

**BOAT RENTAL CLUB MEMBERSHIP
CONTRACTUAL ASSUMPTION AND ACKNOWLEDGEMENT OF RISKS
LIABILITY WAIVER AND RELEASE AGREEMENT**

Contract Number : 2023-__ of 4

Vessel: 1989 Boston Whaler Outrage 22 with 2001 Yamaha 225 TXRZ Outboard, NY Reg: NY 9694 FD,
HIN: BWC 5H487B989

Owner & Releasee:

Seacoast Marine Holdings, LLC
14 Gann Road
East Hampton, NY 11937

Member & Releasor:

Name: _____ Email: _____
Address : _____
City : _____ State : _____ Zip : _____
Drivers License Number : _____ Over 21? _____
Phone #s : (h) _____ (c) _____ (w) _____
Emergency Contact: Name: _____ Phone: _____

Member Financial Information:

Name on Credit Card: _____
Credit Card Number: _____ Exp.: _____ CVV: _____
Billing Zip: _____

Member's Confirmation of Competency:

1. I confirm I have over two years experience operating vessels of a similar type and size (within 10 feet) to the Vessel, have no marine losses in the last ten years, no violations/suspensions (including automobile violations/suspensions) in the last five years, and no criminal convictions or pleas of no contest ever.

Terms:

1. This is a legally valid and binding contract.
2. Boat Rental. This Agreement creates the right for the Member to rent the vessel according to the terms of the Agreement only and the Member shall not acquire any right, title, interest or estate in the Vessel by virtue of the execution, operation, effect or performance of this Agreement.
3. Membership Period: May 15, 2023 - October 15, 2023
4. Owner may allow up to four (4) Members as Renters of the Vessel during the Membership Period.
5. Membership fee: \$7,205 + \$621.43 New York State Sales Tax = \$7826.43 Total. Payable by Check or Cash Only.
6. Members must sign a credit card authorization of \$2,500.00, to be held by Owner during the Membership Period, as security.
7. Dates/times of rentals shall be limited to those reserved in the Owner's reservation system, in 4-hour increments ("slots") in the morning or afternoon of every day during the Membership period. Slots available include 8AM-12PM, 9AM-1PM, 1PM-5PM, and 2PM-6PM.
8. Members may reserve up to one weekend slot in advance, and may reserve up to three weekday slots in advance, on a rolling basis (i.e. when the reserved slot has been utilized, another slot may be reserved). 24 hour advance notice required for all reservations, except in the event a Member is using an AM slot and another Member has not reserved the PM slot following, they may reserve the PM slot while underway.

9. Membership is limited to 120 cumulative engine hours per season per Member, as recorded on the boat's hour meter, to be tracked by Owner. If a Member reaches this limit in the season and wishes to purchase additional engine hours above this limit, the Member may purchase additional hours for the season at \$85/additional hour.
10. Membership entitles Members access to the Owner's reservation system for reserving the Vessel, and allows Rental of the Vessel during the Membership Period in accordance with the terms of this agreement.
11. Members agree to allow Owner to share their personal contact information with other Members for the purpose of coordination and/or collection.
12. Members must complete the Owner's required forms, including Vetting and Training and Safety Briefing.
13. OPERATIONS/USE OF Vessel - Member acknowledges that he has been informed of the whereabouts of the required safety equipment. Members at all times agree to operate the boat and/or Vessel under the terms of this contract. Members will, at no time, allow any person(s) to use, operate, or be carried in the Vessel without approved personal flotation devices being available for each person. Member warrants that he/she has appropriate knowledge of operation of the Vessel and understands and agrees that this use is contingent upon his/her prior experience with the specific Vessel. Member further agrees and understands that he/she will be required to complete instruction in the operation of said Vessel and further agrees to indemnify and hold Owner harmless for any and all use and operation. Member understands that should he/she permit the operation of the vessel by a member of his/her party other than himself/herself, Member's liability and responsibility shall not cease or be altered in any way. Member warrants and agrees not to operate the boat and/or Vessel while under the influence of alcohol or illegal drugs. Member agrees not to allow operation of the Vessel by any other persons. Member agrees not to perform any tow-behind activities with the Vessel, including but not limited to towing boats, waterskiers, wakeboarders, or tubes, and agrees not to perform SCUBA diving from the Vessel.
14. NOTICE OF LOSS OR DAMAGE - Member agrees to immediately report any accident, loss or damage to the Owner, and further agrees to cooperate and provide written or oral statements to the Owner or it's designated representative.
15. REPLACEMENT OF CONSUMABLES - Member will return the Vessel with the same amount of fuel, oil, and other consumables as present at the beginning of use. Any fuel and oil used while the Vessel is utilized under this contract will be replenished by the Member using the Vessel. The fuel tank level will be returned to the pre-use reading on the fuel gauge, and one (1) quart of TCW-3 outboard oil will be replenished for each twelve (12) gallons of fuel used (50:1 gas:oil ratio).
16. CONDITION OF BOAT - Member acknowledges that he/she has examined the boat and/or Vessel described in this contract and has visually inspected and knows the condition thereof and that same is in good condition and repair. Members shall return the Vessel to the designated docking area clean, free of garbage and debris, filled with gas and TCW-3 oil, and in the same condition it was prior to use. During the Membership Period, Owner warrants the Vessel is seaworthy and the Vessel's engine and mechanical systems are in sound operating condition, and agrees to perform normal maintenance to the engine according to the manufacturer's schedule based on hours used (e.g. gear lube, water pump, thermostats, ignition system, fuel system and filters). Owner may make the Vessel unavailable for use at any time to perform normal maintenance without consequence. If the engine or mechanical systems fail as a result of normal age, wear-and-tear, or corrosion, Owner agrees to make best efforts to repair the Vessel in a reasonable timeframe.
17. DAMAGE OR LOSS OF BOAT, AND CONSEQUENTIAL DAMAGES - Members are responsible for operation of the Vessel so as not to cause damage to the engine from misuse (e.g. over-revving, running aground, fouling by fishing lines, anchor or dock lines, nets, continued running with a buzzing temperature alarm, oil, etc.). Members are responsible for the costs of repairing any and all damages that occur to the Vessel during use. Members are responsible for the cost of cleaning the Vessel if it is returned to the docking area dirty. If a Member damages the Vessel due to their negligence and makes the Vessel unavailable during a substantial portion (>25%) of the Membership Period, the negligent Member shall reimburse the other Members based on the number of days the Vessel is made unavailable divided by the number of days in the Membership Period times the Membership Fee. If an overheat condition occurs due to negligent operation by the Member, such as a clogged cooling water intake from shallow water operation, continuous operation at full throttle, or from lack of oil, the Member is responsible for any required repairs. If reduced engine compression, compromised engine bearings, or engine seizure occur during negligent use by a Member, the Member is responsible for engine replacement. If negligent operation by one member results in the Vessel not being available, the negligent Member shall reimburse the other Members based on the number of days out-of-commission divided by the number of days in the Membership Period. Member shall be responsible and agrees to pay Owner for any loss, damage, theft, disappearance, collision or other occurrence to the Vessel and to reimburse Owner at replacement cost for any such occurrence regardless of any other party at fault while the Vessel is in the custody of the Member or upon the consequences of the Terms and Conditions as outlined in this contract. To the extent that damages to the Vessel exceed the amount of the security, Member shall be responsible to the Owner for the full amount of damages caused by Member, including reasonable attorney's fees. Members further agree to pay for towing, salvage or other services and expenses caused to the Vessel resulting from use and/or operation under this contract. Members are required to pay Owner for any and all damages to the Vessel, no matter how small, without exception, occurring during their use. Members shall be liable to other Members for consequential damages if damage occurring during their use results in the Vessel being unavailable for a substantial portion of the Membership Period.

18. IN CONSIDERATION of being permitted to operate the vessel(s) provided by Owner for Member and/or any minor children for whom Member is the legal parent/guardian or otherwise responsible, and for Member's heirs, personal representatives or assigns:

ACKNOWLEDGEMENT OF RISKS: Member fully acknowledges that some, but not all of the risks of operating the vessel in which they are about to engage may include (1) wind shear, inclement weather, lightning, variances and extremes of wind, weather and temperature; (2) any sense of balance, physical condition, ability to operate equipment, swim and/or follow directions; (3) collision, capsizing, sinking or other hazard which result in wetness, injury, exposure to the elements, hypothermia, impact of the body upon the water, injection of water into my body orifices, and/or drowning; (4) the presence of insects and marine life forms; (5) equipment failure, operator error, transportation accidents; (6) heat or sun related injuries or illness, including sunburn, sunstroke or dehydration; (7) fatigue, chill, and/or dizziness which may diminish my/our reaction time and increase the risk of an accident. Member acknowledges that the activities for which the Vessel is designed include inherent dangers, including the risk of bodily injury and/or death. Member assumes and accepts all risks associated with the use of the Vessel.

19. RELEASE AND INDEMNIFICATION - The Member knowingly and voluntarily releases and forever discharges Owner and its members, employees, officers, successors, heirs and assigns from any and all liability, damages, claims and demands whatsoever, resulting from the use of the Vessel, pursuant to this agreement. Member hereby expressly agrees to indemnify and hold harmless Owner, Owner's members, agents, servants, successors, heirs, executors, administrators and personal representatives against all suits, actions, claims, demands, or damages including reasonable attorney's fees that arise out of Member's use, misuse or abuse of the Vessel.

20. The State of New York Release for Participation in the Activity of Boating: In exchange for participation in Use of the Vessel (the "Activity"), organized by Owner & Releasee, I, as Member & Releasor, hereby agree as follows:

- a. I and anyone claiming on my behalf release and forever discharge Releasee and its affiliates, successors and assigns, officers, employees, representatives, partners, agents and anyone claiming through them (collectively, the "Released Parties"), in their individual and/or corporate capacities from causes of action of any nature and kind, known or unknown, which I may have against Releasee or any Released Parties arising out of or relating to any injury, loss or damage to person and property that may be sustained as a result of participation in the Activity ("Claims").
- b. I understand that participation in the Activity involves inherent risks, including risk of physical or psychological injury, pain, suffering, illness, disfigurement, temporary or permanent paralysis and/or death, and I assume all related risks and voluntarily participate in the Activity.
- c. I agree to indemnify Releasee against any and all claims, actions, lawsuits, damages and judgments, including attorney's fees, arising out of or relating to my participation in the Activity.
- d. This Release for Participation in Event or Activity ("Release") shall not be in any way construed as an admission by the Releasee that it has acted wrongfully with respect to me or any other person, that it admits liability or responsibility at any time for any purpose, or that I have any rights whatsoever against the Releasee.
- e. This Release shall be binding upon the parties and their respective heirs, administrators, personal representatives, executors, successors and assigns. I have the authority to release the Claims and have not assigned or transferred any Claims to any other party. The provisions of this Release are severable. If any provision is held to be invalid or unenforceable, it shall not affect the validity or enforceability of any other provision. This Release constitutes the entire agreement between the parties and supersedes any prior oral or written agreements or understandings between the parties concerning the subject matter of this Release. This Release may not be altered, amended or modified, except by a written document signed by both parties. The terms of this Release shall be governed by and construed in accordance with the laws of the State of New York.

21. I have carefully read and fully understand all the provisions of this Release and am freely, knowingly and voluntarily entering into this Release.
22. Member specifically acknowledges they have been given instructions/training in the safe use of the Vessel to their complete satisfaction, and the Member confirms their physical and mental ability to participate in the use of the Vessel.
23. Member agrees that information has been provided regarding the risks involved and skills required for undertaking boating activities, and the special hazards of Gardiner's Bay and surrounding waters.
24. THIRD PARTY LIABILITY - Member agrees and acknowledges that all third party liability for property damage or bodily injury relating to the use and operation of the Vessel are the sole responsibility of the Member and that the Owner provides no liability protection to the Member, or passengers. Member shall indemnify and hold Owner and its members, employees and duly authorized agents harmless from any and all damages and/or liability including reasonable attorney's fees arising out of or resulting from Member's use and/or operation of the Vessel. The Member further assumes all risk involved in the use and/or operation of the Vessel and acknowledges the inherent and natural hazards and perils of boating.
25. TERM AND OWNERSHIP - The agreed use term or period on this contract is as stipulated on Page 1. If the Member fails to return the boat and/or Vessel, such failure may constitute an unauthorized taking and the Member will be fully liable for

all legal fees, costs, and expenses including consequential loss, and the replacement cost of the Vessel. Member understands and agrees that the Vessel described in this contract remains the property of the Owner and the Member agrees to return the same to the location from which it came. Member understands that no right, title, or interest in the Vessel shall pass to the Member. For purposes of enforcing Owner's ownership of said boat and/or Vessel and to protect Owner's rights under this contract, Member agrees that Owner may retake possession of the boat and/or Vessel at any time and for such purposes to enter upon the premises of the Member. Member hereby waives the right of any action against Owner, its members, employees, or agents by reason of such retaking or entry.

- 26. PERSONAL PROPERTY - Member agrees to assume all responsibility for loss or damage from any cause to any and all personal property of the Member and any guest or passenger.
- 27. INSURANCE FINES PERMITS - Member shall obtain and pay for any required insurance, permits and licenses, excluding boat registration. Member agrees to operate the boat and/or Vessel in accordance with all county, state, or federal laws and boating regulations and is personally responsible for any fines due to said violation or negligent operation and does hereby agree to indemnify Owner for the same. If the Vessel is seized or commandeered the Member is totally and completely liable to the Owner at replacement cost, including consequential loss, as if a total loss had occurred.
- 28. ENTIRE CONTRACT - Member and Owner understand and agree that the Terms and Conditions of the entire Agreement as set forth on both sides of this instrument, contains all agreements of the parties, and further, that the headings used herein are for the convenience of the parties only and should not be construed otherwise. No oral explanation or information by any Party shall alter the meaning or interpretation of this agreement. It is the entire Agreement of the Parties. No modification or amendment of the terms hereof shall be made unless made in writing signed by all Parties.

I have read, understand and agree to the charges listed and to the Terms and Conditions of this contract.

_____ (Member signature)

_____ (Member printed name)

Date: _____

Accepted by Owner or Owner's agent:

_____ (Signature)

_____ (Printed Name)

Date: _____