

DOGPOUND FITNESS, INC.

CUSTOMER LIABILITY WAIVER, RELEASE, AND INDEMNITY AGREEMENT

By signing up for and being allowed to participate in instructional training, including private training sessions, classes, programs, and/or activities, either online or in person (the "Activities"), provided by DogPound Fitness, Inc., a Delaware corporation, and its owners, managers, subsidiaries, affiliates, employees, agents, independent contractors, trainers, independent trainers, instructors, successors, and assigns (collectively, "DOGPOUND FITNESS"), I understand, agree, and acknowledge the following:

1) ACKNOWLEDGMENT AND ACCEPTANCE OF RISK: I will voluntarily participate in the Activities using facilities and equipment provided by DOGPOUND FITNESS. I recognize and acknowledge there are inherent risks and dangers, both known and unknown, associated with the Activities. I, for myself and any minor children for which I am the parent, legal guardian, or otherwise responsible, and any heirs, personal representatives, or assigns, do hereby forever AGREE, COVENANT AND PROMISE TO ACCEPT AND ASSUME ALL RESPONSIBILITY AND RISK for injury, death, illness, or disease (including, but not limited to transmission of infectious diseases or viruses, including COVID-19 or similar contagious illness), or damage to myself or to my property arising from participation in the Activities. I further expressly AGREE, COVENANT AND PROMISE TO

ACCEPT AND ASSUME ALL RESPONSIBILITY AND RISK for injury, death, illness, or disease (including, but not limited to transmission of infectious diseases or viruses, including COVID-19 or similar contagious illness) to any individual, including minor child, who accompanies me to DOGPOUND FITNESS. I expressly ACKNOWLEDGE AND ACCEPT that DOGPOUND FITNESS is not a childcare facility and does not supervise or guarantee the safety of children on its premises. Therefore, I ACKNOWLEDGE AND ACCEPT that it is solely my duty and responsibility to supervise, monitor, and otherwise ensure the safety of any minor child or other individual that may accompany me to DOGPOUND FITNESS. I further ACKNOWLEDGE AND ACCEPT that DOGPOUND FITNESS does not manufacture fitness or other equipment in its facilities, but purchases and/or leases equipment, and therefore may not be held liable for defective products.

2) RELEASE: I, for myself and any minor children for which I am the parent, legal guardian, or am otherwise responsible, and any heirs, personal representatives, or assigns, and on behalf of any minor children for which I am the parent, legal guardian, or am otherwise responsible who may accompany me to DOGPOUND FITNESS, do hereby forever RELEASE AND DISCHARGE DOGPOUND FITNESS from any actual or threatened claim, demand, action, cause of action, controversy, complaint, appeal, arbitration, mediation, dispute, claim, allegation, proceeding, or suit, whether in law or equity, whether resulting from the PASSIVE OR ACTIVE NEGLIGENCE of

DOGPOUND FITNESS or otherwise (including without limitation, strict liability), arising out of, resulting from, associated or in conjunction with, or incident to any accident, personal injury, disability, death, invasion of privacy, infringement of my right of publicity, defamation (including libel and slander), any other injury to personal and/or property rights, or loss of any kind or nature suffered by me as a result of or arising from my participation in the Activities or otherwise present at DOGPOUND FITNESS ("Action"). I, for myself and on behalf of any minor children for which I am the parent, legal guardian, or am otherwise responsible, agree to WAIVE ANY CLAIM I or the minor children in my charge may have against DOGPOUND FITNESS in connection with any of the Activities and AGREE NOT TO SUE OR MAKE ANY CLAIMS OF ANY NATURE WHATSOEVER in any court, agency, or other forum or proceeding against DOGPOUND FITNESS in connection with any of the Activities. I AGREE TO REIMBURSE DOGPOUND FITNESS for all attorney's fees and costs should I still bring a legal action against DOGPOUND FITNESS. I understand and acknowledge that this agreement discharges DOGPOUND FITNESS from any Action that I or any minor child who accompanies me to the facility may have against DOGPOUND FITNESS with respect to bodily injury, personal injury, illness (including, but not limited to transmission of infectious diseases or viruses, including COVID-19 or similar contagious illness), death, or property damage that may result from my participation or association with DOGPOUND FITNESS.

3) LICENSE: Unless otherwise specified, I agree that DOGPOUND FITNESS will have the irrevocable right to use my name, biographical information, voice, photograph, likeness, performance, and any interviews and recordings of me for marketing purposes in any and all media now known or developed in the future, throughout the world without time restrictions to promote DOGPOUND FITNESS without compensation or obligation to me.

I acknowledge and agree that my performance, activities, participation and any interviews that I give may be recorded and such recordings may be used pursuant to this agreement. I agree that any filmed, videotaped or recorded performances, interviews, press kits, b-roll footage, video news releases and any other materials of me captured or created by DOGPOUND FITNESS (collectively, "Materials") shall be owned solely by DOGPOUND FITNESS. DOGPOUND FITNESS shall be the exclusive owner of all copyrights and other rights in and to such Materials, which shall be deemed a work-made-for-hire specifically ordered and/or commissioned by DOGPOUND FITNESS. I hereby waive any "moral rights" I may have in the Materials. Without waiving the generality of the foregoing, DOGPOUND FITNESS shall have the right to use, publish, copyright, edit, adapt and/or modify the Materials in any way.

I agree that DOGPOUND FITNESS will have the right to attribute statements to me, which are expressions of my personal experience and

belief, which are contained in the Materials. I agree that no Materials containing my name, biographical information, quotes, photographs, or recorded interviews need to be submitted to me for any approval and DOGPOUND FITNESS shall be without liability to me for any distortion or illusionary effect resulting from the publication of my photograph or recorded interview.

I further agree that DOGPOUND FITNESS shall have the right, but not the obligation, to make any use of any of the rights granted in this agreement.

4) INTELLECTUAL PROPERTY AND CONTENTS: I acknowledge and agree that the intellectual property rights in all contents (including, without limitation, any live online training sessions, videos and photographic images) made available to me as part of DOGPOUND FITNESS' online training package (the "Contents") remain the property of DOGPOUND FITNESS and are protected by copyright laws and treaties around the world. All such rights are reserved by DOGPOUND FITNESS. I understand that I may store, print and display the Contents solely for my own personal use. However, I acknowledge and agree that I am not permitted to publish, manipulate, distribute or otherwise reproduce, in any format, any of the Contents or copies of the Contents in connection with any business or commercial enterprise.

I further acknowledge and agree that I may not record any in-person training sessions or live online training sessions provided by DOGPOUND FITNESS for the purpose of publishing, manipulating, distributing or otherwise reproducing, in any format, any of the Contents or copies of the Contents supplied to you in connection with any business or commercial enterprise.

5) INDEMNIFICATION: I AGREE TO INDEMNIFY AND DEFEND DOGPOUND FITNESS for any Action of any kind or nature brought by or on behalf of any minor child or visitor who accompanies me to DOGPOUND FITNESS and HOLD DOGPOUND FITNESS HARMLESS against all liability, damages, losses, fines, penalties, costs, judgments, awards, settlements, interest, deficiencies, taxes, reasonable attorneys' fees and expenses, and other amounts (collectively, the "Damages") arising from any source, INCLUDING THE PASSIVE OR ACTIVE NEGLIGENCE OF DOGPOUND FITNESS, or in connection with any actual or threatened Action, inquiry, examination, notice of violation, citation, summons, subpoena, investigation or audit of any nature whether civil, criminal, quasi criminal, indictment, administrative, regulatory or otherwise. Without limitation, I specifically agree to indemnify, defend, and hold harmless DOGPOUND FITNESS from and against any and all Damages associated with any injury to any minor child or other individual who enters DOGPOUND FITNESS with me.

6) I have no known medical, mental, emotional, or physical condition or disability (including pregnancy) or any other condition or disability that would put me in physical or medical danger or prevent or limit me from attending and participating in training sessions or classes with DOGPOUND FITNESS.

7) I have not been advised by a physician or other health care professional to limit my physical activities. I am not under the influence of any substance or medication that would prevent such physical activity or hinder my abilities to perform physical activity safely.

8) I agree to disclose any physical limitations, disabilities, ailments or impairments (including those caused by medications or other substances) that may affect my ability to participate within private training sessions, classes and activities operated by DOGPOUND FITNESS.

9) It is the recommendation of DOGPOUND FITNESS that I consult with a physician before participating in the Activities, and that my participation in the Activities is purely voluntary at my own risk. I agree to assume all risks related to or inherent in such participation. I acknowledge and agree that DOGPOUND FITNESS's (including without limitation trainers and instructors) advice is not, and shall not be construed as, medical advice or treatment for any particular injury, disease, or ailment.

10) If it is the opinion of DOGPOUND FITNESS that my access to or participation in any of the Activities contemplated by this document may

endanger me or my health, or pose a risk of harm to others or DOGPOUND FITNESS property, then DOGPOUND FITNESS may deny me access and the right to participate until I supply a letter from my physician stating that in the opinion of such physician I am medically and physically able to safely participate in DOGPOUND FITNESS sessions and classes.

11) PROVISIONS RELATED TO COVID-19: The novel coronavirus ("COVID-19") has been declared a worldwide pandemic by the World Health Organization. COVID-19 is extremely contagious and is believed to spread mainly from person-to-person contact. As a result, federal, state, and local governments and federal and state health agencies recommend social distancing and have, in many locations, prohibited the congregation of groups of people. DOGPOUND FITNESS has put in place preventative measures to reduce the spread of COVID-19. However, I understand and acknowledge that DOGPOUND FITNESS cannot guarantee that I or my child(ren) will not become infected with COVID-19 on the DOGPOUND FITNESS premises. I further understand and acknowledge that engaging in the Activities or otherwise being present at DOGPOUND FITNESS could increase my risk and my child(ren)'s risk of contracting COVID-19.

(a) Waiver of Liability and Indemnification Related to COVID-19. Therefore, I agree that should I or any child who accompanies me to DOGPOUND FITNESS contracts COVID-19, I agree to indemnify and hold DOGPOUND FITNESS, its officers, agents, servants, employees, and



landowners and their successors and assigns harmless from any and all claims for damages should my child or I contract COVID-19 from our presence at the DOGPOUND FITNESS premises.

I further agree that I will not file, nor cause to be filed, nor participate in any lawsuit against DOGPOUND FITNESS, its agents, servants, employees and any other person who may be in any way connected with the Activities at DOGPOUND FITNESS, including but not limited to owners of DOGPOUND FITNESS, the staff with whom I am receiving services, their employees and agents for injuries and/or death as a result of contracting COVID-19.

I agree that if I take any steps to make a claim for damages against DOGPOUND FITNESS, its agents, employees or any other released parties arising out of my engagement in the Activities at DOGPOUND FITNESS' facilities, I shall be obligated to pay all attorneys' fees and costs incurred as a result of such claim.

I acknowledge that I can go elsewhere to receive fitness training, and I acknowledge that DOGPOUND FITNESS is not the only fitness training facility where I can receive such fitness training. By signing this agreement, I acknowledge that I am free to go to other fitness training facilities which may not require my agreement to accept responsibility for contracting COVID-19 and I chose to engage in the Activities at DOGPOUND FITNESS.

In addition, I agree that if any dispute or claim relating in any way to the services provided by DOGPOUND FITNESS pursuant to the terms of this agreement will be resolved by binding, individual arbitration, rather than in court, in accordance with the related provision set forth herein.

(b) Health Status Prior to Venue Access. I affirm, represent, and warrant that I have not experienced any symptom of COVID-19, tested positive for COVID-19, or been exposed to any individual who is exhibiting any symptom or has tested positive for COVID-19 in the 14 days prior to the date of any event scheduled at the DOGPOUND FITNESS premises in which I intend to participate. For purposes of this agreement, symptoms of COVID-19 refers to those symptoms identified by the Centers for Disease Control ("CDC"), including, without limitation: *fever or chills; cough; shortness of breath or difficulty breathing; fatigue; muscle or body aches; headache; new loss of taste or smell; sore throat; congestion or runny nose; nausea or vomiting; diarrhea; and any other symptom that may be added by the CDC from time to time.* SHOULD I EXPERIENCE ANY OF THE SYMPTOMS LISTED AT A LATER DATE THAN THE DATE OF EXECUTION OF THIS AGREEMENT, I AGREE TO COMPLETELY CEASE ALL VENUE ACCESS OR ENTRY UPON THE DOGPOUND FITNESS PREMISES UNTIL THE EXPERIENCED SYMPTOM OR SYMPTOMS HAVE CEASED FOR AT LEAST 14 DAYS PRIOR TO THE EVENT AND I HAVE TESTED NEGATIVE FOR COVID-19.

12) I must comply with the DOGPOUND FITNESS cancellation policy whereby if I do not submit my electronic cancellation at least 12 hours in advance of a scheduled session or class, then I shall be entirely responsible for the price of such session or class.

13) CONSUMER'S RIGHT TO CANCELLATION: YOU MAY CANCEL THIS CONTRACT WITHOUT ANY PENALTY OR FURTHER OBLIGATION WITHIN THREE (3) DAYS FROM THE DATE OF THIS CONTRACT. ADDITIONAL RIGHTS TO CANCELLATION: You may also cancel this contract if (a) pursuant to a doctor's order, you cannot physically receive the services because of significant physical disability for a period in excess of six months; (b) you die, in which case your estate shall be relieved of any further obligation for payment under the contract not then due and owing; (c) you move your residence more than twenty-five miles from any health club operated by DOGPOUND FITNESS; (d) the services as stated in this agreement cease to be offered; (e) the services to be provided pursuant to this agreement are not available within one year from the date you sign this agreement.

14) I will have a valid credit card stored and associated with my account at all times.

15) I agree and grant DOGPOUND FITNESS the right upon request (whether oral or written) to charge my credit card on file for a single session if I am signed up for a personal training session or class that I do not have credits for.

16) I agree and grant DOGPOUND FITNESS the right upon request (whether oral or written) to charge my credit card for purchases made in any DOGPOUND FITNESS training facility via email or over the phone.

17) While on DOGPOUND FITNESS premises I agree to wear apparel and training accessories reasonably recommended by DOGPOUND FITNESS.

18) DOGPOUND FITNESS is not in any way responsible for the safe keepings of my personal belongings, and any storage facility capability provided by DOGPOUND FITNESS is recognized as a courtesy for my own benefit and at my own risk.

19) If any damage to equipment or facilities occurs as a result of my negligent, reckless, or willful actions, I acknowledge and agree to be held liable and pay for all damages to the facility or such equipment caused by such negligent, reckless, or willful actions.

20) DOGPOUND FITNESS is relying on this agreement to be signed in order for me to participate in the Activities, which are instructional in nature.

21) This agreement shall be binding and remain in effect for as long as I participate in the Activities at DOGPOUND FITNESS or associated with DOGPOUND FITNESS. In the event any portion of this agreement is deemed to be void, invalid, or unenforceable, such portion shall be severed from the document and will not impair the remainder of the agreement. I expressly agree that this agreement is intended to be as broad and inclusive as permitted by the laws of the state of Delaware and this release shall be

governed by and interpreted in accordance with the laws of the state of Delaware. Any action or proceeding between the parties arising out of or relating to this agreement or any of the transactions contemplated in this agreement will be subject to the exclusive jurisdiction and venue of the federal and state courts located in Kent County, Delaware, and each party consents to the personal and exclusive jurisdiction and venue of these courts. I agree that in the event any clause or provision of this agreement is deemed invalid, the enforceability of the remaining provisions of this agreement shall not be affected.

DOGPOUND FITNESS may freely assign its rights hereunder in whole or in part (including its rights in and to the Materials) and the rights granted herein shall inure to the benefit of any such successor, assignee or licensee.

22) ARBITRATION REQUIREMENT & CLASS ACTION WAIVER:

(c) Mandatory Arbitration of Disputes. We each agree that any dispute, claim or controversy arising out of or relating to the Activities or the breach, termination, enforcement, interpretation or validity thereof or the use of the Contents (collectively, "Disputes") will be resolved solely by binding, individual arbitration and not in a class, representative or consolidated action or proceeding. I agree that the U.S. Federal Arbitration Act governs the interpretation and enforcement of the terms set forth herein and that DOGPOUND FITNESS and I are each waiving the right to a trial by

jury or to participate in a class action. This arbitration provision shall survive termination of these Terms.

**(d) Exceptions and Opt-out.** I acknowledge that, as limited exceptions to Section 21(a) above: (i) I may seek to resolve a Dispute in small claims court if it qualifies; and (ii) we each retain the right to seek injunctive or other equitable relief from a court to prevent (or enjoin) the infringement or misappropriation of our respective intellectual property rights. In addition, I acknowledge that I retain the right to opt out of arbitration entirely and litigate any Dispute if no later than the time of the Initial Dispute Resolution (see *infra* Section 21(c)) I provide DOGPOUND FITNESS with written notice of my desire to do so by regular mail sent to the attention of **Dogpound, Chief Executive Officer at 1 Renwick St, New York, New York, 10013.**

(e) Initial Dispute Resolution and Notification. I agree that, before initiating any Dispute or arbitration proceeding, we will attempt to negotiate an informal resolution of any Dispute. I acknowledge that, to begin this process, before initiating any arbitration proceeding, I must send a Notice of Dispute ("Notice") by certified mail to the attention **of Dogpound, Chief Executive Officer at 1 Renwick St, New York, New York, 10013.** I acknowledge that, in the Notice, I must describe the nature and basis of the Dispute and the relief I am seeking. If we are unable to resolve the Dispute within 45 days after DOGPOUND FITNESS' receipt of the Notice,

then I or DOGPOUND FITNESS may initiate arbitration proceedings as set out below.

(f) Conducting Arbitration and Arbitration Rules. Any arbitration will be conducted by JAMS pursuant to its Streamlined Arbitration Rules and Procedures (the "JAMS Rules") then in effect, except as modified hereby. The JAMS Rules are available at [www.jamsadr.com](http://www.jamsadr.com) or by calling 1-800-352-5267. A party who wishes to start arbitration must submit a written Demand for Arbitration to JAMS and give notice to the other party as specified in the JAMS Rules. JAMS provides a form Demand for Arbitration at [www.jamsadr.com](http://www.jamsadr.com). JAMS will appoint an arbitrator that is either (1) a retired federal or state court judge, or (2) an attorney who has been licensed to practice law in the state of New York for at least 10 years. The arbitration will be conducted by an in-person hearing, unless we both agree otherwise. If JAMS fails or declines to conduct the arbitration for any reason, we will mutually select a different arbitration administrator. If we cannot agree, a court will appoint a different arbitration administrator.

Any arbitration hearings will take place in Los Angeles County. The parties agree that the arbitrator shall have exclusive authority to decide all issues relating to the interpretation, applicability, enforceability and scope of this arbitration agreement. During the arbitration, both DOGPOUND FITNESS and I may take one deposition of the opposing party, limited to

four hours. If we cannot agree on a time and location for a deposition, the arbitrator will resolve any scheduling disputes.

(g) Arbitration Costs. Each of DOGPOUND FITNESS and I shall pay its pro rata share of JAMS fees and expenses as set forth in the JAMS fee schedule in effect at the time of the commencement of any arbitration in accordance with the related terms set forth in JAM's Streamlined Arbitration Rules.

(h) Class Action Waiver. DOGPOUND FITNESS AND I AGREE THAT EACH OF US MAY BRING CLAIMS AGAINST THE OTHER ONLY IN AN INDIVIDUAL CAPACITY, AND NOT AS A PLAINTIFF OR CLASS MEMBER IN ANY PURPORTED CLASS OR REPRESENTATIVE PROCEEDING. I further acknowledge that, if the parties' dispute is resolved through arbitration, neither JAMS nor the arbitrator may consolidate another person's claims with your claims or otherwise preside over any form of a representative or class proceeding for any purpose. If this specific provision is found to be unenforceable, then the entirety of this Section 21 shall be null and void.

(i) Severability. If an arbitrator or court of competent jurisdiction decides that any part of this agreement is invalid or unenforceable, the other parts of this agreement will still apply.

23) Checking the box below shall be deemed my electronic signature agreeing to the above contract. My electronic signature shall be deemed the equivalent of my written signature, acknowledging my acceptance of the



above terms and conditions. I hereby affirm that I: (i) have been given a sufficient period of time to review this agreement prior to signing it; (ii) I have read this agreement and fully understand its terms, including that I am waiving certain legal rights which I or my heirs, personal representatives, executors, administrators and assigns may have against DOGPOUND FITNESS and that I am agreeing to indemnify DOGPOUND FITNESS against Damages; and (iii) I am over the age of 18 and have voluntarily read and fully understand fully all of the above.

For any questions, please contact us at [info@thedogpound.com](mailto:info@thedogpound.com).