

SETTLEMENT AGREEMENT and RELEASE

THIS SETTLEMENT AGREEMENT and RELEASE (“Agreement”) is made as of the ___ day of September, 2022 (“Effective Date”) by and between Wildwood Point Association, Inc. (“WPA”) and Lake Gaston Jet Ski, LLC (“Lake Gaston Ski”) and L&H Properties, LLC (“L&H”) also collectively referred to herein as the “Parties.”

WITNESSETH:

WHEREAS, L&H Properties, LLC owns two lots designated as Commercial Lots on the recorded Plats of the Wildwood Point planned subdivision. As such L&H Properties, LLC is a voting Member of the Wildwood Point Association, Inc. which is a non-profit organization who serves as the property owners association under the covenants and declarations of Wildwood Point planned subdivision;

WHEREAS, L&H Properties, LLC operates a commercial business on its two lots in Wildwood Point subdivision. Said business operates under Lake Gaston Jet Ski, LLC. Said commercial business activities include a watercraft sales, repairs and short-term watercraft rental. Those business activities utilize the Wildwood Point Association owned boat ramps and piers located at Lizard Creek Road and N. Oak Drive under a permit with Dominion Energy North Carolina;

WHEREAS, The current covenants of the Association state that every member shall have a right and easement of enjoyment in and to the Common Properties. Disputes have arisen between the Parties as to the interpretation of that section of the covenants. The Parties have agreed to set forth the following terms to clarify and regulate the commercial lot Member’s use.

WHEREAS, disputes and claims have arisen between the Parties as alleged in a civil action filed in Warren County titled, Wildwood Point Association, Inc. v. Lake Gaston Jet Ski, LLC and L&H Properties, LLC, 20 CVS 77 (“Civil Action”). To avoid the costs of litigation the Parties have agreed to resolve all of their disputes, and settle all of their differences arising out of, related to, or in any manner connected with the Civil Action.

AGREED:

NOW, THEREFORE, IN CONSIDERATION OF THE PROMISES AND MUTUAL COVENANTS CONTAINED HEREIN, the Parties do hereby agree as follows:

- 1) **Incorporation.** The recitations set forth above are incorporated herein by reference in their entirety.
- 2) **Settlement Terms:**

1. L&H Properties, LLC/Lake Gaston Jet Ski, LLC will agree to pay to the Wildwood Point Association, Inc. \$2,000 per year (effective immediately upon this settlement for 2022 and then annually on 1 April with dues) for improvements, repairs and maintenance of the loading area, boat ramps and piers located at Lizard Creek Road and N. Oak Drive which is owned by the Wildwood Point Association.
2. L&H Properties, LLC /Lake Gaston Jet Ski, LLC will add Wildwood Point Association, Inc. to its liability insurance policy as an additional insured against any losses associated with its business operations at Lizard Creek Road and N. Oak Drive.
3. L&H Properties, LLC /Lake Gaston Jet Ski, LLC will agree to continue landscaping maintenance consisting of cutting grass and trash removal of the park area owned by Wildwood Point Association, Inc. off of Lizard Creek Road and all shoreline areas adjacent to their business that are presently used by Association residents and customers of Lake Gaston Jet Ski, LLC. at Lizard Creek Road.
4. That any resident of Wildwood Point displaying a current Wildwood Point Association decal has the priority of use of the Lizard Creek Road and N. Oak Drive concrete boat ramp. Any employee of Lake Gaston Jet Ski, LLC will discontinue its use of the concrete boat ramps until the resident completes its use of the boat ramp launching a watercraft or pulling a watercraft out of the lake.
5. L&H Properties, LLC /Lake Gaston Jet Ski, LLC will inform its employees and customers not to park at the Private Park or gravel parking lot at Lizard Creek Road or on N. Oak Drive. L&H Properties, LLC /Lake Gaston Jet Ski, LLC will utilize the ramps for loading/launching and unloading/recovering watercraft.
6. Lake Gaston Jet Ski, LLC will limit its use of the boat ramp at N. Oak Drive for launching or removing watercraft only at times when the water level is such that the Lizard Creek Road ramp cannot be used. This does not apply to any Member of Wildwood Point Association who utilizes the services of L&H Properties, LLC /Lake Gaston Jet Ski, LLC.
7. Only the owner and employees of Lake Gaston Jet Ski, LLC will use the N. Oak Drive boat ramp. An employee must be present on the pier to meet Lake Gaston Jet Ski LLC boats. Customers will not embark and disembark from the watercraft using the pier at N. Oak Drive unless the water level is such that the Lizard Creek Road ramp cannot be used. This does not apply to any Member of Wildwood Point Association who utilizes the services of L&H Properties, LLC /Lake Gaston Jet Ski, LLC.
8. Customers and employees of Lake Gaston Jet Ski, LLC are not considered "Guests" of the Member or Wildwood Point Association, as that term is used in the covenants and by-

laws of the Association. No employee of Lake Gaston Jet Ski, LLC will inform any customer that they may use any of the Wildwood Point Association amenities.

Non-Guests are prohibited from using Lizard Creek Park, Hemlock Park, Clubhouse Park, N. Oak Drive Park, 'H' Park, Lizard Creek Parking lot/Boat Ramp, N. Oak Drive Parking area/Boat Ramp, Clubhouse parking lot, Clubhouse finger piers, Clubhouse dock, beach area, swimming pool, and Hemlock swim dock. This does not apply to any Member of Wildwood Point Association who utilizes the services of L&H Properties, LLC /Lake Gaston Jet Ski, LLC.

9. L&H Properties, LLC /Lake Gaston Jet Ski, LLC agrees that it is subject to the same use restrictions as any other Association Member, and those use restrictions and penalties shall be uniformly applied to all Members by the Association. The current and future Board of Directors will not enact any rule or regulation or change the by-laws to restrict the right of L&H Properties, LLC/Lake Gaston Jet Ski, LLC to use the boat ramps and pier on Lizard Creek Road and N. Oak Drive in the same manner as any other property owner or tenant. The current rules state as follows:
 - a. There will be no blocking of the Ramp/Pier and/or Ramp Area at any time by a vehicle and/or Tractor/ATV or any other motorized vehicles.
 - b. Vehicles cannot be left unattended.
 - c. The usage of the Ramp/Pier and/or Ramp Area is restricted to loading and unloading watercraft. This process should take no more than 10 minutes other than extenuating circumstances of unavoidable sudden mechanical failure of vehicle or trailer.
 - d. No Maintenance or fueling may be performed on any watercraft at the Ramp/Pier and/or Ramp Area or parking lots at any time.
10. Wildwood Point Association, Inc. will notify all residents of the Association by email that the litigation has been resolved to the mutual satisfaction of both parties and as part of that resolution all Members are encouraged to immediately cease any harassment of the owners, employees and customers of Lake Gaston Jet Ski, LLC. Further, that they will notify the Association members that L&H Properties, LLC is a property owner of the Association. And Lake Gaston Jet Ski, LLC has the right to use the boat ramps the same as any other property owner or tenant. And that L&H Properties, LLC is the owner of the piers that are adjacent to its property under permit number 7199.
11. L&H Properties, LLC / Lake Gaston Jet Ski, LLC will be issued six (6) Employee passes for use when utilizing the boat ramps, and must have them on display at those times. Prior to issuance of this written communication its content will be approved by counsel to all parties to this litigation.

3) **Release of WPA:** Except as to the agreements of the Parties set forth herein, in return for the consideration referenced herein, L&H and Lake Gaston Ski hereby release and discharge WPA, their officers, shareholders, agents, attorneys, directors, and assigns from any and all causes of action, suits, claims, liens, demands, liabilities and obligations related to or arising out of the claims made in the Civil Action, whether such causes of action, suits, claims, liens, demands, liabilities or obligations, are known or unknown, arising in law or equity.

4) **Release of L&H and Lake Gaston Ski.** Except as the agreements of the Parties set forth herein, in return for the consideration referenced herein, WPA hereby releases and discharges L&H and Lake Gaston Ski, its officers, agents, attorneys, directors, managers, members, employees and assigns from any and all causes of action, suits, claims, liens, demands, liabilities and obligations related to or arising out of the claims made in the Civil Action, whether such causes of action, suits, claims, liens, demands, liabilities or obligations, are known or unknown, arising in law or equity.

5) **Dismissal of the Lawsuit:** Within three (3) business days of receipt a fully executed Agreement, counsel for the Parties shall execute and file a Stipulated Voluntary Dismissal with Prejudice of all claims and counterclaims in the Civil Action, with each party bearing its own attorney's fees and costs, to effectuate the dismissal of the Lawsuit.

6) **No Admission of Liability.** The Parties understand and acknowledge that this Agreement constitutes a compromise and settlement of dispute claims. No action taken by the Parties hereto, or either of them, either previously or in connection with this Agreement shall be deemed or construed to be (a) an admission of the truth or falsity of any claims heretofore made or (b) an acknowledgement or admission by either party of any fault or liability whatsoever to the other party or to any third party.

7) **Costs and Attorneys' Fees.** Each Party hereto shall pay their own costs and attorneys' fees in connection with preparation and execution of this Agreement.

8) **Entire Agreement.** This Agreement (once fully executed) constitutes the whole and entire agreement between the Parties with respect to the subject matter hereof and supersedes and replaces any and all prior or contemporaneous agreements or understandings, written or oral, with respect to the subject matter hereof.

9) **Severability.** In the event that any provision hereof becomes or is declared by a court of competent jurisdiction to be illegal, unenforceable or void, this Agreement shall continue in full force and effect without said provision.

10) **Voluntary Agreement and Release.** The Parties acknowledge and agree that: (a) each is represented by and has had an opportunity to consult with counsel of their own choice before executing this Agreement; (b) this Agreement has been fully explained to them by counsel of their own choice; (c) they have read and understand the contents of this Agreement; (d) they intend to be legally bound by this Agreement; (e) they are signing this Agreement voluntarily and

of their own free will and without coercion, and with the benefit of advice of counsel; and (f) they are satisfied with the provisions of this Agreement.

11) **Representations and Warranties.** With respect to this Agreement, each Party hereto warrants and represents that: (a) they have not assigned, encumbered, or in any manner transferred all of any portion of the claims released in and covered by this Agreement; and (b) no other person, party, or corporation has any right, title, or interest in any of the claims released in and covered by this Agreement.

12) **Successors and Assigns.** This Agreement shall be binding upon and inure to the benefit of the Parties and all of their respective successors, heirs, assigns, transferees, executors, and personal representatives.

13) **Collective Authorship.** The Parties to this Agreement agree that this Agreement shall be construed in all respects as jointly drafted, and, in the event of any dispute arising out of this Agreement, no Party will have any right to argue any rule of construction or interpretation against any other Party claiming the benefit or detriment of being a draftsman.

14) **Amendment.** The Parties agree that this Agreement may not be altered, modified, or amended, except by an agreement in writing duly executed by all Parties to be bound by and seeking to enforce the amendment.

15) **Section Headings.** The sections and headings used herein are for reference purposes only and shall not in any way alter or amend the meaning or interpretation of the Agreement.

17) **Counterparts.** This Agreement may be executed in two or more separate counterparts, and conveyed electronically or by facsimile, each of which, when executed, shall be an original, and all of which together shall constitute one and the same version of the Agreement, notwithstanding that all parties may not have executed the same counterpart, and each party may execute a separate signature page which may be appended to form one or more duplicate originals of this Agreement.


18) **Governing Law.** This Agreement shall be construed pursuant to and governed by the laws of the State of North Carolina, without regard to the conflict of laws principles thereof.

19) **Authority.** All Parties represent and warrant that the undersigned has the authority to act on behalf of themselves or the referenced entity. Each Party warrants and represents that there are no liens or claims of lien or assignments in law or equity or otherwise of or against any of the claims or causes of action released herein.

IN WITNESS WHEREOF the Parties hereto, intending to be legally bound, have executed this Agreement, or caused it to be executed by a duly authorized representative, as of the Effective Date first set forth above.

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10/10/2022



WILDWOOD POINT ASSOCIATION, INC.

BY: Christopher Demetrius
Christopher Demetrius, President

Dated: 10-10-2022

L&H PROPERTIES, LLC.

BY: Larry Liles
Larry Liles, Member/Manager

Dated: 10-17-2022

LAKE GASTON JET SKI, LLC

By: Larry Liles
Larry Liles, Member/Manager

Dated: 10-17-2022