

WAIVER AND RELEASE OF LIABILITY, ASSUMPTION OF RISK AND INDEMNITY AGREEMENT

WARNING: READ CAREFULLY. THIS AGREEMENT INCLUDES A RELEASE OF LIABILITY AND WAIVER OF LEGAL RIGHTS AND DEPRIVES YOU OF THE RIGHT TO SUE BILL ELLIS. DO NOT SIGN THIS AGREEMENT UNLESS YOU HAVE READ IT IN ITS ENTIRETY. SEEK THE ADVICE OF LEGAL COUNSEL IF YOU ARE UNSURE OF ITS EFFECT.

IN CONSIDERATION of **BILL ELLIS and BILL ELLIS COMMERCIAL PROPERTIES, INC.** allowing the undersigned to go upon and swim in the lake on their property located at exit 40 on US264 in Wilson County, North Carolina I, for myself, and on behalf of my spouse, children, parents, guardians, heirs and next of kin, and any legal and personal representatives, executors, administrators, successors and assigns, hereby agree to and make the following contractual representations pursuant to this Waiver and Release of Liability, Assumption of Risk and Indemnity Agreement (the "Agreement");

1. I hereby represent that (i) I am in good health and in proper physical condition to distance swim; and (ii) I am not under the influence of alcohol or any illicit or prescription drugs which would in any way impair my ability to safely swim. I agree that it is my sole responsibility to determine whether I am sufficiently fit and healthy enough to swim.

2. I understand and acknowledge the physical and mental rigors associated with swimming, and realize that swimming may be inherently dangerous and represent a test of a person's physical and mental limits. I understand that swimming in a lake involves risks and dangers which include, without limitation, the potential for serious bodily injury, permanent disability, paralysis and death; loss or damage to property; exposure to extreme conditions and circumstances; accidents, illness, contact or collision with other swimmers, or other natural or manmade objects; dangers arising from adverse weather conditions; inadequate safety measures; swimmers of varying skill levels; situations beyond the immediate control of the property owners; and other undefined harm or damage which may not be readily foreseeable, and other presently unknown risks and dangers ("Risks"). I understand that these Risks may be caused in whole or in part by my own actions or inactions, the actions or inactions of other swimmers, or the acts, inaction or negligence of the property owners or others on his behalf, and I hereby expressly assume all such Risks and responsibility for any damages, liabilities, losses or expenses which I incur as a result of my being on the property of and swimming in the lake of Bill Ellis and Bill Ellis Commercial Properties, Inc.

3. I also accept sole responsibility for my own conduct and actions while swimming, and the condition and adequacy of any equipment I might use while swimming.

4. I hereby Release, Waive and Covenant Not to Sue, and further agree to Indemnify, Defend and Hold Harmless BILL ELLIS and BILL ELLIS COMMERCIAL PROPERTIES, INC. with respect to any liability, claim(s), demand(s), cause(s) of action, damage(s), loss or expense (including court costs and reasonable attorneys fees) of any kind or nature ("Liability") which may arise out of, result from, or relate to my going on the property and swimming in the lake on Bill Ellis and Bill Ellis Commercial Properties, Inc.'s property, including claims for Liability caused in whole or in part by the negligence of Bill Ellis and Bill Ellis Commercial Properties, Inc. I further agree that if, despite this Agreement, I, or anyone on my behalf, makes a claim for Liability against Bill Ellis and Bill Ellis Commercial Properties, Inc., I will indemnify, defend and hold harmless Bill Ellis and Bill Ellis Commercial Properties, Inc. from any such Liability which may be incurred as the result of such claim.

5. I hereby warrant that I have read this Agreement carefully, understand its terms and conditions, acknowledge that I will be giving up substantial legal rights by signing it (including the rights of my spouse, children, parents, guardians, heirs and next of kin, and any legal and personal representatives, executors, administrators, successors and assigns), and acknowledge that I have signed this Agreement freely and voluntarily, without any inducement, assurance or guarantee, and intend for my signature to serve as confirmation of my complete and unconditional acceptance of the terms, conditions and provisions of this Agreement. This Agreement represents the complete understanding between the parties regarding these issues and no oral representations, statements or inducements have been made apart from this Agreement. If any provision of this Agreement is held to be unlawful, void, or for any reason unenforceable, then that provision shall be deemed severable from this Agreement and shall not affect the validity and enforceability of any remaining provisions.

6. A fully executed facsimile or copy of this Agreement may be used in lieu of a signed original and shall be deemed as authentic as an executed original.

PRINTED NAME OF SWIMMER: _____ **AGE:** ____

DATE OF BIRTH: ____/____/____

SWIMMER'S SIGNATURE:

_____ **DATE:** _____