

**EASTMARK.COM USER AGREEMENT AND EASTMARK ACCESS CARD AGREEMENT  
(COLLECTIVELY, THE "RESIDENT AGREEMENT")**

**Located at:** 10100 E. Ray Road  
Mesa, Arizona 85212

**Phone:** 480-625-3005/855-EASMRK

**Email:** [communications@eastmark.com](mailto:communications@eastmark.com)

**Web Site:** [www.eastmark.com](http://www.eastmark.com)

**EASTMARK.COM USER AGREEMENT**

**LAST REVISED: February 26, 2014**

This is an agreement between you and Eastmark Residential Association, Inc., an Arizona non-profit corporation (the "Residential Association"), Eastmark Community Assembly, Inc., an Arizona non-profit corporation (the "Assembly"), and Eastmark Community Alliance, Inc., an Arizona non-profit corporation (the "Alliance"). The Residential Association, the Assembly and the Alliance are collectively referred to herein as the "Associations." In addition to the terms below, this document specifically incorporates, as though restated in full herein, the Terms of Use established by DMB Mesa Proving Grounds, LLC. and its affiliates (collectively, "Eastmark") including all of the rights granted to Eastmark.

By clicking ***I agree to the terms*** below, you agree, on behalf of yourself and all members and/or guests of your household, to accept and abide by all of the terms and conditions found in the User Agreement for use of the Eastmark Web Site (the "Web Site"), as posted at [www.eastmark.com](http://www.eastmark.com) and updated from time to time.

The Associations or Eastmark may change, or add to, their respective terms and conditions at any time and reference to the term "User Agreement" includes any such changes or additions. New or revised terms and conditions will be posted on the Web Site and will be effective immediately upon posting. Your continued use of the Web Site will serve as your agreement to abide by all such new or revised terms and conditions. If at any time, any term or condition of this User Agreement is not acceptable to you, you (and all members and guests of your household) should immediately cease all use of the Web Site. Access to the Web Site is conditioned upon each resident's acceptance of the User Agreement.

1. The Web Site is for Eastmark residents and is designed to promote neighbor to neighbor interaction through an exclusive on-line Web Site. Only residents of Eastmark and Associations authorized employees, representatives, agents or affiliates and its service providers may access the Web Site.
2. The Web Site and its content is intended for personal use only and it will be managed and operated by the Associations. All content published on the Web Site will be subject to review, modification, and or deletion by the Associations.
3. You are fully responsible for, and you agree to monitor and supervise, all use of the Web Site by guests and members of your household from your home or otherwise to ensure compliance with this User Agreement. THIS RESPONSIBILITY INCLUDES SUPERVISION OF ANY HOUSEHOLD MEMBERS AND GUESTS UNDER 18 YEARS OF AGE. RESIDENTS UNDER 13 YEARS OF AGE MAY NOT ACCESS THE WEB SITE.
4. The Web Site provides access to information, software, photographs, audio, video, graphics, links and other material (collectively referred to as, the "Content") that is legally protected by the Associations and/or others under patent, copyright, trademark and other intellectual property laws. You agree to comply with all copyright notices and other restrictions contained in any Content available on, or accessed through, the Web Site.
5. The Associations have the right, in their sole discretion, to restrict, suspend, or terminate your access (and access by any member or guest of your household) to all or any part of the Web Site, at any time for any reason without prior notice or liability. The Associations may also change, suspend or discontinue all or any aspect of the Web Site at any time without prior notice or liability. In accordance with Terms of Use for Eastmark (in its sole discretion), has the right to immediately and without any prior notice to suspend or terminate your registration with or ability to access the Web Site and/or any other service provided to you by Eastmark. The Associations do not have the right to override or appeal this decision on a user's behalf and will abide by Eastmark's decision in this regard.
6. Your privacy is important to the Associations and Eastmark. **The Privacy Statement is posted on the Web Site.**

# EASTMARK® RESIDENT ACCESS CARD AGREEMENT ("AGREEMENT")

Adopted: October 26, 2016 | Effective: January 1, 2017

The Eastmark Visitor & Community Center, The Bus Stop (the "Game Lounge"), and the community pool collectively referred to herein as (the "Amenities"), are located at/within The 'Mark® ("The 'Mark"). The 'Mark offers unique opportunities for social gatherings, club meeting space, and pool activities. The Amenities are restricted for use by members of Eastmark Residential Association, Inc. in good standing or their tenants (singularly, a "Resident" and collectively, the "Residents") in accordance with the Eastmark Residential Association, Inc., an Arizona nonprofit corporation (herein referred to as "The Residential Association") Governing Documents and this Agreement.

In order to ensure we all work together to respect these wonderful Amenities, management (herein referred to collectively as the "CL Team") of the Residential Association requests your understanding and cooperation in order to maintain your health and safety, as well as ours, by reading and accepting this Agreement and acknowledging your understanding of this Agreement. Your acknowledgement of this Agreement is required prior to receiving your access cards with built-in electronic authentication mechanisms.

## 1. The Amenities Resident Access Cards

The Residential Association shall issue two (2) complimentary access cards (the "Access Cards") to each household that is in good standing with the Residential Association. Access to the Amenities is available to Residents residing within the residential community at Eastmark. Cards are non-transferable and may not be sold, conveyed, or re-assigned, whether voluntarily or involuntarily. Owners who lease their homes automatically transfer their access rights of the Amenities to the tenant(s) residing in their home, per Article 8, Paragraph 8.1 of the Residential Association Declaration. The Access Cards may only be used by members of the household to which they are issued, pursuant to the Amenities Guidelines contained herein, access may be revoked if used by any person(s) other than the household member(s) to which the Access Cards were issued. Residents using the Amenities may be asked, at the discretion of the CL Team, to show valid identification prior to being allowed access to the Amenities. Access Cards must be carried at all times while using the Amenities. In the event that Access Card(s) are lost or stolen, the household to which it was issued shall immediately notify the Residential Association so that the card(s) may be deactivated and a new access number and Access Card(s) may be issued. Replacement Access Cards may be purchased for \$25 each. A maximum number of two (2) Access Cards may be issued to each household.

If the Resident's account becomes delinquent, access to the Amenities shall be suspended pending receipt of full payment (inclusive of any late, collection and legal fees), per Article 4, Paragraph 2.2 (iv) of the Residential Association's Declaration. If a Resident or tenant violates any terms contained within this Agreement, the issued Access Cards may be deactivated in accordance with the Noncompliance Enforcement Guidelines. Residents may request the opportunity to be heard on the subject of the violation(s) of this Agreement or Amenities Guidelines contained herein, per Article 4, Paragraph 2.2 of the Residential Association Declaration and Section 8.1 of the Residential Association's Bylaws.

## 2. Hours of Operation

The Amenities shall be open on the days, and during the hours, as the Residential Association may establish from time to time in accordance with the current Amenities Guidelines. Portions of the Amenities may be closed for scheduled maintenance, repairs, or other unforeseen events. The CL Team may restrict or reserve the use of the Amenities from time to time. No individual shall have access to the Amenities before or after the hours of operation unless approved in advance by the CL Team. Anyone found at The Amenities outside of operating hours are considered to be trespassing in accordance with A.R.S § 13-1503.

## 3. Food and Beverage

Food and beverages, including alcohol, may be enjoyed within the premises where the Amenities are located in designated areas **only** and in approved containers. No glass of any kind is permitted within the Amenities. Liquor sales are not permitted within the Amenities. Food, candy, gum, and beverages are not permitted at any time within the pool and must remain a minimum of four (4) feet from the water's edge. Food and beverage shall not be placed on game equipment or on the floor.

## 4. Advertisements and Solicitations

No person shall originate, solicit, circulate, or post commercial advertisements, petitions or originate sales within the premises where the Amenities are located or use the Residential Association's resident roster without the express, prior-written approval of the Residential Association. The selling of goods and/or services, supporting the efforts of for-profit businesses, charging of admission fees and/or solicitation of donations are not allowed unless prior written approval has been obtained from the Residential Association and are done in strict compliance with all applicable laws.

## 5. Children

Due to health and safety concerns, children under the age of 14 years of age must be accompanied and supervised, by an adult (18 years of age or older) at all times while enjoying the Amenities at The 'Mark. Any person who brings a child to the Amenities is responsible for the child's conduct and safety while on the premises.

## 6. Attire

All persons shall dress in a fashion befitting the surroundings and atmosphere of a family-friendly community setting. Shirts, bottoms, and shoes shall be worn at all times within The 'Mark and the Game Lounge; however, this rule does not apply to The 'Mark's exterior restrooms or to the community pool area. Appropriate pool attire is required in the pool areas.

## **7. Animals**

No dogs or other animals (other than assistive animals for persons requiring assistance) are permitted on any portion of the premises where the Amenities are located except under special circumstances and only when authorized by the Residential Association or as required by law. Under such limited-approved circumstances, any person who brings an animal onto the premises where the Amenities are located is responsible for any damage caused by the animal and shall immediately clean up after said animal. Animals are prohibited from entering the pool(s), unless otherwise permitted in accordance with applicable laws.

## **8. The Amenities' Property and Conduct**

No person shall remove any property, furniture or equipment belonging to, or relating to, the Amenities from the premises, or the area in which it belongs, without express permission of the CL Team. All guests are expected to comply with these Amenities Guidelines, and all other policies established by the Residential Association, as well as adhere to the CL Team's directions at all times. The sponsoring Resident, or designee, is responsible for the conduct of his or her guests while accessing the Amenities. Any Resident or guest who, in the reasonable determination of the CL Team, not in compliance or whose conduct is disruptive, abusive, or otherwise inconsistent with the standard of conduct expected from users of the Amenities, as outlined herein, may be asked to forfeit his or her privileges and leave the premises where the Amenities are located immediately. Any violation, including disruptive or inappropriate behavior by Residents, or their guests to fellow Residents and their guests, CL Team or volunteers, may have their issued Access Cards deactivated in accordance with the Noncompliance Enforcement Guidelines.

Personal belongings brought to The Amenities are the responsibility of Residents and their guests. The CL Team does not assume responsibility for any lost or stolen items, including any items left in a "lost and found" location. Residents and their guests are responsible for securing their personal items. In the event a personal item is stolen, Residents and their guests are encouraged to file a police report with the City of Mesa police department.

## **9. Smoking**

The 'Mark, inclusive of the Amenities are non-smoking facilities. There are no exceptions made to either the exterior or interior of the premises. This includes smokeless tobacco and vapor cigarettes. City of Mesa ordinance states that smokers must be a minimum of twenty (20) feet away from any building entrance.

## **10. Fireworks**

Absolutely no fireworks or other pyrotechnic exhibitions are permitted anywhere on the premises where the Amenities are located except as part of a fireworks display organized and conducted by the CL Team.

## **11. Weapons**

No firearms or other weapons of any kind are permitted on the premises where the Amenities are located at any time. This mandate includes concealed weapons regardless of an individual possessing a permit to carry per A.R.S. § 13-1502 and A.R.S. § 13-1503.

## 12. Non-Discrimination Policy

The CL Team members shall not discriminate against any individual based on the individual's race, religion, creed, color, sex, national origin, age, disability, or marital status.

## 13. Guests

The Amenities are for use by Residents of the Residential Association and their guests only. Unless otherwise approved by the CL Team in advance, each household may sponsor a maximum of four (4) guests per household, which includes both adults and children. Enforcement of this policy is at the sole discretion of the CL Team. Residents are responsible for the conduct of their guests as guests must adhere to the same policies and expected behaviors in accordance with this Agreement at all times.

## 14. The Amenities' Pool Specific Rules

- (a) There is no lifeguard on duty in the pool areas, and therefore, Residents swim at their own risk. The pool facilities are provided for the personal enjoyment of all Residents. All Residents and their authorized guests using the facilities do so at their own risk and thereby hold the Residential Association, Inc., Eastmark Community Assembly, Inc., Eastmark Community Alliance, Inc., DMB Community Life, Inc., DMB Mesa Proving Grounds LLC, DMB/Brookfield Eastmark LLC, DMB Associates, Inc., and the respective directors, officers, managers, trustees, agents, employees, and volunteers of each of the foregoing (collectively, the "Residential Association Affiliated Entities") harmless in the event of an injury.
- (b) Swimming alone is dangerous and discouraged. No one under the influence of alcohol or illegal/controlled substances shall be permitted to use the pool.
- (c) Observe all safety regulations. Safety equipment is to be used only in the event of an emergency.
- (d) Operation of the pool lift(s) is the primary responsibility of the user or his/her caregiver.
- (e) Hours of operation of the pool amenity are 5:00 a.m. to 10:00 p.m., seven days a week. Hours are subject to change without notice per Section 2 above.
- (f) Use caution around the pool areas at all times.
- (g) Only U.S. Coast Guard-approved (types I, II, III) personal floatation devices ("PFD's") are permitted in and around the pool areas. Infant "pool floats" may, at the discretion of the CL Team, be permitted, but are limited to the small play pool. It is the sole responsibility of parent and/or guardian to supervise toddlers to ensure safe play.
- (h) For the health and safety of all users, proper swimming attire is required. All children not yet toilet trained must wear a swim diaper and rubber/plastic pants before entering the pool – no exceptions.
- (i) Those wishing to use the pool(s) must shower, use the toilet and remove any oils and lotions before entering the pool(s).

- (j) No diving, flipping, running, pushing, horseplay or throwing of people or objects into the pool is allowed. Spitting, spouting water, blowing noses or discharging bodily wastes into the pool(s) is strictly prohibited.
- (k) Goggles or swim masks with glass lenses are not permitted.
- (l) Noise must be kept at respectful levels. Content shall be appropriate for a community setting and befitting of the surroundings and atmosphere of the Amenities.
- (m) Pre-programmed music plays throughout the Amenities for the enjoyment of all Residents. Therefore, personal music that is audible to others is not permitted. Residents who wish to enjoy their own selection of music must do so using personal headphones.
- (n) No bicycles, tricycles, skateboards, hover boards, etc. are allowed in the pool areas at any time.
- (o) The pool access gate(s) shall be properly locked and secured when entering or leaving the pool areas.
- (p) For the health and safety of all Residents, personal pool play equipment, including sunbathing mattresses, kick boards, fun noodles, footballs, beach balls, water guns, water balloons, face masks, etc. are not permitted at any time. From time to time, the Residential Association may provide play equipment for special events.
- (q) Use of basketball hoop(s) will be at the sole discretion of the CL Team, based on existing conditions, to ensure the safety and enjoyment of all Residents, and their guests, utilizing the Amenities. Only CL Team provided basketballs are permitted.
- (r) Pulling, standing, or jumping on the basketball hoops or other property belonging to the Residential Association is not permitted.
- (s) Furniture is to be used only as designed – no stacking, standing on, building or playing with the furniture will be permitted. Furniture shall not be placed in the pool.
- (t) Burning of foreign objects or materials in the fire tables is not permitted.
- (u) Pool users shall obey all posted Pool Rules at all times, which are subject to change. The Residential Association and the CL Team have the authority and obligation to enforce the Pool Rules and supervise the general conduct of pool users. The CL Team, may require persons who violate the Pool Rules, or who engage in inappropriate conduct in the pool area, to immediately leave the premises where the Amenities are located and may have their Access Cards privileges suspended in accordance with the Noncompliance Enforcement Guidelines.
- (v) Illegal activities (e.g., gambling, drugs, etc.) are prohibited.

- (w) Any Resident who by his/her conduct and/or demeanor interferes with the use and enjoyment of the Amenities by other Residents, or interferes with the orderly maintenance, safety and operation of the Amenities, may have their access to use of the Amenities suspended or revoked in accordance with the Noncompliance Enforcement Guidelines.
- (x) For your safety, management may close the pool(s) and ask all persons to vacate the Amenities at any time deemed necessary. Private party reservations and/or other community-wide events taking place at the Amenities are subject to immediate postponement or cancellation due to unforeseen maintenance situations and conditions in instances including, but not limited to, severe weather conditions, cloudiness arising from such storms, situations that require pool closure such as bodily function incidents, or other unforeseen situations as required by Maricopa County Environmental Health Code.
- (y) Residents who employ or engage another individual for lesson(s), instruction, or other programming whether paid or unpaid, shall notify the CL Team for approval in advance. Instructors are considered guests of the Resident; all guest policies and pool rules apply. Resident must have an active Access Card to access the Amenities. Residents interested in organizing regular classes or activities should contact the CL Team to inquire about starting a Club or Group. Applications are available on Eastmark.com.

## 15. The Game Lounge at The 'Mark

- (a) Hours of operation for the Game Lounge will be adjusted for seasonally, for on and off peak hours. Please visit Eastmark.com for current hours of operation. Hours are subject to change without notice per Section 2 above.
- (b) All games and Game Lounge amenities are available for use on a "first come, first served basis." Reservations for seating areas and specific games or equipment will not be entertained unless the reservation is initiated by, or associated with, an Eastmark Entity related-approved club (e.g. Pool Players Club) or similar group.
- (c) Please be considerate of others in the Game Lounge. If someone is waiting to use the same amenity, please limit use time to 30 minutes. Sign-up sheets or boards may be posted in proximity to high demand games and Residents are encouraged to reserve their place in the queue by adding their name. Residents will not be allowed to monopolize specific games or equipment. Individuals who violate the Game Lounge rules may be asked to leave the premises where the Amenities are located and/or may have their Access Card privileges suspended in accordance with the Noncompliance Enforcement Guidelines.
- (d) All game equipment should remain with the game for which it is designated. Notable exceptions may include pool cues, ping pong paddles and balls, all of which may require a sign-out process.
- (e) Use of chalk is limited to the "inspiration wall" and the "children's play area" only.
- (f) Use of any equipment relating to the Amenities for anything other than its intended use is not permitted.



- (g) If there are any concerns with the Game Lounge amenities, or service is required within the Game Lounge, please report the issue immediately to the CL Team.
- (h) Please do not use any amenity or equipment that has an "Out of Order" sign.
- (i) Any damage or destruction of the Game Lounge equipment occurring as a result of not complying with the rules may result in a monetary penalty to cover the cost of damages. Nothing in this Access Agreement will prevent the Residential Association from seeking additional compensation if losses or damages are made to the facility. The definition of damages may also include fines or penalties levied against the Residential Association as a result of violation of local, state or federal laws and ordinances, as well as attorney fees expended by the Residential Association related to damage, destruction, fines or penalties.
- (j) The Game Lounge photo booth is available for the enjoyment of all Residents and their guests. All photos taken are the property of the Residential Association and any of the Residential Association Affiliated Entities set forth in Section 14(a)(b) above, and as such, may be used to chronicle community milestones and special events, or for marketing or promotional uses. By participating in Eastmark-sponsored events or activities you give permission to use your likeness in TV, print, video, and social media advertising. Lewd, inappropriate or tasteless photos, as determined by the CL Team, will not be tolerated and may lead to suspension of their Access Cards in accordance with the Noncompliance Enforcement Guidelines.
- (k) The Game Lounge offers a designated area expressly for the enjoyment of toddlers and our younger Residents. The toddler area is considered a free-play area and will not be staffed. It is the responsibility of parents and/or guardians to supervise toddlers and all children under the age of 14 to ensure safe play.
- (l) Books and board games are placed in the Game Lounge for the use and enjoyment of all. Board games are to be used on premises only and may not be removed under any circumstances. Books may be borrowed provided that the borrower brings a book to be placed in the library before removing a book. All items are marked as "Property of The 'Mark®."
- (m) All personal items are to be removed when leaving the Game Lounge. The CL Team is not responsible for any lost or stolen items left in the restrooms, the Game Lounge or The 'Mark.
- (n) The Residential Association may require persons who violate the Game Lounge rules, or engage in inappropriate conduct in the lounge area, to leave the premises immediately where the Amenities are located and may have their privileges associated with their Access Cards suspended in accordance with the Noncompliance Enforcement Guidelines.
- (o) Any Resident or guest who, by his/her conduct and/or demeanor, interferes with the use and enjoyment of the Game Lounge by other Residents or guests, or interferes with the orderly maintenance, safety and operation of the Amenities or are not responding to the CL Team's directions, may have their Access Cards suspended or revoked in accordance with the Noncompliance Enforcement Guidelines.

- (p) Each Resident and each permitted guest hereby voluntarily assumes all risk of injury, accident, death, loss, cost, theft, or damage to their person or property which might arise from the use of the Amenities.

## **16. After Hours Contact Information**

In the event of a life threatening emergency, please call 9-1-1 immediately. Report dangerous or criminal activity to the City of Mesa Police Department at (480) 215-4672. To report urgent concerns relating to the Amenities, relay your message to the after-hours answering service by calling 1-877-817-2738. If your Access Cards are not working, you must contact the Residential Association during regular business hours at (480) 625-4900 or ResidentialAssociation@eastmark.com.

## **17. Video Surveillance**

Video surveillance is in use in public spaces at The Amenities at all times solely to document incidents of vandalism and are not monitored to ensure the safety of residents or guests. Videos are recordings only and may be reviewed and used by the Residential Association, or its staff and/or police department to address rule violations, behavior concerns, or illegal activity. Video recordings will not be released to Residents or their guests. Eastmark Incident Report forms are available from a CL team member and should be completed in all instances of a concern. A police report should be filed for all dangerous or criminal activity occurring at The Amenities with a copy provided to Residential Association or CL Team as soon as possible.

## **18. Right to Refuse Service**

The Residential Association and its staff have the right to refuse service, suspend or revoke access privileges to any Resident, or guest, who is not following the rules, who are unreasonably rowdy or who are disturbing the use and enjoyment of others, including staff and volunteers. Notwithstanding anything contained herein to the contrary, the Residential Association and its staff have the right to suspend or revoke access privileges to any owner, Resident, guest or permittee at any time and for any length of time if they determine, in their sole and absolute discretion, that it is necessary and appropriate to do so under the circumstances then existing and if it is authorized by the governing documents of the Eastmark Community and the Amenities Guidelines.

## **19. Right to Amend Rules**

The terms of the Agreement, inclusive of the Amenities Guidelines set forth herein are subject to change from time to time, at the discretion of the Residential Association.