

# Typhoon Tommy's at Lake Oconee, LLC

## WAIVER, RELEASE OF LIABILITY AND ASSUMPTION OF RISK AGREEMENT

### **I. DISCLAIMER**

**YOU MUST BE AT LEAST 25 YEARS OF AGE TO RENT ANY PONTOON BOAT. ANY ONE UNDER THE AGE OF 25 SHALL NOT OPERATE ANY PONTOON BOAT AT ANY TIME.**

This Waiver, Release of Liability and Assumption of Risk Agreement (hereinafter the "Rental Agreement") is applicable to all renters, operators, passengers, and any other users of personal watercraft, pontoon boats, ski boats and boating equipment and accessories (hereinafter collectively the "Watercraft") provided by Typhoon Tommy's at Lake Oconee, LLC, a Georgia limited liability company (hereinafter "Typhoon Tommy's") as well as any other affiliated entities or individuals thereunder. For purposes of this Rental Agreement, the term "Typhoon Tommy's" shall include all members, managers, officers, employees, agents, representatives, assigns, successors, insurers and subsidiaries of Typhoon Tommy's. You agree that you are also signing this Rental Agreement on behalf of any minor children for whom you are the parent, guardian, or whom you are otherwise responsible for the care, custody or control. You agree that you will disclose to Typhoon Tommy's all potential renters, operators, passengers and users of the Watercraft. You further agree that in the event that you fail to notify Typhoon Tommy's of all potential renters, operators, passengers or users of such Watercraft, you will be personally liable for any injuries or damages to the undisclosed individuals, even if such damages arise out of the gross negligence of Typhoon Tommy's.

### **II. EXPRESS ASSUMPTION OF RISK—CAUTION!! READ BEFORE SIGNING**

I ACKNOWLEDGE THAT THE RENTAL, OPERATION OR USE OF A WATERCRAFT HAS INHERENT RISKS THAT MAY LEAD TO BODILY INJURY, DEATH, DROWNING OR PROPERTY LOSS OR DAMAGE. I FURTHER UNDERSTAND THAT I AM NOT BOUND OR REQUIRED TO PARTICIPATE IN ANY OF THE ACTIVITIES RELATING TO THE RENTAL, OPERATION AND USE OF THE WATERCRAFT, BUT I HAVE WILLINGLY AND VOLUNTARILY DECIDED TO PARTICIPATE IN SUCH ACTIVITIES. I REALIZE THAT I AM FREE TO REFUSE TO PARTICIPATE IN ANY OR ALL ACTIVITIES RELATING TO THE RENTAL, OPERATION AND USE OF THE WATERCRAFT INCLUDING THOSE ACTIVITIES I FEEL UNCOMFORTABLE WITH OR WHICH I DETERMINE CANNOT BE COMPLETED SAFELY BY ME. I KNOWINGLY AND VOLUNTARILY ASSUME ALL RISK OF INJURY, ILLNESS, DAMAGE OR LOSS, BOTH KNOWN AND UNKNOWN, ASSOCIATED WITH THE RENTAL, OPERATION OR USE OF THE WATERCRAFT OR ASSOCIATED RENTAL EQUIPMENT, EVEN IF ARISING FROM THE NEGLIGENCE OR OMISSION OF TYPHOON TOMMY'S, AND ASSUME FULL RESPONSIBILITY FOR MY PARTICIPATION IN THE RENTAL, OPERATION AND USE OF THE WATERCRAFT.

### **III. RELEASE / COVENANT NOT TO SUE—CAUTION!! READ BEFORE SIGNING**

I HEREBY RELEASE AND HOLD HARMLESS TYPHOON TOMMY'S FROM ALL LIABILITY, CLAIMS, DEMANDS, LAWSUITS, ARBITRATIONS OR CAUSES OF ACTION FOR ANY INJURY, ILLNESS, DISABILITY, DEATH, OR LOSS OR DAMAGE TO ANY PERSON OR PROPERTY SUSTAINED BY ME AND/OR ANY MINOR CHILDREN FOR WHOM I AM A PARENT, LEGAL GUARDIAN, OR WHOM I AM OTHERWISE RESPONSIBLE, WHETHER CAUSED BY THE NEGLIGENCE OF TYPHOON TOMMY'S OR OTHERWISE. THIS INCLUDES ANY INJURY, ILLNESS, DISABILITY, DEATH, OR LOSS OR DAMAGE TO PERSON OR PROPERTY SUSTAINED AS A RESULT OF A HIDDEN, LATENT OR OBVIOUS DEFECT ON THE WATERCRAFT OR ANY OF THE RENTAL EQUIPMENT USED, OR ANY FAILURE ON THE PART OF TYPHOON TOMMY'S TO PROPERLY INSTRUCT, SUPERVISE OR TRAIN ME ON THE OPERATION OF THE WATERCRAFT. AS PART OF THE CONSIDERATION FOR USING THE WATERCRAFT, I PROMISE NOT TO FILE A LAWSUIT OR OTHER PROCEEDING OR MAKE A CLAIM AGAINST TYPHOON TOMMY'S FOR ANY DEATH, ILLNESS, INJURIES, OR DAMAGE OR LOSS TO PERSONS OR PROPERTY SUFFERED AS A RESULT OF MY PARTICIPATION IN THE RENTAL, OPERATION AND USAGE OF THE WATERCRAFT. IT IS THE INTENT OF THIS RENTAL AGREEMENT TO FULLY AND COMPLETELY RELEASE TYPHOON TOMMY'S FROM ANY AND ALL LAWSUITS, PROCEEDINGS OR CLAIMS OF ANY TYPE WHATSOEVER.

### **IV. INDEMNITY / LIABILITY TO THIRD PARTIES—CAUTION!! READ BEFORE SIGNING**

I AGREE THAT I WILL INDEMNIFY AND HOLD HARMLESS TYPHOON TOMMY'S FOR ALL PERSONAL INJURIES, DEATHS, PROPERTY LOSS OR DAMAGE, OR ANY OTHER DAMAGES TO ANY AND ALL THIRD PARTIES, INCLUDING, BUT NOT LIMITED TO, OPERATORS AND PASSENGERS OF OTHER WATERCRAFT, SWIMMERS AND MINOR CHILDREN UNDER MY CUSTODY, CARE, AND CONTROL, AS A RESULT OF ANY AND ALL ACTIVITIES RELATED TO MY RENTAL, OPERATION, OR USE OF WATERCRAFT PROVIDED BY TYPHOON TOMMY'S, EVEN IF SUCH DAMAGES ARISE OUT OF THE NEGLIGENCE OR FAULT OF TYPHOON TOMMY'S.

**V. GENERAL TERMS AND CONDITIONS**

I certify that I have received adequate and proper safety and operational instruction for the Watercraft from Typhoon Tommy's. I am capable in all aspects of the handling and operation of such Watercraft and following all safety instructions provided by Typhoon Tommy's. I agree not to use, nor permit the use of the Watercraft (a) for any unlawful purpose; (b) in a careless, reckless, or negligent manner; (c) while under the influence of alcohol and/or drugs; (d) in violation of the safety instructions I received from Typhoon Tommy's; or (e) in violation of the Rental Policy and Operation Procedures attached hereto.

I expressly agree that Typhoon Tommy's shall not be liable for any loss or damage to any personal property left, stored or transported by me in or upon the Watercraft.

This Rental Agreement sets forth the entire agreement and understanding between the parties, and all previous discussions, understandings, representations, negotiations, and agreements with respect to the matters included in this Rental Agreement are merged herein. Additionally, the consideration recited herein is the full, complete and entire consideration for this Rental Agreement, and there is no further consideration to be paid by any party to any other party except as recited herein.

If any provision or part of this Rental Agreement shall be determined to be void or unenforceable by a court of competent jurisdiction, the remainder of the Rental Agreement shall remain valid and enforceable by any party to this Rental Agreement.

This Rental Agreement shall be governed by and construed under the laws of the State of Georgia and venue in Putnam County, Georgia. In the event Typhoon Tommy's prevails in any litigation or claim relating to the enforcement of the provisions contained herein, I agree to pay and indemnify Typhoon Tommy's for its litigation expenses, including without limitation, reasonable attorneys fees and court costs.

I acknowledge and agree that Typhoon Tommy's is not affiliated with Seed Orchard, LLC, The Golf Club at Cuscowilla, LLC or any other subsidiaries or affiliates of those entities and that this Rental Agreement is a contract solely between Typhoon Tommy's and me.

**I EXPRESSLY WARRANT AND REPRESENT THAT BEFORE EXECUTING THIS RENTAL AGREEMENT I HAVE FULLY INFORMED MYSELF OF THE TERMS, CONDITIONS AND EFFECT OF THIS RENTAL AGREEMENT, AND THAT I HAVE RELIED SOLELY ON MY OWN JUDGMENT IN EXECUTING THIS RENTAL AGREEMENT.**

I HAVE READ THE TERMS OF THIS RENTAL AGREEMENT, INCLUDING, BUT NOT LIMITED TO, THE PROVISIONS REGARDING ASSUMPTION OF RISK, RELEASE AND COVENANT NOT TO SUE, AND INDEMNITY, AND I UNDERSTAND THAT I AM WAIVING SUBSTANTIAL RIGHTS IN CONSIDERATION FOR MY USE OF TYPHOON TOMMY'S WATERCRAFT. I ENTER INTO THIS RENTAL AGREEMENT FREELY AND VOLUNTARILY WITHOUT ANY INDUCEMENT.

**CAUTION!!! READ THE ENTIRE THREE PAGES OF THIS RENTAL AGREEMENT BEFORE SIGNING. THIS RENTAL AGREEMENT AFFECTS YOUR LEGAL RIGHTS AND RELEASES ALL OF YOUR CLAIMS AGAINST TYPHOON TOMMY'S**

**Signature below indicates that you have read this entire Rental Agreement and agree to its terms and conditions.**

- Please Select Rental Watercraft:**     Pontoon Boat
- Please Select Rental Accessories:**     Rental Tube
- Please Select Payment Method:**     Credit Card     Cash

<b>Name:</b>	
<b>Address:</b>	
<b>City, State, Zip:</b>	
<b>Telephone Number (Cell):</b>	
<b>Driver's License Number:</b>	
<b>Date of Birth:</b>	

(All Information must be completed prior to rental)

By checking this box you agree that you have watched the DNR safety video

**VI. EXHIBIT "A"**

I hereby voluntarily and of my own volition give Typhoon Tommy's at Lake Oconee the right to immediately charge my credit card in the event there is any damage to, accident or incident of any kind regarding the rented watercraft during the rental period. This includes damages done to the rental watercraft, motor, or equipment as a result of beaching, running aground, reckless operation, negligence, equipment loss, or violation of the rules. I understand that Typhoon Tommy's at Lake Oconee will conduct an estimate for repairs by a licensed repair company of their choosing and provide me with a copy for review. I further covenant and agree not to challenge the charge on my credit card with the bank or financial institution issuing my card. I recognize that Typhoon Tommy's at Lake Oconee has a good faith basis for requiring this provision as it is the only way to protect them from me canceling my credit card or challenging the charges in the event of damages to the watercraft.

All damages deemed extreme by Typhoon Tommy's at Lake Oconee are subject to investigation by the Putnam and Green County Sheriff's Department.

**VII. EXHIBIT "B"**

I hereby voluntarily and of my own volition give Typhoon Tommy's at Lake Oconee the right to immediately charge my credit card, provided via photocopy on file, for any and all fuel used during my rental period. I acknowledge and understand that Typhoon Tommy's at Lake Oconee does not have fuel on the Cuscowilla property and must utilize other various marinas to refuel the rented watercraft. I acknowledge and understand that my credit card receipt will show a different name for rental fuel charges only and further covenant and agree not to challenge the charge on my credit card with the bank or financial institution issuing my card.

**VIII. CANCELLATION POLICY!**

Cancellations may be made 48 hours (2 days) or more prior to the scheduled boat rental departure time without penalty. Cancellations within 48 hours (2 days) of scheduled boat rental departure time shall be charged 50% of agreed upon rental price. Cancellations due to NO SHOW shall be charged 100% of agreed upon rental price on the credit card on file.

**IX. CUSTOMER RESPONSIBILITY!**

- Using Pontoon Boat according to Georgia Boating Regulations
- Wearing a Life Vest at all times
- Keeping the Pontoon Boat 100 feet away from the shoreline and other boats at all times
- Always lower the Bimini Top when going under bridges
- No JET SKIS allowed next to Pontoon Boat
- Returning Pontoon Boat with all equipment in the same condition as when it was rented
- Securing all of your items. Choose wisely which electronics you bring on the Pontoon Boat

**CAUTION!! PHYSICAL DAMAGES & FUEL COSTS**

By my signature below, I agree that I have read and fully understand the Waiver and Release of Liability and agree to pay for any and all repair costs and other physical damages that may occur to the watercraft during my rental, operation or other use from any cause whatsoever as specifically set forth in Exhibit "A" of this rental agreement. I also agree to pay for any and all fuel during my rental use as specifically set forth in Exhibit "B" of this rental agreement. In the event of damages to the rental watercraft, I hereby authorize Typhoon Tommy's at Lake Oconee to charge the amount of such excess damages to my credit card listed on page 2 of the rental agreement.

***Acknowledged and agreed the \_\_\_\_\_ day of \_\_\_\_\_, 2019.***

\_\_\_\_\_  
***Signature***