



## **COVID-19 Assumption of Risk, Waiver of Liability & Indemnity Agreement** (Read Carefully Before Signing)

This is an important legal agreement between the swimmer, one or both of the swimmer's parents or a legal guardian (each, or collectively, "parents"), and Miss Yvonne Swim School ("MYSS") In consideration of MYSS allowing the swimmer to participate in the MYSS program at XCEL Athletic Lifestyle ("XAL") and/or Hamilton Health & Fitness ("HHF"), the swimmer and parents hereby agree to the following terms and conditions.

### **Essential Safety Rules**

1. Parents and the swimmer agree to comply with all pool safety policies and the following:
  - a. Parents will screen the swimmer every morning and keep the swimmer home if the swimmer has a temperature of 100.4 or higher or exhibits symptoms such as 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, or any other flu-like symptoms or symptoms associated with COVID-19.
  - b. Parents will immediately leave the pool if the swimmer arrives to the pool and exhibits any COVID-related symptoms listed above.
  - c. If the swimmer has been in contact with anyone who exhibits symptoms of COVID-19 or has COVID-19, parents must inform the MYSS immediately.
2. Parents acknowledge and agree that the swimmer will stay home, or MYSS will immediately send the swimmer home, if the swimmer exhibits symptoms of COVID-19, has come into contact with anyone who exhibits symptoms of COVID-19 or had COVID-19, does not follow MYSS & XAL/HHF rules regarding COVID-19, or if parents or the swimmer made false, misleading, or incomplete statements when providing health-related information to the swim program.
3. Parents agree that no refund will be given if the swimmer goes home for any reason.

### **Health and Medical Care**

1. Parents affirm that: (a) the swimmer is able to safely participate in the MYSS program without modifications; or (b) the swimmer requires modifications to safely participate in the program due to a disability and parents will request, or already have requested, such modifications from MYSS.
  - a. Requests for modifications should be submitted as early as possible prior to the start of the swimmer's session.
  - b. Such requests are considered on an individualized basis. MYSS will coordinate with the parents, and if needed, the swimmer's doctor to determine if the swimmer can safely participate in the program with or without modifications.
2. Parents authorize MYSS to conduct a daily health screening of the swimmer, including a temperature check, symptom check, and screening questions.
3. Parents authorize MYSS to: make medical decisions on the parents' and swimmer's behalf if the swimmer becomes ill; administer emergency, nonemergency, and/or routine medical care and first aid; have the swimmer hospitalized; and use outside medical providers, including providers that do not accept the swimmer's insurance.
4. Parents authorize the following disclosures of the swimmer's medical information and medical condition:
  - a. Parents authorize any outside physician, nurse, or other health care provider to communicate with MYSS about the swimmer's medical condition, treatment, and prognosis; and
  - b. Parents authorize MYSS to share the swimmer's medical information with outside medical providers and the emergency contacts listed on the MYSS registration form.
5. Parents agree to reimburse MYSS in full if MYSS incurs expenses for the swimmer's medical treatment, including emergency and non-emergency treatment which takes place without parental consent.



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### **Assumption of Risk**

1. Parents and the swimmer assume all risks of loss or injury resulting from contracting COVID-19 as a result of the swimmer's participation in the MYSS program and activities or the swimmer's use of classes or XAL/HHF facilities and equipment.
2. While MYSS will take a number of health precautions to keep the community safe, including following all relevant guidance for pools from both the US Centers for Disease Control and State of New Jersey, MYSS cannot eliminate the risk of a swimmer contracting COVID-19.
3. **Parents and the swimmer understand that the spread of a communicable disease, such as COVID-19, is an inherent risk of swimming class, which makes it impossible to ensure the complete safety of the swimmer. Neither parents nor the swimmer will hold MYSS or XAL/HHF liable in the event that the swimmer is injured due to contracting COVID-19 at swim class.**
4. COVID-19 can have minor consequences similar to that of a typical cold, serious consequences which require extended hospitalization, and even catastrophic consequences. Parents and the swimmer understand and appreciate the risks involved in contracting COVID-19 at the pool and that this is possible regardless of the care taken by the pool and its employees.
5. **Having read and understood the above, parents and the swimmer hereby assert that swim class is a non-essential recreational program and the swimmer's participation in swim class is completely voluntary. Parents and the swimmer knowingly assume the risk of contracting COVID-19 at the pool. The swimmer agrees to abide by all MYSS and XAL/HHF rules to minimize the risk of injury to the swimmer and others.**

### **Waiver of Liability**

1. **Parents and the swimmer hereby release, waive, and discharge MYSS and XAL/HHF including their owners, employees, officers, independent contractors, vendors, board members, attorneys, invitees, and related parties ("MYSS parties") from liability from any and all claims resulting from the inherent risks of swim classes or from the negligence of MYSS, XAL/HHF, and/or their parties.**
2. Parents and the swimmer enter into this waiver of liability on behalf of themselves, their heirs, assigns, personal representatives, and spouses.
3. **Today and on all future dates, this waiver of liability applies to personal injury, including death, from incidents and illnesses arising from contracting COVID-19 at swim class, including but not limited to: use of MYSS or XAL/HHF facilities and equipment; participation in swimming programs; emergency and nonemergency/routine medical care provided by the MYSS; and following negligent instructions of MYSS and/or parties.**

### **Indemnification of the Classes**

1. **Parents agree to hold harmless, defend, and indemnify MYSS, XAL/HHF, and the parties (that is, defend and pay any judgment and costs, including investigation costs, court costs, and legal/attorney fees) from any and all claims of the swimmer, the parent, family members, or others arising from the swimmer's or a parent's injury or loss due to participation in the swim program. This includes injuries or losses arising from the inherent risks of the swim experience or the ordinary negligence of MYSS, XAL/HHF, or their parties.**
2. **Parents further agree to hold harmless, defend, and indemnify MYSS, XAL/HHF, and their parties (that is, defend and pay any judgment and costs, including investigation costs, court costs, and legal/attorney**



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fees) against any and all claims of co-participants, rescuers, and others arising from the swimmer's or a parent's conduct in the course of participation in the swim program.

### Other Important Provisions

1. Broad Interpretation: Parents and the swimmer acknowledge and agree that this Assumption of Risk, Waiver of Liability, and Indemnity Agreement is intended to be as broad and inclusive as permitted by New Jersey law.
2. Covenant Not to Sue: Parents and the swimmer covenant not to sue MYSS or XAL/HHF for any claim arising directly or indirectly from the swimmer contracting COVID-19 at XAL/HHF. This includes claims resulting from the inherent risks of the swim class experience or the negligence of MYSS, XAL/HHF, or their parties.
3. Severability: Parents and the swimmer acknowledge and agree that if any portion of this agreement is unlawful, invalid, or unenforceable, it shall not impact the validity and enforceability of any other portion of this agreement.
4. Venue and Choice of Law: Parents and the swimmer agree that the sole venue for any dispute or cause of action related to this agreement shall be a state or federal court located in New Jersey. Parents and the swimmer agree that any dispute or cause of action brought under this agreement shall be governed by the laws of New Jersey without giving effect to principles of conflicts of law.

### Acknowledgment of Understanding

I have read and understood this Assumption of Risk, Waiver of Liability & Indemnity Agreement. I have explained the policies, safety rules, and risks set forth in these documents to the swimmer, who understands the policies, risks, and rules. I and the swimmer agree to comply with these policies and rules. I acknowledge and agree that, by signing below, I am giving up substantial rights on my own behalf and on behalf of the swimmer, including the right to sue MYSS and XAL/HHF for injuries resulting from the inherent risks of the swim class experience and the ordinary negligence of MYSS, XAL/HHF, and the parties. I further acknowledge that swim class is a non-essential recreational program in which the swimmer is voluntarily participating. I intend my signature to be a complete and unconditional release of all liability to the greatest extent possible under the law. I am signing on my own behalf and on behalf of the swimmer.

Minor's Name:	Date:
Print Parent/ Guardian Name:	Date:
Parent/ Guardian Signature:	Date: