

# PlayGolf Polair Indoor Golf Liability Waiver

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**Dear PlayGolf Polair Indoor Golf Customer:**

Before you begin, in plain and simple English, by entering the facility, you acknowledge that you may be seriously injured using this facility. Golf balls are driven at high speeds, and golf clubs are swung at full speed, both of which reach speeds frequently exceeding 100 miles per hour; such balls and/or tees may ricochet, and/or if you walk near someone swinging a club, you might get hit. Additionally, food and beverages are consumed in this facility and people may enter the facility with wet feet; although we attempt to keep the floors clean and free from debris and waste, you may slip and fall, injuring yourself. Upon acknowledging that you may be injured, you agree that you are 100% at your own risk upon entering and using this facility, which means that you release 1421927 Ontario Inc. & PlayGolf Polair Indoor Golf of any and all liability.

All participants in activities on the Premises, must agree to this waiver prior to entering. This Agreement shall remain valid and effective to release and indemnify 1421927 Ontario Inc. & PlayGolf Polair Indoor Golf (together with any of its managers, members, employees, independent and agents) from any Claims (as hereafter defined).

## **RELEASE OF LIABILITY AND ASSUMPTION OF RISK**

On behalf of myself, my spouse, children, wards, if any, and their respective successors, assigns and in consideration of the services and activities provided by 1421927 Ontario Inc. & PlayGolf Polair Indoor Golf, its managers, members, employees, agents, officers, directors, affiliates, volunteers, participants, clients, customers, invitees, independent contractors, insurers, facility operators, Premises owners AND all other persons or entities acting in any capacity on its behalf, together with their respective successor and assigns (hereafter collectively the "The Released And Indemnified Parties"), I hereby agree to forever release, remise, discharge, defend, hold harmless and indemnify The Released And Indemnified Parties as set forth in this.

### **Agreement:**

1. **RELEASE AND INDEMNITY:** For myself and on behalf of the my spouse, if any, my children and my wards, if any, and their respective successors and assigns, (hereafter collectively, the "Releasing Parties"), I hereby agree to release, remise forever discharge, defend, hold harmless, and indemnify, The Released And Indemnified Parties from and against any and all claims, actions, causes of action, proceedings, suits, costs, liabilities, damages, and expenses, whether known or unknown (including but not limited to all direct, special, incidental, exemplary, punitive, and consequential damages, losses of any kind and attorneys' fees), and however caused, including without limitation by, reckless, negligent or grossly negligent conduct (hereafter collectively, "Claims") of any and all of the Releasing Parties that arise on, are based

upon or result from, any act, event, occurrence or omission on the Premises during the Claim Period. Furthermore, and without limiting the foregoing, on behalf of the Releasing Parties I waive any and all Claims that any of us, whether individually or collectively, may now or in the future have against any of The Released and Indemnified Parties that arise on, are based upon, or result from, any act, event, occurrence or omission on the Premises during the Claim Period, and agree not to initiate or prosecute (or aid any other party in prosecuting) or continue to assert or maintain any such Claim of any kind whatsoever against any of The Released and Indemnified Parties in any court or otherwise with respect to the matters released or waived hereunder, including but not limited to any Claim under any common law, whether in law or *equity, or federal, provincial or local statute, ordinance or rule of law*

2. **ACKNOWLEDGEMENT OF RISKS:** I acknowledge that by its very nature, golfing (including indoor golf), and related activities (the “Activities”) at the Premises, present, carry and involve a serious risk of physical injury to both active participants and spectators. I acknowledge that the Activities are inherently dangerous and hazardous and acknowledge that by participating in, observing, or allowing minors of whom I have legal custody to participate in or observe the Activities, I am, on behalf of myself and on behalf of each of the Releasing Parties, expressly assuming all risks associated with the Activities and expressly contracting not to sue for any injury sustained as a result of such participation in or observation of the Activities. I understand that golfing and related activities may result in injuries ranging from minor injuries (bruises, blisters, and the like), to more serious injuries or even death. I acknowledge that golfing and related activities at the Premises subjects myself and any other participants, including but not limited to the Releasing Parties to the risk of serious bodily injury. I understand that no matter how careful the Releasing Parties may be during golfing and related activities, and that no matter how much 1421927 Ontario Inc. & PlayGolf Polair Indoor Golf’s employees/agents attempt to reduce the risks, the risk of serious injury (including death) is not eliminated, and remains foreseeable.
3. **ASSUMPTION OF RISK AND LOSS:** I ACKNOWLEDGE THAT ALL ACTIVITIES AT THE PREMISES, BOTH DURING AND AFTER THE CLAIM PERIOD, INCLUDING THE ACTIVITIES OF THE RELEASED AND INDEMNIFIED PARTIES THE ACTIVITIES OF THE RELEASING PARTIES AND THE ACTIVITIES OF THIRD PARTIES ARE POTENTIALLY AND INHERENTLY DANGEROUS AND I KNOWINGLY AND FREELY ASSUME ALL KNOWN AND UNKNOWN RISKS ON BEHALF OF MYSELF AND THE OTHER RELEASING PARTIES, INCLUDING WITHOUT LIMITATION ALL RISKS OF INJURY, DAMAGE AND/OR DEATH. I further agree that none of The Released and Indemnified Parties will be responsible to me or any of the Releasing Parties for the loss or theft of my personal property, or that of any of the Releasing Parties while I am on the Premises. My participation and the participation of any of the Releasing Parties (including, but not limited to my spouse, child and ward, if any) in any activities whatsoever on the Premises is purely voluntary, and I elect and agree on behalf of myself and all of the Releasing Parties (including but not limited to my child or ward, if any) to participate in those activities in spite of the risks. I further expressly agree that I will pay for the cost of medical assistance should any of The Released and Indemnified Parties request such assistance in their sole discretion on behalf of any of the Releasing Parties. I assume full financial responsibility for any damage or injury that may occur to any of the Releasing Parties while at the Premises, I fully agree to bear the costs of such any injury or damage to any of the Releasing Parties and their personal property arising on the Premises. As to any occurrence on the Premises, I further expressly assume the risk of injury or aggravation of injury resulting from any pre-existing medical or physical condition of any of the Releasing Parties, irrespective of whether such medical or physical condition was known or unknown to me.

4. INJURIES BY AND TO THIRD PARTIES: I further and specifically acknowledge that the Releasing Parties, including myself, my spouse, my child and my ward, if any, may be injured by the actions of customers or invitees of 1421927 Ontario Inc. & PlayGolf Polair Indoor Golf at the Premises (hereafter “Third Parties”). In such event, I agree to release, discharge, waive, defend and indemnify The Released and Indemnified Parties against any Claims arising from acts or omissions of Third Parties on the Premises during the Claim Period. I also acknowledge that the acts or omissions of the Releasing Parties, including myself, my spouse, child and ward, if any, may cause injury to other customers, invitees, employees, independent contractors or agents of 1421927 Ontario Inc. & PlayGolf Polair Indoor Golf while on the Premises during the Claim Period. In such event, I agree to defend and indemnify The Released and Indemnified Parties and any third-party invitee or customer against any Claim arising during the Claim Period, which was caused, in whole or in part, by one or more of the Releasing Parties.
5. INSURANCE: I certify and represent that I have adequate personal insurance or sufficient personal assets to fully indemnify The Released and Indemnified Parties against any Claims of any of the Releasing Parties against any of The Released and Indemnified Parties for which I have an indemnity obligation under this Agreement. I further certify and represent that I have adequate personal insurance or sufficient personal assets to fully defend, hold harmless and indemnify The Released and Indemnified Parties against any Claims of any third party caused in whole or in part by any act or omission of one or more of the Releasing Parties.
6. REPRESENTATIONS: I represent to The Released And Indemnified Parties that all of the Releasing Parties participating in any activity on the Premises are physically able to participate in all such activities and have no pre-existing physical or medical condition, including without limitation any allergies or exercise--induced conditions, that would endanger such participant while participating in the activities on the Premises. I further represent and warrant, that all the Releasing Parties will conduct themselves, while on the Premises, in a safe and responsible manner so as not to endanger the lives or property of any persons. I further specifically represent that I have the authority to enter this Agreement on behalf of all the Releasing Parties and understand that The Released and Indemnified Parties will rely upon such representation. I further represent and warrant that I have legal and physical custody of all minor children or wards who are Releasing Parties by virtue of my signing this Agreement and have legal authority to sign this agreement on their behalf. I further agree to indemnify and hold the Released Indemnified Parties against any claim made by any third party in which it is alleged that my signing of this Agreement on behalf of any minor child or ward was unauthorized or lacking legal authority.
7. BASIS OF BARGAIN: I understand that 1421927 Ontario Inc. & PlayGolf Polair Indoor Golf would not allow use of the Premises (including, but not limited to the golfing activities thereon) to me, my spouse, my child or my ward, if any, without my agreement to the terms and conditions set forth herein.
8. CHOICE OF LAW AND VENUE: This Agreement shall be governed by and construed in accordance with the laws of Ontario, without regard to principles of conflicts of law, and venue for disputes under this Agreement shall be exclusively in the courts of the Ontario. I further agree that should 1421927 Ontario Inc. & PlayGolf Polair Indoor Golf (or any of the other Released and Indemnified Parties) be required to incur attorney’s fees and costs to enforce this Agreement, I will indemnify and hold The Released and Indemnified Parties harmless for all such fees and costs.

9. MODEL RELEASE: I irrevocably grant 1421927 Ontario Inc. & PlayGolf Polair Indoor Golf the right to photograph, videotape, and/or record me and/or my child/ward and to use my or my child's/ward's name, face, likeness, voice and appearance in connection with exhibitions, publicity, advertising, and promotional materials without reservation or limitation.
10. INDEMNITY: In addition to (and not In lieu of) the indemnity provisions of the Agreement set forth in other of its paragraphs, I hereby agree on behalf of myself, my child or children, and my wards, if any, to indemnify and hold harmless 1421927 Ontario Inc. & PlayGolf Polair Indoor Golf and its agents, owners, officers, directors, principals, volunteers, insurers, facility operators, land and/or premises owners, and/or any and all persons and entities acting in any capacity on behalf of 1421927 Ontario Inc. & PlayGolf Polair Indoor Golf from and against any and all losses, liabilities, claims, obligations, costs, damages and/or expenses whatsoever, including, but not limited to, any and all attorneys' fees, costs, damages, and/or judgments directly or indirectly arising out of, or relating to my or my spouse's my child's and my ward's, if any, acts or omissions while participating in any activities at the Premises, unless it is determined that such liability resulted from the gross negligence or willful misconduct of 1421927 Ontario Inc. & PlayGolf Polair Indoor Golf.
11. MISCELLANEOUS: I acknowledge and agree that this Agreement is intended to be as broad and inclusive as is permitted by Ontario law. In the event that any clause or provision of this Agreement is determined to be unenforceable as a matter of law, I intend that such clause or provision should be severed from the Agreement and that the remainder of the Agreement shall continue in full legal force and effect. I acknowledge that the Agreement represents the entire understanding of the parties with respect to the matters set forth herein and no subsequent modification is binding unless reduced to writing and signed by the party against whom enforcement is sought. I further acknowledge and agree that all pre-existing agreements, subsequent course of performance, or purported oral modifications of the terms of this agreement that purport to establish different consequences for my activities at 1421927 Ontario Inc. & PlayGolf Polair Indoor Golf's facilities are null and void.
12. JURY TRIAL WAIVER: I, on behalf of myself and the Releasing Parties, hereby waive, to the full extent permitted by applicable law, any right the Releasing Parties, any of them, or myself may have to trial by jury in any legal proceeding directly or indirectly arising out of or relating to this Agreement, the Activities, or any injury sustained or caused by any person in connection with the Activities (whether based on contract, tort or any other theory). For myself and the Releasing parties I further represent and warrant (a) that no representative, agent or attorney of any other party has represented, expressly or otherwise, that such other party would not, in the event of litigation, seek to enforce the forgoing jury trial waiver and (b) that all parties to this Agreement been induced to enter into this agreement by, among other things, the jury trial waiver set forth in this section. I further expressly acknowledge, on behalf of myself and the Releasing Parties, that this waiver is made for the express purpose of expediting resolution of any dispute relating to this Agreement, the Activities, or any injury sustained or caused by any person in connection with the Activities between the Releasing Parties and the Released Parties.
13. GOLFERS HANDBOOK AND SAFETY RULES: I agree to follow procedures and safety rules described in the Golfers Handbook (sent in confirmation email/available on-site) which are intended to protect the players, spectators and other guests.

I HAVE READ THIS RELEASE AGREEMENT, FULLY UNDERSTAND ITS TERMS, UNDERSTAND THAT I AM GIVING UP SUBSTANTIAL RIGHTS BY ENTERING THIS FACILITY AND DO SO FREELY AND VOLUNTARILY WITHOUT ANY INDUCEMENT. PARENT OR GUARDIAN LIABILITY WAIVER ON BEHALF OF MINOR: I represent that I am duly qualified as the parent or legal guardian or authorized custodian the above listed persons (hereafter the "Minor") and that I have the authority to execute this Agreement on behalf of the Minor. I further agree to be legally bound by the provisions of this Agreement and to indemnify and hold harmless The Released and Indemnified Parties for any claims that the Minor may now have or may arise in the future during the Claim Period against any of The Released and Indemnified Parties arising on the Premises. I further agree that if it is determined that I am not the parent or legal guardian or legal custodian of the Minor, or that I did not have the authority to sign the Agreement on behalf of such Minor, I will nevertheless personally defend and indemnify The Released And Indemnified Parties for and from any Claim arising from Minor's participation in activities at the Premises.

I HEREBY ACKNOWLEDGE (1) THAT THIS DOCUMENT IS VALID AND MAY BE ENFORCED IN THE SAME MANNER AS A HAND-SIGNED DOCUMENT THAT EXISTS IN PHYSICAL FORM. I ALSO EXPRESSLY ACKNOWLEDGE THE VALIDITY OF THIS DOCUMENT. I FURTHER AGREE THAT I HAVE KNOWINGLY AND EXPLICITLY WAIVED ANY RIGHT TO CLAIM THIS DOCUMENT IS INVALID OR IS UNENFORCEABLE BASED ON THE FACT THAT I HAVE NOT PUT PEN TO PAPER.