

CBA Beach Indemnity and Hold Harmless Agreement

This CBA Beach Indemnity and Hold Harmless Agreement (this "Agreement") is made and entered into this _____ day of _____, 20____, by _____ ("Owner") in favor of Cocoanut Bayou Association, Inc., a Florida non-profit corporation (the "CBA").

RECITALS

Whereas, CBA and its members recently joined and passed Amended and Restated Restrictions, Conditions and Covenants for Cocoanut Bayou and Amended and Restated Bylaws of Cocoanut Bayou CBA, a non-profit corporation;

Whereas, the Board of Directors for CBA deems it advisable to update its release set forth in its Beach Rules, in order to protect the CBA beach and its CBA members, and

Therefore, as a material inducement to the CBA's continued allowance of CBA beach access ("Beach Access"), Owner agrees to indemnify and hold the CBA harmless for liability, cost or expense arising from Owner's Beach Access, under the terms and conditions set forth below.

AGREEMENTS

NOW THEREFORE, in consideration of and in order to induce the allowance of Beach Access by the CBA and for other good and valuable consideration, the receipt and sufficiency of such consideration being hereby acknowledged, Owner, intending to be legally bound, hereby represents, covenants and agrees for himself/herself and his/her co-owners, successors and assigns as follows:

(1) **Recitals.** The above recitals are true and correct and are incorporated herein by this reference.

(2) **Assumption of Liabilities.** The CBA specifically disclaims any warranty, guaranty or representation, oral or written, past or present, express or implied, concerning Beach Access, including, but not limited to the safety or advisability of the same. Beach Access involve risks, including, but not limited to acts of God, weather conditions, physical exertion, the negligence or recklessness of other Owners and risks associated with the beach and water. **OWNER HEREBY AGREES TO BE RESPONSIBLE FOR HIS/HER OWN WELFARE AND ACCEPT ANY AND ALL RISKS ASSOCIATED WITH BEACH ACCESS INCLUDING, BUT NOT LIMITED TO, UNANTICIPATED EVENTS, ILLNESS, INJURY, EMOTIONAL TRAUMA OR DEATH.**

(3) **Owner's Release.** Owner, on behalf of himself/herself and his/her administrators, executors, guests, tenants, licensees, invitees, children, co-owners, successors and assigns, does hereby release and forever discharge the CBA, and their respective agents, officers, directors, managers, members, representatives, successors and assigns from any and all past, present or future damages, controversies, losses, claims, liabilities, actions, judgments, liens, demands and causes of action of whatever kind or character whatsoever which Owner might now have or claim to have against the CBA, whether presently known or unknown, and of every nature and extent whatsoever on account of or in any way concerning, in any manner whatsoever arising out of or founded on Beach Access, including, without implied limitation, a release of all claims for injunctive relief, specific performance, declaratory judgment, compensatory damages, punitive damages or equitable relief of any nature, based upon any theory of recovery which Owner has or which may hereafter accrue.

(4) **Owner's Indemnification of The CBA.** Further, Owner, on behalf of himself/herself and his/her administrators, executors, guests, tenants, licensees, invitees, children, co-owners, successors or assigns, shall indemnify, keep indemnified, defend and hold the CBA, and their respective agents, officers, directors, managers, members, representatives, successors and assigns, harmless from and against any and all claims, counterclaims, demands, suits, losses, damages, assessments, fines, penalties, costs, expenses, and attorney and paralegal fees, actions and causes of action of every kind and nature whatsoever, whether arising at law or in equity, whether known or unknown, whether liability be direct or indirect, whether presently accrued or to accrue hereafter for or because of or as a result of any act, omission, communication, transaction, occurrence, representation, promise, damage, breach of contract, fraud, violation of any statute or law, commission of any tort, and from any person or entity, arising from or in any way related to Beach Access. If the CBA should incur any liability, damage, loss, costs or expenses, including, but not limited to, attorney's fees to enforce this indemnity or any portion hereof, Owner agrees to pay the CBA, the reasonable costs and attorney's fees thereby expended, in addition to being responsible to the CBA, to pay any and all damages, loss, costs or judgments against Owner arising out of, either directly or indirectly, this indemnity.

(5) **Reliance.** Beach Access is voluntary, and Owner has carefully read and fully understands the contents and legal ramifications of this Agreement. Owner understands that this is a legally binding and enforceable Agreement, and Owner's signature is of his/her own free will. Owner represents and warrants to the CBA that Owner: (a) has been advised to seek independent legal counsel of his/her choice and has determined to proceed without legal counsel; (b) is fully aware and clearly understand all of the terms contained in this Agreement; (c) has voluntarily, with full knowledge and without coercion or duress of any kind, entered into this Agreement; (d) is not relying on any representation, either written or oral, express or implied, made by the CBA; and (e) has received actual and adequate consideration to enter into this Agreement. Owner hereby warrants and represents that Owner owns fee simple title to the property identified below or alternatively, if said property is held in a trust or other legal entity, the signatory below hereby warrants and represents that he/she has the authority and the power to execute and deliver this Agreement on behalf of Owner. Owner acknowledges that the CBA is relying on the representations and agreements of Owner as referenced herein.

(6) **Miscellaneous.** Time is the essence of each provision of this Agreement. Signature transmitted via electronic transmission or DocuSign may be utilized. Owner's obligations under this Agreement shall survive Owner's Beach Access.

(7) **Waiver of Right to Jury Trial.** **OWNER HEREBY WAIVES TRIAL BY JURY IN ANY ACTION, PROCEEDING OR COUNTERCLAIM ARISING OUT OF OR RELATING TO THIS AGREEMENT OR THE SUBJECT MATTER HEREOF OR THEREOF. THIS PROVISION IS A MATERIAL INDUCEMENT FOR THE CBA PERMITTING BEACH ACCESS.**

Owner has executed this Agreement as of the date first above written.

Owner:

By: _____
Print Name: _____
Property Address: _____

By: _____
Print Name: _____
Property Address: _____