



EXCLUSION OF LIABILITY, ASSUMPTION OF RISK, WAIVER OF CLAIMS & INDEMNIFICATION

Details of Participant:-

First Name _____	Last Name _____
Birth Date _____	Address _____
Phone Number _____	Emergency Contact Name _____
Emergency Contact Phone _____	Emergency Contact Relationship to Participant _____
If the Participant is under 18, this must be signed by the legal guardian of the Participant. Are you the legal guardian of the Participant? YES/NO	

PLEASE READ THIS DOCUMENT CAREFULLY BEFORE SIGNING. THIS DOCUMENT RELEASES ANY RIGHT YOU NOW HAVE OR MAY HAVE HEREFTER HAVE TO RECOVER ANY DAMAGES IN CASE OF ACCIDENT, INJURY OR DEATH

A. Application of this Document

I accept that I am entering into a binding agreement with Aloha. This document will apply at any time I undertake Recreational Activities at an Aloha Complex and will be valid for any further Recreational Activities I undertake in the of 12 months after the date I sign this document. Aloha may require me to execute a new waiver in their discretion.

B. Definitions

For the purposes of this waiver,

- (a) "I" and me is a reference to the Participant, provided that if the Participant is not the signatory then the legal guardian enters this agreement on behalf of the Participant and all references to "I" in relation to waivers, acknowledgements, consents and agreements shall be construed as saying "I, the signatory on behalf of the Participant". Where any information is provided about the Participant, then "I" will be a reference to the signatory personally. In all cases, "I" includes the successors and personal legal representatives of the Participant and, where applicable, the signatory of this Agreement.
- (b) "Aloha" is a reference to Aloha Surfhouse Pty Ltd (ACN 615 796 551) trading as Aloha Surfhouse and includes all Related Entities and Related Body Corporates (as those terms are defined in the Corporations Act 2001) of Aloha Surfhouse Pty Ltd (ACN 615 796 551) together with all owners, servants, employees, officers, agents and contractors engaged by any one or more of Aloha Surfhouse Pty Ltd (ACN 615 796 551) or its Related Entities or Related Body Corporates.
- (c) "Aloha Complex" means any facility, arena, building or other structure inside which Aloha operates one or more businesses which offer Recreational Activities to members of the public, such businesses may be branded with a variant of the name 'Aloha' or may be branded by other corporate names including 'Clip N Climb' or 'American Wave Machines'.
- (d) "Recreational Activities" includes but is not limited to instruction and training briefings, surfing, body boarding, swimming, wave pool access, climbing area access, climbing, jumping, running, sliding, playing at heights, playing in water, equipment rental, café access, retail shopping and any other activities of personal exertion.
- (e) "Claim" includes claims, actions, proceedings, investigations, complaints and rights.
- (f) "Loss" includes loss (including direct losses and consequential and indirect losses), awards, damages (including punitive, exemplary, special and incidental damages), expenses (including legal expense on a full indemnity basis) and penalties.
- (g) "including" means "including but not limited to".
- (h) "injury to person" includes physical, psychological and other injury.
- (i) This document is governed by the laws of Western Australia and the signatory submits to the exclusive jurisdiction of the Courts of Western Australia.

C. Acknowledgement of Danger and Risk

I acknowledge and accept that Recreational Activities are dangerous with inherent risks and hazards and as a consequence injury may occur to my person or property and sometimes death can occur. I acknowledge and accept that some risks are reasonably foreseeable and some risks are not.

D. Assumption of Risks

I acknowledge the disclaimers of liability made by Aloha in this document. I agree TO ASSUME ALL RISKS, whether reasonably

foreseeable or not, of participating in the Recreational Activities and using any equipment provided to participate in the Recreational Activities..

E. Waiver and Indemnity

I waive the right to make any Claim against Aloha whatsoever including any Claim in relation to injury to my person or property, or my death, which arises fully or in part as a result of participation in Recreational Activities whatsoever or howsoever arising except to the extent that same is directly attributable to the wilful negligence of Aloha. I indemnify and agree to keep Aloha indemnified from all Loss that I may suffer arising fully or in part as a result of participation in Recreation Activities whatsoever and howsoever arising.

F. Acknowledgement of Consequence of Waiver

I understand and acknowledge that by signing this document I have waived, to the extent permitted by the Australian Consumer Law, certain legal rights, including the right to make a Claim against Aloha or recover Loss. I have done so fully aware of the danger and risk involved and in consideration of being allowed to enter the Aloha Complex and participate in Recreational Activities. I expressly acknowledge that by making this waiver I am waiving my rights to make Claims against Aloha.

G. Disclaimer of Liability by Aloha

To the maximum extent permitted by law but subject to the non-excludable consumer guarantees under the Australian Consumer Law, Aloha hereby expressly disclaims all liability to you for any injury to your person or property that is attributable to you participating in any one or more Recreational Activities at an Aloha Complex whatsoever and howsoever arising. In no event will Aloha be liable in respect of any Claim for Loss whether such Loss arises in contract, tort, equity, breach of statute or contract or statutory duty or breach of any consumer guarantees (to the extent they can be excluded at law).

H. Compliance with Direction and Use of Safety Equipment

I agree that I will comply with all lawful directions of Aloha whilst present in the Aloha Complexes and will comply with all safety instructions that I receive before, during or after undertaking a Recreational Activity. I agree to wear and use all safety equipment provided by Aloha at all times during the participation in the Recreational Activity in accordance with safety instructions received.

I. Height Restrictions

I acknowledge that to participate in Recreation Activities in any indoor climbing part of the Aloha Complex I must be at least 100cm tall. If I am not 100cm tall, I accept that I must be supervised at all times by an adult. I will not participate in Recreational Activities if I am not the required height and I will not mislead Aloha to believe I am the required height if I am not.

J. Consent to First Aid and CPR

I consent to the administration of first aid (including CPR) to me (or to the Participant if the Participant is not the signatory) and acknowledge and agree that Aloha will not be liable to me (or to the Participant the Participant is not the signatory) or any other person for any injury or illness sustained by the Participant as a result of Aloha, or any attending medical practitioners, administering or not administering first aid. I agree to make payment of all expenses incurred by Aloha in delivering or arranging for the delivery of first aid including but not limited to emergency medical treatment and ambulance fees. It is my responsibility to advise Aloha if I am allergic to any medication or treatment.

K. Statement of Physical and Mental Fitness

I certify that I have no physical or mental condition that precludes me from participating in the Recreational Activities and that I am not participating against medical advice. I confirm that I understand that participating in Recreational Activities can be physically strenuous. By signing this document, I warrant and represent to Aloha:-

1. I do not have a history of seizures, dizziness, fainting, or any heart conditions, including but not limited to cardiovascular disease, angina or heart attacks;
2. I am not currently taking any medication or under the influence of medication that comes with any warning(s) about any impairment of my physical or mental abilities;
3. I do not have physical or mental condition(s) that would prevent me from participating in this activity;
4. I further affirm that I should, or have contacted my physician for professional advice and ask(ed) any questions concerning any health issues that I may have and Aloha shall not be liable if I have failed to do so or if I have done so and ignored advice received;
5. I am not allergic to any medical treatment or medication, nor am I allergic to latex, chlorine or other materials that might be present in the Aloha Complexes

L. Disclosure of Medical Conditions

I have disclosed below any medical condition I may have including previous injury/surgery that could affect my participation in the activity and freely accept responsibility for my own personal physical and mental condition. I accept that by disclosing any such issue I am not reducing my liability or assumption of risk in any way, and I acknowledge and agree that in no way will my disclosure create any liability of Aloha to me or to any other person.

I acknowledge that I HAVE READ AND UNDERSTAND THIS AGREEMENT AND I AM AWARE THAT BY SIGNING THIS AGREEMENT I MAY BE WAIVING CERTAIN LEGAL RIGHTS. I acknowledge that the Terms and Conditions of Participation and Privacy Policy as published on Aloha’s website www.alohasurfhouse.com.au from time to time are deemed to be incorporated into and form part of this Agreement. If any part of this document is held to be invalid, the remaining provisions shall survive.

I accept that this agreement together with the Terms and Conditions of Participation, Conditions of Entry (as displayed at Aloha Complexes), website Terms and Conditions and Privacy Policy form the entire agreement between myself and Aloha and I have not relied on any representations made by Aloha or otherwise been induced into entering into this agreement by any person. I understand this agreement cannot be modified or changed in anyway without Aloha’s written consent.

Signed by the Participant (over 18)

Date

ADDITIONAL SECTION BELOW MUST BE COMPLETED IF PARTICIPANT IS UNDER 18

I _____ as the parent or legal guardian of the Participant named in this document have read and reviewed the above terms and agree to accept all terms on behalf of the Participant in my capacity as guardian of the Participant. I agree to indemnify and keep indemnified Aloha with respect to all Loss suffered by Aloha in relation to the Participant participating in Recreational Activities at an Aloha Complex or with respect to any Claim brought against Aloha by any person (including the person signing this document) in relation to, whether fully or in part, the participation of the Participant in any Recreational Activities at an Aloha Complex whatsoever and howsoever arising. References to “I” in the document shall be deemed references to both the Participant and also to me in my capacity as guardian of the Participant to the extent of all waivers, acknowledgements, agreements and consents. I declare that any information provided about the Participant is true and correct. I expressly understand that the Participant’s use of equipment and participation in Recreational Activities is dangerous and involves risk and it my express wish that the Participant participate in the Recreational Activities and use equipment notwithstanding the risk and danger.

Signed by the Guardian

Date

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