

100 PARCVIEW PLACE
SOMERVILLE PARC

FITNESS CENTER WAIVER/INDEMNITY/RELEASE/ASSUMPTION OF RISK FORM

ALL TENANTS AND ADULT CO-RESIDENTS OF TENANTS, AND PERSONAL TRAINERS, MUST SIGN THIS WAIVER/INDEMNITY/RELEASE/ASSUMPTION OF RISK FORM, PRIOR TO USE OF THE FITNESS ROOM.

NOTE: AUTHORIZED FITNESS ROOM USERS MUST ACCOMPANY PERSONAL TRAINER(S) AT ALL TIMES AND, IF APPLICABLE, MUST IDENTIFY AND ACKNOWLEDGE PERSONAL TRAINER(S) BY SIGNING BELOW.

I, _____ and _____, hereby represent and agree to the following:

1. Please initial one of the following:

____(a) I am a tenant of Apartment ____ at 100/200 Parcview Place, Somerville, NJ (the "Apartment") or an adult co-resident of the Apartment tenant's household (an "Authorized Household Member") and hereby request permission to use the fitness room and the equipment and machinery therein located in the first floor of the building 100 Parcview Place, Somerville, NJ (collectively the "Fitness Room") Such use shall be for myself and for the following occupants of the Apartment (if minors, please indicate age) (collectively "Authorized Fitness Room User"):

1. _____(if minor, age:_____)
2. _____(if minor, age:_____)
3. _____(if minor, age:_____)
4. _____(if minor, age:_____)
5. _____(if minor, age:_____)

I understand that my/our presence in the Fitness Room and my/our use of the equipment in the Fitness Room is at my/our own risk and I execute this form in consideration for the Authorized Fitness Room User being allowed to access and use the Fitness Room.

____(b) I, hereby represent that I am a duly certified personal trainer, holding either a B.A., M.A., or M.S. in Exercise Science, Exercise Physiology or Exercise Kinesiology or duly certified by a nationally recognized organization (such as the American Council on

Exercise (ACE), the Aerobics and Fitness Association of America (AFAA), the American College of Sports Medicine (ACSM), or the National Strength & Conditioning Association (NSCA)) and hereby request permission to use the Fitness Room as personal trainer for _____, the tenant or other Authorized Fitness Room User residing at the Apartment. I understand that my/our presence in the Fitness Room and my/our use of the equipment in the Fitness Room is at my/our own risk and I execute this form in consideration for being allowed to access and use the Fitness Room.

2. _____ **(Initial here) Waiver/Release.** In consideration of permission to access and utilize, today and on all future dates the Fitness Room, the undersigned, his or her heirs, personal representatives, or assigns, in addition to the payment of any fee or charge, I, individually and on behalf of the above minors, do hereby waive, release, and forever discharge A & A Somerville, LLC, its managing agent, members, managers, officers, employees, contractors, and agents of them, its and their successors and assigns (collectively, the "Releasee/Indemnitees") from any and all liability from any and all claims for any loss or damage, injury or other effect upon my/our health or physical condition and/or damage to my/our property which may occur as a result of my/our use of the Fitness Room and the Releasee/Indemnitees shall not be liable in any way for any damages, or personal injuries (including death) sustained by me/us by reason of my/our attendance at or use of the Fitness Room or arising from the ordinary negligence of Releasee/Indemnitees or any of the aforementioned parties, and further covenant not to sue the Releasee/Indemnitees for any and/or all claims arising from the ordinary negligence of Releasee/Indemnitees or any of the aforementioned parties or in connection with my/our use, my/our personal trainer's use or the use of any other Authorized Fitness Room User of the Fitness Room. This agreement applies, without limitation, to (a) personal injury (including death) from accidents or illnesses arising from the presence, use of the Fitness Room, including, without limitation, organized activities, classes, observation, and individual use of facilities, premises, or equipment; and to (b) any and all claims resulting from the damage to, loss or, or theft of property. **If the undersigned is a personal trainer, the undersigned, in consideration for being allowed by A & A Somerville, LLC, to train the Authorized Fitness Room User(s) referenced above in the Fitness Room, in addition further acknowledges and agrees that the Releasee/Indemnitees are not responsible and are hereby released from any and all claims for any losses, damages, liabilities or demands of any kind on account of any damage, injury to or other effect upon my health or physical condition or that of any fitness room user, including, but not limited to, any fitness room user that I work with or train, which may occur as the result of my use of the fitness room's equipment or my presence in the fitness room.**

3. _____ **(Initial here) Indemnification and Hold Harmless.** The undersigned agrees to hold harmless and indemnify Releasee/Indemnitees from and against all judgments, claims, demands, causes of action, lawsuits, damages, penalties, fines, or other losses, present or future, whether known or unknown, costs and expenses, including, without limitation, the reasonable fees and disbursements of attorneys and other professionals, (each of the foregoing, a "Claim") resulting from or in connection with personal injury and/or property loss or damage claimed or suffered: a) by me, or the child(ren) listed above arising from or related to my/our use of or attendance at the Fitness Room OR b)

by any other person, including, but not limited to, personal trainers, and/or other Fitness Room users, utilizing or attending the Fitness Room resulting or arising from, or related to, in whole or in part, their use of or attendance at the Fitness Room, or my acts or omissions, or the acts or omissions of the child(ren) listed above (or any other children under the age of 18 under my supervision) or resulting from the negligence of the undersigned, or to the extent a court or arbitrator determines that the undersigned is responsible for payment of a Claim, and to reimburse Releasee/Indemnitees for any expenses incurred by Releasee/Indemnitees in investigating or defending against a Claim.

4. ____ **(Initial here) Assumption of Risk.** (a) Physical activity, by its very nature, carries with it certain serious and inherent risks and dangers to my health and safety (and that of the minors listed above) that cannot be eliminated regardless of the care taken to avoid injuries. Releasee/Indemnitees, through the Fitness Room, has facilities for and provides for activities such as weightlifting, walking, jogging and running, (such activities, and others as offered at the Fitness Room, the “Activities”). Some of the Activities may be dehydrating and may involve strenuous exertions of strength using various muscle groups, some involve quick movements involving speed and change of direction, and others involve sustained physical activity, which places stress on the cardiovascular system. In each Activity as offered through the Fitness Room, the risks, which include, without limitation, personal injury, illness, serious bodily injury, ailments, disability, range from (a) minor injuries such as dehydration, scratches, bruises, and sprains to (b) major injuries such as loss of sight, joint or back injuries, concussions, and heart attacks to (c) catastrophic injuries including paralysis and death.

(b) By signing below, the undersigned acknowledges that he or she has read this section of the Agreement, and on behalf of the Authorized Fitness Room User (including, specifically, him or herself, and any minors listed above), understands the nature of the Activities offered at the Fitness Room, understands the demands of those Activities relative to their physical condition and skill level and appreciates the types of injuries which may occur as a result of Activities made possible at the Fitness Room. The undersigned further acknowledges and understands that it is his or her responsibility to consult with a physician prior to and regarding the Authorized Fitness Room User’s participation in the Activities and represents and warrants the Authorized Fitness Room User is/are physically fit and have no medical condition(s) that would prevent the Authorized Fitness Room user’s full participation in the Activities, or if such a physical condition exists, that the Authorized Fitness Room User’s participation in Activities is voluntary and that I, individually, and on behalf of the Authorized Fitness Room User, knowingly assume all risks and acknowledge that A & A Somerville, LLC, has made no representation of any nature whatsoever concerning the safety, suitability, or appropriateness of the Fitness Room for use by the undersigned or the minor child(ren) listed above. I further represent that I/we have no health condition or communicable disease that would make my/our use of the Fitness Room injurious or unsafe for other users of the Fitness Room and acknowledge that the responsibility for determining the suitability of the Fitness Room for me and/or the minor child(ren) listed above remains with me.

(c) The undersigned acknowledges that he or she has not requested or received any express representations or warranties as to the use of the Fitness Room or the equipment or participation in the Activities.

(d) The agreements contained herein shall extend to any trainers engaged by the undersigned and any such persons shall be required to sign this form.

5. **Severability and Venue.** The undersigned expressly agrees that the Waiver of Liability, Indemnity Agreement, Release and Assumption of Risk (the “Waiver”) herein is intended to be as broad and inclusive as is permitted under the laws of the State of New Jersey, and that if any portion hereof is held to be invalid, it is agreed that the balance shall, notwithstanding, continue in full legal force and effect. Any legal action brought hereunder shall be subject to the jurisdiction of the courts of the State of New Jersey and must be brought in a court in the State of New Jersey located in Somerset County. Further the undersigned hereby agrees to waive the right to a jury trial in the event of any conflict arising out of the within Waiver or the use, proper or improper, of the Fitness Room by the undersigned or an Authorized Fitness Room User hereunder.
6. **Acknowledgment of Understanding.** The undersigned has read this Agreement and fully understands its terms. The undersigned understands that by signing this agreement I/we is/are giving up substantial rights, including my/our and/or the Authorized Fitness Users’ right(s) to sue Releasee/Indemnitees in connection with the use of the Fitness Room. The undersigned acknowledges that he or she is signing this Agreement freely and voluntarily, and intends his or her signature to be a complete and unconditional release of all liability to the greatest extent allowed by law in the State of New Jersey on behalf of the undersigned and/or the Authorized Fitness Room User. The undersigned further acknowledges that he or she is signing freely and voluntarily and intends his or her signature to signify a complete assumption of the inherent risks or participating or observing recreational activities at the Fitness Room, to the greatest extent allowed by the law in the State of New Jersey on behalf of the undersigned and/or the Authorized Fitness Room User.

I UNDERSTAND THAT A & A SOMERVILLE, LLC MAY RESOLVE ANY DISPUTE CONCERNING THE USE OF THE FITNESS ROOM, AND THE DECISION OF SAID BOARD SHALL BE, IN ALL RESPECTS, BINDING UPON ME AND THE AUTHORIZED FITNESS ROOM USER.

I HAVE CAREFULLY READ THIS WAIVER/INDEMNITY/RELEASE/ASSUMPTION OF RISK FORM AND FULLY UNDERSTAND ITS CONTENTS. I AM AWARE THAT THIS WAIVER, INDEMNITY AGREEMENT, RELEASE AND ASSUMPTION OF RISK WILL BE BINDING ON ME/US AND THE AUTHORIZED FITNESS USERS. I FURTHER ACKNOWLEDGE THAT I/WE AGREE TO BE BOUND BY THE RULES AND REGULATIONS GOVERNING THE FITNESS ROOM, AS SAME MAY BE ADOPTED BY A & A SOMERVILLE, LLC.

Signed: _____
Date: _____
Print Name: _____
Capacity: [circle one]
Tenant/authorized household member/trainer

Signed: _____
Date: _____
Print Name: _____
Capacity: [circle one]
Tenant/authorized household member/trainer

Acknowledged by A & A Somerville, LLC,

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If applicable:

I/WE ACKNOWLEDGE THAT THE ABOVE FITNESS ROOM USER(S) IS/ARE MEMBER(S) OF MY/OUR HOUSEHOLD AND/OR MY/OUR PERSONAL TRAINER(S):

Signature

Print name

____/____/____
Date

Signature

Print name

____/____/____
Date