

## **RELEASE AND WAIVER OF LIABILITY AND INDEMNITY AGREEMENT**

I am the adult, and/or the parent or legal guardian of the minor child ("**Child**"), named below in this Release and Waiver of Liability and Indemnity Agreement ("**Agreement**"). By physically or electronically signing this Agreement, I acknowledge and represent that I am fully competent to agree to the terms of this Agreement.

In consideration of the undersigned Participant (as defined below) being permitted to participate in The Understanding Skin Tour ("**Program**") hosted by Point on Beauty, LLC (the "**Company**") on the premises of The Hilton Miami Dadeland at 9100 N Kendall Dr, Miami, FL, 33176 (hereinafter referred to as the "**Property**"), and for other good and sufficient consideration, the receipt and sufficiency of which is hereby acknowledged, I, for myself and for my heirs, assigns, executors, administrators, trustees, successors, predecessors, family members, and legal representatives, in their individual and representative capacities, and on behalf of and as the parent or legal guardian of any Child identified below (hereinafter individually or collectively referred to as "**Releasors**"), do now by execution of Agreement affirm the following representations and agreements:

### **1. ASSUMPTION OF RISK**

I am the adult, and/or the parent or legal guardian of the Child, named in this Agreement ("**Participant**"). I am fully competent to enter into this Agreement, and I acknowledge, understand, and accept that as part of Participant's participation in the Program there may be inherent risks to which Participant may be exposed, including but not limited to the risks of contracting COVID-19 (or a variant thereof). I know of no reason why Participant should not participate in the Program.

### **2. RELEASE AND COVENANT NOT TO SUE**

RELEASORS, HEREBY FOREVER RELEASE, ACQUIT, DISCHARGE, COVENANT NOT TO SUE, AND AGREE TO INDEMNIFY AND HOLD HARMLESS FOR ANY AND ALL PURPOSES THE COMPANY AND ITS OFFICERS, DIRECTORS, SHAREHOLDERS, MEMBERS, MANAGERS, PARTNERS, LIMITED PARTNERS (INCLUDING FAMILY LIMITED PARTNERS), GENERAL PARTNERS, EQUITY OWNERS OF ANY TYPE OR CHARACTER, AFFILIATES, SUBSIDIARIES, EMPLOYEES, AGENTS, LEGAL REPRESENTATIVES, CONSULTANTS, CONTRACTORS, ADVISORS, VOLUNTEERS, AND THE OWNERS AND OPERATORS OF THE PROPERTY IN OFFICIAL AND INDIVIDUAL CAPACITIES, IN THEIR INDIVIDUAL AND REPRESENTATIVE CAPACITIES, JOINTLY AND SEVERALLY, DIRECTLY, AND INDIRECTLY (COLLECTIVELY "**RELEASEES**") FROM ANY AND ALL CLAIMS, ACTIONS, CAUSES OF ACTION, APPEALS, SUITS, RIGHTS, OBLIGATIONS, DAMAGES, LOSSES, CHARGES, ATTORNEY'S FEES, COSTS, EXPENSES, DEBTS, LIABILITIES, AND DEMANDS WHATSOEVER, WHETHER FORESEEN OR UNFORESEEN, KNOWN OR UNKNOWN, DISCLOSED OR UNDISCLOSED, MATURED OR UNMATURED, IN LAW, EQUITY OR OTHERWISE, WHICH RELEASORS MAY HAVE, NOW OR IN THE FUTURE, ARISING OUT OF OR IN ANY WAY CONNECTED WITH PARTICIPANT'S PARTICIPATION IN THE PROGRAM OR PRESENCE ON THE PROPERTY (COLLECTIVELY, "**CLAIMS**"), INCLUDING, BUT NOT LIMITED TO:

a. Injuries to Participant, including death, before, during or after resulting from the negligent act or omission of any of the RELEASEES, WHETHER CAUSED BY THE NEGLIGENCE OF THE RELEASEES OR OTHERWISE.

b. Participant's exposure to or infection by COVID-19 or other infectious diseases or virus resulting from attending the Program. PARTICIPANT UNDERSTANDS THE RISK OF BECOMING EXPOSED TO OR INFECTED BY COVID-19 OR OTHER INFECTIOUS DISEASES OR VIRUS AT THE PROGRAM MAY RESULT FROM THE ACTIONS, OMISSIONS, OR NEGLIGENCE OF PARTICIPANT AND OTHERS, INCLUDING, BUT NOT LIMITED TO, THE RELEASEES. PARTICIPANT VOLUNTARILY AGREES TO ASSUME ALL OF THE FOREGOING RISKS AND ACCEPT SOLE RESPONSIBILITY FOR ANY INJURY TO PARTICIPANT (INCLUDING BUT NOT LIMITED TO PERSONAL INJURY, DISABILITY AND DEATH), ILLNESS, OR CLAIMS OF ANY KIND THAT PARTICIPANT MAY INCUR IN CONNECTION WITH PARTICIPATION IN THE PROGRAM. THIS RELEASE INCLUDES ANY CLAIMS BASED ON THE ACTIONS, OMISSIONS, OR NEGLIGENCE OF RELEASEES, WHETHER A COVID-19 OR OTHER INFECTIOUS DISEASE OR VIRUS INFECTION OCCURS BEFORE, DURING OR AFTER PARTICIPATION IN ANY PROGRAM.

c. Participant's participation in the Program, Participant's travel to or from the Program, or Participant's presence on Property owned, leased, or operated by Releasees, INCLUDING BUT NOT LIMITED TO DAMAGES, LOSSES, OR INJURIES SUSTAINED AS A RESULT OF THE NEGLIGENCE OF RELEASEES;

d. In Case of an Emergency, medical treatment of Participant, any decision whether to seek medical treatment for Participant, and/or traveling to or from a medical care facility, INCLUDING BUT NOT LIMITED TO DAMAGES, LOSSES, OR INJURIES SUSTAINED AS A RESULT OF THE NEGLIGENCE OF RELEASEES, even if a Releasee has signed medical documentation promising to pay for the treatment due to my inability to sign the documentation.

RELEASORS FURTHER EXPRESSLY WAIVE THEIR RIGHTS, IF ANY, UNDER SECTION 1542 OF THE CALIFORNIA CIVIL CODE AS SUCH RIGHTS MAY RELATE TO ANY CLAIMS RELEASED BY THIS AGREEMENT. RELEASORS ACKNOWLEDGE THAT THEY HAVE CONSULTED WITH LEGAL COUNSEL REGARDING THE IMPORT OF SECTION 1542 OF THE CALIFORNIA CIVIL CODE, WHICH PROVIDES AS FOLLOWS:

**A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS THAT THE CREDITOR OR RELEASING PARTY DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE AND THAT, IF KNOWN BY HIM OR HER, WOULD HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR OR RELEASED PARTY.**

### 3. INDEMNITY

Releasers hereby agree to indemnify and hold harmless the Releasees for any and all damages, losses, or injuries (including but not limited to death) to persons or property or both, including but not limited to any and all claims, actions, causes of action, appeals, suits, rights, obligations, damages, losses, charges, attorney's fees, costs, expenses, debts, liabilities, and demands whatsoever, whether foreseen or unforeseen, known or unknown, disclosed or undisclosed, matured or unmatured, in law, equity or otherwise, that result from, arise out of, or are related to Participant's negligent or intentional act(s) or omission(s) during Participant's participation in the Program, Participant's travel to or from the Program, or Participant's presence on Property owned, leased, or operated by Releasees.

### 4. MATERIALS RELEASE

Participant confirms that, having the sole right to do so, for good and valuable consideration (the receipt and sufficiency of which is hereby acknowledged), irrevocably grants to the Company and its subsidiaries and affiliates, successors, assigns and licensees, the non-exclusive right to photograph, record, reproduce, edit, alter, modify, create derivate works of, transmit or otherwise use the names, products, trademarks, trade names, logos, insignia, photographs, copyrighted material and/or other material(s) depicted in any materials Participant has supplied to Company, including but not limited to video, audio recordings, photographs or any similar intellectual property Participant has submitted herewith (collectively, "**Materials**"), in and in connection with the Program, the Company's promotional materials, or as otherwise desired by the Company, without limitation as to time, territory or medium (be it now known or hereafter devised), and without compensation or liability of any kind. Participant hereby grants to Company the right, without obligation, to depict Participant's name voice, likeness, biographical information and/or other personally identifying information (collectively, "**Likeness**") in any and all media, without limitation, whether now known or hereafter created, throughout the universe, in perpetuity, in connection with the Materials and for any other purpose, commercial or otherwise, and all rights, title and interest therein (including all worldwide copyrights therein) shall be the sole property of Company, free from any claims by me or any person deriving any rights of interest from me. Participant's consent extends to minors and other persons in Participant's care and charge.

Participant agrees not to use or permit the use by third parties of the Materials for any commercial purpose, or other financial gain, personal or otherwise, including but not limited to in any media format or broadcast, or for any other use without the express written permission of the Company. In addition, Participant agrees to sign any other documentation that the Company may request for purposes of establishing its rights to use the Materials and Participant's Likeness as contemplated herein. Participant represents that Participant has the right to grant to the Company the right to use the Materials without the necessity of obtaining the consent of any third person or entity, and that the Materials do not infringe the copyright or violate any right of publicity, privacy or any other right of any person or entity. Participant represents and warrants that the Materials do not contain (a) nudity, profanity or false or defamatory statements; (b) logos, trademarks, copyrights, photographs, paintings or any other intellectual property that I do not own (c) violent, vulgar, offensive or otherwise inappropriate behavior speech or materials. Nothing herein requires the Company to use the Material. Participant agrees to indemnify and hold harmless the Company and its officers, directors, shareholders, members, managers, partners, limited partners (including family limited partners), general partners, equity owners of any type or character, affiliates,

subsidiaries, employees, agents, legal representatives, consultants, contractors, advisors, and volunteers thereof, from and against any Claims arising in connection with any breach or alleged breach by Participant of any above representations or agreements.

## **5. LIMITATION OF LIABILITY**

LIMITATION OF LIABILITIES AND REMEDIES. IN NO EVENT SHALL THE COMPANY'S OR ANY RELEASER'S AGGREGATE LIABILITY ARISING OUT OF OR RELATED TO THIS AGREEMENT, WHETHER IN CONTRACT, TORT OR UNDER ANY OTHER THEORY OF LIABILITY, EXCEED THE TOTAL AMOUNT PAID BY PARTICIPANT FOR THE PROGRAM IN THE 12-MONTH PERIOD PRECEDING THE EVENT GIVING RISE TO THE INCIDENT OR CLAIM(S). THE FOREGOING LIMITATIONS APPLY EVEN IF ANY REMEDY FAILS OF ITS ESSENTIAL PURPOSE.

EXCLUSION OF INCIDENTAL, CONSEQUENTIAL, AND CERTAIN OTHER DAMAGES. IN NO EVENT SHALL THE COMPANY OR ANY RELEASER HAVE ANY LIABILITY TO RELEASERS FOR ANY INDIRECT, SPECIAL, INCIDENTAL, CONSEQUENTIAL, COVER OR PUNITIVE DAMAGES HOWEVER CAUSED (INCLUDING, BUT NOT LIMITED TO, DAMAGES FOR PERSONAL INJURY, FOR LOSS OF PRIVACY, FOR FAILURE TO MEET ANY DUTY INCLUDING OF GOOD FAITH OR OF REASONABLE CARE, FOR NEGLIGENCE AND FOR ANY OTHER PECUNIARY OR OTHER LOSS WHATSOEVER), WHETHER IN CONTRACT, TORT OR UNDER ANY OTHER THEORY OF LIABILITY, AND WHETHER OR NOT RELEASERS HAVE BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. THE FOREGOING DISCLAIMER SHALL NOT APPLY TO THE EXTENT PROHIBITED BY APPLICABLE LAW.

The foregoing limitations, exclusions, and disclaimers shall apply to the maximum extent permitted by applicable law, even if any remedy fails its essential purpose.

## **6. MEDICAL RELEASE AND AUTHORIZATION**

As the parent or legal guardian of the Child, I hereby authorize the diagnosis and treatment by a qualified and licensed medical professional, of the Child in the event of a medical emergency, which in the opinion of the attending medical professional, requires immediate attention to prevent further endangerment of the Child's life, physical disfigurement, physical impairment, or other undue pain, suffering or discomfort, if delayed. Permission is hereby granted to the attending physician to proceed with any medical or minor surgical treatment, x-ray examination and immunizations for the named athlete. In the event of an emergency arising out of serious illness, the need for major surgery, or significant accidental injury, I understand that every attempt will be made by the attending physician to contact me in the most expeditious way possible. This authorization is granted only after a reasonable effort has been made to reach me. Permission is also granted to the Company, and its agents including directors, faculty, and team members to provide the needed emergency treatment prior to the Child's admission to the medical facility. This medical release is authorized and executed of my own free will, with the sole purpose of authorizing medical treatment under emergency circumstances, for the protection of life and limb of the named Child, in my absence.

## **7. AGREEMENT TO PAY OWN MEDICAL EXPENSES**

Participant acknowledges, accepts, and assumes the risk of any and all medical conditions, limitations, or disabilities (whether temporary or permanent) that Participant or any Releasors possess, whether known or unknown, which might contribute to or exacerbate any injury or illness that Participant or any Releasor might sustain as a result of the Program or Property. Participant acknowledges and agrees that if medical assistance (of any form, including emergency care, hospitalization, out-patient care, and/or physical/occupational therapy) is required or performed as a result of any injury Participant sustains while participating in the Program, or Participant's presence on Property owned, leased, or operated by Releasees, such assistance shall be at Participant's own expense.

#### **8. TIME LIMITATION TO BRING CLAIM(S)**

PARTICIPANT AND RELEASORS AGREE THAT ANY CLAIM ARISING OUT OF, OR RELATING TO, PARTICIPANT'S PARTICIPATION IN THE PROGRAM OR PRESENCE ON THE PROPERTY, OR ANY CLAIM CONCERNING THIS AGREEMENT, SHALL BE BROUGHT WITHIN ONE YEAR OF ITS ACCRUAL (i.e., the date of the alleged Claim).

#### **9. GOVERNING LAW/JURISDICTION**

This Agreement shall be interpreted and enforced in accordance with the laws of California, exclusive of its provisions relating to conflicts of laws. In addition, Participant and Releasors hereby submit to the exclusive jurisdiction (subject matter and personal) of the federal and/or state courts, as applicable, located in Los Angeles County, California, in connection with any action arising from or relating to the enforcement, interpretation or application of the terms of this Agreement.

#### **10. ATTORNEY'S FEES AND COSTS**

In addition to other damages that may be determined and/or relief the Company may be entitled, if Participant is found to have breached this Agreement by a court of competent jurisdiction and/or if the Company is otherwise determined to be the prevailing party in any action against Participant to enforce the terms of this Agreement, and/or the Company has prevailed in its defense of one or more Claims in any action brought by Participant, the Company shall be entitled to recover its costs of prosecuting and/or defending such action or Claims, including, without limitation, reasonable attorneys' fees.

#### **11. REMEDIES CUMULATIVE; WAIVER**

All remedies specified herein or otherwise available shall be cumulative and in addition to any and every other remedy provided hereunder or now or hereafter available. No term or condition of this Agreement shall be deemed to have been waived nor there any estoppel against the enforcement of any provision of this Agreement, except by written instrument of the party charged with such waiver or estoppel. No such written waiver shall be deemed a continuing waiver unless specifically stated therein, and each such waiver shall operate only as to the specific term or condition waived and shall not constitute a waiver of such term or condition for the future or as to any act other than that specifically waived.

#### **12. SEVERABILITY**

Should any provision(s) of this Agreement be declared invalid for any reason, such decision shall not affect the validity of any other provisions, which other provisions shall remain in force and effect as if this Agreement had been executed with the invalid provision(s) eliminated.

### **13. MODIFICATION**

This Agreement cannot be altered or modified except by a writing signed by both parties.

### **14. SURVIVAL**

All representations, warranties and indemnities made herein shall survive the termination of this Agreement and shall remain in full force and effect. All of a party's rights and privileges, to the extent they are fairly attributable to events or conditions occurring or existing on or prior to the termination of this Agreement, shall survive the termination and be enforceable by such party and its successors and assigns.

### **15. ENTIRE AGREEMENT**

This Agreement embodies the entire agreement among the parties and supersedes all prior negotiations, agreements, and undertakings, if any, relating to the subject matter hereof. No oral understandings, statements, promises, terms, conditions, obligations, or agreements contrary or in addition to the terms set forth in this Agreement are binding upon the parties. The parties expressly warrant and represent and do hereby state and represent that no promise or agreement not expressed in this Agreement has been made to the respective party, their respective agents, employees or contractors, and that, in executing this Agreement, the parties are not relying upon any statement or representation not expressly set forth in this Agreement. The parties are instead relying on their own judgment and the advice of their own respective legal counsel in this matter. The parties have each read and understand the entire contents of this Agreement, as well as the legal consequences of the releases set forth herein.

### **16. HEADINGS AND EXHIBITS**

The section and paragraph headings used in this Agreement are for reference purposes only, and should not be used in construing this Agreement.

### **17. COUNTERPART**

This Agreement may be executed in counterparts, each of which shall be deemed an original, but all of which together will constitute one and the same instrument. In addition, it is agreed by the parties hereto that, notwithstanding the use herein of the words "written," "execution," "undersigned," "signature," or other words of similar import, the parties hereto intend that the use of electronic signatures and the keeping of records in electronic form be granted the same legal effect, validity or enforceability as a signature affixed by hand or the use of a paper-based record keeping system (as the case may be) to the extent and as provided for in any applicable law including the Federal Electronic Signatures in Global and National Commerce Act, or any other similar state laws based on the Uniform Electronic Transactions Act.

### **18. ACKNOWLEDGMENT**

By signing this Agreement, Participant represents, warrants, and certifies that Participant has secured, or has had the opportunity to secure, independent legal advice and consultation in connection with this Agreement and any rights that Participant may be relinquishing, and that Participant has not relied upon any representation or statement by the Company or its agents or attorneys, in executing this Agreement, other than those which are expressed herein. Participant has read and understands this Agreement and signs it voluntarily.