

## **HOLD HARMLESS AND GENERAL RELEASE AGREEMENT**

This Rental Agreement: Waiver and Release of Liability, Assumption of Risk, and Indemnity ("Rental Agreement") is made and entered into on this \_\_\_\_ day of \_\_\_\_\_, **20**, by and between Radical Rentals by Blackluxe Limousine, LLC, with a principal place of business at 555 E St. Pittsfield, MA 01201 (hereinafter referred to as "Provider") and the undersigned Renter (hereinafter referred to as "Renter").

### **RELEASE AND WAIVER OF LIABILITY**

The Renter hereby releases, waives, discharges, and covenants not to sue Radical Rentals by Blackluxe Limousine, LLC, its officers, agents, employees, and affiliates (collectively referred to as "Releasees") from any and all liability, claims, demands, actions, and causes of action whatsoever arising out of or related to any loss, damage, or injury, including death, that may be sustained by the Renter, or to any property belonging to the Renter, while renting and using any jet skis, pontoon boats, or other rental equipment provided by the Provider. This includes any injury, disability, death, or loss or damage to person or property sustained as a result of a hidden, latent, or obvious defect on the waters or any of the equipment used, or any failure to properly instruct, supervise, or train.

Initials: \_\_\_\_\_

### **INDEMNIFICATION**

Renter agrees to indemnify and hold harmless the Releasees from any loss, liability, damage, or costs, including court costs and attorneys' fees, that they may incur due to the Renter's use of rented equipment, whether caused by the negligence of Releasees or otherwise. Renter further agrees that in the event that he/she fails to notify Provider of all potential operators, passengers, or users of said equipment, he/she will be personally liable for any damages to the undisclosed individuals, even if such damage arises out of the negligence or fault of Provider.

Initials: \_\_\_\_\_

### **ASSUMPTION OF RISK**

Renter acknowledges and fully understands that the use of jet skis, pontoon boats, and other rental equipment involves inherent risks and dangers that may result in serious bodily injury, including permanent disability, paralysis, and death. These risks and dangers may be caused by the Renter's own actions or inactions, the actions or inactions of others, the condition of the equipment or the environment, or the negligence of the Releasees. Renter voluntarily and expressly assumes all risks of injury or harm associated with these activities, whether such risks are known or unknown, foreseen or unforeseen, and accepts full responsibility for any damages that may occur as a result of engaging in these activities. Renter acknowledges that they have been advised to wear appropriate safety gear and to follow all safety instructions provided by the Provider. Renter further understands that they are not required to participate in any activities presented and may refuse to participate in any activities they feel uncomfortable with or which they feel cannot be completed safely.

Initials: \_\_\_\_\_

### **JET SKI SAFETY RULES**

Renter shall familiarize himself/herself with all operating instructions for the personal watercraft (PWC). Renter shall assure that the personal watercraft is used in a safe manner utilizing the highest standard of care

to avoid injuries and damage to the PWC or other property. The PWC shall not be used in connection with stunts, racing, the towing of person or property, or any other use which might result in injury to person or damage to property. Renter represents that he/she is familiar with the operation of the PWC and that he/she has read and understands the safety rules and PWC Orientation which are incorporated herein by reference and Renter further agrees to comply and abide by each and every one of these safety rules. Renter agrees to only operate the watercraft in designated riding areas and to always wear a life jacket.

Initials: \_\_\_\_\_

#### **ACKNOWLEDGMENT OF RECEIPT OF 323 CMR 4.00**

The Renter acknowledges that they have received a copy of 323 CMR 4.00, which includes the regulations governing personal watercraft operation in the Commonwealth of Massachusetts and a copy of the pamphlet entitled, "Boat Massachusetts Your Guide to Boating Laws and Responsibilities", issued by the Massachusetts Environmental Police. The Renter agrees to familiarize themselves with these regulations and adhere to all applicable rules and guidelines as set forth in 323 CMR 4.00.

Initials: \_\_\_\_\_

#### **GENERAL TERMS AND CONDITIONS**

Renter certifies that they have received adequate and proper safety and operational instruction for the equipment and watercraft from Provider and are capable in all aspects of the handling and operation of such equipment and watercraft and following all safety instructions. Renter agrees not to use, nor permit the use of the equipment for (a) any unlawful purpose; (b) in a careless, reckless, or negligent manner; (c) while under the influence of alcohol and/or drugs; or (d) in violation of the safety instructions received from Provider.

Initials: \_\_\_\_\_

#### **JURISDICTION**

This Agreement shall be governed by and construed in accordance with the laws of the State of Massachusetts. In the event Provider prevails in any litigation or claim relating to the enforcement of the provisions contained herein, Renter agrees to pay and indemnify Provider for its litigation expenses, including reasonable legal fees and court costs.

Initials: \_\_\_\_\_

#### **SEVERABILITY**

If any provision of this Agreement is held to be invalid or unenforceable, the remaining provisions shall continue to be valid and enforceable.

#### **ENTIRE AGREEMENT**

This Agreement constitutes the entire agreement between the parties and supersedes any prior written or oral agreements related to the subject matter.

**IN WITNESS WHEREOF, the parties have executed this Agreement on the date first above written.**

**RENTER:**

---

Signature

Printed Name, Address, and Phone Number

**PROVIDER:**

Radical Rentals by Blacklux Limousine, LLC

By: /ss/ Victor Diaz

Victor Diaz, Manager

## 323 CMR: DIVISION OF LAW ENFORCEMENT

### 323 CMR 4.00: THE OPERATION OF PERSONAL WATERCRAFT

#### Section

- 4.01: Purpose and Scope
- 4.02: Definitions
- 4.03: Operation
- 4.04: Rental
- 4.05: Penalties

#### 4.01: Purpose and Scope

The purpose and scope of 323 CMR 4.00 is to protect the public safety by establishing rules of conduct governing the operation of personal watercraft, by promoting voluntary compliance with the rules, and, when necessary, by deterring, through fines and penalties, noncompliance with the rules. The Division of Law Enforcement intends to improve, through the rules, the safe and appropriate use of personal watercraft.

#### 4.02: Definitions

Headway speed shall mean the slowest speed at which a personal watercraft may be operated and maintain steerage way. To be considered operating at headway speed under 323 CMR 4.00 the operator shall be either kneeling or sitting.

Personal watercraft shall mean a vessel propelled by a water jet pump or other machinery as its primary source of motor propulsion which is designed to be operated by a person sitting, standing or kneeling on the vessel rather than being operated in the conventional manner by a person sitting or standing inside the vessel.

#### 4.03: Operation

- (1) Minimum Age. No person shall operate a personal watercraft if such person is:
  - (a) Under the age of 16;
  - (b) 16 or 17 years of age without first having received a safety certificate evidencing satisfactory completion of a training course in safe operation conducted by the United States Coast Guard Auxiliary, the United States Power Squadron, the Division of Law Enforcement, or such other entity approved in writing by the Director.
  - (c) 16 or 17 years of age without having first received a safety certificate evidencing satisfactory completion of a training program in personal watercraft safety conducted by the Division of Law Enforcement or other such entity approved in writing by the Director.
- (2) Personal Flotation Device. Any person aboard a personal watercraft shall wear at all times a Coast Guard approved personal flotation device of Type I, II, III or V.
- (3) Towing. No person shall tow a water skier or any person in any other manner from a personal watercraft.
- (4) Evening Operation. No person shall operate a personal watercraft between the hours of sunset and sunrise, as determined by the chart set forth at 323 CMR 2.00, Appendix I, or when vision is unduly restricted by the weather.
- (5) Safe Operation. No person shall operate a personal watercraft except in a safe and prudent manner, having due regard for other waterborne traffic, posted speed and wake restrictions, 323 CMR 4.00 *et. seq.*, and all other attendant circumstances, so as not to endanger the life, limb or property of any person.

No person who owns, rents, operates or who otherwise has charge of a personal watercraft shall permit said personal watercraft to be operated in violation of M.G.L. C. 90B or any applicable regulation 323 CMR 2.00 and 323 CMR 4.00.

323 CMR: DIVISION OF LAW ENFORCEMENT

(6) Negligent Operation. No person shall operate a personal watercraft in a negligent manner. The following are prohibited as examples of negligent operation:

## 323 CMR: DIVISION OF LAW ENFORCEMENT

### 4.03: continued

- (a) Unreasonably jumping, or attempting to jump, the wake of another vessel;
  - (b) Following within 150 feet of a water skier;
  - (c) Weaving through congested vessel traffic;
  - (d) Speeding in restricted areas;
  - (e) Crossing unreasonably close to another vessel;
  - (f) Operating a personal watercraft in such a manner that it endangers the life, limb or property of any person;
  - (g) Towing a waterskier or any person in any manner from a personal watercraft; and
  - (h) Operating a personal watercraft during the evening, as defined by 323 CMR 4.03(4).
- (7) Modification. Except as otherwise provided in 323 CMR 4.03(9), no person shall:
- (a) Remove or modify the exhaust or muffler system of a personal watercraft, or
  - (b) Operate a personal watercraft so modified.
- (8) Exceptions.
- (a) The provision of 323 CMR 4.03(6)(a) through (h) and (7)(a) through (e) shall not apply to a person performing in an event for which a permit has been issued in writing by the director.
  - (b) The provisions of 323 CMR 4.03(7)(a) through (d) shall not apply in an area expressly designated in writing by the director or his designee as appropriate for personal watercraft operation.
- (9) Automatic Cut-Off. Every person operating a personal watercraft equipped by the manufacturer with a lanyard type engine cut-off switch shall attach said lanyard to his person, clothing, or personal flotation device as is appropriate for the specific craft.

### 4.04: Rental of Personal Watercraft

- (1) Minimum Age. No person shall lease, hire or rent a personal watercraft to any person under 16 years of age, nor to any person 16 or 17 years of age unless said person produces a certificate evidencing compliance with 323 CMR 4.03(1)(b).
- (2) Notice of Regulations. No person shall lease, hire or rent a personal watercraft to any person unless said lease, hire or rental is accompanied by a copy of 323 CMR 4.00 *et. seq.*
- (3) Safety Rules Stickers. No person shall lease, hire or rent a personal watercraft to any person unless said personal watercraft shall have the most current version of the Safety Rules Sticker prominently affixed thereto so that it is visible and readable by the operator.
- (4) Safety Equipment and Education. A personal flotation device complying with 323 CMR 4.03(2) shall be provided with all rented personal watercraft. The safe operation of the personal watercraft shall be explained by the rental livery. This explanation shall include a complete review of 323 CMR 4.00 *et. seq.*

### 4.05: Penalties

- (1) For purposes of M.G.L. c. 90B, § 14, any violation of 323 CMR 4.03(1), (3), (4), (5), (6), or (7) shall be deemed a violation of M.G.L. c. 90B, § 8.
- (2) For purposes of M.G.L. c. 90B, § 14, any violation of 323 CMR 4.03(2) shall be deemed a violation of M.G.L. c. 90B, § 5A.
- (3) For purposes of M.G.L. c. 90B, § 14, any violation of 323 CMR 4.03(8) shall be deemed a violation of M.G.L. c. 90B, § 6.

**323 CMR: DIVISION OF LAW ENFORCEMENT**

**4.05: continued**

(4) For purposes of M.G.L. c. 90B, § 14, any violation of 323 CMR 4.04 shall be deemed a violation of M.G.L. c. 90B, § 7.

**REGULATORY AUTHORITY**

**323 CMR 4.00: M.G.L. c. 90B.**

NON-TEXT PAGE