

## **ACKNOWLEDGMENT OF AND CONSENT TO RISKS AND WAIVER AND RELEASE OF LIABILITY**

As a passenger aboard the vessel Searcher, I am about to encounter certain known risks necessarily associated with being a passenger aboard a seagoing vessel. I understand and acknowledge that there are known and unanticipated risks which could result in injury, illness, disease, death, emotional distress and/or damages to myself, my property or to third parties. I acknowledge and am willing to accept and to waive, and to release Searcher and the affiliated persons and entities set forth below from, all claims, damages and liability associated with my participation both as a passenger onboard the vessel and in various activities that may be made available to me during the trip, as set forth below.

In connection with my waiver and release, I acknowledge and agree to the following:

1. The Searcher operates in a dynamic, marine environment. While at the dock, and particularly while operating in harbor or offshore ocean conditions, the vessel is subject to the rolling and pitching action of the wind and waves. While underway, extra vigilance is required to maintain balance and protect against the risks and effects of sudden movements of the vessel. I agree to use heightened care for my own safety and that of others while onboard. While standing, sitting, or walking about the vessel (including boarding, disembarking, climbing and descending steps, stairs, using the ladder), I will pay attention to my environment and utilize available handholds, grab holds, rails, tables, bulkheads, railings, and other fixed elements of the vessel to avoid slipping and falling.
2. Some activities will require exiting and reboarding the vessel into the water or onto other watercraft while the vessel is not at a dock. I understand these transitions present additional challenges and risks and may involve moving from one platform to another, into the water or onto the shore, often using ladders and climbing, descending up and crossing spans between two objects. I agree to pay attention to my environment and crew member's instructions and exercise extra caution while executing these activities.
3. Due to the marine environment in which it operates, the vessel decks and stairs can become slippery. The vessel has uneven surfaces and protrusions in the deck area, hatches which may be open, and hoses and other items necessary to the vessel's operation may be on the deck. While walking on the vessel I will remain vigilant for these obstacles and conditions to avoid tripping, falling and injury. I acknowledge that I could fall into one and be injured. I acknowledge appropriate footwear, particularly closed-toe, low- or no-heeled shoes with rubber or other non-skid bottoms is recommended and should be worn while moving about.
4. I will always make an effort to be aware of where all other passengers are so I do not inadvertently injure them and so they do no inadvertently hurt me. I acknowledge the vessel owner is not responsible for other passenger's actions.
5. If I participate in hiking excursions, I will be mindful of my surroundings and be careful of my footing and plant and animal dangers I may encounter in wilderness settings.
6. I expressly acknowledge and agree, as a condition of my participation in swimming and snorkeling activities organized for my trip, I will be subjecting myself to specific risks and dangers of those activities, including but not limited to:
  - A. Changing and unpredictable weather conditions, strong currents, undulating seas and waves;
  - B. Marine life encounters, such as jellyfish, stingrays, and other potentially harmful creatures;
  - C. Submerged obstacles and hazards, including rocks, reefs, marine debris;
  - D. Fatigue and physical exertion leading to potential injuries, hypothermia or drowning;
  - E. Other nearby participants or watercraft which pose risk of collision or injury.
7. If I decide to consume alcohol, I will be extra careful while aboard the vessel, as I recognize that conditions aboard a vessel are different than ashore. I acknowledge that I am aware of my tolerance to alcohol and limitations and will not become inebriated.
8. I agree to familiarize myself at the beginning of the trip (before departure and as reasonably soon after boarding as possible) with the unique characteristics of the vessel and layout; to participate in all safety briefings; to learn the location of lifesaving equipment and emergency procedures; and to follow rules of conduct while onboard; and to obey all safety and operational instructions from captain and crew. I will ask a crewmember if I have any questions.
9. I will not be on deck alone between sunset and sunrise, and not at any time unless I have first notified a crew member.

INITIALS: \_\_\_\_\_

10. I acknowledge that I will not bring any weapons or illegal substances, including but not limited to drugs or explosives, aboard the vessel.

11. I certify that I am physically capable of participating as a passenger aboard the vessel and if I am elderly or overweight or otherwise have physical limitations, I will ask for assistance when needed.

I agree to assume on my behalf (and on behalf of all minor children who accompany me) all the risks inherent with being a passenger aboard the vessel. My participation as a passenger aboard the vessel is purely voluntary and I elect to participate in spite of the known and unknown risks.

### **LIMITS OF RESPONSIBILITY**

T&J Sportfishing LLC assumes no responsibility for government restrictions or regulations, or costs associated with changes in travel arrangements out of our control. Our itineraries are subject to change due to weather, captain's discretion, considerations for wildlife, passenger safety and comfort, and the uncertainties of operating in foreign wildlife preserves. Such changes shall be made without penalty to T&J Sportfishing LLC.

By signing below, and in consideration and part payment for the right to be a passenger and participate in the trip and offered activities, I acknowledge reading and understanding the foregoing, affirm that I have had any questions answered to my satisfaction, and voluntarily agree for myself and my heirs and assigns to assume the risks and to waive, release and hold harmless T&J Sportfishing LLC, Michael Todter, Joshua Evans, and the members, directors, officers, employees, agents, affiliates, subsidiaries, parents and representatives of each of them (the "RELEASED PARTIES") from and against all claims, liability and damages that occur while engaging in or arise from activities at the Landing and onboard a vessel. This waiver and release applies to all acts, conduct, omissions, and failures to act by RELEASED PARTIES, whether sounding in contract or tort, and whether based on claims of negligence, gross negligence, or recklessness, and includes a waiver of entitlement to seek exemplary or punitive damages for any alleged intentional injury.

I agree that all disputes between me or my estate on the one hand and any one or more of Releasees on the other hand arising out of or related to this Acknowledgement and Release or the trip for which this Acknowledgement has been signed shall be conducted and resolved solely and exclusively by arbitration conducted by JAMS (an arbitration facilitator) in San Diego, California, according to California law. I expressly acknowledge and waive all rights to have any disputes decided by a jury of my peers. I further agree not to initiate, pursue, voluntarily "opt in," or actively encourage or participate in any effort to pursue class action or multiple plaintiff relief or proceeding against any of the Released Parties.

Initials \_\_\_\_\_

Please sign below to acknowledge that you have read and accept the above statements.

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Date

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Signature

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Printed Name

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Name of Minor Child if Signing as Parent/Guardian