

Participant Agreement, Release and Waiver of Liability, Indemnification, and Assumption of Risk

This is an **Agreement** between "I" (the guest; the guest's family or party; the guest's parent or guardian when the guest is a minor; and the guest's next of kin, heirs, executors, personal representatives, estate, insurers, successors, spouse, and assigns) and "**you**" (PDF Development, LLC, dba Vertical or Vertical Jump Park, its corporate parent, subsidiaries, or affiliates; its owners, shareholders, operators, directors, officers, managers, employees, agents, insurers, underwriters, promoters, associations, advertisers, inspectors, surveyors, franchisors, franchisees, lessees, and volunteers; consultants and others who offer recommendations, directions, or instructions, or engage in risk evaluation or loss control activities for the **covered activities**; rescue personnel; their heirs, assigns, and next of kin; each and every landowner, municipal or governmental agency upon whose property a facility or activity is conducted; their management companies, builders, manufacturers, designers, sellers, installers, independent contractors, or landlords of the facilities or equipment; and all other persons or entities acting in any capacity on behalf or in the interests of any such person or entity).

I wish to engage in "**covered activities**" (*i.e.*, enter upon or remain in **your** properties, engage in activities at **your** properties, and use **your** facilities or equipment, including trampolining, trampoline dodgeball, trampoline basketball, foam or airbag pits, joust pits, climbing walls, snack bar, party rooms, fitness classes, and other services or activities) now and in the future. I agree that whenever I am engaged in the **covered activities**:

1. **Assumption of the Risks of Participation.** I understand that the **covered activities** present inherently dangerous activities, and participating in the **covered activities** could result in serious injury, paralysis, illness, or death, as well as damage to property. Some of these risks of injury include:

exposed springs, hooks, frames and/or other pieces of equipment; poor lighting; inadequate supervision and/or trained court monitors; inadequate protective padding, mats, netting and/or other equipment; an inadequate or a defective building; inadequate other safety measures; slipping, tripping, and/or falling; collisions or other contact with components of the facility or other guests, including the risk of illness from germs, bacteria, or fungi; environmental conditions or contamination; participating in close proximity with multiple participants, including double bouncing; other patrons or **myself** failing to know or exceeding our abilities, or failing to follow warnings or rules; injuries caused by stepping upon or falling on equipment or items that have fallen from or were dropped by me or other participants; the physical condition, fitness and/or abilities of **myself** and/or other participants; medical conditions not currently known to **me**; weight differences between **myself** and other participants; injuries (including sprains, fractures, scrapes, bruises and cuts, dislocations, pinched fingers, and serious injuries to the head, back, or neck); injuries arising out of the innocent, negligent or intentional acts of, or otherwise caused by, other participants or **myself**; injuries due to **my** or **my** minor child's own physical or mental condition or any medical condition **I** or **my** minor child may have; risks associated with exercise, physical exertion, or physical activities, including heart attacks; or improper, negligent, or defective design, manufacture, installation, maintenance, use, marketing, selection, training, supervision, staffing, inspection, instructions, warnings, or operations of the **covered activities**, properties, equipment, or employees, whether such action is undertaken by **myself**, **you**, or other patrons.

Further, everything may be done correctly and all equipment may perform properly and there is still risk of injury or death that no amount of training or care can ever fully eliminate without jeopardizing the essential characteristics of the **covered activities**. I will voluntarily participate in spite of these risks and assume all risks of injury, death, or loss, whether currently known or unknown, as well as responsibility for any loss, cost, damage, injury, disability, paralysis, or death from participating in the **covered activities**.

2. **Release and waiver of liability.** To the fullest extent allowed by law, I release and discharge **you** from, and covenant not to sue **you** for, any liability for losses or injuries, and any claim or demand resulting therefrom, including attorneys' fees and costs, whether currently known or unknown, which may arise out of the **covered activities** at any time, whether such losses or injuries result from **your** negligence or some other cause, or from negligent rescue operations. I similarly agree to release and discharge **you** from, and covenant not to sue **you** for, any liability for any personal property that is damaged, lost, or stolen, including **my** vehicle, the contents of **my** vehicle, or the contents in a locker, regardless whether **you** were negligent. I further understand and agree that **you**

- do not manufacture **your** equipment or premises, but purchase and/or lease the equipment or premises, and/or
- merely provide a license for the use of the equipment or premises, but do not create a sale, lease, or bailment of the equipment or premises, or any other rights associated with such transactions.

As such, I agree that **you** are not liable for supplying defective products or premises. I specifically understand that I am releasing, discharging and waiving any claims or actions that I may have presently or in the future for the negligent acts or other conduct by **you**.

3. **Medical and Physical Problems.** I represent that neither I nor anyone in **my** family or party have any medical or physical conditions (including but not limited to, any heart condition, high blood pressure, **back** ailments or any other condition), nor am I or they under any medical treatment for injury or other condition, that may impair **my** or their ability to safely participate in the **covered activities**. I will inform **you** if I or they are not fully qualified to participate safely in the **covered activities** for any reason. I have adequate health, disability, and life insurance for **my** family and **myself**, and I understand that they are responsible if I or they are injured and require medical treatment. I hereby authorize any transportation or medical treatment by qualified personnel deemed necessary in the event of any injury to **my** family, party, or **myself** while participating in the **covered activities**, and I authorize the release of any medical information necessary for that purpose. I either have appropriate insurance or, in its absence, agree to pay all costs of transportation and/or medical services as may be incurred on behalf of **my** family, party, or **myself**.

4. **Indemnity Agreement.** I will indemnify, hold harmless, and defend **you** from any losses, injuries, liabilities, claims, or suits made or sustained by **myself** or anyone else arising out of the **covered activities**, whether caused by **my** negligence or otherwise, including all expenses and attorney fees thereby incurred by **you**.

5. **Code of Conduct.** I agree that I have and/or will review and obey **your** rules, court monitors, video, and other warnings or instructions for engaging in the **covered activities**. I accept full responsibility for any damage I cause to **your** equipment or property. I acknowledge that I have inspected, or will immediately upon entering and continuously thereafter inspect, the premises, facilities, and equipment, and warrant that they are safe and reasonably suited for the intended purposes. I agree that I will immediately advise **you** of any unsafe condition or conduct. I will report any injury I sustain before leaving **your** property, and will identify any witnesses, as well as the cause of any injury. I further agree that **my** license to use the equipment or premises or participate in the **covered activities** is terminable at **your** discretion.

6. **Publicity.** I agree that any film or photographs of **me** as a participant on **your** property may be used for all purposes, including supervision, promotional or commercial purposes, and without **my** prior approval. I authorize and release to **you** the use of **my** image in any photograph or video recording during any **covered activity**. This right shall continue forever and without compensation. I would like to receive free e-mail promotions and discounts from you. I understand that I may unsubscribe at any time.

7. **Dispute Resolution Process.** The laws of the state of Kentucky shall govern the rights and obligations of **you** and I arising under or with respect to any **covered activity** or this **Agreement**, as well as its interpretation, construction, and enforceability, without regard to that state's conflict-of-law rules. I agree that any dispute or claim against **you** arising under or with respect to this **Agreement** or any **covered activity** shall be brought solely in Paducah, Kentucky. Both parties waive any claim of inconvenient forum or improper venue for any proceeding brought under this clause. The parties hereby waive any other venue to which they might be entitled. If either party initiates or files suit before any other courts, it is agreed that upon application any such suit or action shall be dismissed, without prejudice, and may be filed in accordance with this provision. The party bringing the suit or action before a court not agreed to hear it shall pay to the other party all the costs of seeking dismissal, including reasonable lawyer's fees. I agree that no dispute or claim arising under or with respect to any **covered activity** or this **Agreement** may be commenced more than one year after the occurrence of the events alleged to give rise to such a dispute or claim. I HEREBY VOLUNTARILY WAIVE ANY RIGHT I MAY HAVE TO A TRIAL BY JURY in any action, proceeding, or litigation involving **you**. Any controversy or claim arising out of or relating to this **Agreement** or any **covered activity** shall be resolved by binding arbitration. To file a demand for arbitration under this contract:

- **You** will prepare a written demand setting forth **your** claim, along with the American Arbitration Association's necessary filing fee; and
- **You** must submit to the Commercial Arbitration Rules of the American Arbitration Association in effect at the time the demand is filed, and judgment upon the award rendered by the arbitrator may be entered in any court having jurisdiction thereof, except as follows:
 - The arbitrator shall have the authority to issue an award or partial award without conducting a hearing on the grounds that there is no claim on which relief can be granted or that there is no genuine issue of material fact to resolve at a hearing, consistent with Federal Rules of Civil Procedure 12 and 56.
 - The arbitrator must issue the award in writing, setting forth in summary form the reasons for the arbitrator's determination.
 - The arbitrator's authority shall be limited to deciding the case submitted by the party bringing the arbitration, and therefore, no arbitrator's decision shall serve as precedent in other arbitrations or disputes.
 - The arbitrator shall have a professional, management background in the trampoline park or amusement business, but if such an individual is not available to serve, then the arbitrator shall be a member of the State Bar of Kentucky.
 - The parties waive all formalities required by statute for arbitration.

- o The parties will cooperate so that the dispute resolution proceeds on an expedited basis.
- o The arbitrator shall have no power to make any errors of law or of legal reasoning.
- o I waive any defense to enforcement of this **Agreement** arising from any claim of lack of consideration.
- o A copy of this **Agreement** (whether electronic or otherwise) is admissible once authenticated as a genuine copy without any other evidentiary foundation.
- o I acknowledge that I am not leasing or renting any product, and I am merely receiving a revocable and non-exclusive license to participate in the **covered activities**. I waive any right to pursue any claim or action based on products or strict liability.

In the event of litigation to enforce arbitration or settlement, or if arbitration is not available, I agree to the sole and exclusive venue of the federal or state courts in Paducah, Kentucky, for any dispute or claim against **you** arising under or with respect to this **Agreement** or any **covered activity**.

8. **Termination.** The terms of this **Agreement** shall continue and have full force and effect forever into the future whenever I engage in **covered activities**, even after the initial **covered activities** have ended, and each time I engage in **covered activities** will be deemed a ratification of this **Agreement**, until such time as I execute another **Agreement** with **you** regarding the **covered activities**.

9. **Entire Agreement.** The parties agree that there are no other agreements between them relating to the **covered activities**. This **Agreement** supersedes all prior such agreements, oral or written, between **you** and I regarding the **covered activities** and is intended as a complete and exclusive statement of the **Agreement** between **you** and I. No oral representations, statements, or inducements have been made to **me** that change, alter, or modify anything within this **Agreement**. I agree that neither this **Agreement**, nor its execution, has been induced by any reliance, representation, stipulation, warranty, agreement, or understanding of any kind other than those herein expressed. No change or modification of this **Agreement** shall be valid unless the same appears in writing on our approved form and signed by **me**.

10. **Interpretation of agreement.** I agree that this **Agreement** is intended to be interpreted as broadly as permitted by law. If any provision of this **Agreement**, or the application of any provision to any person or circumstance, is held invalid or unenforceable to any extent, the invalidity shall not affect other provisions of the **Agreement** that can be given effect without the invalid provisions, and to this end the provisions of this **Agreement** are to be severable. If any part of this **Agreement** is determined to be unreasonable in scope, time, or area, such narrower scope, shorter time, or lesser area as shall be found reasonable under the dispute resolution process herein shall be enforced under all circumstances. The parties agree that any ambiguous clause in this **Agreement** will not be construed against either of them on the basis that it drafted this **Agreement**. **You** and I are deemed joint authors of this **Agreement**, and it shall not be construed against **you** or I under any rules of construction.

11. **Electronic protocol.** I agree that any electronically-signed **Agreement** is valid and enforceable just as a hand-signed, hard copy. I agree that the electronic signature on this document was made by me on the date stated. I waive any right to claim that this document is unenforceable because it may have been generated and maintained in electronic form, or was signed electronically. In the event that the original **Agreement** is unavailable in the future, the version of this **Agreement** that was in effect at the time of any particular **covered activities** will be determined solely based upon the contents of **your** records and the determination of **your** records custodian, and **you** and I agree that such version of this **Agreement** will be binding as if it was the original **Agreement**.

I have read, understand, and voluntarily agree to this entire **Agreement** and waiver. I have had reasonable and sufficient opportunity to read and understand this **Agreement** and consult with legal counsel, or have voluntarily waived **my** right to do so. I understand that I am giving up substantial rights by signing this **Agreement**. If I am a minor, I have discussed the contents of this document with **my** parent or legal guardian and have their consent to sign it and engage in the **covered activities**.

Jumper Information:

My name (printed) _____

My date of birth _____

I HAVE READ THIS RELEASE:

Signature of Participant: _____ Date: _____.

Parent/Guardian Waiver & Indemnity Agreement

This participant is a minor. I represent and warrant that I have legal capacity and authority to act for and on behalf of such Minor. I (the parent or legal guardian of this participant) have read the entire **Agreement** (including the Agreement with the Minor as well as this Parent/Guardian Waiver & Indemnity Agreement) and I agree that this Minor participant may engage in the **covered activities** and that both I and this Minor participant will be bound by this entire **Agreement's** terms.

1. **My Responsibilities.** I am aware of the nature of the **covered activities** and I am also aware of the Minor's experience and capabilities, and I believe the Minor is qualified to participate in the **covered activities**. I will inspect the premises, facilities, and equipment before the Minor uses them, and if I or the Minor believe anything is unsafe, I will instruct the Minor to immediately leave the **covered activities** and refuse to participate further. I will further instruct the Minor that:

- (a) the **covered activities** are very dangerous and involve the risk of serious bodily injury, including permanent disability, paralysis, or death;
- (b) these risks may be caused by the Minor's own actions or inactions, the actions or inactions of other participants, the operation or condition of the premises, facilities, or equipment, or **your** negligence;
- (c) there may be other risk currently not known to **me**; and
- (d) the losses or injuries from these risks could be severe and permanently change the Minor's future.

I consent to the Minor's participation in the **covered activities** and assume all risks of damages or injury, known and unknown, even if caused, in whole or in part, by **your** negligence.

2. **Waiver and Indemnity.** I agree, personally and on behalf of this participant, that this entire **Agreement** is binding on **me** and the Minor, including the release and discharge of **you** from any liability for any claims or damages to **me** or the Minor for losses or injuries that may arise out of the **covered activities** at any time, whether such losses or injuries result from **your** negligence or some other cause. I further agree to indemnify, hold harmless, and defend **you** from and against any loss, damage, liability, and expense, including costs and attorney fees, incurred by **you** as a result of this participant engaging in the **covered activities**, or my lack of legal capacity or authority to act on behalf of this Minor.

3. **Medical and Physical Problems.** I hereby represent that this Minor is in good health, that there are no special problems associated with the care of the Minor, and that I have informed **you** of any special instructions regarding this Minor as follows:

_____. I authorize **you** to render emergency first aid to this Minor, and to call for medical care for this Minor or to transport this Minor to a medical facility or hospital (if available) if, in **your** opinion, medical attention is needed for this Minor. I further authorize appropriate medical personnel to render such medical treatment as is necessary for the health of this Minor, in their professional opinion. I agree that once this Minor is transported to the medical facility or hospital, **you** will have no further responsibility for this Minor, and I agree to pay all costs associated with such medical care and transportation.

I HAVE READ THIS RELEASE:

Signature of Parent/Guardian: _____

Date: _____