

9ROUND FITNESS 5514 Lonestar Pkwy Suite 105 San Antonio, Texas 78253 (210) 699-4488 <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 11, 2024</b> <b>PREPAID MEMBERSHIP AGREEMENT (TEXAS)</b>
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## **PARTIES TO THE AGREEMENT**

**CLUB INFORMATION:** Surround 210 LLC d/b/a 9ROUND ("9ROUND," "Company," "we," "our" or "us"), and its successors and assigns

**CLUB OF ENROLLMENT:** 9Round San Antonio, TX - Alamo Ranch 5514 Lonestar Pkwy Suite 105 San Antonio, Texas 78253

**TEXAS HEALTH CLUB REG. NO.:**

## **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 11, 2024 and ending May 25, 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 11, 2024
Membership to end	May 25, 2024
Prepaid Term (in months)	0.5
Total Down (including taxes)	\$31.39
Promise to Pay Amount	\$As Detailed Above
Enrollment Fee	\$0
Sales Tax Rate	8.25
<b>TOTAL DUE NOW</b>	<b>\$31.39</b>

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

Membership Key FOB	First FOB: Free Replacement FOBs: \$5 each
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) 3.128.78.30 **Date Signed and Accepted** May 11, 2024

**BUYER'S RIGHTS IN TEXAS**

- **NOTICE TO PURCHASER: DO NOT SIGN THIS CONTRACT UNTIL YOU READ IT OR IF IT CONTAINS BLANK SPACES.**
- **IF YOU DECIDE YOU DO NOT WISH TO REMAIN A MEMBER OF THIS HEALTH SPA, YOU MAY CANCEL THIS CONTRACT BY MAILING TO THE HEALTH SPA BY MIDNIGHT OF THE THIRD BUSINESS DAY AFTER THE DAY YOU SIGN THIS CONTRACT A NOTICE STATING YOUR DESIRE TO CANCEL THIS CONTRACT. THE WRITTEN NOTICE MUST BE MAILED BY CERTIFIED MAIL TO THE FOLLOWING ADDRESS: 9Round San Antonio, TX - Alamo Ranch 5514 Lonestar Pkwy Suite 105 San Antonio, Texas 78253.**
- **IF THE HEALTH SPA GOES OUT OF BUSINESS AND DOES NOT PROVIDE FACILITIES WITHIN 10 MILES OF THE FACILITY IN WHICH YOU ARE ENROLLED OR IF THE HEALTH SPA MOVES MORE THAN 10 MILES FROM THE FACILITY IN WHICH YOU ARE ENROLLED, YOU MAY:**
- **CANCEL THIS CONTRACT BY MAILING BY CERTIFIED MAIL A WRITTEN NOTICE STATING YOUR DESIRE TO CANCEL THIS CONTRACT, ACCOMPANIED BY PROOF OF PAYMENT ON THE CONTRACT TO THE HEALTH SPA AT THE FOLLOWING ADDRESS:**

**9Round San Antonio, TX - Alamo Ranch 5514 Lonestar Pkwy Suite 105 San Antonio, Texas 78253; AND**

- **FILE A CLAIM FOR A REFUND OF YOUR UNUSED MEMBERSHIP FEES AGAINST THE BOND OR OTHER SECURITY POSTED BY THE HEALTH SPA WITH THE TEXAS SECRETARY OF STATE. TO MAKE A CLAIM AGAINST THE SECURITY SEND A COPY OF YOUR CONTRACT TOGETHER WITH PROOF OF PAYMENTS MADE ON THE CONTRACT TO THE TEXAS SECRETARY OF STATE. THE REQUIRED CLAIM INFORMATION MUST BE RECEIVED BY THE SECRETARY OF STATE NOT LATER THAN THE 90<sup>TH</sup> DAY AFTER THE DATE NOTICE OF THE CLOSURE OR RELOCATION IS FIRST POSTED ON THE SECRETARY OF STATE'S INTERNET WEBSITE. [This provision (B) may not apply if the health spa operator is not required to post security under state law.]**

**IF YOU DIE OR BECOME TOTALLY AND PERMANENTLY DISABLED AFTER THE DATE THIS CONTRACT**

**TAKES EFFECT, YOU OR YOUR ESTATE MAY CANCEL THIS CONTRACT AND RECEIVE A PARTIAL REFUND OF YOUR UNUSED MEMBERSHIP FEE BY MAILING A NOTICE TO THE HEALTH SPA STATING YOUR DESIRE TO CANCEL THIS CONTRACT. THE HEALTH SPA MAY REQUIRE PROOF OF DISABILITY OR DEATH. THE WRITTEN NOTICE MUST BE MAILED BY CERTIFIED MAIL TO THE FOLLOWING ADDRESS: 9Round San Antonio, TX - Alamo Ranch 5514 Lonestar Pkwy Suite 105 San Antonio, Texas 78253.**

**NOTICE. IF THIS CONTRACT IS DEEMED TO CONTAIN A FINANCE CHARGE AS DEFINED BY THE TRUTH IN LENDING ACT (15 U.S.C. SECTION 1601 ET SEQ.) OR REGULATION Z (12 C.F.R. PART 226), PLEASE NOTE:**

**ANY HOLDER OF THIS CONSUMER CREDIT CONTRACT IS SUBJECT TO ALL CLAIMS AND DEFENSES WHICH THE DEBTOR COULD ASSERT AGAINST THE SELLER OF GOODS OR SERVICES OBTAINED PURSUANT HERETO OR WITH THE PROCEEDS HEREOF. RECOVERY HEREUNDER BY THE DEBTOR SHALL NOT EXCEED AMOUNTS PAID BY THE DEBTOR HEREUNDER.**

**ACKNOWLEDGEMENT.** By signing below, buyer acknowledges that the health spa provided on request a comprehensive list that included each membership plan the health spa offers for sale.

### **CANCELLATION TERMS**

**CANCELLATION RIGHTS.** You may also cancel this Agreement if you qualify as follows (if there is any conflict between the provisions above titled "Buyer's Rights in Texas" and what is below, the "Buyer's Rights in Texas" will control):

**(a) The 9ROUND where you signed up for services closes or relocates.** You may cancel this contract and receive a refund of unearned payments made under the contract by sending written notice of cancellation, accompanied by proof of payment made under the contract, by certified mail to 9Round San Antonio, TX - Alamo Ranch 5514 Lonestar Pkwy Suite 105 San Antonio, Texas 78253 if we:

(1) close the health spa and fail to provide alternative facilities not more than 10 miles from the location of the health spa;

(2) relocate the health spa more than 10 miles from its location preceding the relocation; or

(3) fail to provide advertised services.

**(b) You are disabled or you die.** If you die or become totally and permanently disabled after the date a contract is entered into, you or your estate may cancel the contract and receive a refund of the unearned payments made under the contract by sending written notice of cancellation by certified mail to 9Round San Antonio, TX - Alamo Ranch 5514 Lonestar Pkwy Suite 105 San Antonio, Texas 78253. We may require you, or your estate, to provide reasonable proof of the death or disability.

**CONFLICTING TERMS.** The provisions in this Buyer's Rights and Cancellation Terms sections and/or any applicable state law will be deemed to control if they conflict with another provision in the Agreement.

**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.** Any refund due, if any, will be paid to you within the time period prescribed by state law.

**NOTICE.** Unless this Agreement states otherwise as to a specific type of notice, all notices under this Agreement must be in writing and sent by certified mail to 9Round San Antonio, TX - Alamo Ranch 5514 Lonestar Pkwy Suite 105 San Antonio, Texas 78253.

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

**USING THIS FACILITY OWNED BY Surround 210 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 Surround 210 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 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.**

#### **DISPUTE RESOLUTION (U.S.)**

**Mediation, Arbitration, and Waiver of Jury Trial.** You and 9Round agree that any dispute with 9Round (including its officers, directors, employees, and agents, as well as its franchisor), other than a claim for personal injury, or a claim brought in small claims court, will be resolved **exclusively** as follows:

- First, through informal discussions with 9Round;
- If those discussions are unsuccessful, by non-binding mediation;
- If that mediation is unsuccessful, by binding arbitration.
- **You understand and agree that you are waiving your right to a jury trial.**
- The arbitration will take place before a single arbitrator in a location at or near your club of enrollment, and under the then-current and applicable American Arbitration Association ("AAA") rules ([adr.org/Rules](https://adr.org/Rules)).
- Arbitration costs will be borne by 9Round in an amount as fairly determined by the arbitrator.

**Class and Representative Action Waiver.** 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 participate in claims brought in a private attorney general ("PAGA") or representative capacity, or consolidated claims involving another person's account if 9Round is a party to that proceeding.

**Opt-Out.** If you do not wish to be bound by these dispute resolution provisions, you may opt out by delivering a written notice via mail or in person to 9Round at 9Round San Antonio, TX - Alamo Ranch 5514 Lonestar Pkwy Suite 105 San Antonio, Texas 78253, or via email to [lonestarpkwysanantoniots@9round.com](mailto:lonestarpkwysanantoniots@9round.com) within 30 days after the day you sign this agreement.

**Severability.** If any provisions of this dispute resolution section are deemed unenforceable, those provisions shall be considered omitted and the remaining portions of this dispute resolution section shall remain valid and enforceable.

#### **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 San Antonio, TX - Alamo Ranch 5514 Lonestar Pkwy Suite 105 San Antonio, Texas 78253, or call (210) 699-4488.

**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.

**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.

**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) 3.128.78.30 **Date Signed and Accepted** May 11, 2024

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