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**PARTICIPATION AGREEMENT**

**(Legal Guardian or Individual over the age of 18)**

**INHERENTLY RISKY RECREATIONAL ACTIVITY – MAY RESULT IN SERIOUS INJURY – PLAY AT OWN RISK**

**THIS PARTICIPATION AGREEMENT (“Agreement”)** is made and is effective as of the last date executed (hereinafter the "Effective Date") by and between **Preseason Playground and Wellness, LLC** (hereinafter "***Preseason Playground***") and the adult or guardian identified (hereinafter "Adult"), who is executing this Participation Agreement personally on behalf of themselves and any minor children specified below (the Adult and any minor children on whose behalf Adult signs this Agreement are collectively referred to hereinafter as the "***Participants***"). Preseason Playground and Participants are collectively referred to hereinafter as the "***Parties***." WHEREAS, Preseason Playground owns and/or operates an Athletic Club located at 2216 Adams Avenue, La Grande, Oregon, 97850 (hereinafter the "***PPAW***"); and WHEREAS, Preseason Playground makes PPAW available to customers solely for recreational use and enjoyment, not as a service to the general public; and WHEREAS, Participants desire to participate in **ALL** the recreational activities available at PPAW; and WHEREAS, Participants know, understand, and acknowledge that participation in **ANY** of the recreational activities available at PPAW are purely voluntary, not essential or necessary, and intended solely for recreational enjoyment; and WHEREAS, Participants know, understand, and acknowledge that the use of any of the equipment, services, activities, or presence at PPAW (collectively “Use of Facility”), constitutes an **inherently risky recreational activity that may result in serious injury (such as paralysis and death), damage to property, and injury to third parties**; and WHEREAS, Preseason Playground will not make PPAW available to Participants unless Participants are willing to take **personal responsibility** for any and all known, unknown, foreseeable, and/ or unforeseeable injuries to Participants, damage to property, and injuries to third parties that may result from Participants' voluntary participation in **ALL** the recreational activities available at PPAW and any of the other causes identified hereinafter.

# AGREEMENT

NOW THEREFORE, in consideration of Participants’ Use of Facility and the mutual covenants, conditions, representations, and agreements contained herein, as well as the cost of admission to PPAW, the Parties hereby agree as follows:

# Waiver and Release of Liability

To participate in the Use of Facility, all Participants, on behalf of themselves, and their parents, spouses, children/wards, heirs, assigns, representatives, estates, successors, attorneys, insurers, and all other persons, firms, partnerships or corporations connected therewith (collectively referred to hereinafter as the "*Releasing Parties*"), forever, finally, fully, permanently and unconditionally waive, release, acquit and discharge Preseason Playground, and its present and former employees, owners, members, principals, directors, subsidiaries, affiliates, representatives, predecessors, successors, shareholders, partners, parents, officers, agents, assigns, servants, attorneys, insurers, suppliers, manufacturers, clients, customers, participants, and all other persons, firms, partnerships or corporations connected therewith (collectively referred to hereinafter as the "*Released Parties*"), to the fullest extent permitted by law, from any and all charges, claims, debts, disputes, demands, suits, causes of action, rights of action, dues, sums of money, accounts, liabilities, losses, expenses and damages, absolute or contingent, known or unknown, whether or not asserted, threatened, alleged or litigated, now existing or arising in the future, at law or equity, whether caused by the negligence of Released Parties or otherwise, that arise out of or relate in any way to Participants' Use of Facility at PPAW, and any claims for costs, expenses and attorneys' and expert fees associated therewith.

# Assumption of Risk

Releasing Parties know, understand and acknowledge that the use of the equipment, services, activities, or presence at PPAW (collectively “Use of Facility”), constitutes an inherently risky recreational activity that may result in serious injury (such as paralysis and death), illness, injury to third parties, and damage to property. Releasing Parties know, understand and acknowledge that these risks include, but are not limited to, falling off equipment, double bouncing, collision with fixed objects and/or people, sudden and unforeseen malfunction of equipment, contracting a communicable disease including, but not limited to, COVID-19, the common flu, and fungal infections, and failed attempted jumps and stunts. Releasing Parties hereby assume the risk both known and unknown of personal injury or death, illness, injury to third parties, and damage to property that arise out of or relate in any way to Participants' past, present or future Use of Facility.

# Indemnification

To the extent allowed by law, the Releasing Parties hereby indemnify and covenant to hold harmless and defend Released Parties from any and all charges, passive and active negligence, claims, debts, disputes, demands, suits, causes of action, rights of action, dues, sums of money, accounts, liabilities, losses, expenses and damages, absolute or contingent, known or unknown, whether or not asserted, threatened, alleged or litigated, now existing or arising in the future, at law or equity, whether caused by the negligence of Released Parties or otherwise, that arise out of or relate in any way to Participants' Use of Facility, or based on or arising out of any breach of this Agreement, its covenants, representations, or warranties by the Releasing Parties, and any claims for costs, expenses and attorneys'/expert fees associated therewith.

# Fitness to Participate

Participants represent that they: (i) Are in good health, and in proper physical condition to participate in the Use of Facility and ALL activities at PPAW; (ii) Are NOT under the influence of alcohol, illicit or prescription drugs that would in any way impair their ability to safely participate in the Use of Facility and ANY activity at PPAW; (iii) Do NOT have ANY preexisting conditions which would make Participants unfit to participate in the Use of Facility and ANY activity at PPAW. It is the sole responsibility of all Participants to determine sufficiency of health, fitness, and ability to participate in the Use of Facility and ANY activity at PPAW.

# Covenant Not to Sue

Releasing Parties hereby covenant not to sue Released Parties on account of any and all charges, claims, debts, disputes, demands, suits, causes of action, rights of action, dues, sums of money, accounts, liabilities, losses, expenses and damages, absolute or contingent, known or unknown, whether or not asserted, threatened, alleged or litigated, now existing or arising in the future, at law or equity, whether caused by the negligence of Released Parties or otherwise, that arise out of or relate in any way to Participants' Use of Facility, and any claims for costs, expenses and attorneys' fees associated therewith.

# Representations, Warranties, and Further Assurances

Adult represents and warrants that she/he was given ample opportunity to read and review this Participation Agreement. Adult further represents, warrants, and covenants (a) that Adult is the parent or legal guardian of the minor Participants; (b) that Adult has and will maintain adequate medical or other insurance to cover and pay for any possible injury or illnesses that may occur to Participants and/or third parties (“Insurance”) that arise out of or relate in any way to Participants' presence at PPAW, participation in any of the activities at PPAW, or Use of Facility at PPAW (“Injury Event”); and (c) that in the event of any Injury Event, the Insurance shall be used as the primary insurance and shall cover all costs, expenses, losses, and damages related to injuries arising from or connected in any way to Use of Facility or such Injury Event, without any rights of subrogation.

Participants further represent and warrant that they HAVE read and MUST follow the rules of PPAW as amended from time to time, and will cause other Participants (including minor children) to follow such rules, including without limitation rules conveyed orally, and any rules posted on signs within PPAW.

# Integration

This Participation Agreement constitutes the entire and only agreement and understanding between the Parties with respect to the subject matter hereof and may not be altered, enlarged, or abridged except by an agreement in writing executed by all of the Parties hereto.

# Binding Nature of this Participation Agreement

The provisions of this Participation Agreement shall inure to the benefit of, and be binding upon, the Parties hereto and their respective successors and assigns. Participants understand that Participants have the chance to consult with an attorney about this Agreement and are otherwise signing it voluntarily.

# Severability

All the provisions of this Participation Agreement shall be considered as separate terms and conditions. In the event that any provision hereof is determined to be invalid, prohibited, or unenforceable by a court or other body of competent jurisdiction, this Participation Agreement shall be construed as if such invalid, prohibited, or unenforceable provision had been more narrowly drawn so as not to be invalid, prohibited, or unenforceable.

Notwithstanding the foregoing two sentences, in the event that any of the provisions of this Participation Agreement should be determined to be invalid, prohibited or unenforceable, the validity, legality and enforceability of the remaining provisions contained in this Participation Agreement shall not in any way be affected or impaired thereby.

# Choice of Law and Jurisdiction

This Participation Agreement shall be governed by and construed in accordance with the laws of the State of Oregon without regard to any conflict of law rules of another state. In executing this Participation Agreement, Releasing Parties' expressly intend and desire for the substantive laws of the State of Oregon to govern the validity and enforceability of this Participation Agreement.

# Mediation and Arbitration

Any and all disputes, claims, or controversies arising out of or relating in any way to this Agreement, including but not limited to Participants' Use of Facility at PPAW shall be subject to arbitration as the sole and exclusive forum for resolution of the dispute, claim or controversy and any decision issued by the arbitrator shall be final and binding. Judgment thereon may then be entered in any court of competent jurisdiction.

By signing this Agreement, the Participants, to the fullest extent permitted by law, agree to this Section 11 and agree to settle disputes only by arbitrations. Participants thereby waive their right to seek relief in a court of law and have any and all claims decided by a jury or a judge, or to maintain other available court action or administrative proceedings to settle Participants’ disputes.

# Attorney Fees for Breach of this Participation Agreement

In any action to enforce this Agreement or any term or provision hereof, to interpret this Agreement, the prevailing party shall be entitled to recover its costs incurred therein, including reasonable attorney’s fees from the non-prevailing party.

# Use; Acknowledgment of the Rules

Participants understand that in order to be present at or participate in Use of Facility at PPAW, Participants must complete all of the following: (1) sign this Agreement; (2) read and abide by the rules and regulations posted by PPAW (online and onsite). Additionally, Participants agree that Participants will ensure any guest Participant brings to PPAW signs this document and completes the other steps required for Use of Facility at PPAW. Participants understand that Participants are responsible for any guests Participants bring to PPAW, and therefore agree to indemnify the Released Parties for any liability arising out of Participants’ guest’s visit to or Use of Facility at PPAW. All Participants MUST READ, UNDERSTAND and FOLLOW all PPAW rules as amended from time to time. By signing this Agreement you are representing and warranting that you have READ, UNDERSTAND and WILL FOLLOW ALL RULES as amended from time to time.

# Video, Photo, and Image Release; Data Storage and Use

The Agreement gives Preseason Playground the exclusive rights and permissions to use all media captured at PPAW, including but not limited to: security footage, photos, and video. Such information may be used for any and all purposes including but not limited to publication in both printed and electronic media, internet, websites, advertisement, and other promotional uses. In the event Participants choose to provide such data, Preseason Playground may collect and store data that includes sensitive and personally identifiable information. This includes, for example, names, contact information (such as an address, e- mail, or phone number), and dates of birth. Preseason Playground may use this data to help towards development of new services or to improve existing services, to provide advertising and other information to Participants (including e-mails about special offers, new services, or other information that may be of interest to Participants), or for any lawful business purpose, or to allow Preseason Playground business partners to do the same. Preseason Playground also reserves the right to access, use, and share Participants’ personally identifying information with others for purposes of health, safety and other matters in the public interest. Preseason Playground may also provide access to its database or stored data in order to cooperate with investigations or legal proceedings initiated by governmental and/or law enforcement officials, as well as private parties, including, for example, in response to subpoenas, search warrants, court orders, or other legal process.

# Subsequent Visits

This Agreement shall apply to ALL of Participants’ future visits to PPAW. IN WITNESS WHEREOF, the Adult has signed this Participation Agreement as of the Effective Date. Any minor must have his or her parent or legal guardian sign this Agreement before that minor can participate in any activities or Use of Facility at PPAW. Preseason Playground may rely completely on the representation made by an individual who claims to be the parent or guardian of a participant and shall not be obligated to independently verify whether or not such individual is in fact the parent or legal guardian of the participant. By signing this Agreement for yourself without a parent or guardian also signing, you are representing to Preseason Playground that you are at least 18 years of age and that you agree to all of the above terms and conditions.

