

HENDERSON HARBOR WATER SPORTS PROGRAMS

(“HHWSP”)

GENERAL AGREEMENT AND LIABILITY WAIVER

(“AGREEMENT AND WAIVER”)

PLEASE READ THE FOLLOWING AGREEMENT AND WAIVER CAREFULLY, AS IT AFFECTS YOUR FUTURE LEGAL RIGHTS. BY PROCEEDING WITH REGISTERING FOR PROGRAMS, YOU ACKNOWLEDGE AND AGREE THAT YOU HAVE CAREFULLY READ THE AGREEMENT AND WAIVER AND AGREE TO THE TERMS SET FORTH BELOW.

THE WORD ‘PARTICIPANT’ ENCOMPASSES ADULT PARTICIPANTS AS WELL AS PARENT, PARENTS, AND GUARDIANS OF MINOR PARTICIPANTS.

Though you still need to read the entire document, some of the key points of this Agreement and Waiver are highlighted here:

* The Programs for which you are registering may be physically challenging and pose a risk of discomfort, illness, injury, and even death. It is your responsibility to ensure you are in sufficient physical condition to participate in the Programs without risk to your health or your life. HHWSP does not conduct health or fitness checks on participants.

* Some Programs may pose certain risks to participants and observers. HHWSP cannot remove risks to participants and observers and, accordingly, you should participate and/or observe at your own risk.

* Where you have registered or entered on behalf of anyone under the age of 18, or have accompanied anyone under the age of 18, to observe the Programs, you also agree to the contents of this Agreement And Waiver on behalf of the person(s) under the age of 18.

In consideration of being permitted to register and/or participate in and/or observe Programs, on behalf of yourself and any personal representatives, assigns, heirs, executors, successors, next of kin, and persons supported by you (if relevant under the applicable laws), you understand that:

1. Authority to Register and/or to Act as Agent: You represent and warrant to HHWSP that you have full legal authority and capacity to complete the registration for the Programs, including this Agreement And Waiver, on behalf of yourself and/or, where applicable, any party for whom you are registering (the “Registered Parties”), including full authority to make use of the payment methods used to pay for Programs. As used in this Agreement And Waiver, (a) “HHWSP” means and includes Henderson Harbor Water Sports Programs, Inc., its officers, board

members, and any and all subsidiaries, affiliated entities, or entities that control, are controlled by, or are under common control with HHWSP singly or together and its and each of their officers, boat members, employees contractors, subcontractors and agents and each of their agents, representatives, successors and assigns; and (b) "you" or "your" means and includes you (as an individual) and all other Registered Parties for whom you are registering, and by virtue of agreeing to this Agreement And Waiver, for whom you are waiving certain rights. If you are registering a child under the age of 18, you represent and warrant that you are the parent or legal guardian of that party and have the legal authority and capacity to enter into this Agreement And Waiver on his/her/their behalf and by proceeding with registration for the Programs, you agree that the terms of this Agreement And Waiver shall apply equally to all of the Registered Parties. To the extent permitted by law, each person agreeing to this Agreement And Waiver for themselves and/or on behalf of another Registered Party (including, without limitation, any minor) agrees to indemnify, defend, and hold HHWSP harmless from any liability, claim, demand, cause of action, damage, loss, or expense (including court costs and reasonable attorney's fees) of any kind or nature (each, a "Liability" and collectively "Liabilities") in the event the Liability arises because a Registered Party is found by a court of competent jurisdiction to not be bound by the terms and conditions of this Agreement And Waiver. In addition, if, despite this Agreement And Waiver, any of the Registered Parties makes a claim against HHWSP, you agree, immediately upon request or demand by HHWSP, to defend, indemnify, and hold HHWSP harmless from all Liabilities which may be incurred as the result of such claim.

2. ASSUMPTION OF RISK: IN CONSIDERATION OF THE ACCEPTANCE OF YOUR REGISTRATION AND PARTICIPATION IN PROGRAMS, YOU ASSUME FULL AND COMPLETE RISK AND RESPONSIBILITY FOR ANY DISCOMFORT, ILLNESS, INJURY, OR ACCIDENT WHICH MAY OCCUR WHILE YOU ARE PREPARING FOR THE PROGRAMS, DURING THE PROGRAMS, WHILE YOU ARE ON THE PREMISES OF HHWSP, INCLUDING THE PREMISES OF HENDERSON HARBOR YACHT CLUB, OR WHILE YOU ARE TRAVELING TO OR FROM THE PROGRAMS OR REGATTAS/RACES/SPECIAL EVENTS. YOU UNDERSTAND THAT, DEPENDING ON THE NATURE OF THE PROGRAMS, PARTICIPATING IN THE PROGRAMS MAY BE HAZARDOUS, AND THAT YOU SHOULD NOT ENTER AND PARTICIPATE UNLESS YOU ARE IN SUFFICIENT PHYSICAL CONDITION TO PARTICIPATE. IF NEEDED, YOU SHOULD CONSULT YOUR DOCTOR PRIOR TO PARTICIPATING IN THE PROGRAMS. IF APPLICABLE, YOU ACKNOWLEDGE AND AGREE THAT THE PROGRAMS MAY BE HELD OVER PUBLIC ROADS AND FACILITIES OPEN TO THE PUBLIC DURING THE PROGRAMS AND UPON WHICH HAZARDS ARE TO BE EXPECTED. YOU ALSO ACKNOWLEDGE AND AGREE THAT PARTICIPATION IN THE PROGRAMS MAY CARRY WITH IT CERTAIN INHERENT RISKS AND DANGERS THAT CANNOT BE ELIMINATED COMPLETELY, RANGING FROM RISK OF MINOR DISCOMFORT TO CATASTROPHIC INJURIES INCLUDING

PERMANENT DISABILITY AND DEATH. YOU ARE AWARE OF AND ASSUME ALL RISKS ASSOCIATED WITH PARTICIPATING IN THE EVENT, INCLUDING, WITHOUT LIMITATION, RISKS OF PERMANENT INJURY OR DEATH DUE TO FALLS, CAPSIZES, OBSTACLES, CONTACT WITH OTHER PARTICIPANTS, ACTS OR OMISSIONS OF OTHER PARTICIPANTS, EFFECT OF WEATHER, TRAFFIC AND CONDITIONS OF ANY BODY OF WATER OR OF ANY ROAD.

3. Representations: You represent and warrant that you, or your minor participant, are in sufficient physical condition to safely participate in the Programs, and have no medical condition that would make your participation in the Programs more hazardous. You consent to medical care and transportation in order to obtain treatment in the event of injury to you or your minor participant, and you understand that this Agreement And Waiver extends to any liability arising out of, or in any way connected with, the medical treatment and transportation provided in the event of an emergency and/or injury. You understand that no medical care may be available, but if it is, you assume liability for any and all medical expenses incurred as a result of your participation in the Programs (where such medical expenses are not provided on a free of charge basis by any medical services organizations, clinics, or hospitals), including, but not limited to ambulance transport, hospital stays, physician, and pharmaceutical goods and services. You agree, for yourself and on behalf of any minor participant, to observe and obey all posted rules and warnings, to follow any instructions of directions provided to you by HHWSP or the Program directors and staff and to abide by any decision of any HHWSP official relative to your ability to safely participate in or attend the Programs. You understand that you, and your minor participant, that you are expected to exhibit appropriate behavior at all times while at Programs and to obey all applicable laws while participating in or attending Programs. This includes, generally, respect for other people, equipment, facilities or property. You agree that the HHWSP officials may dismiss you, without refund, should your, or your minor participant's, behavior, in the opinion of any HHWSP director, officer, board member, or head instructor, endanger the safety of or negatively affect HHWSP or HHWSP Programs. You understand and agree that you are responsible for taking care of your, or your minor participant's, personal belongings during the Programs and, to the maximum extent permitted by law, neither HHWSP nor HHWSP's directors, officers, board members, staff or volunteers are responsible for any personal item or property that is lost, damaged or stolen at the Programs. You understand and agree that the HHWSP director or head instructors reserve the right to cancel the Programs in the event of weather (including, but not limited to: heat, tornadoes, earthquakes, fires, smoke, storms, lightning and floods), accidents, acts of war or terrorism, military conflicts or riots, or for any reason that would affect the safety and security of Program participants and/or observers or the feasibility of the Programs to be held. In the event of such cancellation or any other cancellation for any reason, there will be no refund of your payment unless authorized and paid by the Program officers and board.

4. **RELEASE AND WAIVER OF LIABILITY: YOU HEREBY WAIVE, RELEASE, COVENANT NOT TO SUE AND FOREVER DISCHARGE HHWSP AND ALL OTHER PERSONS ASSOCIATED WITH THE PROGRAMS, FOR ALL LIABILITIES, CLAIMS, ACTIONS, OR DAMAGES THAT YOU MAY HAVE AGAINST THEM ARISING OUT OF OR IN ANY WAY CONNECTED WITH YOUR REGISTRATION AND/OR PARTICIPATION IN THE PROGRAMS, INCLUDING WITHOUT LIMITATION ANY LIABILITIES, CLAIMS, ACTIONS, OR DAMAGES CAUSED BY NEGLIGENCE OF THE ABOVE PARTIES (INCLUDING AND NEGLIGENT RESCUE ATTEMPT), THE ACTION OR INACTION OF ANY OF THE ABOVE PARTIES, OR OTHERWISE. HHWSP SHALL NOT BE LIABLE TO YOU FOR ANY DIRECT, INDIRECT, INCIDENTAL, SPECIAL, CONSEQUENTIAL OR EXEMPLARY DAMAGES, INCLUDING, BUT NOT LIMITED TO, DAMAGES FOR LOSS OF PROFITS, GOODWILL, USE, DATA OR OTHER INTANGIBLE LOSSES (EVEN IF HHWSP HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES). WITHOUT LIMITING THE FOREGOING, HHWSP WILL NOT BE RESPONSIBLE FOR (A) THE USE OR THE INABILITY TO USE THE HHWSP SITES, PRODUCTS OR SERVICES; (B) THE COST OR PROCUREMENT OF SUBSTITUTE GOODS AND SERVICES RESULTING FROM ANY GOODS, DATA, INFORMATION OR SERVICES PURCHASED OR OBTAINED OR MESSAGES RECEIVED OR TRANSACTIONS ENTERED INTO THROUGH OR FROM OTHER HHWSP SITES; (C) YOUR PARTICIPATION IN ANY PROMOTION OR PROGRAM COORDINATED BY HHWSP; (D) PERSONAL INJURY; (E) UNAUTHORIZED ACCESS TO OR ALTERATION OF YOUR TRANSMISSIONS OR DATA; (F) STATEMENTS OR CONDUCT OF ANY THIRD PARTY ON THE HHWSP SITES; (G) ANY OTHER MATTER RELATING TO THE HHWSP SITES, OR HHWSP PRODUCTS OR SERVICES; OR (H) YOUR PARTICIPATION ON THE PROGRAMS. YOU AGREE THAT HHWSP'S MAXIMUM LIABILITY TO YOU, FOR ANY REASON OR CAUSE WHATSOEVER, SHALL NOT EXCEED THE TOTAL AMOUNT OF MONIES RECEIVED BY HHWSP FROM YOU. NOTHING IN THIS AGREEMENT AND WAIVER SHALL BE CONSTRUED AS LIMITING OR EXCLUDING ACTIVITIES OR THE PROGRAM'S DIRECTORS, OFFICERS, BOARD, STAFF, OR VOLUNTEERS LIABILITY FOR: (A) DEATH OR PERSONAL INJURY CAUSED BY GROSS NEGLIGENCE; (B) FRAUD OR FRAUDULENT MISREPRESENTATION; OR (C) ANY OTHER MATTER FOR WHICH IT WOULD BE ILLEGAL OR UNLAWFUL TO EXCLUDE OR ATTEMPT TO EXCLUDE LIABILITY. YOUR STATUTORY RIGHTS AS A CONSUMER ARE NOT AFFECTED BY THIS AGREEMENT AND WAIVER.**
5. **INDEMNITY: YOU AGREE TO INDEMNIFY, DEFEND, AND HOLD HARMLESS HHWSP AND ALL OTHER PERSONS ASSOCIATED WITH THE PROGRAMS, FROM ALL LIABILITIES ARISING OUT OF OR IN ANY WAY CONNECTED WITH (A) YOUR, OR YOUR MINOR CHILD'S, PARTICIPATION IN THE EVENT,**

INCLUDING WITHOUT LIMITATION ANY LIABILITY CAUSED BY NEGLIGENCE (INCLUDING AND NEGLIGENT RESCUE ATTEMPT), THE ACTION OR INACTION OF HHWSP, (B) YOUR USE OF HHWSP'S WEBSITE, SOCIAL MEDIA, PROPERTY, EQUIPMENT, FACILITIES, OR (C) ANY VIOLATION BY YOU OF ANY TERMS OF THIS AGREEMENT AND WAIVER. AND/OR THE TERMS OF AGREEMENTS AND OTHER INFORMATION POSTED ON WWW.HHWSP.COM

- 6. Severability:** You further expressly agree that this Agreement And Waiver is intended to be as broad and inclusive as is permitted by applicable law, and if any provision of this Agreement And Waiver is held to be unenforceable by a court of competent jurisdiction for any reason whatsoever, (a) the validity, legality, and enforceability of the remaining provisions of this Agreement And Waiver (including without limitation, all portions of any provisions containing any such unenforceable provision that are not themselves unenforceable) shall not in any way be affected or impaired thereby, and (b) to the fullest extent possible, the unenforceable provision shall be deemed modified and replaced by a provision that approximates the intent and economic effect of the unenforceable provision and the Agreement And Waiver shall be deemed amended accordingly.
- 7. ACCEPTANCE: BY INDICATING YOUR ACCEPTANCE OF THIS AGREEMENT AND WAIVER, YOU ARE AFFIRMING THAT YOU HAVE READ THIS AGREEMENT AND WAIVER AND FULLY UNDERSTAND ITS TERMS. YOU UNDERSTAND THAT YOU AND ALL REGISTERED PARTIES ARE GIVING UP SUBSTANTIAL RIGHTS, INCLUDING THE RIGHT TO SUE. YOU ACKNOWLEDGE THAT YOU ARE AGREEING TO THIS AGREEMENT AND WAIVER FREELY AND VOLUNTARILY, AND INTEND BY YOUR ACCEPTANCE TO BE A COMPLETE AND UNCONDITIONAL RELEASE OF ALL LIABILITY TO THE GREATEST EXTENT ALLOWED BY LAW. IF THE PARTICIPANT IS A MINOR, YOU CERTIFY THAT YOU ARE THE PARTICIPANT'S PARENT OR GUARDIAN AND AGREE TO THIS WAIVER AND RELEASE FROM LIABILITY ON BEHALF OF THE PARTICIPANT.**
- 8. Applicable Law; Consent to Jurisdiction; Other Jurisdiction-Specific Provisions: Provisions Applicable to Events Held in the United States of America:** You agree that the laws of the State of New York, United States of America, without regard to the conflict of laws principles thereof, will apply to all matters relating to this Agreement And Waiver. You irrevocably consent that exclusive jurisdiction for any dispute with HHWSP relating to this Agreement And Waiver resides in the courts of Watertown, New York, and you further agree and expressly consent to the exercise of personal jurisdiction in the courts of Watertown, New York in connection with any such dispute including any claim involving HHWSP.

