



## Condo Association Member Haul and Launch Agreement

GENERAL INFORMATION			
HAUL DATE		REQUESTED LAUNCH DATE	
ACCOUNT #	# OF ACCESS KEYS/CARDS	BLACK CARD #	
SERVICE FEES			
HAUL AND LAUNCH FEE	TAX	OTHER FEES	TOTAL
OWNER INFORMATION			
OWNER NAME		NAME OF REGISTERED AGENT <i>(if Owner is a business entity)</i>	
EMAIL	PRIMARY PHONE	SECONDARY PHONE	
MAILING ADDRESS			
BILLING ADDRESS			
BUSINESS NAME & ADDRESS <i>(if applicable)</i>			
EMERGENCY CONTACT		PHONE	
BOAT INFORMATION			
BOAT NAME		MAKE	MODEL
POWER TYPE	OVERALL LENGTH	BEAM	YEAR
HULL ID		HEIGHT	
HOME PORT		DRAFT	
INSURANCE INFORMATION			
INSURANCE COMPANY		Deliver proof of insurance to 11840 Toledo Beach Rd., LaSalle, MI 48145.	
TERMS AND CONDITIONS			

This Condo Association Member Haul and Launch Agreement (this “Agreement”) is entered into by and between SHM Toledo Beach, LLC (“SHM”) and the above-named Owner, as owner of the boat identified above, including, without limitation, any rigging, engines, appurtenances and contents stored thereon (collectively, the “Boat”), with respect to the marina located at 11840 Toledo Beach Rd., LaSalle, MI 48145 (the “Marina”), on the following terms and conditions.

**1. SERVICES.** Owner hereby engages SHM to haul and launch the Boat in connection with Owner’s use of the outdoor storage area located at the Marina (the “Storage Area”) for storage of the Boat. The term of this Agreement begins on the Haul Date and continues to the Launch Date unless terminated earlier as provided herein.

**2. FEES.**

(a) Haul and Launch Fees and sales tax (if applicable) (the

“Haul and Launch Fee”), as well as any other fees or charges and applicable sales tax (collectively, the “Other Fees”) shall be due in full upon execution of this Agreement. The Service Fees shall not be refunded for any reason.

(b) If any Haul and Launch Fee or Other Fees (collectively, the “Service Fees”) are not paid by the applicable due date or if any check is returned for insufficient funds, a late charge of \$30.00 may be imposed. If any Service Fees remain unpaid for more than ten (10) days beyond the applicable due date, then SHM may, in addition to the foregoing late charge, collect interest on the delinquent amounts at the lesser of the highest rate permitted by law or one and one-half percent (1.5%) per month (eighteen percent (18%) per annum) (the “Default Rate”) until paid in full. Non-receipt of any billing statement does not relieve Owner of the obligation to pay all charges due. All payments shall be made at the Marina. SHM may measure all boats for accurate billing purposes and may

charge the greater of the LOA (length overall) or the cubic feet of the Boat. The LOA shall include any bowsprits or pulpits, swim platforms or similar protuberances or extensions.

**3. USE OF STORAGE AREA.** This Agreement confers no license, leasehold or other real property interest (including a residential tenancy even if the Owner resides aboard the Boat) or right to use the Storage Area and does not create a bailment. This Agreement shall not be considered a warehouse agreement under any other Applicable Law, and Owner acknowledges SHM is not a "warehouseman".

**4. LAUNCH DATE.** Owner must provide a requested launch date upon signing this Agreement. Owner must contact SHM on or before May 1 to schedule a final launch date, which shall be no later than May 15. In the event that the Owner desires to change the launch date after May 1, SHM will attempt to accommodate the new date provided that the Owner pays reblocking fees for all vessels impacted by the change. Owner must ensure that, in any event, the Boat is launched no later than May 31. As used herein, "Launch Date" shall mean the actual date of the Boat's launch.

**5. SECURITY.** SHM may but is not required to retain the services of security personnel, install and operate monitoring cameras or otherwise provide security features. Owner agrees and consents that Owner, the Boat and any Owner Parties may be recorded by any security system or monitoring cameras. Such security is provided solely for the protection of SHM's property, and SHM assumes no responsibility for the personal safety of Owner or Owner's family members, agents, employees, contractors, crews, guests, invitees, passengers or permittees (collectively "Owner Parties"), or for the safety of the Boat or any other vessels or their respective appurtenances or any other property.

**6. LAWS, RULES, AND REGULATIONS.** Owner shall comply with all applicable laws, codes, ordinances, rules and regulations of federal, state and local entities, including environmental laws, rules and regulations of the U.S. Coast Guard (collectively, "Applicable Laws"). Owner shall comply with all rules adopted by SHM ("Rules"). SHM reserves the right to alter, amend and modify the Rules at any time by posting a copy of the updated Rules at the Marina, on the Marina's website, or by furnishing a copy to Owner.

**7. HAZARDOUS SUBSTANCES.** Owner shall not release or permit to be released any hazardous waste or environmentally objectionable substances, including oil, gasoline or untreated sewage ("Hazardous Substances"). Owner shall be solely responsible for all costs, claims, damages and liability resulting therefrom, including the costs of booms, absorbent pads, disposal of the Hazardous Substance, clean up oversight by governmental agencies and Marina personnel, and any legal fees, costs and penalties incurred in defense of any violations attributable to Owner. Owner shall immediately report any such release to the appropriate government authorities and to the Marina manager and shall clean up any release of Hazardous Substances. If SHM is not satisfied with Owner's actions, SHM may take any action it deems appropriate at Owner's expense. This provision is in addition to, and not in lieu of other environmental and liability limitation/exoneration terms herein and shall survive the termination or expiration of this Agreement.

**8. WEATHER.** SHM is not obligated or required to provide any protection or alternative location to the Boat or its occupants in the event of hazardous weather. Owner acknowledges and agrees that it is Owner's sole responsibility to take whatever measures are necessary to prevent the possibility of damage in such conditions and that SHM is not responsible in any manner for any damages to Boat or occupants as a result of hazardous weather, regardless of preventative measures taken by Owner or any action taken by SHM.

**9. BOARDING AND REMOVAL OF BOATS.** In case of a

perceived emergency by SHM, SHM is authorized to do whatever SHM deems reasonably appropriate without incurring any liability for damages or losses from such action or inaction. Owner agrees to pay for any work done by SHM.

**10. INSURANCE.** Owner agrees to purchase and maintain insurance against such risks as Owner deems prudent and shall look first to said insurance for compensation or damages related to any losses regardless of responsibility. Owner shall at all times during the course of this Agreement maintain, with an insurance company that is acceptable to SHM, a Protection and Indemnity policy of insurance with limits of not less than \$500,000 and a deductible of not more than \$10,000 per occurrence,  naming Safe Harbor Marinas, LLC, and SHM TRS, LLC and their affiliates and subsidiaries as additional insureds. Owner shall also maintain a Hull and Machinery policy covering at least 100% of the present actual cash value of the Boat, with endorsements for extended perils, damage by fire, pollution and fuel spills, salvage and wreckage removal, vandalism and burglary. Such limits of insurance are minimum requirements only and are not intended in any way to limit the insurance available under such insurance policies or Owner's liability. Upon execution of this Agreement and as requested by SHM from time to time, Owner shall provide SHM with a certificate of insurance evidencing required coverage and shall produce evidence of the renewal of the policies no later than 30 days prior to their expiration. All policies of insurance shall require 30 days' advance notice by the insurance company to SHM of any amendment or cancellation. As to all such policies of insurance and all claims made thereon, for himself/herself/itself and his/her/its insurers, Owner specifically waives all rights of recovery against SHM and the SHM Parties.

**11. LIEN.** Owner hereby grants to SHM a lien on the Boat for any fees or damages payable under this Agreement which are not paid to SHM when due, and SHM may pursue all legal and equitable remedies to perfect and foreclose said lien, including but not limited to chaining or locking the Boat. The right of enforcement of the lien herein granted to SHM shall be in addition to any and all other rights and remedies available to SHM hereunder or in connection herewith and shall not in any manner alter, waive or abrogate Owner's personal liability hereunder. To secure the lien rights granted herein, SHM shall have the right to file one or more financing statements in the jurisdiction of Owner's residence as that jurisdiction appears on the certificate of title to the Boat or an equivalent document. **THIS AGREEMENT INCORPORATES BY REFERENCE FEDERAL STATUTE 46 U.S.C., § 31342 (A/K/A THE COMMERCIAL INSTRUMENTS AND MARITIME LIEN ACT), CHAPTER 570, §§ 371-379 (A/K/A THE MICHIGAN MARINA AND BOATYARD STORAGE LIEN ACT) AND § 324.76107 OF THE MICHIGAN COMPILED LAWS UNDER WHICH SHM IS HEREBY GIVEN A LIEN ON THE BOAT THAT MAY BE FORECLOSED IN THE EVENT OF ABANDONMENT OR NON-PAYMENT OF THE FEES DUE AND PAYABLE HEREUNDER. THE RIGHTS AVAILABLE TO SHM UNDER SAID STATUTES ARE IN ADDITION TO ANY AND ALL OTHER RIGHTS WHICH SHM HAS AVAILABLE TO IT UNDER THIS AGREEMENT OR OTHERWISE AT LAW AND/OR IN EQUITY.**

**12. HOLDOVERS.** If the Boat remains in the Storage Area following May 31 or any earlier termination of Owner's right to use the Storage Area (the earlier of such dates, the "Termination Date"), the Boat shall be regarded as a trespasser, and, without waiving objections to such trespass, fees shall accrue at a rate equal to the rate then charged by SHM for summer dry storage at the Marina, prorated on a daily basis, beginning the day following the Termination Date until the Boat is removed from the Storage Area. The

terms of this section shall survive notwithstanding the termination or expiration of this Agreement.

**13. DEFAULT/REMEDIES.** The parties agree that all terms and conditions herein are material and fundamental, and that in the event of a breach by Owner or Owner Parties of any of the terms or conditions of this Agreement or any other written agreement between SHM and Owner, including any of the Rules, SHM may immediately terminate this Agreement (except as otherwise provided herein), without refund, by notice to Owner, whereupon Owner shall immediately pay all sums due and payable to SHM and, after the Termination Date, remove the Boat from the Storage Area. Notwithstanding the above, SHM may elect to provide notice of an opportunity to correct such breach, rather than immediately terminating this Agreement. In the event of any such breach by Owner of this Agreement, SHM may also exercise all rights and remedies available to it under Applicable Laws.

**14. WARRANTIES.** SHM MAKES NO WARRANTIES, EXPRESS OR IMPLIED, including as to the condition of the Storage Area or the Marina or the suitability of the Storage Area, or the Marina for Owner's intended purposes and undertakes no duty to advise Owner or Owner Parties of any hazardous conditions. Owner acknowledges that Owner has had an opportunity to inspect the Marina and the Storage Area prior to execution of this Agreement and agrees to accept both in their current "as-is" condition. Owner represents and warrants that (i) Owner has an ownership interest in the Boat or Owner is fully authorized to bind the owners of the Boat to the terms and conditions of this Agreement; (ii) Owner and the Boat shall comply in all respects with all Applicable Laws, including, without limitation, the Federal Water Pollution Acts (33 U.S.C. Section 1321 - prohibiting discharge of oil or oily water; 33 U.S.C. Section 1322 - prohibiting discharge of untreated sewage; and (iii) (1) Owner is not currently identified on the Specially Designated Nationals and Blocked Persons List maintained by the Office of Foreign Assets Control of the Department of the Treasury ("OFAC"); (2) Owner is currently in compliance with and shall at all times during the Term (including any extension of the Term) remain in compliance with the regulations of the OFAC; (3) Owner shall comply with all requirements of United States law relating to money laundering, anti-terrorism, trade embargos and economic sanctions, now or hereafter in effect; and (4) Owner shall not use funds which Owner receives from any "Prohibited Person" (as such term is defined in the September 24, 2001 Executive Order Blocking Property and Prohibiting Transactions with Persons Who Commit, Threaten to Commit, or Support Terrorism) to make any payment due to SHM under this Agreement.

**15. LIABILITY AND INDEMNITY.**

**(a) All risk of loss or damage to property and of personal injury or death shall be upon the Owner, and Owner shall be responsible for and shall promptly, upon demand, pay SHM for any costs or damage incurred by SHM or others due to acts or omissions of the Owner, the Boat, or the Owner Parties. Owner agrees that SHM, Safe Harbor Marinas, LLC, SHM TRS, LLC, and their affiliates and their officers, agents and employees (collectively, the "SHM PARTIES") shall not be liable to Owner or to any party claiming by, through or under Owner for (and Owner hereby releases SHM and the SHM Parties from any claim or responsibility for) any injury to persons (including death), damages (no matter how occurring), or damage to or destruction, loss, loss of use, or theft of any property (including the Boat), caused by casualty, theft, fire, third parties, or faulty repair, or any other matter or cause (including any named storm or act of God); EXCEPT TO THE EXTENT CAUSED BY THE**

**NEGLIGENCE, GROSS NEGLIGENCE OR WILLFUL MISCONDUCT OF SHM OR SHM PARTIES.**

**(b) Owner agrees to indemnify, protect, defend and hold harmless SHM and the SHM Parties for, from and against all liabilities, costs, expenses damages or injuries (including death) to Owner, any Owner Parties or any other persons; damages to or loss of property or the Boat; expenses of any nature, kind or description of any person or entity, directly or indirectly arising out of, caused by, or resulting from (in whole or part) (i) theft, fire, or faulty repair, or by reason of any other cause, (ii) any activity, work or other things done, permitted or suffered by the Owner or Owner Parties, (iii) any breach or default in the performance of any of Owner's obligations under this Agreement or the exercise by Owner of its rights, (iv) any act, omission, negligence or willful misconduct of Owner or Owner Parties, or (v) any damage to Owner's, an Owner Party's, or third party's property; EXCEPT TO THE EXTENT CAUSED BY THE NEGLIGENCE, GROSS NEGLIGENCE OR WILLFUL MISCONDUCT OF SHM OR SHM PARTIES.**

(c) The terms of this section shall survive notwithstanding the termination or expiration of this Agreement.

(d) Owner's liability under this section is limited to the greater of Owner's actual insurance coverage and the insurance coverage required under Section 10 hereof, and SHM shall look only to said insurance or its own insurance for compensation or damages related to any losses regardless of responsibility, **EXCEPT TO THE EXTENT CAUSED BY THE NEGLIGENCE, GROSS NEGLIGENCE OR WILLFUL MISCONDUCT OF OWNER OUTSIDE THE SCOPE OF SUCH COVERAGE.** Notwithstanding the foregoing, if Owner fails to maintain the insurance coverages required under Section 10 hereof and a claim occurs or accrues while such failure is ongoing, then the terms of this subsection (d) shall be of no force and effect with respect to such claim.

(e) This section shall govern liability and indemnity between the parties for events occurring during or arising out of, directly or indirectly, the haul or launch of the Boat, whether in whole or in part.

**16. MASTER LEASE.** If the Marina is adjacent to or connected with a body of water over which a private entity or federal, state or local governmental authority with whom SHM has entered an agreement pertaining to the use of the land or water by SHM (the "Master Lease"), then the terms of the Master Lease are incorporated by reference into this Agreement and shall apply to Owner with the same force and effect as SHM. This Agreement shall be subject and subordinate to the Master Lease. If there are any conflicts or inconsistencies between this Agreement and the Master Lease, the Master Lease shall govern and control. Notwithstanding the foregoing, nothing in this Agreement gives Owner any direct or third-party interest in the Master Lease.

**17. NOTICES.** All notices shall be in writing and shall be deemed to be given (i) when personally delivered to the other party; (ii) five (5) days after deposit in the mail, postage prepaid, addressed to the other party, and sent by Certified Mail Return Receipt Requested; or (iii) with respect to notice to Owner, when sent via email to Owner. Owner is responsible for informing SHM of any changes to Owner's current address, phone number or email address. Notices to the Owner shall be delivered to either the mailing address or email address listed in the section titled Owner Information. Notices to SHM shall be delivered to the physical address of the Marina first referenced above, with a required copy by email to notices@shmarinas.com.

**18. AFFILIATE TRANSFER; SALE; AND ASSIGNMENTS.**

Notwithstanding anything in this Agreement to the contrary, SHM may transfer or assign (in whole or in part) the rights, duties and obligations of SHM under this Agreement to any affiliate of SHM or to any party that purchases the Marina at any time without the consent or approval of Owner. Without SHM's written consent, Owner may not sublet, transfer, or assign this Agreement. Any attempt to sublet, transfer, or assign this Agreement without SHM's prior written consent shall be void.

**19. FINAL AGREEMENT; OTHER.**

(a) The Section and paragraph captions contained in this Agreement shall not be considered in the construction or interpretation of this Agreement. In this Agreement, (i) the singular includes the plural and the plural includes the singular and the masculine gender includes the feminine and neuter and vice versa, (ii) "or" means "and/or", (iii) "including" or "include" means "including without limitation", (iv) unless otherwise specified, when exercising its right to approve or consent to an action is entitled to withhold or condition such consent or approval in its sole and absolute discretion, and (v) any date herein which does not include a year shall be deemed to refer to the first occurrence of such date after the Haul Date.

(b) SHM's rights and remedies are cumulative, and pursuit of any remedy is not an election of remedies or a waiver of any other remedies. No waiver or forbearance of a breach of this Agreement shall be construed as a waiver or forbearance of any subsequent breach. The acceptance of any performance or the payment of any amounts after the same has become due or at a time when any other default exists shall not constitute a waiver of the right to demand payment of all other amounts owed or a waiver of any other default then or existing thereafter. If any provision of this Agreement is deemed invalid or unenforceable by any court of competent jurisdiction, and if limiting such provision would make the provision valid, then such provision shall be deemed to be construed as so limited and the remainder of this Agreement shall continue in full force and effect. This Agreement and the exhibits attached hereto, if any, contain all of the agreements of the parties with respect to any matter covered or mentioned in this Agreement, and no prior agreement or understanding pertaining to any such matter shall be effective for any purpose. No provision of this Agreement may be amended or added to except by an agreement in writing signed by the parties or their respective successors in interest.

(c) If the Boat is owned by an entity, the person signing below affirms that he/she has full authority to bind the Owner to this Agreement, and that such person (signing this Agreement) personally guarantees performance of the payment and all other contractual obligations of the Owner. If the person signing this Agreement is an agent of Owner,

including a captain, such person represents that he/she has the authority to bind the Owner, and that he/she shall personally guarantee performance of payment and all other contractual obligations of the Owner in the event that he/she does not actually have such authority to bind the Owner. If more than one party signs this Agreement as Owner, all of such parties shall be jointly and severally liable for the performance of all obligations of Owner and shall be bound by this Agreement. Unless SHM is notified in advance in writing, anyone in possession of or apparent charge of the Boat shall be deemed to have the authority to act on behalf of Owner and SHM shall be entitled to accept and act in reliance upon orders or requests by such persons for services, supplies, work, labor and other material of any kind for the benefit of Boat or Owner.

(d) This Agreement may be executed in one or more counterparts, including facsimile signatures (e.g., pdf. files transmitted by email) or digital signatures affixed to electronic counterpart signature pages using digital signature software that electronically captures, or allows a signatory to adopt, an identifying mark as such person's signature to this Agreement (e.g., DocuSign®). The parties intend that such electronic signatures shall constitute original signatures and be binding upon the parties and that the terms and conditions of this Agreement shall be binding upon the parties.

(e) This Agreement shall be binding upon and inure to the benefit of the parties hereto, their heirs, executors and administrators and permitted successors and assigns.

(f) Owner shall not record this Agreement or any memorandum in the real property records.

(g) If either party defaults under this Agreement the other party shall be entitled to recover all costs incurred, including reasonable attorneys' fees, in enforcing or protecting its rights. This Agreement shall be governed by the laws of the State where the Marina is located. Any action brought related to this Agreement shall be brought in the county in which the Marina is located or the Federal District in which the Marina is located.

(h) OWNER AND SHM HEREBY KNOWINGLY, VOLUNTARILY AND INTENTIONALLY WAIVE THE RIGHT EITHER MAY HAVE TO A TRIAL BY JURY WITH RESPECT TO ANY AND ALL ISSUES PRESENTED IN ANY ACTION, PROCEEDING, CLAIM OR COUNTERCLAIM BROUGHT BY EITHER OF THE PARTIES HERETO AGAINST THE OTHER OR ITS SUCCESSORS WITH RESPECT TO ANY MATTER ARISING OUT OF OR IN CONNECTION WITH THIS AGREEMENT OR THE RELATIONSHIP OF SHM AND OWNER. THIS WAIVER BY THE PARTIES HERETO OF ANY RIGHT EITHER MAY HAVE TO A TRIAL BY JURY HAS BEEN NEGOTIATED AND IS AN ESSENTIAL ASPECT OF THEIR BARGAIN.

Owner acknowledges that Owner has read and fully understands this Agreement, including without limitation the Rules, which are incorporated by reference. Owner certifies that the information provided is correct and agrees to promptly notify SHM in the event of changes to the above information. Copies of the current Boat registration or documentation and certificates of current insurance policies are required to be kept at the Marina office for as long as the Boat is in the Marina. Owner and SHM have duly executed this Agreement as of the day and year written below.

**SHM**

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

\_\_\_\_\_  
*Authorized Signatory*

\_\_\_\_\_  
*Title*

\_\_\_\_\_  
*Date*

**OWNER**

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

\_\_\_\_\_  
*Print Name*

\_\_\_\_\_  
*Date*