

## ON TOP ACTIVITIES

### WAIVER AND RELEASE OF LIABILITY AND INDEMNITY AGREEMENT

IN CONSIDERATION OF the risk of injury that exists while participating in this ON TOP PROGRAM (hereinafter the "Activity"); and IN CONSIDERATION OF my desire to (have my child/ren) participate in said Activity and being given the right to participate in Same; I HEREBY, for myself, my heirs, administrators, (hereinafter collectively, "Releasor," "I" or "me," which terms shall also include Releasor's parents or guardian if Releasor is under 18 years of age), knowingly and voluntarily enter into this WAIVER AND RELEASE OF LIABILITY and hereby waive any and all rights, claims, or causes of action of any kind arising out of my kids' participation in the Activity; and

I HEREBY release and forever discharge OTAVIO BATTAGLIA, and ON TOP PERFORMANCE LLC, their affiliates, managers, volunteers, heirs, representatives (collectively "Releasees") from any physical or psychological injury that I or my child/ren may suffer as a direct result of my participation in the aforementioned Activity.

**NOTICE TO THE MINOR CHILD'S NATURAL GUARDIAN. READ THIS FORM COMPLETELY AND CAREFULLY. YOU AGREE TO LET YOUR MINOR CHILD ENGAGE IN A POTENTIALLY DANGEROUS ACTIVITY. YOU ARE AGREEING THAT, EVEN IF OTAVIO BATTAGLIA USES REASONABLE CARE IN PROVIDING THIS ACTIVITY, THERE IS A CHANCE YOUR CHILD MAY BE INJURED OR KILLED BY PARTICIPATING IN THIS ACTIVITY. BECAUSE THERE ARE CERTAIN DANGERS INHERENT IN THE ACTIVITY WHICH CAN NOT BE AVOIDED OR ELIMINATED. BY SIGNING THIS FORM, YOU ARE GIVING UP YOUR CHILD'S RIGHT AND YOUR RIGHT TO RECOVER FROM OTAVIO BATTAGLIA, ON TOP PERFORMANCE LLC AND ITS AFFILIATES, IN A LAWSUIT FOR ANY PERSONAL INJURY, INCLUDING DEATH, TO YOUR CHILD OR ANY PROPERTY DAMAGE THAT RESULTS FROM THE RISKS THAT ARE A NATURAL PART OF THE ACTIVITY. YOU HAVE THE RIGHT TO REFUSE TO SIGN THIS FORM, AND OTAVIO BATTAGLIA OR ANY MEMBER REPRESENTING ON TOP PERFORMANCE LLC HAS THE RIGHT TO REFUSE TO LET YOUR CHILD PARTICIPATE IF YOU DO NOT SIGN THIS FORM.**

**MY CHILD/REN IS/ARE VOLUNTARILY PARTICIPATING IN THE AFOREMENTIONED ACTIVITY, AND MY CHILD/REN IS/ARE PARTICIPATING IN THE ACTIVITY ENTIRELY AT THEIR OWN RISK. I AM AWARE OF THE RISKS ASSOCIATED WITH PARTICIPATING IN THIS ACTIVITY, WHICH MAY INCLUDE, BUT ARE NOT LIMITED TO: PHYSICAL OR PSYCHOLOGICAL INJURY, PAIN, SUFFERING, ILLNESS, DISFIGUREMENT, TEMPORARY OR PERMANENT DISABILITY (INCLUDING PARALYSIS), ECONOMIC OR EMOTIONAL LOSS, AND DEATH. I UNDERSTAND THAT THESE INJURIES OR OUTCOMES MAY ARISE FROM MY OWN OR OTHERS' NEGLIGENCE, CONDITIONS RELATED TO TRAVEL TO AND FROM THE ACTIVITY, OR FROM CONDITIONS AT THE ACTIVITY LOCATION(S). NONETHELESS, I ASSUME ALL RELATED RISKS, BOTH KNOWN AND UNKNOWN TO ME, OF MY (OR MY CHILDREN'S) PARTICIPATION IN THIS ACTIVITY.**

Concussion Information: a concussion is a brain injury. Concussions, as well as all other head injuries, are serious. They can be caused by a bump, a twist of the head, sudden deceleration or acceleration, a blow or jolt to the head, or by a blow to another part of the body with force transmitted to the head. You can't see a concussion, and more than 90% of all concussions occur without loss of consciousness. Signs and symptoms of concussion may show up right after the injury or can take hours or days to fully appear. All concussions are potentially serious and, if not managed properly, may result in complications, including brain damage and, in rare cases, even death. Even a "ding" or a bump on the head can be serious. If your child reports any symptoms of concussion, or if you notice the symptoms or signs of concussion yourself, your child should be immediately removed from play, evaluated by a medical professional, and cleared by a medical doctor.

Sudden Cardiac Arrest Information Sudden cardiac arrest (SCA) is a leading cause of sports-related death. Sudden cardiac arrest is a condition in which the heart suddenly and unexpectedly stops beating. If this happens, blood stops flowing to the brain and other vital organs. SCA can cause death if it's not treated within minutes.

I FURTHER AGREE to indemnify, defend and hold harmless the Releasees against any and all claims, suits, or actions of any kind whatsoever for liability, damages, compensation, or otherwise brought by me or anyone on my behalf, including attorney's fees and any related costs.

I FURTHER ACKNOWLEDGE that Releasees are not responsible for errors, omissions, acts, or failures to act of any party or entity conducting a specific event or activity on behalf of Releasees. In the event that I should require medical care or treatment, I authorize Otavio Battaglia to provide all emergency medical care deemed necessary, including but not limited to first aid, CPR, the use of AEDs, emergency medical transport, and sharing of medical information with medical personnel. I further agree to assume all costs involved and agree to be financially responsible for any costs incurred as a result of such treatment. I am aware and understand that I should carry my own health insurance.

I HEREBY ACKNOWLEDGE THAT I HAVE CAREFULLY READ THIS "WAIVER AND RELEASE" AND FULLY UNDERSTAND THAT IT IS A RELEASE OF LIABILITY. I EXPRESSLY AGREE TO RELEASE AND DISCHARGE OTAVIO BATTAGLIA, ON TOP PERFORMANCE LLC AND ALL OF ITS AFFILIATES, MANAGERS, MEMBERS, AGENTS, ATTORNEYS, STAFF, VOLUNTEERS, HEIRS, REPRESENTATIVES, PREDECESSORS, SUCCESSORS AND ASSIGNS, FROM ANY AND ALL CLAIMS OR CAUSES OF ACTION AND I AGREE TO VOLUNTARILY GIVE UP OR WAIVE ANY RIGHT THAT I OTHERWISE HAVE TO BRING A LEGAL ACTION AGAINST OTAVIO BATTAGLIA OR ON TOP PERFORMANCE LLC FOR PERSONAL INJURY OR PROPERTY DAMAGE.

To the extent that statute or case law does not prohibit releases for ordinary negligence, this release is also for such negligence on the part of Otavio Battaglia, On Top Performance LLC its agents, and volunteers. I agree that this Release shall be governed for all purposes by Florida law, without regard to any conflict of law principles. This Release supersedes any and all previous oral or written promises or other agreements.

In the event that any damage to equipment or facilities occurs as a result of my or my family's willful actions, neglect, or recklessness, I acknowledge and agree to be held liable for any and all costs associated with any such actions of neglect or recklessness.

THIS WAIVER AND RELEASE OF LIABILITY SHALL REMAIN IN EFFECT FOR THE DURATION OF MY PARTICIPATION IN THE ACTIVITY DURING THIS INITIAL AND ALL SUBSEQUENT EVENTS OF PARTICIPATION.

THIS AGREEMENT was entered into at arm's length, without duress or coercion, and is to be interpreted as an agreement between two parties of equal bargaining strength. Both myself and Otavio Battaglia and the members of On Top Performance LLC agree that this agreement is clear and unambiguous as to its terms and that no other evidence shall be used or admitted to alter or explain the terms of this agreement, but that it will be interpreted based on the language in accordance with the purposes for which it is entered into.

In the event that any provision contained within this Release of Liability shall be deemed to be severable or invalid, or if any term, condition, phrase, or portion of this agreement shall be determined to be unlawful or otherwise unenforceable, the remainder of this agreement shall remain in full force and effect. If a court should find that any provision of this agreement to be invalid or unenforceable, but that by limiting said provision, it would become valid and enforceable, then said provision shall be deemed to be written, construed, and enforced as so limited.

### COVID-19 Participation Agreement

You acknowledge the contagious nature of COVID-19 and voluntarily assume the risk that you, on behalf of yourself and your child, may be exposed to or infected by COVID-19 by attending and/or participating in Physical Instruction and that such exposure or infection may result in personal injury, illness, permanent disability, and death. I understand that the risk of becoming exposed to COVID-19 or persons with the COVID-19 disease at the locations for Physical Instruction may result from the actions, omissions, or negligence of you and others, including, but not limited to, other participants in the Services. You knowingly and voluntarily agree to comply with and adhere to all COVID-19-related safety and risk mitigation practices during your attendance and participation in Physical Instruction, whether communicated verbally or in writing. You acknowledge and agree that you or your child's compliance with these safety and mitigation practices is not only for your own benefit but also for the benefit of other participants in the Physical Instruction. You voluntarily assume the risk that you, on behalf of yourself, and, if applicable, your child may be exposed to the novel coronavirus or persons with the COVID-19 disease.

### Photo Release

I give OTAVIO BATTAGLIA and its program ON TOP PERFORMANCE LLC permission to publish pictures and/or videos of my child participating in the associated program.

I hereby that my child/ward is covered under our family health insurance plan, which has limits of not less than twenty-five thousand dollars.

Parental/Guardian Consent, Acknowledgement, and Release (to be completed and signed by a parent(s)/guardian(s) at the bottom; where divorced or separated, parent/guardian with legal custody must sign.)

I hereby give consent for my child/ward to participate in the above-mentioned program or activity.

Child 1 Full Name: \_\_\_\_\_

Child 2 Full Name: \_\_\_\_\_

Child 3 Full Name: \_\_\_\_\_

I HEREBY CERTIFY that I am the parent or guardian of (child/ren name/s) named above and do hereby give my consent without reservation to their participation in this program.

Parent or Guardian Full Name: \_\_\_\_\_

I have read and understand the above information on concussions. Furthermore, I have been advised of the dangers of participation for my child/ward.

I acknowledge that the information on Sudden Cardiac Arrest has been read and understood. I have been advised of the dangers of my child/ward participation.

I HAVE READ THIS CAREFULLY AND KNOW IT CONTAINS A RELEASE.

\_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Date)

In the event of an emergency, please contact the following person(s):

**Additional Emergency Contact** (Name and Last Name)

**Contact Relationship**

**Contact Telephone**