



Release, Hold Harmless and Assumption of Risk Agreement

Release, Hold Harmless and Assumption of Risk Agreement

This Agreement creates legal obligations on your part, including an obligation to assume all risks of death or injury and to hold the CLUB harmless in the event of any death or injury, even if arising out of the negligence of the CLUB.

SINCE BEING PRESENT AT A SWIM OR ATHLETIC OR EXERCISE FACILITY, INCLUDING, BUT NOT NECESSARILY LIMITED TO, SWIMMING AND BEING IN OR AROUND A SWIMMING POOL, MAY BE DANGEROUS, AND MAY RESULT IN BODILY INJURY, INCLUDING SERIOUS BODILY INJURY, DEATH, PROPERTY DAMAGE OR OTHER ECONOMIC LOSS, WE REQUIRE ALL MEMBERS, GUESTS, SWIM TEAM MEMBERS, SWIM STUDENTS, AND ANY OF THEIR GUESTS, TO ASSUME ALL RISK AND TO HOLD THE CLUB HARMLESS, TO THE FULLEST EXTENT ALLOWED BY LAW, INCLUDING FOR ITS OWN NEGLIGENCE, FOR INJURY TO THEMSELVES, FAMILY MEMBERS, AND GUESTS, BY SIGNING THIS GENERAL RELEASE, ASSUMPTION OF RISK, AND HOLD HARMLESS AGREEMENT (the Agreement or this Agreement).

This Agreement is intended to be a complete release of any responsibility for bodily or personal injuries and/or property loss/damage sustained by any person described in the following paragraph, while on the Premises of the Club, whether or not using any particular Club facilities or equipment. I am 18 or older and (1) am a guest, (2) I am a member, (3) have voluntarily applied for a regular, propriety or one-day membership, or (4) I have signed up for swimming lessons, or (5) otherwise seek to enter upon and/or use the Premises. I am voluntarily signing this Agreement on behalf of myself, my guests and/or my family (including any children for whom I am the parent, step-parent, guardian or for whom I am otherwise legally responsible) (hereinafter collectively referred to as the "Releasors") connected with or arising out of use the facilities (the "Premises") of GREENHAVEN CABANA CLUB SOUTH, a California corporation (hereinafter the "CLUB").

ASSUMPTION OF RISK, INCLUDING THE RISK OF NEGLIGENCE BY THE CLUB: I am aware that being present at a swim or athletic or exercise facility, including but not necessarily limited to swimming and/or being in or around a swimming pool, are hazardous activities. I voluntarily assume the risk of all such hazards, whether or not specifically mentioned in this Agreement, including those arising out of any negligence by the CLUB, and whether or not using any CLUB facilities or equipment. I am aware that some of these hazards include, but are not limited to, drowning, fractures, serious head injuries, brain damage (from lack of oxygen or head injury), electrocution, death, paralysis, illness or diseases, injury from chemicals, cuts, bruises, lacerations and infections. I am aware that accidents and injuries can occur suddenly, and without notice or warning. Lifeguards may not always be present, or may be distracted, otherwise engaged, or negligent. I understand and agree that the presence of a lifeguard is no guarantee, and is not intended to be a guarantee, of my safety or the safety of anyone else. Other CLUB employees, swimmers, club members, guests, or any other persons may be careless or negligent. This may include, but is not limited to, children being left unattended by their parents. I understand and agree that it is impossible to describe and categorize every single hazard or type of event that could lead to an accident or to bodily injury or death. I understand and agree that by signing this Agreement I assume the risks, and agree to hold the CLUB harmless, as to any and all hazards or events that could lead to an accident or to bodily injury or death. By way of example only, the potential hazards include, but are not limited to, slipping and/or falling because of wet or slippery conditions or because of some substance left on the floor or ground regardless of how long the substance has been on the floor or ground and regardless of whether any Releasee had actual or constructive notice of same; tripping and/or falling because of any uneven, rough or broken surface, or an obstacle (whether animate or inanimate), or an item or debris left on the floor or ground, regardless of how long the uneven, rough or broken surface has existed and regardless of whether any Releasee had actual or constructive notice of same, or or regardless of how long an obstacle (whether animate or inanimate) or any item or debris has been in place and regardless of whether any Releasee had actual or constructive notice of same; persons of any age playing or roughhousing in or around the pool area or anywhere on the Premises; falling or displaced objects, regardless of location, type or size, and regardless of the reason for falling or displacement, specifically including (but not limited to) buildings or structures or portions thereof and regardless of whether any Releasee had actual or constructive notice of same; thrown or tossed items or objects, regardless of location, type or size, and regardless of intent or the reason for throwing or tossing and regardless of

whether any Releasee had actual or constructive notice of same. In addition to the risks posed by the pool itself, the risks of ordinary activities (such as but not limited to walking, running, sitting, standing, reaching, twisting, bending, kneeling, stooping, eating or drinking, regardless of whether or not allowed by CLUB rules and regulations), may be markedly enhanced by the presence of water or spilled food or liquid that may be elsewhere on the Premises.

WAIVER OF CLAIMS, RELEASE AND HOLD HARMLESS, INCLUDING FOR NEGLIGENCE BY THE CLUB: In consideration of the agreement of the CLUB to permit me, my family members, and/or our guests to use the Premises, I (for myself and on behalf of the other Releasors) waive all claims, release, hold harmless and forever discharge GREENHAVEN CABANA CLUB SOUTH, a California corporation, its employees, agents, volunteers, independent contractors, members, guests, officers, directors, and affiliates (hereinafter "Releasees"), from any and all liability, claim, loss, cost or expense arising from or attributable in any way to any act, or failure or omission to act, of any such person or organization arising out of or in connection with recreational swimming, swim lessons, competitive swimming, or any other use of the Premises whether or not related to swimming or pool use. This Agreement applies to all acts or omissions of Releasees, including negligent acts or omissions, regardless of whether such negligence is deemed active or passive. This Agreement applies to any claimed or actual injury, including, without limitation, personal, bodily, or mental injury, economic loss or any damage or injury to you, your spouse, guests, unborn child, or relatives. I hereby agree for myself and on behalf of the other Releasors that we, our heirs, distributees, guardians, legal representatives, and assigns will not make a claim against, sue, or attach the property of the CLUB for injury or damages resulting from the negligence of Releasees or otherwise as a result of my or the other Releasors' participation in swimming or any other activities on the Premises. Further, upon undertaking responsibility to be fully informed of all risks, I, acting both individually and on behalf of Releasors, hereby EXPRESSLY AND VOLUNTARILY ASSUME ALL RISK of death, bodily injury, personal injury, property damage or economic loss to myself or to any Releasor sustained while participating in any activity at or on the Premises. In executing this Agreement, Releasors hereby waive all rights and benefits which Releasors have or in the future may have under and by virtue of the items of Section 1542 of the Civil Code of the State of California, which Section reads as follows: A general release does not extend to the claims which the creditor does not know or suspect to exist in his favor at the time of executing the release, which if known by him must have materially affected his settlement with the debtor.

AGREEMENT TO DEFEND AND INDEMNIFY, INCLUDING FOR NEGLIGENCE BY THE CLUB: In addition, I HEREBY AGREE TO INDEMNIFY, DEFEND, AND HOLD RELEASEES HARMLESS from any and all claims or lawsuits arising out of or connected in any way with the use of the Premises by Releasors. I understand that this means that I will be responsible to pay all costs and attorneys' fees for defending Releasees against any such claim, for paying to resolve or settle any such claim, and for the payment or satisfaction of any award or judgment arising out of such claims. I agree that Releasees are entitled to choose their own attorneys for defense of any claims or lawsuits. By this Agreement, I agree to hold harmless, defend and indemnify the CLUB from all liability, damages, defense costs, including attorneys fees, or from any other costs incurred in connection with claims for bodily injury, wrongful death or property damage brought by me, my guests, my family members, or minors in my custody or control, including in the event that the CLUB was negligent, whether actively or passively.

LIMITATION OF RECOVERABLE MEDICAL DAMAGES TO AMOUNTS ACTUALLY PAID: I also agree and understand that in the event of any claim or lawsuit for bodily injury by me or on my behalf (whether brought for my own injuries or brought by me in any representative capacity including, but not limited to, that of a *guardian ad litem* on behalf of a child or adult) arising out of or connected with any presence or activity at the CLUB or any physical condition of the Premises of the CLUB, and whether such claim or lawsuit is grounded in allegations of negligence (active or passive), gross negligence or willful misconduct, then I will make no claims for any medical billings, fees or costs which I have incurred (or which have been incurred on my behalf, or on behalf of anyone for whom I have made claim or brought suit in any representative capacity) to any Health Care Provider (as presently defined in California Judicial Council Form Interrogatories) in excess of the sum of (1) any dollar amounts actually paid to a Health Care Provider by me or on my behalf which are not covered and not reimbursed by any medical or other insurance (for example, deductible or co-payment), and (2) amounts actually paid on my behalf by any medical or other insurer and accepted as payment in full by the Health Care Provider. I further agree that in any trial, arbitration or other proceeding to adjudicate damages, only the amounts mentioned above, as (1) and (2), may be admissible in evidence before any trier of fact deciding the issue of damages. By way of example only, without limitation, if I am injured at the CLUB, am taken to the hospital, and the hospital charges \$20,000, but my medical insurer settles the bill in its entirety and satisfied the hospital completely for \$10,000, and I have paid only a \$500 co-payment and owe nothing further, then I agree that any claims for medical bills by me shall be limited to no more than my \$500 co-payment, plus the \$10,000 paid and accepted as payment in full by the hospital. Further, I agree that at most evidence of the actual payments of \$500 and \$10,000 may be admissible, and I will not offer evidence of the \$20,000 in charges. The provisions of this paragraph may be interposed to bar any attempt by me or an attorney retained by me, to admit such evidence or make a claim for such sums (including, by way of example but not by way of limitation, as an affirmative defense, a stipulation or as a release). Finally, I further agree that in the

event I or any attorney retained by me seeks to introduce any such evidence, I will hold CLUB harmless and indemnify CLUB against (1) all attorneys fees incurred in conjunction with interposing the paragraph as a bar to introduction of such evidence, and, (2) should that effort be unsuccessful, I will hold the CLUB harmless and indemnify CLUB against any judgment or award entered in any such trial, arbitration or other proceeding to the full extent of such judgment or award, including all damages, whether covered by this paragraph or not. Nothing in this paragraph limits or conditions any other provisions of this Agreement. I also agree and understand that in the event that a portion or portions of this Agreement (is) are adjudicated to be invalid, such portions which are not invalid shall remain in full force and effect. Should any proceeding be brought arising out of, relating to, or seeking the interpretation or enforcement of the terms of this Agreement, the prevailing party thereto, as decided by the court, shall be entitled to reasonable attorneys' fees and costs incurred in good faith, including the costs of expert witnesses and consultants, and including the costs of any appeals and of any enforcement of judgment. It is further agreed that the proper venue for any such proceeding shall be the Superior Court of the State of California, in and for the County of Sacramento. This Agreement shall be governed by, interpreted and construed in accordance with the laws of the State of California.

All words, phrases, sentences, and paragraphs, including the recitals hereto, are material to this Hold Harmless Agreement. The terms of this Hold Harmless Agreement, or any of them, shall not be interpreted against or in favor of any Party on the ground that any Party participated in the drafting of this Agreement. This Agreement shall bind and incur to the benefit of each Party hereto and each Party's agents, predecessors, heirs, successors and assigns.

The following statements are true, and I understand that the CLUB has relied on them in accepting our application and in giving Releasors permission to enter the CLUB and use the Premises.

1. I am authorized to execute this release on behalf of Releasors.
2. This Hold Harmless Agreement contains the entire understanding and agreement between the Parties with respect to the matters referred to herein. No other representations, covenants, undertakings, or other prior or contemporaneous agreements, oral or written, respecting those matters that are not specifically incorporated herein, may be deemed in any way to exist or to bind any of the Parties. Each Party acknowledges that it has not executed this Agreement in reliance on any such promise, representation or warranty.
3. I am fully aware of the risks and hazards inherent in entering upon said premises or in participating in any events in or upon the Premises, and hereby voluntarily choose to enter upon the Premises and to allow any Releasors to enter onto the Premises, regardless of the present or future condition of the Premises, and knowing that any condition may become hazardous or dangerous or may become more hazardous or dangerous (particularly during events at which a large number of people are present), and voluntarily assume all risks of loss, damage, or injury that may be sustained by any Releasor guest while in or upon the Premises at any time.
4. I am not aware of any physical, mental, or medical condition or handicap that increases or may increase the risk of injury from using the Premises to myself or to any Releasor OR I have advised the CLUB in writing of all such handicaps or conditions. Should I become aware of such as handicap or condition, I agree to immediately notify the CLUB in writing. However, the existence or not of any such physical, mental, or medical condition or handicap that increases or may increase the risk of injury from using the Premises to myself or to any Releasor, or the existence or not of any written notice to the CLUB of such physical, mental, or medical condition or handicap that increases the risk of injury from using the Premises to myself or to any Releasor, does not eliminate, reduce, mitigate or otherwise affect my obligations and liability to the CLUB under this Agreement.

By signing below, I acknowledge and agree that I have read the foregoing and know of the nature of the activities at the Premises, and I agree to all the terms of this Agreement and acknowledge that I have received a copy of it.

I ALSO UNDERSTAND THAT I MAY CANCEL THIS AGREEMENT AT ANY TIME PRIOR TO MIDNIGHT OF THE FIFTH BUSINESS DAY AFTER THE DATE OF THIS AGREEMENT, EXCLUDING SUNDAYS AND HOLIDAYS. TO CANCEL THIS AGREEMENT, I UNDERSTAND THAT I MAY MAIL OR DELIVER DURING NORMAL BUSINESS HOURS TO THE BUSINESS OFFICE OF THE CLUB, A SIGNED AND DATED NOTICE TO THE CLUB, OR SEND A TELEGRAM WHICH STATES THAT I AM CANCELING THIS AGREEMENT, OR WORDS TO THAT EFFECT.

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Please sign on the next page (page 4 of 4).



Greenhaven Cabana Club South Release, Hold Harmless and Assumption of Risk Agreement

Release, Hold Harmless and Assumption of Risk Agreement

This Agreement creates legal obligations on your part, including an obligation to assume all risks of death or injury and to hold the CLUB harmless in the event of any death or injury, even if arising out of the negligence of the CLUB.

I HAVE READ AND VOLUNTARILY SIGNED THIS DOCUMENT.

Signature of Responsible Adult Applicant

Witness Signature

Name (Please Print)

Witness Name (Please Print)

Date