



Carolina Yacht Club Sailing Programs

Waiver and Release Terms and Conditions

THIS WAIVER & RELEASE SHALL REMAIN IN EFFECT, BE ENFORCEABLE AND REMAIN ON FILE FOR THE ENTIRE YEAR OF _____ AND SHALL NOT NEED TO BE RENEWED OR RE-EXECUTED SHOULD PARTICIPANT PARTICIPATE IN MULTIPLE PROGRAMS DURING THE CURRENT YEAR. _____ (INITIALS OF PARTICIPANT)

This waiver and release (the “**Waiver and Release**”) of the below named guest or member (the “**Participant**”) is for the benefit of, and enforceable by, The Carolina Yacht Club and any third party Owner, provider of a Vessel (as defined below) or a Facility (as defined below) and any and all of their team members, employees, officers, members, representatives, or Participants (collectively, the “**Released Parties**”).

RECITALS

WHEREAS, the Participant wishes to participate in a Carolina Yacht Club sailing program, whether one or more, (the “**Program**”); and

WHEREAS, the on-shore elements of the Program will take place at facilities and on-land locations in and around The Carolina Yacht Club (each a “**Facility**” and together the “**Facilities**”) and the on-water elements of the Program will take place on board a variety of different vessels including (without limitation) Optimists, Sunfish, Lasers, 420's, Flying Scots, motorized rigid inflatable boats and/or other sail- and motor-driven vessels (each a “**Vessel**” and collectively, the “**Vessels**”).

AGREEMENT

NOW, THEREFORE, in consideration of permitting the Participant to participate in the Program and/or be present at a Facility or on-board any of the Vessels, the Participant hereby agrees as follows:

1. I (a) am medically fit to attend and participate in all sailing or other activities aboard a Vessel, at a Facility or otherwise during the Program; (b) will fully comply at all times with all instructions and directions of any Program representative while at a Facility or on board a Vessel or otherwise participating in the Program; (c) understand that sailing activities on a Vessel, activities at a Facility, participating in the Program, or my permission to participate in those activities, may be cancelled at any time by any representative of the Program; (d) will immediately advise a Program representative if I feel anything to be unsafe at any time I am on a Vessel or at a Facility and will leave as soon as practical; (e) will not participate in activities on a Vessel if I am under the influence of intoxicating drugs or beverages; and (f) have obtained adequate medical, disability and/or life insurance or other monies to cover losses to myself.

2. I hereby freely acknowledge, accept and assume the risks that may arise from my participation in the Program and presence on-board a Vessel or at a Facility and agree that such risks may include or arise from the following: (a) use of such Vessels involves a risk of damage or injury; (b) sailing or mere presence on any Vessel is an activity that requires a certain level of physical agility and may be unsuitable for anyone undergoing medical treatment, and can involve, among other dangers, contact with considerable force, other unaffiliated watercraft, uncertain weather or other Program participants; (c) presence at a Facility or any areas adjacent to a Vessel present additional risks and dangers; and (d) other risks to me that are not known or not reasonably foreseeable. I understand that such risks may result in a full range of injuries, from minor to severe, including the possibility that I might suffer serious permanent disability, paralysis, drowning or death. This assumption of risk applies to all risks of personal injury, death and property damage that result from my own actions, inactions, active negligence or passive negligence, or the actions, inactions, active negligence or passive negligence of the Released Parties or others (which may include negligent rescue operations or any other negligent acts, including those not in connection with the Program), the conditions of the premises and of any equipment used in connection with a Facility, any Vessel(s) and/or the Program.

3. I understand that the Program and/or my presence on any Vessel(s) or at a Facility may be photographed, televised and/or recorded. I grant the Released Parties the absolute and irrevocable right to use, publish, and copy my name, likeness, picture, voice, biographical information, written or oral statements and any photographs, video, or sound recordings taken of me without compensation, for illustration, trade, advertising, marketing, promotion and in any and all media now existing or hereafter developed, without restrictions or limitations, in promoting or publicizing the Program, other official programs relating to the Program, any of the Released Parties and any related products, programs or services. I hereby waive any right of approval or claim to compensation for such use. I hereby irrevocably release, waive and promise not to sue the Released Parties for the any and all claims and demands arising out of or in connection with any use, blurring, alteration, or use in composite form of my name, picture, likeness, voice, biographical information, written or oral statements or any photographs, video, or sound recordings taken of me, including, but not limited to, any claims for copyright infringement, defamation, invasion of privacy or right of publicity.

4. I hereby irrevocably release, waive, discharge and promise not to sue the Released Parties for any and all claims, liability, injury, death, losses or damages to my person or property arising from, attributable to or in connection with me being on a Vessel, at a Facility and/or otherwise participating in the Program. This release and waiver applies to all risks of personal injury, death, loss or property damage, including risks that are not presently known or not reasonably foreseeable, that result from my own actions, inactions, active negligence or passive negligence or the actions, inactions, active negligence or passive negligence of the Released Parties or others (which may include negligent rescue operations or any other negligent acts, including those not in connection with the Program), the conditions of the premises and of any equipment used in connection with a Facility, any Vessel(s) and/or the Program unless due to the negligence or willful misconduct of the Released Party. I understand and agree that this Waiver and Release covers, without limitation all damages for personal injuries, mental distress, wrongful death, loss of consortium, loss of wages,

loss of earning power or capacity, income or other pecuniary loss, medical and hospital bills, any other related expense or cost, and any and all property damages.

5. I hereby agree The Carolina Yacht Club has the right to enforce the terms of this Waiver and Release for the benefit of any of the other Released Parties.

6. I also agree to indemnify, defend and hold harmless each Released Party from (a) any and all claims, damages, liabilities, losses, fees and costs incurred in connection with any breach of this Waiver and Release; (b) any third party claims or threats of claims asserted arising from, related to or in connection with my being on a Vessel or at a Facility or otherwise participating in the Program; and (c) any claims or proceedings for personal injury, death or property loss brought by me or any of my personal or legal representatives, executors, administrators, successors and heirs arising from, related to or in connection with my being on a Vessel or Facility or otherwise participating in the Program.

7. This Waiver and Release is intended to be as broad and inclusive as permitted by law, and if any portion is held to be invalid, illegal or unenforceable under applicable law, I agree that such provision shall be interpreted or amended to the limited extent necessary to make such provision enforceable and to give effect to the intent of the Released Parties. If no such interpretation or amendment is possible, then the unenforceable term shall be severed from this Waiver and Release and shall not affect the validity and enforceability of the remaining terms. In any action to enforce this Waiver and Release, the prevailing party shall be entitled to recover its reasonable attorneys' fees and costs.

8. This Waiver and Release is binding upon and enforceable against me as well as my estate, personal representatives, legal representatives, executors, guardians, conservators, heirs, executors, administrators, next of kin and assigns and shall inure to the benefit of the Released Parties.

9. This Waiver and Release and any dispute or claim arising out of or in connection with it (including, without limitation, any dispute or claim relating to non-contractual obligations) shall be governed by and construed in accordance with the laws of North Carolina.

10. Any dispute or difference arising out of or in connection with this Waiver and Release shall be exclusively referred to and determined by arbitration conducted in the state of North Carolina by a sole arbitrator appointed by agreement between the parties; or, in default of agreement, then the arbitrator is to be appointed by The Carolina Yacht Club Board of Governors.

11. This Waiver and Release contains the entire agreement between the Participant and the Released Parties with respect to the subject matter hereof and may be modified or amended only by written agreement of the Participant and a representative of the Released Parties. I agree that this Waiver and Release will remain in full effect now and for the remainder of the current calendar year unless I have been asked by The Carolina Yacht Club to sign a new Waiver and Release.

If Participant is 18 years of age or older:

By my signature below, I represent that I have read, understand and consent to the terms of this Participant Waiver and Release.

Signature of Participant:

Name of Participant (please print clearly):

Address of Participant:

Phone & email of Participant:

Name & contact info of person in case of emergency:

Date:.....

PARENTAL CONSENT

If Participant is under 18 years of age, the undersigned hereby represents and warrants that he or she is the parent or legal guardian of the Participant and has the full right and authority to enter into this Waiver and Release on the Participant's behalf, and, acting in such capacity, acknowledges and accepts the terms and conditions of this Waiver and Release in their entirety. Further, the undersigned, acting in their own right, agrees to indemnify, defend and hold harmless each and all of the Released Parties from all liability, damages, claims, fees or costs whatsoever as may be imposed upon said Released Parties as a result of (a) any claims or proceedings for personal injury, death or property loss brought by the Participant or any of the Participant's personal or legal representatives, executors, administrators, successors and heirs arising from, related to or in connection with the Participant being on a Vessel or at a Facility or otherwise participating in a Program; and (b) any third party claims or threats of claims asserted, arising from, related to or in connection with the Participant being on a Vessel or at a Facility or otherwise participating in a Program. Undersigned certifies that the Participant is in good physical condition and suffers from no physical, emotional or mental impairment which would adversely affect his/her ability to safely participate in a Program. Undersigned has and will maintain for the benefit of the Participant both liability and health/medical insurance during all of Participant's participation in any Program.

Signature of Parent or Guardian:

Name of Parent or Guardian (please print clearly):

Name of Participant (please print clearly):

Phone & email of Parent/Guardian

Date:.....