Facility or its website at all times and shall assure that his/her Guest(s) complies with and observes the same.
4. Should Participant or his/her Guest(s) damage or break any of VITAL's equipment or property, Participant shall be liable for the reasonable cost of necessary repairs or replacements to such equipment or property.
5. VITAL is authorized by the Participant to use, store or transfer, as VITAL may consider necessary, the Participant's personal information, for any and all purposes in connection with the Facility and services provided by VITAL and/or for the purpose of promoting, improving and furthering the interests of VITAL. Participant acknowledges this may include posting their photos and/or names online, and/or in publications.
6. Any delay or failure by VITAL to exercise its rights and/or remedies under this Agreement does not constitute a waiver of any of such right or remedy.
7. The terms and conditions herein (as amended from time to time) constitutes the entire agreement between the Participant and VITAL (other than VITAL's Membership Rules of Use and Operation Agreement if Participant is a Member) regarding the Participant's use of the Facility and supersedes all previous agreements, understandings and arrangements, written or oral, between the Participant and VITAL in relation to such matters.
8. In the event of an emergency, VITAL is authorized to notify the person(s) listed under Participant's emergency contact information.

VITAL LIABILITY WAIVER

I (Participant) understand that roped climbing, bouldering, weight lifting, cardiovascular training, yoga, and other activities now available or that may become available at the Facility in their various forms, as well as preparation for participation in, coaching or spotting, volunteering, and all other aspects involved with these activities ("collectively referred to hereinafter as "Activities") are inherently dangerous activities involving many RISKS, DANGERS, AND HAZARDS. These risks, dangers and hazards include, but are not limited to, falling, collisions with objects, people or structures, being struck by other participants or objects, loose holds or other equipment failure, the actions of other participants including negligence or inexperience of the Participant's partner(s), overuse injuries, the aggravation of preexisting conditions, or other foreseeable or unforeseeable events or circumstances. I understand that INJURIES OF ALL TYPES ARE A COMMON AND ORDINARY OCCURANCE of the Activities. I know that the risk of SEVERE INJURY and even DEATH exists in the participation of the Activities. I also understand that maintenance of the Facility and equipment, training, coaching, instruction, supervision, enforcement or lack thereof of any rules or regulations, route setting, or any added safety measures (hereinafter "Associated Activities") by VITAL, its subsidiaries, affiliates, officers, directors, employees, volunteers, agents, coaches, instructors, contractors, representatives, competition organizers and sponsors, and equipment providers do not and cannot guarantee my safety. I freely accept and expressly assume any and all risks that may arise from the Activities and Associated Activities.

I (Participant) hereby represent that I am fit and suffer from no adverse health condition or effect that would limit my ability to participate in any Activities offered by VITAL.

I (Participant) hereby represent that any of my own equipment that I use at the Facility is safe and in no way shall VITAL be liable for any damages caused to myself or a third party for any failure of any such equipment.

I (Participant) hereby acknowledge that the Facility may be open for business 24 hours a day, 7 days a week and not be staffed or supervised by employees or agents of VITAL during times outside normal business hours ("Member Hours"). During such Member Hours, the Facility will be self-supervised by its Members, and the Facility recommends that Participants exercise or climb with another adult Participant.

INITIALS: _____

TURN TO PAGE 2 TO SIGN THE WAIVER 

I (Participant) agree not to use the Facility without first signing this Agreement.

During Member Hours, I (Participant) agree to have my Guest(s) sign this Agreement before such Guest(s) are allowed to enter or participate in any activities at the Facility.

I (Participant) acknowledge that if my Guest(s) fails to sign this Agreement during Member Hours, that the Facility may revoke my membership benefits, and I agree to indemnify and hold harmless the Facility against any liability resulting from any injuries, claims, suits, attorney's fees, and damages related to injury to such Guest(s) or third parties.

I (Participant) acknowledge that no emergency medical services are available on site.

I (Participant) further acknowledge that emergency medical assistance may be delayed or unavailable during Member Hours if Participants climb or exercise alone or fail to abide by a Buddy System.

I (Participant) hereby represent that I have conducted a thorough visual inspection of the Facility and equipment I will be using, have had the opportunity to review the Rules of Use and Operation of the Facility, and I am aware of any potential hazards associated with the Facility and/or such equipment. With full knowledge and understanding of the RISK OF SEVERE INJURY AND DEATH involved in the Activities and the Associated Activities, I FREELY AND VOLUNTARILY ACCEPT AND FULLY ASSUME THE RISK THAT I MAY SUFFER TEMPORARY, PERMANENT, OR EVEN FATAL INJURIES, even if I follow the instructions or advice of VITAL.

RELEASE

In consideration of VITAL's acceptance of my membership application or day use of the Facility, and in spite of the risk of severe or permanent injury or even death, the undersigned agrees as follows:

1. I (Participant) hereby unconditionally WAIVE AND RELEASE ANY AND ALL CLAIMS AND CAUSES OF ACTION OF ANY KIND OR NATURE AGAINST VITAL, AND ANY MANUFACTURERS OR DISTRIBUTORS OF EQUIPMENT USED BY VITAL, RELATED IN ANY WAY TO USE OF THE EQUIPMENT, ACTIVITIES OR THE ASSOCIATED ACTIVITIES. VITAL PROVIDES NO WARRANTIES EITHER EXPRESS OR IMPLIED WITH RESPECT TO THE EQUIPMENT, ACTIVITIES OR ASSOCIATED ACTIVITIES. THIS WAIVER AND RELEASE INCLUDES BUT IS NOT LIMITED TO ANY SUCH CLAIMS OR CAUSES OF ACTION, present or future, related to injury or damage to Participant, his/her property, or to any other person or property, for any loss, damage, expense or injury (including DEATH) suffered by any person from or in connection with Participant engaging in any Activities and from Associated Activities, due to any cause whatsoever, INCLUDING NEGLIGENCE and/or breach of express or implied warranty on the part of VITAL.

2. I (Participant) agree to hold harmless, defend and indemnify VITAL from any claim or action, present or future, related to injury or damage to Participant, his/her property, or to any other person or property, for any loss, damage, expense or injury (including DEATH) suffered by any person from or in connection with Participant's participation in any Activities and from Associated Activities, due to any cause whatsoever including negligence and/or breach of express or implied warranty on the part of VITAL.

3. I (Participant) hereby RELIEVE VITAL OF ANY DUTY TO PROTECT PARTICIPANT FROM HARM in connection with any Activities, Outside Activities or Associated Activities in which VITAL is involved in any way.

4. In the event Participant does suffer any type of damages or injury, Participant shall notify VITAL immediately of any such occurrence or cause.

5. VITAL does not have a medical facility and does not employ medical personnel to render medical assistance. In the event of an emergency or potential injury, Participant authorizes VITAL to contact 911 or call other emergency medical personnel to provide medical care for, or transport him/her to a medical facility or hospital if, in the opinion of VITAL medical attention is required and Participant is unable to make such decisions for himself/herself. Participant agrees to pay all costs associated with such medical care and related transportation and shall DEFEND, INDEMNIFY AND HOLD HARMLESS VITAL of and from the consequences of such decision and from any such costs incurred relating to the provision of medical care. Participant also authorizes disclosure of any protected medical information in the possession of VITAL that is necessary to provide, coordinate or manage members healthcare consistent with the dictates of HIPAA and to the extent that such use or disclosure is required by law.

6. This Liability Waiver shall continue in effect in perpetuity so that each time Participant uses the Facility or participates in any Outside Activities from the date this waiver is signed forward he/she shall be bound by the terms and conditions herein.

7. If any provision of this Agreement or the application of any such provision to any person or circumstance is held invalid, the remainder of this Agreement, and the application of such provision other than to the extent it is held invalid, will not be invalidated or affected hereby.

8. This Agreement shall be construed in accordance with, and governed by the substantive laws of the State of California, without reference to principles governing choice or conflicts of laws. In addition, Participant agrees that any action or claims relating in any way to this Agreement, the rights conferred hereby or the use of the Facility, including claims for breach of contract, personal injury or related loss must be resolved by ARBITRATION in San Diego County, California according to the then prevailing rules and procedures of the American Arbitration Association ("AAA"), including the AAA's Optional Rules for Emergency Measures or Protection. The party prevailing in any such arbitration shall be entitled to recover its costs of arbitration including its reasonable attorneys' fees. The arbitrator's award will be final and binding and judgment may be entered in any California court of competent jurisdiction.

HAVING CAREFULLY READ THE FOREGOING AND UNDERSTANDING IT TO BE A LEGALLY BINDING RELEASE AND INDEMNITY AGREEMENT, PARTICIPANT SIGNIFIES HIS/HER ASSENT TO THE ABOVE TERMS BY SIGNING BELOW:

SIGNATURE OF PARTICIPANT: _____ **DATE:** _____

SIGNATURE OF PARENT OR LEGAL GUARDIAN IS REQUIRED FOR PARTICIPANTS UNDER THE AGE OF 18

PRINTED NAME: _____

(please print legibly)

As the parent or legal guardian of the minor child Participant named above, I hereby make and enter into each and every agreement, representation, waiver and release described above on behalf of myself, Participant, and any other parent or legal guardian of the Participant, intending that they be binding on me, the Participant, and our respective heirs, executors, personal representatives, administrators and assigns. By affixing my signature below I represent that I intend to give up my right, the right of Participant, and the right of any other parent or guardian or person to maintain any claim or suit against VITAL arising out of Participant's participation in any Activities or related in any way to the Associated Activities. I further agree to hold harmless, defend, and indemnify VITAL of and from any claims from third parties arising from or related to the minor child Participants' participation in any Activities or Associated Activities.

PARENT OR LEGAL GUARDIAN'S SIGNATURE: _____ **DATE:** _____

PRINTED NAME: _____

(please print legibly)