

ASSUMPTION OF RISK, RELEASE OF LIABILITY, WAIVER OF CLAIMS, and INDEMNITY AGREEMENT

(THE “WAIVER”)

BY SIGNING THE WAIVER, YOU WILL WAIVE CERTAIN LEGAL RIGHTS, INCLUDING THE RIGHT TO SUE AND CLAIM COMPENSATION FOR INJURY

PLEASE READ CAREFULLY!

ONLY ONE SPA GUEST IS PERMITTED PER WAIVER

TO: Thermea Spa Village Whitby Inc., Nordik Immobilier – Whitby Inc. and Gestion Nordik et Spa Nature Inc. , and each of their directors, officers, employees, owners, volunteers, agents, successors, assigns, insurers, affiliates, contractors and subcontractors, suppliers, representatives, participants, and sponsors (collectively, the “SPA”).

DEFINITIONS:

In the Waiver, the term “Spa Facility” means the areas located in and surrounding 4015 Cochrane Street, Whitby, Ontario, including but not limited to its reception area, changerooms, showers, washrooms, relaxation pools, cold plunge pools, saunas, steam rooms, treatment rooms, indoor and outdoor relaxation areas including fire pit areas, hammock areas swing areas and other equipment and apparatuses, eating areas, hallways, walkways, ramps, stairs, elevators, doorways and other access points, parking lots, driveways, sidewalks, lawns and other vegetation and landscapes.

In the Waiver, the words “use of the Spa Facility” shall include all activities at the Spa Facility, including but not limited to use of its reception area, changerooms, showers, washrooms, relaxation pools, cold plunge pools, saunas, steam rooms, treatment rooms, indoor and outdoor relaxation areas including fire pit areas, hammock areas swing areas and other equipment and apparatuses, eating areas, hallways, walkways, ramps, stairs, elevators, doorways and other access points, parking lots, driveways, sidewalks, lawns, other vegetation and landscapes, and all other uses, events and other services involving or related in any way to the Spa Facility, which are provided, arranged, organized, conducted, sponsored or authorized by **THE SPA**.

ASSUMPTION OF RISKS:

1. I am aware that my use of the Spa Facility involves many risks, dangers and hazards to myself and my property, which include, but are not limited to: Accidental drowning and injury from prolonged underwater exposure; ingestion of water; exposure to Spa Facility cleaning and maintenance chemicals; hypothermia; frost bite; burns from water, chemicals, and the sun; skin irritation; cuts, scrapes and bruises; nail and or nail bed injuries; open and closed head injuries including concussion; eye injuries; ear injuries; muscle and joint sprains and strains; broken bones, allergic reactions, including food allergies; food borne illness; alcohol poisoning; paralysis; death; wet and slippery floors, decks, ramps, stairs, equipment, other surfaces; falls from elevated surfaces and equipment in the Spa Facility; loss of balance; slipping; tripping; falling; impact or collision with other people, equipment and/or other objects or physical structures including but not limited to the bottom, sides or edges of the relaxation pools, saunas, steam rooms, treatment areas, fire pit areas, hammock areas, swing areas, eating areas, hallways, walkways and other furniture; exposure to dirt, algae, mold, bacterial, viral and fungal agents, and other pathogens; theft, loss of, or damage to, personal property; flying and floating objects; misuse or malfunctions of equipment, furniture or apparatus, horseplay and negligence of other Spa Facility users, absence of any life guards or first aid personnel; and **NEGLIGENCE ON THE PART OF THE SPA, INCLUDING THE FAILURE OF THE SPA TO TAKE REASONABLE STEPS TO SAFEGUARD OR PROTECT ME OR MY PROPERTY FROM THE RISKS, DANGERS AND HAZARDS OF USING THE SPA FACILITY INCLUDING THOSE REFERRED TO ABOVE. I FREELY ACCEPT AND FULLY ASSUME ALL SUCH RISKS, DANGERS AND HAZARDS OF USE OF THE SPA FACILITY INCLUDING THOSE REFERRED TO ABOVE. I FREELY ACCEPT AND FULLY ASSUME ALL SUCH RISKS, DANGERS AND HAZARDS AND THE POSSIBLITY OF PERSONAL INJURY, DEATH, PROPERTY DAMAGE OR LOSS RESULTING THEREFROM OR RELATING IN ANY WAY TO MY USE OF THE SPA FACILITY.**

2. I have been warned and understand that **NO LIFE GUARDS OR FIRST AID PERSONNEL** will be on duty or present during my use of the Spa Facility and I specifically acknowledge and accept that there is an increased risk of injury and death to me as a result of this. I elect to use the Spa Facility in spite of this increased risk and freely accept and assume all risks, dangers and hazards related to my use of the Spa Facility with no life guards or first aid personnel on duty or present there at that time, including but not limited to those risks, dangers and hazards referred to above.

3. I have been warned and understand that **THE SPA** employees have difficult jobs to perform. They seek to create a safe environment but may be unaware of a guest’s health or abilities. They may give incomplete warnings or instructions.

4. I have understand that there are alcoholic beverages available for purchase at the Spa Facility and I have been warned and understand that the consumption of alcoholic beverages in conjunction with the use of the Spa Facility can exacerbate the effects of alcohol and make me more prone to the risks, dangers and Hazards above. I confirm that I will consume alcoholic beverages responsibly and not become intoxicated at the Spa Facility. I specifically acknowledge and accept that there is an increased risk of injury and death to me as a result of this. I elect to use the Spa Facility in spite of this increased risk and freely accept and assume all risks, dangers and hazards related to my use of the Spa Facility.

RELEASE OF LIABILITY, WAIVER OF CLAIMS AND INDEMNITY:

In consideration of **THE SPA** permitting my use of the Spa Facility, and for other good and valuable consideration, the sufficiency of which is acknowledged, **I, ON BEHALF OF MYSELF, MY SPOUSE, MY CHILDREN, MY PARENTS, MY HEIRS, MY ASSIGNS, MY PERSONAL REPRESENTATIVES, AND MY ESTATE, AGREE AS FOLLOWS:**

1. **TO WAIVE ANY AND ALL CLAIMS** that I have or may have in the future against **THE SPA** and to release **THE SPA** from any and all liability for any loss, damage, expense or injury, including death, that I may suffer or that my spouse, my children, my parents, my heirs, my assigns, my personal representatives or my estate may suffer as a result of my use of the Spa Facility **DUE TO ANY CAUSE WHATSOEVER, INCLUDING NEGLIGENCE, BREACH OF CONTRACT, BREACH OF STATUTE, BREACH OF REGULATION, BREACH OF ANY STATUTORY OR REGULATORY DUTY OF CARE AND/OR WARRANTY, INCLUDING ANY DUTY OF CARE OWED UNDER THE OCCUPIERS’ LIABILITY ACT, R.S.O. 1990, C. O.2 BY THE SPA, AND ALSO INCLUDING ANY FAILURE ON THE PART OF THE SPA TO TAKE REASONABLE STEPS TO SAFEGUARD OR PROTECT ME FROM THE RISKS, DANGERS OR HAZARDS OF MY USE OF THE SPA INCLUDING THOSE REFERRED TO ABOVE.**

2. To hold harmless and indemnify **THE SPA** of and from any claims and liability, including all related legal fees and expenses, for any property damage, loss, personal injury or death to any third party, arising from or connected in any way with my use of the Spa Facility.

3. That the Waiver and any rights, duties and obligations as between the parties to the Waiver shall be governed in accordance with the laws of the Province of Ontario and no other jurisdiction.

4. That any litigation, actions, suits or claims brought by me, my spouse, my children, my parents, my heirs, my assigns, my personal representatives or my estate against **THE SPA** arising or connected in any way to my use of the Spa Facility, shall be brought solely within the Province of Ontario and shall be in the exclusive jurisdiction of the courts of the Province of Ontario unless otherwise agreed to by the parties to the Waiver.

5. That if any portion of the Waiver is found to be void or unenforceable, the remaining portions shall remain in full force and effect.

6. That I grant **THE SPA** the right to photograph, videotape and/or record me and to use my name, face, likeness, voice and appearance in connection with exhibitions, publicity, advertising and promotional materials without reservation, limitation or compensation.

7. That the Waiver shall be effective and binding upon my spouse, my children, my parents, my heirs, my assigns, my personal representatives or my estate in the event of my death or incapacity.

I CONFIRM that in entering into the Waiver, I am not relying on any oral or written statements made by **THE SPA**, or the lack of any such representations or statements, with respect to the condition or safety of the Spa Facility, or any related equipment or apparatus, other than what is set forth in the Waiver.

I CONFIRM that I am age nineteen (19), or older, and that I have carefully read, considered and understand the contents of the Waiver, and agree to be bound by its terms and **I FURTHER CONFIRM** that I am relying wholly upon my judgment, belief and knowledge, freely and of my own accord, as acknowledged and confirmed by my digital signature hereon.