



**LIABILITY ACKNOWLEDGEMENT AND WAIVER**

The undersigned, \_\_\_\_\_, ("Participant") does hereby consent to participate in programs offered by XCell Performance Group Inc., Team XCell, and Tri-Motivate, Jacqueline Arcana ("Company"), which include but are not limited to personal fitness consulting, nutrition consulting, group fitness classes, strength and weight training, conditioning, cardiovascular activities, Triathlon training, open water swimming and other programs that may be offered from time-to-time by Company ("Programs"). I expressly acknowledge the following and at all times during my participation with the Programs, agree that (*initial each paragraph and sign below*):

- 1. \_\_\_\_\_ I certify that I am physically able to participate in the Programs that I enroll in and I am fully responsible for taking all precautions and seeking any medical advice or medical examination necessary, in my own personal judgment, to ensure that the Programs I choose are appropriate for my physical condition at all relevant times.
- 2. \_\_\_\_\_ I hereby assume all risks associated with my voluntary participation in the Programs and in enrolling in Programs with the Company and understand that my participation in the Programs are voluntary and chosen by me. I may discontinue my participation at any time.
- 3. \_\_\_\_\_ I acknowledge that the Programs may involve a test of a person's physical and/or mental limits and may carry with it the potential for bodily injury, even death, and property loss. These risks are acceptable and accepted by me and I elect to participate on my own volition.
- 4. \_\_\_\_\_ I agree that I will not engage in activities during the Program that may pose a danger to myself or others and that I will further abide by the instruction given by the Company by its instructors or representatives. I understand that if I do not follow the instruction of the Company representatives or create a situation that, in the sole discretion of the Company, poses any disruption or potential harm, I may be removed from the Programs. In addition, if I fail to timely pay program fees, I may not be allowed to register for further Programs and/or classes.
- 5. \_\_\_\_\_ I recognize that the Company has invested significant time and effort in developing, creating and operating the Programs and I certify that my participation is and shall be *solely* for my own personal benefit. I agree that I will not use, re-create, copy, disclose, or otherwise convert any of the Programs of Company at any time for any commercial purpose for myself or any other person or entity.
- 6. \_\_\_\_\_ In consideration of my participation in the Programs with Company, I hereby and on behalf of myself, my executors, administrators, heirs, successors and assigns, WAIVE, RELEASE, AND DISCHARGE the Company, it's officers, directors, agents, employees, instructors, and representatives, from any and all liability, including but not limited to any obligations, penalties, claims, judgment, demands, actions, suits, losses, damages, costs and expense (including attorney fees) that may arise on account of or from my participation in the Programs, presence on Company premises, or use of the Company equipment, and including liability arising from the negligence or fault of the Company or persons released, which result in my death, disability, personal injury, property damage, theft or action of any kind which may hereafter occur to or involving me.
- 7. \_\_\_\_\_ I agree that I shall indemnify, defend and hold Company harmless from any and all claims arising out of, or in connection with, any breach by me of the terms of this Acknowledgement and Waiver; my participation in the Programs; presence on Company premises; or use of the Company equipment, and also including, but not limited to, claims allegedly resulting in whole or in part by the negligent acts or omission of the Company (its instructors or agents), or for acts or omissions for which the Company otherwise would be strictly liable. The indemnification provided by this paragraph shall include all damages and reasonable attorney fees.
- 8. \_\_\_\_\_ I hereby consent to receive medical treatment which may be deemed advisable in the event of injury, accident and/or illness during my participation in the Programs.
- 9. \_\_\_\_\_ I understand that I may be photographed or filmed and I agree to allow my photo, video or film likeness to be used for legitimate purposes by the Company in its marketing, advertising or other use.

In signing this Liability Acknowledgement and Waiver, I represent to the Company that I have read the foregoing and understand its terms and meaning and agree to each term. I sign as my own free act and deed and no oral representation, statement or inducement outside this document have been made to me. I hereby execute this release for full, adequate and complete consideration, fully intending to be bound by the terms and conditions included above. I further understand that the release and waiver contained in this document shall be construed broadly to provide a release and waiver to the maximum extent permissible under the law.

Executed on this \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_ Signature

\_\_\_\_\_ Printed Name

\_\_\_\_\_ Address and Email

\_\_\_\_\_ Parent's signature (required if Participant under 18)

\_\_\_\_\_ Parent's printed name