

9ROUND FITNESS 926 N Westhill Blvd Appleton, Wisconsin 54914 (920) 540-8090 <i>The Federal Equal Credit Opportunity Act prohibits creditors from discriminating against credit applicants on the basis of sex or marital status. The agency that administers compliance with the law is the Federal Trade Commission, Equal Credit Opportunity, Washington, D.C. 20580.</i>	<b>DATE: May 18, 2024</b> <b>PREPAID MEMBERSHIP AGREEMENT (WISCONSIN)</b>
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## PARTIES TO THE AGREEMENT

**CLUB INFORMATION:** Hulk Smash, LLC d/b/a 9ROUND ("9ROUND," "Company," "we," "our" or "us"), and its successors and assigns

**CLUB OF ENROLLMENT:** 9Round Appleton, WI - Westhill Blvd 926 N Westhill Blvd Appleton, Wisconsin 54914

## MEMBER INFORMATION:

Member Name: ("Member," "you" or "your") Email:

Address:

Birth Date: Gender:

Home #: Cell #: Work #:

**BUYER INFORMATION:** (if different from Member; the Buyer is the person paying for services) ("Buyer")

## SUMMARY OF TERMS AND ACCOUNT CHARGES

### PREPAID MEMBERSHIP BASICS

- As a prepaid member, you are choosing to pay for your entire membership up front and in full, subject to the terms of this Agreement.
- Your prepaid membership will run for a fixed Prepaid Term, beginning May 18, 2024 and ending Jun 1, 2024.
- With limited exception (as described herein), you may not cancel your membership during the Prepaid Term.
- At the end of your Prepaid Term, unless you have taken steps to renew, your prepaid membership will automatically expire.
- Please speak to a sales manager about renewing your membership prior to the expiration of your Prepaid Term to avoid a lapse in service.

### TERMS OF YOUR PREPAID MEMBERSHIP PROMISE TO PAY SCHEDULE

Membership to begin	May 18, 2024
Membership to end	Jun 1, 2024
Prepaid Term (in months)	0.5
Total Down (including taxes)	\$49
Promise to Pay Amount	\$As Detailed Above
Enrollment Fee	\$0
Sales Tax Rate	0
<b>TOTAL DUE NOW</b>	<b>\$49</b>

### OTHER CHARGES/FEES\* (other charges/fees may apply)

Membership Key FOB	First FOB: Free Replacement FOBs: \$5 each
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Late Charge	\$20 per late payment
Returned Item Fee (e.g., bounced check; payment returned for insufficient funds)	\$25 per returned item

**AUTHORIZATION FOR PREAUTHORIZED PAYMENTS (All references to “I” or “me” in this section shall refer to you)**

By signing below, I am authorizing ClubReady, LLC (“ClubReady”), a third-party billing company located at 333 Ozark Trail Dr., Ste. 50, St. Louis, MO 63011, to initiate transfers, whether by EFT or ACH transfer, from the designated bank account tied to this Agreement for purposes of paying all or a portion of the dues, fees and charges which I owe under the Agreement. I understand and agree that: (a) dues, fees and charges include, but may not be limited to, enrollment fees, membership dues, service charges, late fees, applicable taxes, and/or fees for uncollected monthly dues; (b) ClubReady may transfer funds from my designated account for any retail transactions or online purchases initiated by me; (c) dues, fees and charges will be drawn on or about the dates set forth in the Promise to Pay Schedule; (d) this preauthorization will remain in effect until all of my payment obligations under the Agreement have been satisfied; (e) charges may appear in my bank statement under the prefix “CLR” followed by my club’s name, phone number and state; (f) debited amounts may vary each month based on additional amounts which I may owe under this Agreement, and that while I am entitled to receive notice at least 10 days before being charged, by signing this authorization, I am choosing instead to get notice only when the amount due would differ by more than \$50.00 from my most recent payment; (g) billing inquiries can be directed to ClubReady at 1 (800) 405-4818. I expressly authorize ClubReady, and any of its subsidiaries or affiliates, to contact me regarding any matter related to the billing of my account, whether by phone, email or SMS text communication (please note SMS text charges may apply).

**Buyer's Acceptance:** (electronic signature) 18.226.159.74 **Date Signed and Accepted** May 18, 2024

**BUYER’S RIGHTS IN WISCONSIN**

**CANCELLATION AND REFUNDS. Right to Cancel. You are permitted to cancel this contract until midnight of the 3<sup>rd</sup> operating day after the date on which you signed the contract. If the facilities or services that are described in the contract are not available at the time you sign the contract, you have until midnight of the 3<sup>rd</sup> operating day after the day on which you received notice of their availability, to cancel the contract. If within this time period you decide you want to cancel this contract, you may do so by notifying 9ROUND by any writing mailed or delivered to 9ROUND at 9Round Appleton, WI - Westhill Blvd926 N Westhill Blvd Appleton, Wisconsin 54914, within the previously described time period. If you do so cancel, any payments made by you, less a user fee of no more than \$3 per day of actual use, will be refunded within 21 days after notice of cancellation is delivered, and any evidence of any indebtedness executed by you will be cancelled by 9ROUND and arrangements will be made to relieve you of any further obligation to pay the same.**

**9ROUND PERFORMANCE.** Performance of all of the agreed upon facilities and services will be available for use by you no later than 6 months after the date this Agreement is signed by you.

**MAXIMUM TERM.** The term of this Agreement, including the initial term and any renewal terms, shall not exceed 2 years.

**LIMITATIONS ON REQUIRED PAYMENTS.** You shall not be required to pay more than \$25 or 10% of the total contract price, whichever is less, prior to the date on which you receive written notice that the facilities and services described in the Agreement are available for use. If you exercise your contractual right to cancel, you shall not be required to pay more than \$3 per day for actual use of facilities and services during the cancellation period.

**FACILITIES UNAVAILABLE OR NO LONGER FULLY OPERATIONAL.** If any of the 9ROUND facilities or services described in the Agreement become unavailable or are no longer fully operational, before full receipt of the services and use of facilities for which you contracted, you are liable for only that portion of the total consideration proportional to the elapsed time portion of the Agreement at the time of the unavailability. You are entitled to a refund of any other funds already paid. In lieu of a refund, you have a right to choose to

complete the unused portion of the Agreement, including any renewal periods, at the price disclosed in the Agreement at another location which is owned, controlled, affiliated with or operated by 9ROUND. Any such modification of the Agreement must be made in writing and may only modify the terms of the Agreement concerning the unavailable or no longer fully operational facilities or services. Nothing in this paragraph shall be construed to prohibit 9ROUND from performing regular maintenance or making prompt equipment repairs; making improvements to the facilities or services; and/or replacing a facility or service with a superior facility or service.

**PRESERVATION OF RIGHTS.** Any right of action or defense arising out of this Agreement that you have against 9ROUND is preserved against any assignee of or successor to the Agreement.

## **CANCELLATION TERMS**

**RESCISSION RIGHTS.** You are permitted to rescind this Agreement until midnight of the 3<sup>rd</sup> operating day after the date on which you signed the Agreement. If within this time period you decide you want to rescind this Agreement, you may do so by notifying 9ROUND by any writing mailed or delivered to 9Round Appleton, WI - Westhill Blvd 926 N Westhill Blvd Appleton, Wisconsin 54914 within the previously described time period.

**CANCELLATION RIGHTS.** After expiration of the 3-day rescission period, you may cancel this Agreement only if you qualify as follows:

**(a) You die or become disabled.** If you are unable to make use of or receive the center services contracted for because of death or disability, you are liable for only that portion of the total consideration proportional to the elapsed time portion of the contract at the time of the death or disability, and you or your estate may cancel this Agreement without penalty and receive a pro rata refund, where applicable, for any prepaid sums. A "disability" means a condition which precludes you from physically using the facilities, and your disability must be verified by a physician. 9ROUND shall retain the value for services already provided prior to your death or disability.

**(b) 9ROUND closes or its services become unavailable or no longer fully operational.** If the 9ROUND facility where you signed up for services closes, or its services become unavailable or no longer fully operational, then you may cancel this Agreement without penalty and receive a pro rata refund, where applicable, for any prepaid sums; provided, however, that you may complete the unused portion of your contract at another 9ROUND location so long as such decision is put in writing. Nothing in this section shall limit 9ROUND's right to perform regular maintenance, make repairs on its equipment, improve its facilities or services, or replace its facilities or services with superior facilities or services.

**TERMINATION OF PREPAID MEMBERSHIP.** If you do not qualify for rescission or cancellation as described above, then you may not terminate your prepaid membership prior to the end of your Prepaid Term. Once your Prepaid Term ends, your prepaid membership will expire automatically. To avoid a lapse in your ability to use 9ROUND's facilities or services, please speak to a 9ROUND sales manager at least 30 days prior to the end of your Prepaid Term.

**REFUNDS.** Prepaid members who properly rescind or cancel under the terms of this Agreement will be issued a refund for any prepaid sums, less the value of services received, within the time period prescribed by state law. At your election, refunds may be processed electronically back to the credit card or designated account on file.

**NOTICE.** All notices under this Agreement must be in writing and delivered in person to the club, or sent via certified mail to 9Round Appleton, WI - Westhill Blvd 926 N Westhill Blvd Appleton, Wisconsin 54914.

## **RELEASE OF LIABILITY; ASSUMPTION OF RISK; INDEMNITY**

**USING THIS FACILITY OWNED BY Hulk Smash, LLC D/B/A 9ROUND, OR ANY OTHER 9ROUND FACILITY, INVOLVES THE RISK OF INJURY TO YOU OR YOUR GUEST(S), WHETHER YOU OR SOMEONE ELSE CAUSES IT. SPECIFIC RISKS VARY FROM ONE ACTIVITY TO ANOTHER AND THE RISKS RANGE FROM MINOR INJURIES TO MAJOR INJURIES, SUCH AS CATASTROPHIC INJURIES INCLUDING DEATH. IN CONSIDERATION OF YOUR PARTICIPATION IN THE ACTIVITIES OFFERED BY 9ROUND, YOU UNDERSTAND AND VOLUNTARILY ACCEPT THIS RISK AND RELEASE Hulk Smash, LLC, AND EACH OF THEIR RESPECTIVE AFFILIATES, AND EACH OF THE OWNERS, OFFICERS, DIRECTORS, EMPLOYEES, VOLUNTEERS, FRANCHISORS, AGENTS AND INDEPENDENT CONTRACTORS THEREOF (THE**

**"RELEASEES"), FROM ALL LIABILITY FOR ANY INJURY, INCLUDING, WITHOUT LIMITATION, PERSONAL, BODILY, OR MENTAL INJURY, ECONOMIC LOSS, OR ANY DAMAGE TO YOU, YOUR SPOUSE, GUESTS, UNBORN CHILD, OR RELATIVES, RESULTING FROM YOUR USE OF 9ROUND, INCLUDING ANY INJURY RELATING TO THE ORDINARY OR GROSS NEGLIGENCE, ACTUAL OR PASSIVE, OF THE RELEASEES OR ANYONE ACTING ON THE RELEASEES' BEHALF OR ANYONE USING 9ROUND FACILITIES, WHETHER RELATED TO EXERCISE OR NOT. IN CONSIDERATION OF YOUR BEING ABLE TO PARTICIPATE IN 9ROUND ACTIVITIES, YOU AGREE TO INDEMNIFY, DEFEND AND HOLD THE RELEASEES HARMLESS AGAINST ANY LIABILITY, DAMAGES, DEFENSE COSTS, INCLUDING ATTORNEYS' FEES, AND ANY OTHER COSTS INCURRED IN CONNECTION WITH CLAIMS FOR BODILY INJURY, WRONGFUL DEATH OR PROPERTY DAMAGE CAUSED BY YOUR NEGLIGENCE OR OTHER ACTS OR OMISSIONS. YOU FURTHER AGREE TO HOLD HARMLESS, DEFEND AND INDEMNIFY THE RELEASEES FROM ALL LIABILITY, DAMAGES, DEFENSE COSTS, INCLUDING ATTORNEYS' FEES, AND ANY OTHER COSTS INCURRED IN CONNECTION WITH CLAIMS FOR BODILY INJURY, WRONGFUL DEATH OR PROPERTY DAMAGE BROUGHT BY YOU, YOUR GUESTS, OR MINORS, EVEN IF THE RELEASEES WERE NEGLIGENT. FURTHER, YOU UNDERSTAND AND ACKNOWLEDGE THAT THE RELEASEES DO NOT MANUFACTURE FITNESS OR OTHER EQUIPMENT, BUT PURCHASE AND/OR LEASE EQUIPMENT. YOU UNDERSTAND AND ACKNOWLEDGE THAT THE RELEASEES AND 9ROUND ARE PROVIDING RECREATIONAL SERVICES AND MAY NOT BE HELD LIABLE FOR DEFECTIVE PRODUCTS. YOU ACKNOWLEDGE AND AGREE THAT YOU HAVE READ THE FOREGOING AND KNOW OF THE NATURE OF THE ACTIVITIES AT 9ROUND.**

## **GENERAL PROVISIONS**

**MEDICAL CONDITIONS.** BEFORE USING 9ROUND'S SERVICES OR FACILITIES, You represent that you are in good health and have no disability, impairment, injury, disease, or ailment, preventing you from engaging in active or passive exercise or which could cause increased risk of injury or adverse health consequences as a result of exercise. You assume full responsibility for your use of the 9ROUND facility and shall indemnify 9ROUND, its affiliates, agents and employees, against any and all damages arising out of your use of the facilities.

**PROOF OF MEMBERSHIP.** You will receive one membership key fob (the "Membership Fob") from 9ROUND and must present it to the reception desk personnel each time you enter a 9ROUND facility. Lost Membership Fobs will be replaced for a fee of \$5, which may be adjusted from time to time. The Membership Fob must be replaced if lost. Membership privileges are limited to the person in whose name the Membership Fob is issued. Improper use of the membership will result in confiscation of the Membership Fob and can result in immediate revocation of your membership. If you wish to use 9ROUND's facilities without your Membership Fob, you will be required to provide proof of identity (e.g., valid driver's license).

**CUSTOMER SERVICE.** Any questions about this Agreement or issues with your membership can be directed to a 9ROUND manager at 9Round Appleton, WI - Westhill Blvd 926 N Westhill Blvd Appleton, Wisconsin 54914, or call (920) 540-8090.

**NO HEALTH WARRANTIES.** 9ROUND makes no claims as to medical results that can or may be obtained through use of any 9ROUND facility. 9ROUND has neither suggested nor will it suggest any medical treatment to any of its members; only licensed medical professionals are qualified to give medical advice. You are instructed not to act on the advice given by any 9ROUND employee, unless such advice has been verified by your licensed professional physician.

**CHANGE IN MEMBERSHIP OR BILLING INFORMATION.** You must promptly notify 9ROUND in writing of any changes in your billing information, address or telephone number. You expressly permit 9ROUND, or its authorized billing company, to obtain such updated information through payment card networks, card issuers or other third parties.

**DRESS CODE.** Proper athletic attire and footwear is required. 9ROUND reserves the right to make the final determination in its sole discretion with regard to appropriate attire and footwear.

**SMOKING.** Smoking (including e-cigarettes, chewing tobacco, vapor pens) is prohibited at all times in all 9ROUND facilities.

**LOSS OF PROPERTY.** You and guests are encouraged not to bring valuables onto the premises of a 9ROUND facility. 9ROUND shall not be liable for the disappearance, loss, theft, or damage to personal property,

including, among other things, money, jewelry, negotiable securities, and other items left by you or your guests.

**HAND-WRAPS/GLOVES.** Loaner gloves will be provided free of charge for your trial period only. Once you become a member, you are required to use 9ROUND-branded hand-wraps and gloves. For safety and sanitary reasons, no member will be allowed to work out without the required 9ROUND hand-wraps and gloves.

**DESCRIPTION OF SERVICES; HOURS OF ACCESS.** This Agreement entitles you to access the 9ROUND facilities and services during normal business hours, which will be posted at each 9ROUND location. 9ROUND reserves the right to revise its list of available equipment and services at any time for any reason; 9ROUND equipment may include light weights, kettle bells, jump ropes, punching bags and medicine balls. A 9ROUND workout involves a member transitioning between nine different exercise stations in a circuit-type format. Each station exercise lasts three minutes, followed by a 30-second transition and rest period. A bell will sound each time a member should transition to the next exercise station. Specific exercises and/or equipment at each circuit station are subject to change. 9ROUND does not offer individual or group "training classes," although a 9ROUND trainer (employee) will be present at all times during normal business hours to offer encouragement and instruction when necessary. All 9ROUND workouts are subject to exercise station availability. Members should participate in only one 9ROUND circuit per visit.

**MINIMUM AGE REQUIREMENT.** The minimum age for 9ROUND membership is ten (10) years old. Minors under the age of eighteen (18) are required to obtain the consent of a parent or legal guardian, who must sign this Agreement and remain responsible for all fees and other charges. Minors under the age of fifteen (15) must have a parent or legal guardian present at all times during the 9ROUND workout.

**IMAGE USE.** You understand that while on 9ROUND premises, your, or your minor child's image (including live or recorded video images), may be used or shown on the 9ROUND website or social media outlets (Facebook, Instagram, YouTube, etc.), and that by entering the premises you consent to the use of these images.

**NON-DISCRIMINATION.** 9ROUND represents that it will not discriminate against any person because of sex, race, creed, age, color, origin, sexual orientation, or ancestry in considering applications for memberships.

**MEMBERSHIP TERMINATION.** We reserve the right to terminate your membership for any reason not expressly prohibited by law. In the event of termination, we will notify you in person or send you a written notice of termination to your address on file, and refund you any unused prepaid dues.

**DISPUTE RESOLUTION (U.S.). OTHER THAN A CLAIM FOR PERSONAL INJURY, OR A CLAIM BROUGHT IN SMALL CLAIMS COURT, YOU AGREE THAT ANY DISPUTE WITH 9ROUND, INCLUDING ITS OFFICERS, DIRECTORS, EMPLOYEES AND AGENTS, WILL BE RESOLVED, FIRST, THROUGH INFORMAL DISCUSSIONS WITH 9ROUND; THEN, IF UNSUCCESSFUL, BY NON-BINDING MEDIATION. IF A MEDIATOR CANNOT RESOLVE THE DISPUTE, THEN YOU AGREE TO WAIVE YOUR RIGHT TO A JURY TRIAL AND CONSENT TO BINDING ARBITRATION BEFORE A SINGLE ARBITRATOR UNDER THE THEN-CURRENT COMMERCIAL DISPUTE RULES OF THE AMERICAN ARBITRATION ASSOCIATION ("AAA") IN A LOCATION NEAR YOUR CLUB OF ENROLLMENT. YOU AND 9ROUND FURTHER AGREE THAT EACH MAY BRING CLAIMS AGAINST THE OTHER ONLY IN YOUR OR ITS INDIVIDUAL CAPACITY, AND NOT AS A PLAINTIFF OR CLASS MEMBER IN ANY PURPORTED CLASS OR REPRESENTATIVE PROCEEDING. YOU ALSO AGREE NOT TO PARTICPATE IN CLAIMS BROUGHT IN A PRIVATE ATTORNEY GENERAL OR REPRESENTATIVE CAPACITY, OR CONSOLIDATED CLAIMS INVOLVING ANOTHER PERSON'S ACCOUNT IF 9ROUND IS A PARTY TO THAT PROCEEDING. IF YOU DO NOT WISH TO BE BOUND BY THIS DISPUTE RESOLUTION PROVISION, YOU MAY OPT OUT BY SENDING A WRITTEN NOTICE TO 9ROUND AT 9Round Appleton, WI - Westhill Blvd 926 N Westhill Blvd Appleton, Wisconsin 54914 WITHIN 30 DAYS AFTER THE DAY YOU SIGN THIS AGREEMENT. MEDIATION COSTS MUST BE SPLIT EQUALLY. ARBITRATION COSTS WILL BE BORNE BY 9ROUND IN AN AMOUNT AS FAIRLY DETERMINED BY THE ARBITRATOR.**

**ENTIRE AGREEMENT.** Verbal agreements with a 9ROUND employee will not be accepted as valid. Only this Agreement, and all rules and regulations of 9ROUND, as revised from time to time, constitute the entire and exclusive agreement between you and 9ROUND, and supersede all prior written and/or oral promises, representations, understandings and/or agreements relating to this membership purchase.

**INVALID PROVISIONS.** If any part of this Agreement is found to be invalid or unenforceable, the remainder

of the Agreement will be valid and enforceable.

**GOVERNING LAW.** This Agreement shall be interpreted under the laws of the State in which you execute this Agreement. Any litigation under this Agreement shall be resolved in the courts of the State in which you execute this Agreement.

**LIMITED LIABILITY.** Unless prohibited by state law, any award by a court or arbitrator is limited to actual compensatory damages. Neither a court nor an arbitrator can award either party any indirect, special, incidental or consequential damages, even if one party told the other party that they might suffer these damages.

**CONSENT TO CONTACT.** By signing below, you are giving 9ROUND and its authorized vendors express written consent to contact you at the wireless number provided for any matter related to your account, including collection of monies owed, alerts and/or notices regarding your purchased services, and promotions that may be of interest to you. You acknowledge that calls or text messages sent to your mobile phone device may be generated using an autodialing system, and that standard text rates apply. Your consent is not a condition of purchase. You may revoke your consent at any time.

**I AGREE TO THE TERMS OF THIS AGREEMENT**

**Buyer's Acceptance:** (electronic signature) 18.226.159.74 **Date Signed and Accepted** May 18, 2024

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