



ERM-HOLLY, LLC d.b.a.
WhoaZone at Heron Beach

INDEMNIFICATION AND RELEASE OF LIABILITY

In consideration of being allowed to use the facilities and participate in the Sports Park and other activities provided by ERM-HOLLY, LLC, d.b.a. WhoaZone at Heron Beach ("WHOAZONE"), the Participant and/or the Participant's parent or legal guardian if the Participant is a minor, do hereby agree as follows:

I, the undersigned Participant, am using WHOAZONE equipment and participating in WHOAZONE activities, including, but not limited to, the Wubit Sports Park, Stand Up Paddleboards, Kayaks, Pedal Boats, and other activities (collectively, the "Activities"), at my own risk. **I understand and acknowledge that there are inherent risks involved with the Activities, including, but not limited to, bruises, scrapes, lacerations, burns, sprains, fractured or broken bones, as well as other head/brain, face, neck, back/spine injuries, including drowning and death and/or actual or alleged contracting of any communicable bacterial or viral based diseases, including COVID-19. I am aware that using or participating in the Activities requires physical exertion and such exertion on the body may reinjure or aggravate pre-existing physical injuries, conditions, or congenital defects, and that the Activities are conducted in an outdoor environment where insects, small animals, etc. are present. I voluntarily assume these and any related risks inherent in my participation in the Activities by signing below.**

IN FULL RECOGNITION OF THE INHERENT RISKS INVOLVED WITH THE ACTIVITIES, WHICH RISKS I VOLUNTARILY ASSUME, I HEREBY INDEMNIFY, HOLD HARMLESS AND RELEASE WHOAZONE, ITS MEMBERS, AGENTS, EMPLOYEES, OFFICERS, DIRECTORS, OWNERS AND/OR OPERATORS (COLLECTIVELY, "WHOAZONE STAFF"), FROM ALL INJURIES, DAMAGES, CLAIMS, DEMANDS, AND/OR CAUSES OF ACTION (COLLECTIVELY, "CLAIMS"), FOR ANY LOSS, DAMAGE, ILLNESS OR INJURY, INCLUDING DROWNING AND DEATH, WHETHER SUSTAINED BY MYSELF, A MEMBER OF MY FAMILY OR MY PROPERTY HOWEVER CAUSED, INCLUDING, BUT NOT LIMITED TO, FAULT OR NEGLIGENCE (EXCEPT GROSS NEGLIGENCE, WILLFUL/WANTON OR INTENTIONAL CONDUCT, OR ILLEGAL ACTS) BY WHOAZONE AND/OR WHOAZONE STAFF IN CONNECTION, DIRECTLY OR INDIRECTLY, WITH THE ACTIVITIES. THIS INDEMNIFICATION AND RELEASE SHALL BE BINDING UPON ME, MY HEIRS, EXECUTORS, ADMINISTRATORS, AND/OR ASSIGNS.

I further agree that I am personally liable and responsible for paying WHOAZONE for any and all damage to WHOAZONE property that I may cause, whether caused negligently, recklessly or intentionally, while using or participating in the Activities, including, but not limited to, damage to any WHOAZONE equipment or other WHOAZONE property, any loss of WHOAZONE equipment or loss of use of equipment, any claims for diminution in value of any WHOAZONE equipment, and/or the cost of repair or replacing any WHOAZONE equipment. **I authorize WHOAZONE, at WHOAZONE'S discretion, to bill any such charges or costs directly to my credit card or to my account without further notice to me.**

I understand and acknowledge that WHOAZONE and the Activities are self-guided, and that I am required to attend a mandatory safety rules briefing prior to using or participating in any of the Activities. I understand that WHOAZONE Staff are available to answer any questions I may have regarding WHOAZONE equipment and/or proper use of such equipment.

I further understand and acknowledge that I am required to wear a WHOAZONE provided Coast Guard approved lifejacket at all times while using or participating in the Activities. If I am unwilling or unable to follow the safety rules or wear a lifejacket while using or participating in the Activities, I understand and acknowledge that WHOAZONE, at WHOAZONE'S discretion, may immediately restrict my use of or participation in the Activities and/or require me to leave the WHOAZONE premises. I acknowledge that once I have completed the safety rules briefing, no refunds will be made for WHOAZONE or the Activities.

I also waive and release any claims I may have related to the use of recorded media of me at WHOAZONE including, without limitation, any right to approve any photos, videos or audio recordings of me, any claims of privacy, violation of the right of publicity, defamation, copyright infringement and/or collection of any compensation (fees) for use of such recorded media.

This Indemnification and Release shall be governed by the laws of the State of Michigan. I agree that any Claims I may bring against WHOAZONE shall be submitted to the jurisdiction of the courts of Oakland County, Michigan and that no Claims against WHOAZONE shall be brought in any other jurisdiction. I also agree that if any part of this Indemnification and Release is deemed unenforceable, all remaining parts shall remain in full force and effect. I agree that WHOAZONE has made no warranties, expressed or implied, to me beyond those, if any, contained in this Indemnification and Release.

I, THE UNDERSIGNED PARTICIPANT, HAVE READ AND UNDERSTAND THIS INDEMNIFICATION AND RELEASE OF LIABILITY. I UNDERSTAND THAT BY SIGNING THIS RELEASE AND USING OR PARTICIPATING IN THE ACTIVITIES, I HAVE WAIVED AND SURRENDERED CERTAIN LEGAL RIGHTS. I HAVE SIGNED THIS AGREEMENT VOLUNTARILY.

Signature of Participant: _____ Date: _____

Printed Name of Participant: _____

IF PARTICIPANT IS A MINOR (Under 18): **Parent or Guardian must ALSO** sign.

Parent/Guardian Signature: _____ Date: _____

Participant Address: _____

City: _____ State: _____ Zip: _____

Phone Number: _____ Email: _____

RULES AND REGULATIONS

All participants who visit WHOAZONE must use common sense at our facility and use of the features that we provide for your enjoyment. If a participant has any questions, they should let the WHOAZONE staff know right away. In addition, all persons must follow the rules below when at WHOAZONE.

- Each guest or an authorized guardian for children under 18 years of age must complete a WHOAZONE Release of Liability form before starting the course; **PARENT/GUARDIAN SIGNING ABOVE ACCEPTS FULL RESPONSIBILITY FOR EXECUTING THIS WAIVER FOR THE SHOWN MINOR PARTICIPANT REGARDLESS OF HIS OR HER BEING A FAMILY MEMBER OF THE SIGNOR.**
- Guests must wear a USCG Personal Flotation Device (PFD) provided by WHOAZONE and keep it buckled and zipped at all times.
- Sharp objects (such as jewelry, hairpins, etc.) or other dangerous materials are not permitted.
- Tobacco and alcohol are not permitted anywhere in the park.
- No refunds will be granted.
- Anyone who appears to be under the influence of drugs or alcohol may not participate in the WHOAZONE.
- Pregnant women are prohibited from going on the WHOAZONE course.
- The Host reserves the right to remove anyone who disregards the safety rules. There will be no refunds if such action is required.
- ERM – Holly, LLC reserves the right to close the WHOAZONE without refund at any time due to inclement weather deemed unsafe for guests.
- Cell phones are prohibited on the WHOAZONE challenge course. Please make appropriate arrangements for these and other personal items before entering the course. The Host is not responsible for lost or damaged personal items.
- Absolutely no one is allowed to dive under the WHOAZONE to retrieve a lost item.
- **Failure to abide by posted WHOAZONE rules may result in revoked privileges to participate.**