

ENERGY NEVER STOPS LLC
LIABILITY WAIVER

1) PARTICIPANT INFORMATION

If participant is age 18 or older and does not have a legal guardian:

I, _____ [PARTICIPANT'S NAME] (the "Participant" or "I") am at least 18 years of age, and I have full right to enter into this Agreement.

2) The following terms shall be defined as follows for this Agreement:

A. "Releasees" includes Energy Never Stops LLC and all related entities, owners, directors, officers, managers, members, employees., independent contractors, representatives; and successors and assigns.

B. "Fitness Program" or "Fitness Programs" includes the participation in any guided exercise offerings provided by Releasees, for any purpose, including, but not limited to, strength and metabolic conditioning, stretching, weightlifting, and use of fitness equipment.

C. "Location" includes 5565 Tancho Dr Madison, Wi 53718 and all related entities, owners, directors, officers, managers, members, employees, independent contractors, representatives; and successors and assigns.

D. "Building Owner" includes the Location, and all related entities, owners, directors, officers, managers, members, employees, independent contractors, representatives; and successors and assigns.

3) DISCLAIMER

Releasees are not responsible for any death, injury, loss, illness, or damage of any kind suffered by any person while at the Location caused in any manner whatsoever including, but not limited to, the negligence of Building Owner.

I am aware that the Fitness Programs have inherent dangers and risks including, but not limited, to the potential for injury, illness, or death caused by participation in the Fitness Programs. Some dangers and risks include but are not limited to: fainting, abnormal blood pressure, chest discomfort, muscle cramps and soreness, fatigue, nausea, heart failure, contraction of viruses and other infectious diseases, musculoskeletal injuries, broken bones, and/or overuse injuries, all manner of injury resulting from slipping or falling, bruising, dislocation, injuries resulting from failure of equipment medical conditions resulting from physical activity; and damaged clothing or other property. I understand such risks simply cannot be eliminated, despite the use of safety equipment, without jeopardizing the essential qualities of the activity. I participate in the Fitness Program with full knowledge of these inherent risks and dangers and I accept these inherent dangers and risks.

I do hereby acknowledge and agree that:

- A. I am personally responsible for my preparation prior to, during, and after the Fitness Program, and I understand I should consult a doctor before engaging in any Fitness Program;
- B. I will at all times obey the Rules and Regulations for use of Fitness Center as detailed below, and incorporated by reference;
- C. I consent to receive first aid in the event of an accident, injury, or illness; and
- D. I will examine and inspect the Location and equipment for safety before using the same.

4) **WAIVER OF LIABILITY CLAIMS**

In exchange for, and as a condition of, the ability to participate in the Fitness Programs, and for other good and valuable consideration, the receipt and sufficiency of which are acknowledged, I hereby freely, voluntarily, and without duress execute this Agreement under the following terms:

I acknowledge, understand and knowingly waive and release the Releasees of any and all claims or damages that I may have, including claims and damages arising from bodily injuries, personal injury, death, or property damage, which may arise out of, or occur in connection with my participation in the Releasees' Fitness Programs, Releasees' first aid care, Releasees' rescue efforts, my use of the equipment or facilities, use of the Location and its facilities, whether such claims or liabilities arise from my negligence or violation of the Rules and Regulations or the Releasees' negligence.

This Agreement does not release and discharge the Releasees from a liability or claim for harm caused by the intentional or reckless acts of the Releasees.

5) **ASSUMPTION OF RISK**

I expressly accept and assume all of the risks inherent in this activity or that might have been caused by the negligence of the Releasees. My participation in this activity is purely voluntary and I elect to participate despite the risks. In addition, if at any time I believe that event conditions are unsafe or that I am unable to participate due to physical or medical conditions, then I will immediately discontinue participation.

I represent that I have adequate insurance to cover any injury or damage I may suffer or cause while participating in this activity, or else I agree to bear the costs of such injury or damage myself. I further represent that I have no medical or physical condition which could interfere with my safety in this activity, or else I am willing to assume – and bear the costs of – all risks that may be created, directly or indirectly, by any such condition.

I expressly agree that this Agreement is intended to be as broad and inclusive as permitted by the laws of the State of Wisconsin, and that this Agreement shall be governed by and

interpreted in accordance with the laws of the State of Wisconsin. Venue for any action or proceeding arising under this Agreement shall be in the courts of the State of Wisconsin.

I agree that in the event any clause or provision of this Agreement is held to be invalid by any court of competent jurisdiction, the invalidity of such clause shall not otherwise affect the remaining provisions of this Agreement, which shall continue to be enforceable.

6) INDEMNIFICATION OF RELEASEES FROM ALL CLAIMS OR DAMAGES OF NEGLIGENCE

I agree to defend, indemnify, and hold harmless the Releasees from and against any and all liability, including but not limited to claims asserted, demands, causes of action, costs, expenses, losses, attorney fees, injuries, or payments for injury to any person or property, including injury to the Releasees caused or claimed to be caused by the acts or omissions of the Participant arising out of, related to, or in any way connected with the Fitness Programs, as well as any such liability arising from, connected with, caused by, or claimed to be caused by, the active or passive negligent acts or omissions of the Releasees if such liability occurs in combination with the active or passive negligent acts or omissions of the Participant. The duty to defend, indemnify, protect, and hold harmless shall not include any claims or liabilities arising from intentional or reckless acts or sole negligence of Releasees.

7) RULES AND REGULATIONS

- A. No user shall participate in the Fitness Programs in an unreasonable manner and no user shall participate in the Fitness Programs if doing so poses a risk to the health and safety of the user or others. Releasees reserve the right to make the final determination.
- B. Everyone has a different point of view so feel free to respectfully disagree. However, respect that other people in the community have had different life experiences and may have a different perspective to yours. We welcome different viewpoints. Please be kind and courteous at all times.
- C. No bullying, targeting, or attacking another program participant. Defamatory, indecent, offensive, profane, discriminatory, misleading, unlawful or threatening comments are prohibited. Personal attacks, name-calling, trolling and abuse will not be tolerated.
- D. Proper workout attire is mandatory. No street shoes, open toed shoes, or bare feet are permitted.
- E. No drug or alcohol use, smoking (including vapor cigarettes), food, or illegal activity is permitted during participation in the Fitness Programs.
- F. I consent to receive first aid from Releasees. I acknowledge and agree that in event of an emergency, I can and should dial 911 for help.
- G. In case of equipment malfunction, please notify the Building Owner. Releasees are not responsible for the proper function of the equipment or the Location.
- H. All users shall abide by these Rules and Regulations. Any violation will be subject to suspension of user participation.
- I. Releasees are not responsible for any lost, damaged, or stolen personal belongings, or for injuries to users.

- J. Releasees reserve the right to impose mandatory rules and regulations (e.g., social distancing, cleaning equipment, wearing of masks) that may be recommended by federal, state, or local authorities to help stop the spread of infectious diseases such as Covid-19. This may include suspending or canceling the Fitness Programs.
- K. These Rules and Regulations are subject to change without notice.

8) OPPORTUNITY TO NEGOTIATE; ACCEPTANCE OF TERMS

I have been offered the opportunity to negotiate the terms and conditions of this liability waiver and indemnification agreement; however, I choose to accept the terms and conditions of this agreement as they are, without negotiation.

I have had sufficient time to read this entire document and, should I choose to do so, consult with legal counsel prior to signing. Also, I understand that this activity might not be made available to me, or that the cost to engage in this activity would be significantly greater if I were to choose not to sign this release and agree that the opportunity to participate at the stated cost in return for the execution of this release is a reasonable bargain.

PARTICIPANT'S NAME: _____

PARTICIPANT'S SIGNATURE: _____

DATE: _____