

Wendell Falls Community Association

Activity Release and Indemnity Agreement – Swim at Your Own Risk

Name of Wendell Falls Entities: **Wendell Falls Community Association, Inc. (the "Community Association"), NASH Wendell Falls, LLC, and Newland Real Estate Group, Inc. - dba Newland Communities (collectively, the "Wendell Falls Entities").**

THIS RELEASE AND INDEMNITY AGREEMENT ("Release") is made by the undersigned to release and indemnify the Wendell Falls Entities and any company chosen by the Wendell Falls Entities to serve as a Manager or Managing Agent of the Wendell Falls Entities (the "Manager"), and each of their parent companies, if any, their affiliated or subsidiary companies, and all of their respective shareholders, officers, directors, members, managers, committee members, agents, contractors, employees, volunteers, representatives, successors, and assigns (collectively, the "Released Parties"), as set forth below.

1. Activity. The undersigned, on behalf of the undersigned and the undersigned's family members, including, without limitation, the undersigned's spouse, parents, siblings and children, heirs, executors, personal representatives, administrators, and assigns, (singularly and collectively referred to as "Participant") hereby grants to the Released Parties the full release and indemnification set forth herein as consideration for permitting Participant to participate in swimming, swimming lessons, water sports and other athletic or physical activities (the "Activity") at the Community Association Pool located in the Wendell Falls community in Wendell, Wake County, North Carolina, specifically including, without limitation, the swimming pool and any related equipment located at the pool facility (collectively, the "Club") during such times that the Wendell Falls Entities designate as Swim at Your Own Risk ("SAYOR"). SAYOR times for the current pool season will begin at 6 a.m. and end at 9 a.m. Other SAYOR dates and times shall be determined by the Community Association or a committee responsible for Club operations and shall be subject to change in the sole discretion of the Community Association. By signing this Agreement, the undersigned acknowledges that during SAYOR times, there will be no lifeguard, pool attendant, or staff member affiliated with the Manager or Wendell Falls Entities on duty at the Club to monitor Participant's participation in the Activity.

2. Release and Indemnity. Participant is voluntarily participating in the Activity with full knowledge, understanding and appreciation of the risks of injury inherent and expressly assumes all risks of injury and even death, which could occur by reason of Participant's participation in the Activity. Participant hereby irrevocably, unconditionally, and forever releases, acquits, quitclaims, and discharges the Released Parties of and from any and all liabilities, charges, actions, complaints, causes of action, claims, obligations, promises, controversies, damages, suits, proceedings, expenses, and demands of any kind or nature whatsoever, whether currently known or unknown, suspected or unsuspected, currently existing, arising or accruing in the future based upon, arising out of, related to, or connected in any way with Participant's participation in the Activity or any collateral matters thereto including, without limitation, medical treatment and transportation provided in the event of an emergency.

Participant hereby assumes full responsibility for risks of bodily injury, property damage or death to Participant due to the ordinary negligence or gross negligence of the Released Parties or the ordinary negligence, gross negligence, or willful misconduct of any third party including, without limitation, others participating in the Activity.

Participant agrees to indemnify, defend, reimburse, and hold harmless, at Participant's sole cost, the Released Parties for, from, and against any and all claims, losses, costs, damages, judgments, actions, liabilities, obligations, or expenses, which may be threatened against or incurred or undertaken by any one or more of the Released Parties, whether currently known or unknown, liquidated or contingent, currently existing,

arising or accruing in the future based upon, arising out of, related to, or connected in any way with Participant's participation in the Activity or any collateral matters thereto including, without limitation, medical treatment and transportation provided in the event of an emergency.

All personal property of Participant brought to the Activity, is brought at the sole risk of Participant as to its theft, damage, or loss. Participant acknowledges and agrees that the Released Parties shall have no liability or obligation to Participant with respect to, arising from, related to, or in connection with Participant's participation in the Activity or the personal property of the Participant brought to or left at the Club.

Participant assumes full liability for any risks, injury, death or damage, should they allow someone else to use their Access Card to gain access to the pools and participate in the Activity.

3. Medical. Participant hereby consents to emergency medical care and transportation in order to obtain treatment in the event of injury to Participant as any of the Released Parties may deem appropriate. This Release extends to any liability arising out of or in any way connected with the medical treatment and transportation provided in the event of an emergency.

4. Miscellaneous. Participant expressly agrees that the terms of release and indemnity contained herein are intended to be as broad and inclusive as is permitted by the laws of the state of North Carolina. Participant represents and warrants to the Released Parties that Participant is eighteen (18) years of age or older, is under no legal incapacity to execute this Agreement and to be bound by its terms, and has the authority to execute this Release. Participant agrees that, notwithstanding the principles of conflicts of law, the internal laws of the State of North Carolina shall govern and control the validity, interpretation, performance, and enforcement of this Release. Any provision or portion of this Release found to be invalid by the courts having jurisdiction shall be invalid only with respect to such provision or portion.

PARTICIPANT HAS READ AND VOLUNTARILY SIGNS THIS RELEASE AND INDEMNITY AGREEMENT AND UNDERSTANDS THAT THIS IS A LEGALLY BINDING AGREEMENT.

PARTICIPANT:

Printed Name

SIGNATURE: _____/_____ Date

Name as presented on Access Card _____

Access Card Number (number on the back) _____

** Activation may take up 3 business days
February 2019

