

TIKI KAYAK RENTAL AND USE AGREEMENT
WAIVER, RELEASE OF LIABILITY AND INDEMNITY AGREEMENT

THIS EQUIPMENT RENTAL AND USE AGREEMENT IS MADE AND ENTERED INTO AS OF THE ___ DAY OF _____, 20___ BY AND BETWEEN THE UNDERSIGNED AS LESSEE (the "Lessee") and INTERNATIONAL MERCANTILE MARINE, INC., (the "lessor").

1. The lessee _____(name) hereby expressly assumes all risks, seen and unforeseen of operating any equipment subject to this agreement and hereby agrees not to sue the lessor for lessor=s negligence in the event the lessee is injured or damaged in any way as a result of the operation of this equipment. Risks include, but are not limited to: collisions with other boats, natural or manmade conditions; wind, calm, lightning, rain, hail and other weather conditions; the operator=s physical condition, sense of balance, ability to understand directions and use good judgment; accidents, capsizing, incidental wetness, exposure to hypothermia and drowning; insects and marine life; exposure to sun and heat, fatigue and chill.
2. **Release of liability and Indemnity:** The lessee must also read, sign, and agree to the Assumption and Acknowledgment of Risks and Release of Liability and Indemnity Agreement provided separately.
3. **Lease of equipment:** The lessor agrees to rent to the lessee, and the lessee hereby agrees to rent from the lessor the equipment specified in the title of this agreement.
4. **Fees and conditions of equipment:** The lessee agrees to pay the all charges as set forth in the equipment receipt attached hereto and return the equipment at the time designated by the lessor and in the same condition as when the equipment was delivered by the lessor by the lessee. The lessor reserves the right to charge the lessee additional late or damage fees to the credit card of the lessee. In the event that only one lessee provides identification and signs the agreement and there are multiple users of the equipment, the signatory shall accept complete responsibility for those additional lessees according to this agreement. This responsibility shall also extend to the party that has paid for the charges in the event of any late charges or damage to the equipment.
5. **Sole use:** The lessee(s) shall be the sole and exclusive user(s) of said equipment. The lessee acknowledges and agrees that the lessor may bring a charge of fraudulent conveyance against the lessee if anyone other than the lessee and the persons on the release of liability operates the equipment.
6. **Minors:** If the user of the equipment is to be a minor, the minor's parent or legal guardian must also execute this agreement as an additional lessor. The parent or legal guardian agrees to be fully bound by the terms of this agreement as a party hereto and to undertake the legal obligations hereto, including those imposed by the rental payment, waiver, release and indemnification provisions.
7. **Loss of equipment:** The lessee shall pay for all damages to, or loss of equipment.
8. **Overland Transit of Vessel:** If vessel is transported over land by lessee, lessee assumes all responsibility and liability and warrants that lessee is fully capable of transit, including capability and legality of lessee=s vehicle used for transit.
9. **Repossession:** The lessor reserves the right to repossess the equipment at any time should the lessee violate any of these rules, federal, state or local regulations, or for the improper operation as deemed by the lessor, in its sole discretion.
10. **Rights upon repossession:** There shall be **NO REFUND** to the lessee of the amounts previously paid by the lessee to the lessor hereunder in the event of such a repossession.
11. **Applicability of Agreement:** The lessee acknowledges and agrees that he/she has read this agreement and understands all the terms and provisions contained herein.

12. **Headings:** The headings in this agreement are for convenience only and shall not affect the meaning or interpretation of this agreement or any provision hereof.
13. **Governing Law:** This agreement shall be governed by and construed in accordance with the laws of the state of Florida and venue shall lie solely in Monroe County.

It is the intention of the lessee by executing this agreement to exempt and release INTERNATIONAL MERCANTILE MARINE, INC. and its agents, servants and/or its employees and all related entities from all liability whatsoever for personal injury, property damage, or wrongful death caused by negligence of any party.

OBSERVE THESE RULES:

1. Do not operate a Tiki kayak while under the influences of alcohol or drugs.
2. There will be a minimum \$100 rescue fee. Any commercial assistance will be borne solely by lessee.
3. There must be a life jacket for every person onboard and any one 6 years of age or under must wear their life jacket.
4. The boat must be within sight of land at all times and be between _____ and _____.
5. Tiki kayak to be used only between the hours of sunrise and sunset.
6. In the event of an approaching storm the boat must be returned to safe harbor.
7. The Tiki kayak and life jackets must be returned and signed in by the lessee.
8. There will be a \$40 charge for any lost life jackets.
9. Lessee is responsible for any loss or damage to the equipment.
10. The Florida Keys have a sensitive marine environment; lessee is responsible for and agrees to indemnify lessor for any damage, including damage to reef or bottom.
11. Lessee agrees they have been provided safety equipment, instruction on the use of safety equipment, instruction on the operation of the boat as well as a briefing on the operation of the boat and navigation in the intended area of use.

Law requires life jackets for any one the age of 6 years or under
 Life jackets are strongly recommended for everyone else ACCEPT ___ DECLINED ___

Number of life jackets used _____ Returned _____

I have fully informed myself of the contents of this document by reading it before I signed it on behalf of myself and/or my heirs.

I HAVE READ AND UNDERSTAND THE ABOVE.

Signature

H:\Tiki Watersports\Tiki Kayak Rental Agreement.doc

ASSUMPTION AND ACKNOWLEDGMENT OF RISKS RELEASE OF LIABILITY AND INDEMNITY AGREEMENT

In consideration of being allowed to participate in watersports events and activities and or being provided with watersport recreational property or services, for myself and minor children for whom I am parent; legal guardian or otherwise responsible, and for my/our heirs, personal representatives or assigns. I hereby:

1.) **ACKNOWLEDGMENT OF RISKS.** I acknowledge that WATERSPORTS AND WATER RECREATION ACTIVITIES ARE VERY DANGEROUS and involve the risk of SERIOUS INJURY and/or DEATH. Risks included, but are not limited to changing tides and water flow, collisions, capsizing, inclement weather, equipment failure, operator error, all of which can cause serious damage, injury, paralysis, and or death.

2.) **EXPRESS ASSUMPTION OF RISK AND RESPONSIBILITY.** I agree to assume responsibility for all the risks of the activity, whether identified above or not, EVEN THOSE RISKS ARISING OUT OF NEGLIGENCE OF THE RELEASEES NAMES BELOW. My/our participation in the activity is purely voluntary. I assume full responsibility for myself and any minor children for whom I am responsible, for any bodily injury, accident, illness, sun burn, paralysis, death, or loss of personal property EVEN IF CAUSED, IN WHOLE OR IN PART, BY THE NEGLIGENCE OF THE RELEASEES NAMED BELOW, to the fullest extent permitted by law.

I understand that I am the only persons authorized to operate any watercraft provided to me, and I will not allow any one else to operate the watercraft. I agree to wear a U.S. Coast Guard approved personal floatation device (life jacket) while participating in the activity or riding in any watercraft, and will also require any passengers to wear a life jacket. I AM FAMILIAR WITH AND WILL COMPLY WITH ALL RULES AND REGULATIONS FOR SAFE OPERATION OF THE WATERCRAFT, this includes but is not limited to staying a minimum of 200 ft. from any other vessel in the surrounding waters and keeping the boat under five (5) miles per hour around dock and mooring areas.

3.) **RELEASE.** I hereby release INTERNATIONAL MERCANTILE MARINE, INC., its principals, directors, officers, agents, employees and volunteers and each and every land owner, municipal and /or governmental agency upon whose property an activity is conducted (Aowner@) if any, (collectively AReleases@) FROM ANY AND ALL INJURY OR DAMAGE (INCLUDING DEATH) TO ME OR MY MINOR CHILDREN OR ANY OTHER PERSONS as a result of any/our participation in the activity, EVEN IF CAUSED BY THE NEGLIGENCE OF ANY OF THE RELEASEES NAMES ABOVE OR ANY OTHER PERSONS (INCLUDING MYSELF) to the fullest extent permitted by law.

4.) **INDEMNITY.** I hereby agree to INDEMNIFY AND SAVE AND HOLD HARMLESS the releasees and each of them FROM ANY LOSS, LIABILITY, DAMAGE OR COSTS they may incur arising out of or related to the use of any watercraft provided to me, or arising out or related to my participation in any watersports or water recreational activity, WHETHER CAUSED BY THE NEGLIGENCE OF THE RELEASEES OR OTHERWISE.

I HAVE READ THIS ASSUMPTION AND ACKNOWLEDGMENT OF RISK, RELEASE OF LIABILITY AND INDEMNITY AGREEMENT. I UNDERSTAND THAT BY SIGNING THIS DOCUMENT, I AM WAIVING VALUABLE LEGAL RIGHTS, INCLUDING ANY

AND ALL RIGHTS I MAY HAVE AGAINST THE RELEASEES, THE OPERATOR NAMED ABOVE, OR THEIR EMPLOYEE, AGENTS, SERVANTS, OR ASSIGNS AND INTEND MY SIGNATURE TO BE A COMPLETE AND UNCONDITIONAL RELEASE AND INDEMNITY TO THE GREATEST EXTENT ALLOWED BY LAW.

PRINT NAME

SIGNATURE

A = ADULT C = CHILD

1. _____ / _____

2. _____ / _____

3. _____ / _____

4. _____ / _____

5. _____ / _____

6. _____ / _____