



Aquatic Consulting Services

1220 Rosecrans Street #915 • San Diego • California • 92106

Agreement to Participate Ocean Sailing – Day Sail – Near Coastal

Nature and Description of the Activity

- This boating activity will take place upon the waters of San Diego Bay and the Pacific Ocean within _____ miles of shore.
- We will be sailing a 1993 Beneteau Oceanis 400 sloop “MERMAID”. MERMAID has a fin bulb keel and draws 5’6”, walk-through transom, double spreaders, mainsail on a 50 foot tall mast and a roller furling 150% Genoa totaling 670 square feet of sail area, 2 anchors and windlass, saltwater washdown, wide 12’10” beam, and a 50 hp Perkins diesel engine. All lines run aft to the cockpit. Tanks hold 40 gallons of fuel and 140 gallons of water. MERMAID has fiberglass and teak decks, and anodized aluminum, and stainless steel hardware. Belowdecks there are 3 staterooms with room for 7 people to sleep comfortably, 2 heads, sinks and showers; galley (with refrigerator, small freezer, propane oven and stove, storage and stainless sink), saloon with seating for 6, navigation station, stereo / CD player with cabin and cockpit speakers, flat screen monitor TV and DVD; Lewmar hatches and portholes, and halogen lighting. There’s all new wiring, electrical panels, gauges, AGM batteries, and navigation instruments, including VHF, RADAR, GPS and chartplotters at both the navigation station and at the binnacle; depthsounder, knotmeter, water thermometer, wind instruments, and below deck autopilot.
- The services of Vessel Assist have been procured for assistance with towing or other on-the-water emergencies, if necessary.
- A brief overview of the boat and a safety orientation will be conducted prior to departure in which you will be required to participate.
- We will leave from Cabrillo Isle Marina at Harbor Island in San Diego Bay, and spend approximately _____ hours on the water, sailing, motoring and/or motor sailing.
- You may join in and actively participate in sailing the boat, by helping to raise sails, handle lines, plot courses, and take a turn at the helm.
- Snacks, bottled water and soft drinks will be provided.

Risks Involved in the Activity

We do not want to heighten your fears or reduce your enthusiasm for the experience, but we do want you to know in advance what to expect and to be informed of the various risks. This is not a complete list of the risks you may encounter. It is your responsibility to get additional information about the risks you are about to undertake.

- I acknowledge that ocean sailing entails known and unanticipated risks which could result in minor or catastrophic physical or emotional injury, paralysis, death, damage to personal property, or injury to third parties.
- I understand that such risks cannot be completely eliminated without jeopardizing the essential nature and qualities of the activity.
- Risks of participation include, but are not limited to: exposure to adverse weather conditions, being ejected, thrown or washed overboard or falling into the water; injuries from climbing on or off the boat, hypothermia, sunburn, heat exhaustion or heat stroke, seasickness, slip-and-fall,

being cut or impaled by sharp objects, bruises, head trauma, sprains, strains, broken bones, dislocations, encounters with dangerous marine life, sinking of the boat, and death by drowning.

- The captain and crew may be ignorant of your fitness level or abilities. They might misjudge the weather or elements. They might give inadequate warnings or instruction. Equipment may break or malfunction.
- I understand that there is a chance of injury resulting from the negligence and carelessness on the part of the captain and crew, and fellow sailors.

Condition of the Participant

- You must be in moderate physical condition, have good balance, be able to move about a sailboat while underway, and be able to climb on and off a boat unassisted.
- You may participate in the activity if you are a novice or inexperienced sailor, but may be given instruction and asked to participate in necessary activities to assure your safety, the safety of the crew and passengers, and the safety of the vessel.
- You must have intermediate level swimming ability, be able to tread water in the open ocean for a period of not less than 20 minutes, or at all times while topside, wear a USCG approved PFD.

Expected Participant Behavior

- As required by California law, all children under 12 years of age, while topside, must wear a properly sized and fastened PFD.
- In inclement weather conditions, at night, or at any time when directed by the Captain to do so, you must don a PFD, harness and tether, or other safety gear.
- I understand that that use of illegal drugs or excessive consumption of alcohol may endanger myself or other participants. I agree not to use any illegal drugs or excessive alcohol while undertaking this activity.
- I understand that this is a non-smoking trip. As such, the consumption of any tobacco product will not be permitted while on-board the vessel.
- While we strive to operate the safest possible vessel, equipment and programs for the enjoyment of our guests, you are primarily responsible for your own safety and the safety of any minor children who accompany you aboard the boat.
- Follow directions of the captain and crew. We will be happy to give you a tour of the vessel, explain safety rules, administer a swim test, or show you how to properly use any equipment upon your request. Please ask questions if you do not fully understand the rules established for your safety, or do not fully appreciate the risks involved in participation, or in using any piece of equipment aboard the vessel.
- The safety rules have been developed for your protection. Failure to heed warnings, partaking in unsafe behavior or activities in which you are not qualified, or misuse or abuse of equipment can result in serious or even fatal injury.

Concluding Statements

- In consideration of the services of Mermaid Charters, a division of Aquatic Consulting Services, Alison Osinski, company owners, employees, volunteers, crew, participants and all other persons acting in any capacity on their behalf (herein collectively referred to as "ACS"), I hereby agree to release and discharge the above listed persons and entities on behalf of myself, my children, my parents, my heirs, personal representatives, and estate.
- I affirm that I have an understanding and appreciation of the risks involved in participating in ocean sailing, a potentially dangerous activity, and that my participation in the activity is voluntary. By signing this document, I acknowledge that if I am hurt or my property is damaged during my

participation in this activity, I may be found by a court of law to have waived my right to bring a lawsuit against ACS on the basis of any claim from which I have released them.

- I hereby voluntarily release, forever discharge and agree to indemnify and hold ACS harmless from any and all claims, demands, or causes of action which are in any way connected with my participation in this activity or in use of ACS equipment or property, including any such claims which allege negligent acts or omissions of ACS.
- Should ACS or anyone acting on their behalf be required to incur attorney's fees and costs to enforce this agreement, I agree to pay liquidated damages, and indemnify and hold them harmless for all such fees and costs.
- I certify that I have adequate health, disability, life and other insurance to cover any injury or damage I may cause or suffer while participating, or else I agree to bear the costs of such injury or damage myself.
- I certify that I have no medical or physical conditions which could interfere with my safety in this activity, or I am willing to assume and bear the costs of all risks that may be created, directly or indirectly, by any such condition.
- All contracts or agreements with ACS are entered into in the judicial district of San Diego, California. Should either party bring or initiate a suit or action before any court, it shall be brought in San Diego, California, regardless of whether a party may not be a resident or maintain a domicile or business in the State. I further agree that the law of the State of California will apply in any action brought, without regard to the conflict of law rules of the State.
- I agree that film, photographs, videotape, or digital imagery of me as a participant in the activity becomes the property of ACS and may be published, displayed or used for promotional or commercial purposes.
- I agree that if any portion of this agreement is found to be void or unenforceable, the remaining portions shall remain in force an effect.
- I have read this entire document, been given an opportunity to ask questions which clarify the meaning and purpose of this document, understand the document, and agree to be bound by its terms.

Participant Signature

Participant Signature

Printed Name

Address

Phone

Date

Additional Indemnification

(To be signed by parents and/or guardian of participants under age 18)

In consideration of _____, a minor, being permitted to participate in its activities and use its equipment and facilities, I further agree to indemnify and hold harmless ACS from any and all claims brought by me, or on behalf of the minor, and which are in any way connected with such participation or use by the minor.

Parent/Guardian

Printed Name

Parent/Guardian Address

Date

Parent/Guardian Phone

Emergency Contact

Printed Name

Phone Number

Please describe your previous sailing and/or boating experience:



Capt. Alison Osinski
Mermaid Charters - Division of Aquatic Consulting Services
USCG License #946914