



PROMONTORY WAIVER AND RELEASE OF LIABILITY
AND AGREEMENT TO PARTICIPATE

2017

Summit County, Utah

PROMONTORY
WAIVER AND RELEASE OF LIABILITY AND AGREEMENT TO PARTICIPATE

This Agreement must be completed in order to participate in any activities associated with the CLUB (defined below), the CONSERVANCY (defined below) and/or the FOUNDATION (defined below). The term of this Agreement shall commence on the Effective Date (defined below) and shall continue into perpetuity. Every Participant and/or Minor Participant shall have a waiver on file prior to participation in any activities associated with the CLUB, the CONSERVANCY and/or the FOUNDATION.

Effective Date: _____

In consideration of the services of Promontory Investments, L.L.C. (f/k/a Utah 7000, L.L.C. f/k/a Pivotal Promontory, L.L.C.), Promontory Development, L.L.C. (f/k/a Utah 7000 Development, L.L.C. f/k/a Pivotal Promontory Development, L.L.C.), Promontory Investments, L.L.C. d/b/a THE PROMONTORY CLUB, Promontory Investments, L.L.C. d/b/a PROMONTORY, and Promontory Investments, L.L.C. d/b/a PROMONTORY-THE RANCH CLUB (entities hereinafter and jointly, the "CLUB"), THE PROMONTORY CONSERVANCY (hereinafter, the "CONSERVANCY") and THE PROMONTORY FOUNDATION (hereinafter, the "FOUNDATION"), their joint venturers, affiliated entities, and employees, including any personal trainers, officers, directors, and contractors, consultants, sales agents (collectively, "Agents") in the employ of either the CLUB, the CONSERVANCY or the FOUNDATION; I, the undersigned, being either the Participant or the Parent and/or Legal Guardian of the Minor Participant, agree to RELEASE, WAIVE, DISCHARGE, INDEMNIFY, DEFEND, AND HOLD HARMLESS the CLUB, the CONSERVANCY and the FOUNDATION on behalf of myself, my spouse, my children, my parents, my heirs, my assigns, my personal representative, and my estate as follows:

1. I acknowledge and understand that my participation in physical outdoor and indoor activities including, without limitation, personal training services, aerobics, kickboxing, Pilates, yoga, running, jogging, stair climbing, climbing, jumping, weight lifting, exercise biking, elliptical training, sit-ups, push-ups, pull-ups, swimming, sliding, sledding/tubing, snowshoeing, skiing (cross country or otherwise), hiking, biking, horseback riding, tobogganing, ice skating, ice hockey, basketball, volleyball, tennis, fishing, skateboarding, bowling, dodgeball, badminton, dancing, Kinnickinnick Kids' Cabin-related activities, golf, dining, boating and boating activities, theatre, gymnasium and/or art-related activities, and/or any other sport and/or physical activity available, including classes and equipment offered and/or available for use, hereinafter "Activity," whether located anywhere on the Promontory premises or elsewhere, while involved in activities sponsored by the CLUB or the CONSERVANCY, entails known and unanticipated risks that could result in **PERSONAL INJURY, BODILY INJURY, EMOTIONAL INJURY AND/OR PROPERTY DAMAGE TO MYSELF AND/OR TO THIRD PARTIES**. Such personal injury, bodily injury, emotional injury, health-related injury, property damage (including paralysis or death), or damage may be a direct result of an Activity or may hereafter accrue as a result of any participation in any CLUB, CONSERVANCY and/or FOUNDATION programs and related activities and/or events. I understand that such risks cannot be eliminated without jeopardizing the essential qualities of the Activity. I also acknowledge and understand that an Activity includes any and all automobile transportation as provided by the CLUB, the CONSERVANCY and/or FOUNDATION, where such transportation is in a Promontory or Conservancy vehicle which is driven by Promontory or Conservancy or Foundation personnel, and where such transportation is to and from locations both within and outside of Promontory.

Although the CLUB, the CONSERVANCY and the FOUNDATION have taken reasonable steps to provide appropriate equipment and skilled mentors, personal trainers, and staff, I acknowledge that such Activity is not without risk and could involve uncomfortable and harmful exposure to natural elements, forces of nature, plant life, animal life, bacteria, viruses and/or insects. Danger peculiar to any such Activity includes, but is not limited to: hypothermia, cold or heat exposure and/or exhaustion, allergic and/or other reactions resulting from food and/or other causes, injury occurring in connection with an automobile-related accident, injuries related to being thrown from or being pulled behind a boat, sunburn, windburn, sun/snow blindness, broken bones, strains, sprains, bruises, drowning, concussion, heart attack, heart related injuries, and other Activity related injuries or conditions. I or someone else could slip and/or fall during any Activity. I or someone else could experience shelters collapsing and causing some kind of harm. I or someone else could be hurt by physical contact with objects and/or persons, inhalation of harmful gases, by malfunction of equipment (including but not limited to automobile and other safety devices) or by improper equipment (including but not limited to automobile and other safety devices), supplies, and/or food. Any of this could lead to mental and/or physical anguish, impaired health, and/or trauma; or in extreme cases, death.

In addition, the CLUB, the CONSERVANCY and the FOUNDATION, including personal trainers, independent contractors, event organizers, volunteers, and/or staff members, perform a difficult job in which they seek safety but are not infallible. I acknowledge that any of these individuals may be unaware of a Participant's fitness or abilities. They may give inadequate warnings or instructions and/or the equipment being used may malfunction or be faulty. Any of the CLUB, CONSERVANCY and/or FOUNDATION trainers, organizers, volunteers, and/or staff members, may misjudge weather, the elements, or terrain. I understand that the CLUB, the CONSERVANCY and/or the FOUNDATION make no representations or claims as to the condition or safety of equipment, the land, water, structures, or surroundings; whether or not it is owned, leased, operated, or maintained by the CLUB, the CONSERVANCY and/or the FOUNDATION.

I also acknowledge and understand that from time to time the CLUB, the CONSERVANCY and/or the FOUNDATION will be taking pictures and video taping both within and outside of Promontory for promotional or other CLUB-related, CONSERVANCY-related and/or FOUNDATION-related purposes.

2. I hereby grant my permission to the CLUB, the CONSERVANCY and/or the FOUNDATION to photograph and/or video me, and subsequently publish in print, electronic, or video format that likeness or image for promotional or other CLUB-related, CONSERVANCY-related and/or FOUNDATION-related purposes.
3. **I EXPRESSLY AGREE AND PROMISE TO ACCEPT AND ASSUME ALL RISKS INHERENT IN THE ACTIVITY, WHETHER THEY ARE ANTICIPATED OR UNANTICIPATED. MY PARTICIPATION IN THIS ACTIVITY IS COMPLETELY VOLUNTARY, AND I CHOOSE TO PARTICIPATE IN SPITE OF THE RISKS.**
4. **I HEREBY VOLUNTARILY RELEASE, FOREVER WAIVE, DISCHARGE, AND AGREE TO INDEMNIFY, DEFEND, AND HOLD HARMLESS THE CLUB, THE CONSERVANCY AND THE FOUNDATION AND THEIR MEMBERS, PERSONAL TRAINERS, STAFF EMPLOYEES, AND AGENTS FOR, FROM, AND AGAINST ANY AND ALL CLAIMS, DEMANDS, LIABILITIES, JUDGMENTS, CAUSES OF ACTION, COSTS, EXPENSES, FEES (INCLUDING ATTORNEYS' FEES), WHICH ARE IN ANY WAY CONNECTED WITH (I) MY PARTICIPATION IN THE ACTIVITY, (II) THE CLUB, THE CONSERVANCY'S AND/OR THE FOUNDATION'S USE OF ANY PHOTOGRAPHS, VIDEOS OR OTHER MEDIA CONTAINING MY LIKENESS OR IMAGE, OR (III) MY USE OF THE CLUB'S, THE CONSERVANCY'S AND/OR THE FOUNDATION'S EQUIPMENT OR FACILITIES, INCLUDING ANY ALLEGED CLAIMS FOR NEGLIGENT ACTS OF OR OMISSIONS OF THE CLUB OR THE CONSERVANCY.**
5. I certify that I have adequate insurance to cover any injury or damage I may cause or suffer while participating in an Activity, or else I agree to bear all costs of such injury or damage myself. I further certify that I am willing to assume the risk of any medical or physical condition I may have.
6. In the event that I file a lawsuit against the CLUB, the CONSERVANCY and/or the FOUNDATION, I agree to do so solely in the State of Utah; I further agree that the substantive law of Utah shall apply in that action without regard to the conflict of law rules of Utah. I understand that this document is intended to be as broad and inclusive as permitted by applicable law. I agree that if any portion of this Agreement is found to be void or unenforceable, the remaining portions shall remain in full force and effect.

By signing this document, I acknowledge that if I or anyone else is hurt, or if property is damaged during my participation in any Activity, I may be found by a court of law to have waived my right to bring a lawsuit against the CLUB, the CONSERVANCY and/or the FOUNDATION on the basis of any claim which I have released pursuant to this Agreement. I have had sufficient opportunity to read this Agreement in its entirety and to ask any questions that I may have. I have read and understood this Agreement, and I agree to be bound by its terms.

Participant's Name/Minor Participant's Name

Participant/Parent/Legal Guardian Signature

**PARENT OR GUARDIAN'S ADDITIONAL INDEMNIFICATION TO PROMONTORY WAIVER AND
RELEASE OF LIABILITY AND AGREEMENT TO PARTICIPATE**

For Participants under the age of 18

In consideration of the above named minors ("Minor Participant(s)") being permitted by the CLUB, the CONSERVANCY and/or the FOUNDATION to participate in any Activity and to use equipment and facilities, I further agree to defend, indemnify, and hold harmless the CLUB, the CONSERVANCY and the FOUNDATION for, from, and against any and all claims which are brought by, or on behalf of Minor Participant(s), and which are in any way connected with such use or participation by the Minor Participant(s). All first-person references in this Agreement shall include both the Parent/Guardian executing this Agreement and the Minor Participant.

I hereby grant my express permission for my Minor Participant(s) to participate in Activities involving any and all automobile transportation as provided by the CLUB, the CONSERVANCY and/or the FOUNDATION, where such transportation is in a Promontory or Conservancy vehicle which is driven by Promontory or Conservancy or Foundation personnel, and where such transportation is to and from locations both within and outside of Promontory. I further grant my permission to the CLUB, the CONSERVANCY and the FOUNDATION to photograph and/or video my Minor Participant(s) both within and outside of Promontory, and subsequently publish in print, electronic, or video format the likeness or image of my Minor Participant(s) for promotional or other CLUB-related, CONSERVANCY-related or FOUNDATION-related purposes. I hereby acknowledge, agree, and promise that all of the certifications, discharges, releases, waivers, assumptions of risk, defenses, and indemnifications provided for in this PROMONTORY WAIVER AND RELEASE OF LIABILITY shall apply with respect to my Minor Participant(s) as participator in such Activities and shall apply to any claims, demands, liabilities, judgments, causes of action, costs, expenses, fees (including attorneys' fees), which are in any way connected with (i) my Minor Participants' participation in the Activity, (ii) the CLUB's, the CONSERVANCY'S and/or the FOUNDATION's use of any photographs, videos or other media containing the likeness or image of my Minor Participant(s), or (iii) my Minor Participants' use of the CLUB, the CONSERVANCY and/or the FOUNDATION's equipment, transportation, or facilities, including any alleged claims for negligent acts of or omissions of the CLUB, the CONSERVANCY and/or the FOUNDATION.

Parent/Guardian Signature: _____

Print Name: _____

Phone: _____