

ACCEPTANCE / AGREEMENT: I hereby agree to accept and abide by the terms of this Membership Application and Agreement. I understand this Membership Agreement is a month-to-month membership and payment will be required every thirty (30) days. _____ **Member Initials**

MEMBERSHIP AGREEMENT

THIS AGREEMENT is between The Athlete’s Den, LLC, a Florida Limited Liability Company, hereinafter referred to as “The Athlete’s Den” or the “Facility”, and _____ (Membership Applicant), hereinafter referred to as the “Member”. This agreement is entered into and made effective this _____ day of _____, 20____ (the “Effective Date”).

1. TERM OF MEMBERSHIP. Each membership offered by The Athlete’s Den is month-to month. Members will need to pay on a monthly basis by electronic payment, check, money order, or cashier’s check. There will be no automatic renewal of membership and a Member is not obligated to resign for any reason. Fees shall be paid in accordance with the rates and procedures described in Section 2 below.

The initial Agreement and membership term will not exceed thirty-six (36) months and thereafter shall only be renewable annually. Renewal agreements may not be executed and the fee therefore paid until sixty (60) days or less before the preceding Agreement expires.

2. PAYMENT OF MEMBERSHIP FEES. Membership fees must be paid on or before the first day of the monthly cycle. The membership rate for the Member will be determined by the amount of small group training sessions utilized by the Member per week. Those rates are set according to chart below:

MEMBERSHIP TYPE	PRICE PER MEMBER
1x per week (4 sessions monthly)	\$72
2x per week (8 sessions monthly)	\$128
3x per week (12 sessions monthly)	\$168
5 Pack of Sessions (1 Month)	\$ 85
“Drop In” Session	\$20

Any personal training, physical therapy, or massage sessions will be paid for individually and in addition to membership fees. The fees for these individual sessions will be dictated by the provider. All payments to The Athlete’s Den are final and no monthly dues or unused training sessions shall carry-over to a subsequent month. No refunds or roll-over policies shall apply.

SHOULD YOU (THE MEMBER) CHOOSE TO PAY FOR MORE THAN ONE (1) MONTH OF THIS AGREEMENT IN ADVANCE, BE AWARE THAT YOU ARE PAYING FOR FUTURE SERVICES AND MAY BE RISKING LOSS OF YOUR MONEY IN THE EVENT THAT THE ATHLETE'S DEN AND/OR THIS FACILITY LOCATION CEASES TO OPERATE. THE ATHLETE'S DEN IS NOT REQUIRED BY FLORIDA LAW TO PROVIDE ANY SECURITY, AND THERE MAY NOT BE OTHER PROTECTIONS PROVIDED TO YOU SHOULD YOU CHOOSE TO PAY IN ADVANCE.

3. **RIGHT TO MODIFY DUES.** The Athlete's Den reserves the right to increase dues at any time and in its sole discretion. Such increases will be posted in advance at the Facility.

4. **DEFAULT ON PAYMENT & REMEDIES.** Any monthly payment received more than ten (10) days after the due date shall be subject to a late charge of ten percent (10%) of the amount due. The late payment fee will be due and payable with all outstanding fees. Any returned check or declined payment will result in a fee of Twenty-Five Dollars (\$25.00). Members who are not current will not be allowed to participate in classes or use the Facility after the fifth (5th) day of the month. In addition to other rights, the management of The Athlete's Den reserves the right to:

- a. Collect current & past due balance.
- b. Suspend and/or terminate membership privileges.
- c. Recover from Member any collection fees, court costs, and reasonable attorney's fees

5. AVAILABILITY OF FACILITY.

a. **Class or by Appointment Only:** The Athlete's Den does not provide an "Open Gym" facility. Members may use the facilities only during scheduled sessions, scheduled events, or by appointment. The Athlete's Den reserves the right to change operating hours and/or training session schedules at its sole discretion without any effect to this Agreement.

b. **Limited Availability:** The Athlete's Den may close its Facility for seminars, certifications, maintenance, select holidays, private events, or other restricted hours based on municipal requirements. The Athlete's Den may delete, change, discontinue, repair, or replace any part or all of the Facility without any effect to this Agreement. Should the Facility become unavailable for more than ten (10) consecutive days, excluding acts of nature, then the Member may elect to cancel this membership effective immediately. The Athlete's Den will not be responsible for refunding any membership fees paid.

c. **Limited Use:** If you know or should know you have a problem or conflict that may prevent you from using The Athlete's Den (i.e. medical or family emergency, business travel, vacation, etc.) and you sign this Agreement, you agree that your membership will be limited accordingly. A Member must still pay monthly dues as if they could use the Facility. There is no carryover of monthly dues into subsequent months for any unused time in the Facility from a previous month.

d. **Entry Procedure & Check-In:** Member will be required to check in either via the mobile app scheduling system by "MINDBODY: Online Booking" or in-person at the Facility. Entry to the Facility should be supervised and scheduled. The Member agrees not to intentionally allow any other person access to the Facility.

If The Athlete's Den elects to require a Member to furnish identification upon entry to the Facility and as a condition of using the services of the Facility, The Athlete's Den will provide the Member with the means of such identification.

6. CANCELLATION OF MEMBERSHIP BY MEMBER & REFUNDS.

Members are entitled to the penalty-free cancellation of this Agreement within three (3) days, exclusive of holidays and weekends, of its making, upon the mailing or delivery of written notice to The Athlete's Den, and refund upon such notice of all fees or dues paid under this Agreement, except that The Athlete's Den may retain an amount computed by dividing the number of complete days in the Agreement term, or if appropriate, the number of occasions The Athlete's Den services are to be rendered into the total membership price and multiplying the result by the number of complete days that have passed since the making of the Agreement or, if appropriate, by the number of occasions that The Athlete's Den services have been rendered. A refund shall be issues within thirty (30) days after receipt of notice of cancellation.

Members are entitled to the cancellation and refund of the contract if The Athlete's Den's goes out of business or moves its facility more than five (5) driving miles and fails to provide, within thirty (30) days, a facility of equal quality located within five (5) driving miles at no additional cost to the Member.

A Member's notice of his or her intent to cancel shall be given in writing to The Athlete's Den. Such notice of cancellation shall also terminate automatically the Member's obligation to any entity to whom The Athlete's Den has subrogated or assigned the Member's Agreement. If The Athlete's Den wishes to enforce such an agreement or contract after receipt of the notice, it may request The Florida Department of Agriculture & Consumer Services determine the sufficiency of the notice.

Should The Florida Department of Agriculture & Consumer Services determine that a refund is due to the remaining in the Agreement term. A refund shall be issued within thirty (30) days after receipt of the notice of cancellation. The business location of The Athlete's den shall not be deemed out of business when temporarily closed for repair and renovation of the premises:

a. Upon sale for not more than fourteen (14) consecutive days; or b. During ownership, for not more than seven (7) consecutive days and not more than two (2) periods of seven (7) consecutive days in any calendar year.

The Agreement may be cancelled if the Member dies or becomes physically unable to avail himself or herself of a substantial portion of those services which he or she used from the commencement of the Agreement until the time of disability, with refund of funds paid or accepted in payment of the Agreement in an amount computed by dividing the membership price by the number of weeks in the Agreement term and multiplying the result by the number of weeks remaining in the Agreement term. The Member or a deceased Member's estate seeking relief under this paragraph may be required to provide proof of disability or death. A physical disability sufficient to warrant cancellation of the Agreement by the Member shall be established if the Member furnishes to The Athlete's Den a certification of such disability by a physician licensed under Chapter 458, 459, 460, or Chapter 461 to the extent the diagnosis or treatment is within the physician's scope of practice. A refund shall be issued within thirty (30) days after receipt of the notice of cancellation.

Members are advised to contact the Florida Department of Agriculture & Consumer Services for information within sixty (60) days should The Athlete's Den go out of business.

Member or applicant, the refund shall be an amount computed by dividing the membership price by the number of weeks in the Agreement term and multiplying the result by the number of weeks

7. RELEASE AND WAIVER OF LIABILITY. Member recognizes that there are hazards and risks connected with physical fitness training. These risks include, but are not limited to, abnormal blood pressure, fainting, heart disorders and heart attack, dehydration, heat exhaustion, sprains, muscle strain, blisters, stress fracture, shin splints, tendonitis, cartilage tears, bursitis, back pain and bruising of joints. Exercise beyond one's physical limits and/or accidents involving exercise equipment may result in serious injury or even death. Any and all use of the Facility, or participation in The Athlete's Den activities, shall be at such person's own risk (see attached: *ACKNOWLEDGEMENT OF RISK AND RELEASE OF LIABILITY CONSENT FORM*). Member agrees to defend, indemnify and hold harmless The Athlete's Den against any loss, damage or expense incurred by reason of any claim or liability based upon personal injury

(including death) or property damage arising out of the negligent or intentional action of Member. Member further agrees to release The Athlete's Den and its owners, officer, agents, employees and/or affiliates from any and all liability arising out of injury to Member, and further agrees to defend, indemnify and hold The Athlete's Den, its owners, officers, employees and/or affiliates free and harmless from against the same. As part of the membership, Member hereby consents to being photographed and/or recorded for promotional purposes and sole use by The Athlete's Den.

_____ **Member Initials**

8. RULES AND REGULATIONS. The Athlete's Den is committed to the health, safety, and welfare of each of its members and staff and will not tolerate unreasonable, threatening, obscene, harassing, indecent, or illegal behavior. Member acknowledges that The Athlete's Den operates under rules and regulations established for the safety and protection of its members, and agrees to be bound by such rules and regulations, as well by the rules and regulations subsequently approved and posted or otherwise published by The Athlete's Den. Such rules and regulations in effect from time to time are incorporated into this Agreement by reference. Facilities, equipment, hours, service, regulations and policies are subject to change from time-to-time, without prior notice, in the sole discretion of The Athlete's Den. Member agrees to accept such reasonable changes as a condition of membership. Member additionally recognizes:

a. Under no circumstances shall Member move exercise equipment or use the equipment in any manner not authorized by The Athlete's Den.

b. This membership is for Member, and Member only, and Member will not give access to another individual.

c. Member will not misuse any equipment at the Facility. Each member of The Athlete's Den shall be liable for any property damage caused by the Member at the Facility.

d. All members must be at least eighteen (18) years of age, unless otherwise authorized by The Athlete's Den. Minors must have all paperwork authorized by a parent or legal guardian and may participate on a case-by-case basis. Any member under the age of fifteen (15) should be supervised by a parent or legal guardian at all times.

e. Members shall conduct themselves in a quiet, well-mannered fashion so as not to cause any disturbance which may interfere with the use and enjoyment of the Facility by any other member. Profanity or indecent language and/or behavior will not be tolerated. The Athlete's Den has the right to judge behavior and respond accordingly. Any conduct deemed by The Athlete's Den, in its sole discretion, to be offensive, potentially harmful, dangerous, or abusive will not be tolerated, and shall be grounds for termination of Member's membership by The Athlete's Den.

f. The Athlete's Den shall not be responsible for any lost or stolen items. Lost and found articles not claimed after thirty (30) days will be donated to charity or thrown away.

g. Member should not occupy any equipment for an extended period of time. Member should allow others waiting to use such equipment to work into their rotation.

9. **PROHIBITED ACTIVITIES.** Alcohol, drugs (including steroids), and smoking are prohibited within the Facility. Member agrees not to use the Facility or engage in any activity at The Athlete's Den while under the influence of drugs, alcohol, or medication that may impair Member's ability to operate the equipment. No weapons of any kind are allowed. No photography, videotaping, filming or audio recording is permitted within the Facility without the express written consent of The Athlete's Den's management. The Athlete's Den reserves the right, in its sole discretion, to limit the consumption of food or beverages, or to the use of outside equipment within the Facility. Food or drink should be kept in a non-breakable, enclosed container. Gambling or gaming is prohibited within the Facility or on the premises.

10. **DRESSCODE POLICY.** The Athlete's Den requires that members wear appropriate clothing and footwear while in the Facility. Appropriate clothing includes gym shorts, T-shirts, jogging suits, aerobic wear and sweat outfits. Street or business clothing and jeans are not considered appropriate clothing. Dress shoes and black-soled shoes are prohibited within the Facility. All footwear should be close-toed and secured to the Member's feet.

11. **COUNTERPARTS.** This Agreement may be executed simultaneously in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same agreement.

12. **HEADINGS.** The headings in this Agreement are inserted for convenience only and shall not constitute a part of this Agreement.

13. **BINDING EFFECT.** This Agreement shall be binding upon, inure to the benefit of, and be enforceable by the parties hereto and their respective successors and assigns.

14. **ENTIRE AGREEMENT.** This Agreement, including consent forms, lists and other documents referred to in this Agreement which form a part of this Agreement, embody the entire agreement and understanding of the parties with respect to the subject matter contained in this Agreement. There are no restrictions, promises, warranties, covenants or undertakings, other than those set forth or referred to in this Agreement. This Agreement supersedes all prior agreements and understandings between the parties with respect to each subject matter.

15. **GOVERNING LAW.** This Agreement, and all documents mentioned herein by reference, shall be governed by the laws of the State of Florida.

16. **FURTHER ASSURANCES.** The parties agree to execute such further documents as may be necessary, proper or convenient, for the purpose of fully effectuating the terms and conditions of this Agreement.

17. **SUSPENSION AND TERMINATION.** I understand that The Athlete's Den may suspend or terminate my membership at any time, in its sole and absolute discretion, for non-payment of Membership Fees or for violation of any of The Athlete's Den's policies and procedures, and that in so doing, The Athlete's Den assumes no further liability to adhere to the terms of this Agreement.

18. **ACCEPTANCE OF TERMS.** Member has read, and fully agrees to the terms of this Agreement and understands and agrees that by signing this Agreement (**which contains a waiver, release, and assumption of risks**) Member has given up considerable future legal rights. Member has signed this Agreement freely, voluntarily, under no duress or threat of duress, without inducement, promise or guarantee being communicated to him or her. As a Member, I understand that I am entitled to use the Facility within the scope of the membership that I have selected, and that I am obligated to pay my dues and fees regardless of whether or not I use the Facility. I agree to promptly update The Athlete's Den of any change in my contact information (including address, telephone number or email address) or change in credit or payment information.

I certify that I have read the foregoing Membership Agreement, and that by signing below, I acknowledge that I understand and agree to be bound by all of the terms and conditions hereof. I further acknowledge that a fully executed copy of this Membership Agreement has been provided to me.

Member Applicant Signature

The Athlete's Den Representative Signature

Print Name

Print Name

Parent / Guardian, if Member is a minor

Title

____/____/____
Date

____/____/____
Date

ACKNOWLEDGEMENT OF RISK AND RELEASE OF LIABILITY
CONSENT FORM

The Athlete's Den, LLC

***The Athlete's Den is registered with the State of Florida as a Health Studio.
Registration number is HS 12068.***

I understand that by signing this document I am representing that I understand all of its terms and conditions and that I fully intend to be bound by the same. I also understand that I may wish to consult with my attorney prior to signing this document. In consideration of being allowed to use The Athlete's Den, LLC fitness studio (the "Facility") voluntarily, and/or participate in fitness programs or classes sponsored or offered by the Facility, I hereby voluntarily execute this Acknowledgement of Risk and Release of Liability Consent Form. I represent that I am at least eighteen years old and competent to sign this form; or, if I am a minor, that this form is signed by a parent or legal guardian.

I understand that there are certain dangers, hazards and risks associated with all aspects of personal training and my use of the Facility and the equipment located therein. I further understand that all risks cannot be prevented. In light of the risks associated with the use of the Facility and its equipment, I may wish to consult with a physician or other health care provider regarding my current physical and mental fitness prior to beginning any physical fitness workout or regimen, including any massage therapy treatments. I represent that I am physically and mentally able to use the Facility and its equipment in a safe manner. **I acknowledge that I have no physical impairments, injuries, or illnesses that will endanger me or others.** Therefore, I accept financial responsibility for any injury that I may cause to myself or to any other participant or member due to my negligence.

As a user of the Facility, I shall follow all applicable Facility policies and procedures and comply with all directives issued by the Facility staff. I agree to refrain from the use of offensive or inappropriate language, wear appropriate exercise attire, use the equipment in accordance with its intended use, and respect the individual privacy of others utilizing the Facility. I understand that a violation of any Facility policies or procedures may result in termination of my membership with the Facility. I understand and agree that the Facility does not provide medical services or medical personnel at the facility. Therefore I consent to emergency medical care should it be required. I represent that I am covered by adequate medical/health/accident insurance for any injury that I may suffer while using the facility. In the event I must be transported to a doctor or hospital for medical treatment, I acknowledge that the Facility will not be obligated to provide such transportation, nor assume any responsibility for such transportation.

On behalf of myself, my family, and my heirs, I hereby agree to assume all risks associated with my use of the Facility and its equipment, and I hereby release and discharge from liability and waive any legal action against The Athlete’s Den, LLC, its governing board, its principals, officers, agents, employees, and volunteers (collectively, “the Released Parties”) for any personal injury, death, or property damage that I may suffer, due to any cause, including, but not limited to, the negligence of the Released Parties, arising out of or in any way connected to my use of the Facility and/or its equipment. This release includes any and all liability, claims, demands, actions or rights of action, which are related to, arise out of, or are in any way connected with my participation or membership in The Athlete’s Den, including those allegedly attributed to the negligent acts or omissions of the above mentioned parties.

I understand and agree that this document shall be construed in accordance with the laws of the State of Florida. If any term or provision of this document shall be held invalid or unenforceable, the remaining terms and provisions shall remain in full force and effect.

I have read and understood the foregoing assumption of risk, and release of liability, and I understand that by signing it obligates me to indemnify the parties names for any liability for injury or death of any person and damage to property caused by my negligent or intentional act or omission. I understand that by signing this form I am waiving valuable legal rights.

Membership Applicant

Printed Name

Parent / Guardian, if Member is a minor

____/____/____
Date