



## **Homeowners Association of Eagle Creek, Inc.**

**10180 Eagle Creek Center Blvd.**

**Orlando, Florida 32832**

### **WAIVER OF LIABILITY, INDEMNITY AND HOLD HARMLESS AGREEMENT**

In consideration for receiving permission to be allowed to use the swimming pool(s), pool areas, including the surrounding patios, outdoor tables and grills, fitness facilities, playgrounds and other common area amenities (hereinafter referred to as the "Amenities"), owned and/or managed by the Homeowners Association of Eagle Creek, Inc. (hereinafter referred to as the "Association"), in accordance with the Operating Plan referenced below, I, on behalf of myself and my minor children, as well as, for any minor children for whom I have the capacity to contract (hereinafter all such children shall collectively be referred to as "My Children"), hereby acknowledge and agree to the following:

I. I understand the hazards of the coronavirus (hereinafter referred to as "COVID-19") and am familiar with, accept and agree to abide by:

- i. the guidelines published by the Centers for Disease Control and Prevention, as well as, those published by the State of Florida and any applicable local government (hereinafter collectively referred to as the "Governmental Guidelines");
- ii. the Operating Plan, guidelines and restrictions (hereinafter collectively referred to as the "Restrictions") established by the Association for the operation and use of the Amenities and the participation of individuals, including me, My Children and any of my guests (hereinafter referred to as "My Guests") that the Association may hereafter elect to allow to use the Amenities or participate in activities ( hereinafter referred to as the "Activities") on such Amenities. The above referenced Governmental Guidelines and Restrictions shall hereinafter be referred to as the "Operating Plan".

I acknowledge that My Guests are not initially allowed to use the Amenities and/or participate in the Activities. I further acknowledge and understand that that the circumstances and Governmental Guidelines regarding COVID-19 are changing from day to day and I accept full responsibility for familiarizing myself with the most recent updates and taking any and all precautions necessary to protect and ensure my personal safety and that of My Children and My Guests. I further acknowledge and agree that, in allowing the opening of the Amenities, the use of the Amenities and/or the participation in the Activities, the Association, its Board of Directors, its officers, its managers and its employees have not and do not warrant that any steps any of them have taken or hereafter may take to post signage, promote capacity limitations, social distancing, sanitation, disinfection and/or other measures they implement necessarily meet all applicable Governmental Guidelines that may be in effect from time to time or that whatever measures all or any of them may take:

- i. will reduce the likelihood of or prevent the transmission of COVID-19, other viruses and/or other communicable diseases to participants in the Activities;
- ii. will reduce any other dangers to participants in the Activities; and/or
- iii. will reduce the likelihood or risk of harm to participants in the Activities.

2. Notwithstanding the risks associated with COVID-19, which I readily acknowledge, I hereby willingly choose to use the Amenities and participate in the Activities, as well as, authorize and choose to permit My Children and My Guests to use the Amenities and participate in the Activities.

3. I understand that accidents or illness can occur while using the Amenities and/or participating in the Activities and that such might result not only from my, My Children's and/or My Guests' actions, inactions, or negligence, but the actions, inactions, or negligence of others, or the conditions of the Amenities or of any equipment used. Further, I understand that there may be other risks not known to me or not reasonably foreseeable at this time. I agree and state that I, My Children and My Guests are fully capable of properly and safely using the Amenities and participating in such Activities. I, My Children and

My Guests are in excellent health, and I, My Children and My Guests are fully capable of understanding and handling the hazards and conditions associated with the use of the Amenities, the Activities and all related functions.

4. I acknowledge and fully assume the risk of illness or death related to and/or resulting from COVID-19 and my, My Children and My Guests being present at any of the Amenities and participating in the Activities and hereby RELEASE, WAIVE, AND DISCHARGE, on behalf of myself, My Children and My Guests, the Association, its Management, Eagle Creek Development Corporation, and their respective owners, shareholders, members, officers, directors, agents, employees and assigns (hereinafter collectively referred to as the "Releasees") from any liability related to COVID-19 or any other illness, injury or death I, My Children and My Guests may sustain as a result of my, My Children and My Guests using the Amenities, being on the premises where the Activities are held and/or participating in the Activities. I further COVENANT NOT TO SUE on behalf of myself, My Children and My Guests, the Releasees for any liability related to COVID-19 or any other illness, injury or death I, My Children and My Guests may sustain as a result of my, My Children and My Guests using the Amenities, being on the premises where the Activities are held and/or participating in the Activities.

5. I agree to indemnify, defend and hold harmless the Releasees from and against any and all claims, demands, suits, judgments, losses or expenses of any nature whatsoever (including, without limitation, attorneys' fees, costs and disbursements, whether or not an action is brought, on appeal or otherwise), arising from or out of, or relating to, directly or indirectly, the infection of COVID-19 or any other illness or injury that I, My Children and My Guests may sustain. I UNDERSTAND THAT THE FOREGOING INDEMNITY CONSTITUTES MY ACCEPTANCE OF LEGAL RESPONSIBILITY FOR AND MY AGREEMENT TO PAY FOR ANY LOSS FOR CLAIMS OR LAWSUITS AGAINST ANY RELEASEE ARISING FROM MY, MY CHILDREN'S AND MY GUESTS' USE OF THE AMENITIES AND/OR PARTICIPATION IN THE ACTIVITIES.

6. I further agree not to sue, claim against, attach the property of or prosecute the Releasees for any injury, illness, death or loss caused by or resulting from my, My Children's and/or My Guests' use of the Amenities and/or participation in the Activities, whether or not such injury, illness, death or loss was caused by or resulted from the negligence of the Releasees or any other cause.

It is my express intent that this Waiver, of Liability, Indemnity and Hold Harmless Agreement shall bind any and all of my heirs and personal representatives, and shall be deemed a RELEASE, WAIVER, DISCHARGE, AND COVENANT NOT TO SUE the above-named Releasees, regardless of the basis for such claim, including any claim based on negligence of any Releasee or the negligence of others. This Agreement and the provisions contained herein shall be construed, interpreted and controlled according to the laws of the State of Florida. **I HEREBY KNOWINGLY AND VOLUNTARILY WAIVE ANY RIGHT TO A JURY TRIAL OF ANY DISPUTE ARISING IN CONNECTION WITH THIS AGREEMENT. I ACKNOWLEDGE THAT THIS WAIVER OF LIABILITY, INDEMNITY AND HOLD HARMLESS AGREEMENT WAS EXPRESSLY NEGOTIATED AND IS A MATERIAL INDUCEMENT FOR THE PERMISSION GRANTED BY ASSOCIATION TO USE THE AMENITIES AND PARTICIPATE IN THE ACTIVITIES.**

7. I agree that I, My Children and My Guests will abide by the Operating Plan, as the same may change from time to time, and that if I, My Children and/or My Guests violate any of the requirements of the Operating Plan, the Association may revoke its permission for me, My Children and My Guests to use the Amenities and/or engage in any Activities.

8. I presently have and agree to maintain and to keep in full force and effect for as long as I and/or My Children are participant(s) in the Activities and/or are using the Amenities, reasonable and sufficient personal accident and health insurance.

9. Words in the singular include the plural, and the plural include the singular. The word “or” is not exclusive and the word “and” maybe conjunctive or disjunctive in the sole and absolute discretion of the Association. The phrase “and/or” shall apply to and include both the conjunctive and disjunctive.

10. If any one or more of the provisions contained in this Agreement is declared or found by a court of competent jurisdiction to be invalid, illegal or unenforceable, such provision or portion thereof shall be deemed stricken and severed, and the remaining provisions hereof shall continue in full force and effect. It is the intention of the parties that if any such provision is held to be illegal, invalid or unenforceable, there will be added in lieu thereof a provision that is as similar in terms to such provision as is possible to be legal, valid and enforceable.

11. I agree that this Agreement may be executed by me by electronic signature or other electronic measures, and I agree that such execution will be as binding on me as if I executed this Agreement by a signed written instrument.

**IN SIGNING THIS AGREEMENT, I ACKNOWLEDGE AND REPRESENT THAT I HAVE READ THE FOREGOING WAIVER OF LIABILITY, INDEMNITY AND HOLD HARMLESS AGREEMENT, AND I UNDERSTAND IT AND SIGN IT VOLUNTARILY AS MY OWN FREE ACT AND DEED. NO ORAL REPRESENTATIONS, STATEMENTS, OR INDUCEMENTS, APART FROM THE FOREGOING WRITTEN AGREEMENT, HAVE BEEN MADE BY ANY PERSON OR ENTITY WITH RESPECT TO THE MATTERS SET FORTH HEREIN. I AM AT LEAST EIGHTEEN (18) YEARS OF AGE AND FULLY COMPETENT, AND I EXECUTE THIS AGREEMENT FOR FULL, ADEQUATE AND COMPLETE CONSIDERATION, FULLY INTENDING TO BE BOUND BY SAME.**

IN WITNESS WHEREOF, I have signed this Waiver of Liability, Indemnity and Hold Harmless Agreement on the date set forth below.

SIGNATURE: \_\_\_\_\_

NAME: \_\_\_\_\_

DATE: \_\_\_\_\_, 2021

ADDRESS:

\_\_\_\_\_

NAMES OF MINOR CHILD(REN): \_\_\_\_\_

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