

**EXHIBIT C**  
**Kayak Concession Requirements**

*The following requirements are subject to revision at any time by the CITY:*

A commercial kayak operator issued a Concession by the Mayor shall maintain continual adherence to all terms and conditions included herein and all applicable laws and shall take the necessary safety precautions to ensure that the public and beach are protected.

**1. Ocean Conditions and Safety**

Concessionaire must **check the surf report** maintained by the San Diego Fire-Rescue Lifeguards (619/221-8824) each day. Concessionaire must provide information to clients of daily conditions and/or hazards and the dangers inherent in kayaking in open exposed bodies of water and close proximity to the La Jolla Sea Cave's and its rocky shoreline.

Concessionaire and its employees, agents and/or affiliates must adhere to all directions provided by lifeguards, other representatives of the CITY of San Diego, or any other officer with authority to enforce local, state or federal law. In the case of disputes, supervisory personnel may be summoned, but the decision of lifeguards regarding any particular matter on a given day is final and should be brought to the attention of the area lieutenant as necessary at a later time.

Lifeguards reserve the right to close the boat launch and/or terminate any kayak tours and/or rentals based on safety considerations.

**2. Identifying Markers**

Concessionaire (owner), its employees and/or agents must be readily identifiable, a company shirt or rash guard with a logo in clear view, as authorized employees and/or agents of the company.

All kayaks used in Concessionaire's commercial kayak operations shall be marked with the name or logo of the licensee's and an individual, non-duplicated number. The markings shall be plainly visible and legible from a distance of fifty (50) feet.

All Rental Kayaks must display a sticker, visible from twenty-five (25) feet, on the port side near the stern designating it as part of the Rental Kayak Fleet.

**3. Concession Site/Location**

All business transactions must be conducted within Concessionaire's storefront address. Concessionaire will meet tour participants inside of store and conduct all orientation/training inside of store or in the area designated by the CITY. Concessionaire's violation of this provision shall be considered a breach of this Permit and may be cause for termination.

**4. Boat Launch/Operator Vehicles**

Concessionaire's vehicles and trailers used for the transport and delivery of kayaks and/or equipment, utilizing the boat launch:

- Must possess current registration, and drivers a valid California driver's license.

- Vehicles must be "all wheel drive", in that power is supplied to both axles and all the wheels.
- Vehicles and trailers must be clearly marked with the company's name by either permanent or magnetic signs, and plainly visible and legible from a distance of one hundred (100) feet.
- The boat launch area must be kept clear at all times. Boats must not be left in a position that obstructs free use of the launch area.

## **5. Concession Site - Regulations**

All outfitting and rigging of kayaks, training of clients will be conducted on dry land at a designated site. The boat launch area must be kept clear at all times. Kayaks and equipment must not be left in a position that obstructs free use of the boat launch area.

Space near the La Jolla Shores Boat Launch may be made available for local Concessionaires. A maximum of twenty (20) kayaks and forty (40) paddles owned or controlled by Concessionaire may be delivered to the area at any one time.

Concessionaire must adhere to a fifteen (15) minute drop off and pickup of kayaks and materials on the beach.

Concessionaire must adhere to all the laws, rules and guidelines for traffic at the boat launch and adjacent streets, including but not limited to speed, staging, parking and traffic flow with extra care and concern given for the safety of the public.

## **6. Maximum number of tour participants/ Student to instructor ratios**

Kayak tours will never exceed twelve (12) kayaks total (ten (10) client kayaks and two (2) kayak guide kayaks), and must adhere to the following criteria:

One (1) kayak guide for every five (5) client kayaks, should a kayak tour exceed five (5) client kayaks an additional kayak guide will be required.

Ratio of clients to kayak guides will never exceed ten (10) clients to one (1) kayak guide (10:1), regardless of the number of kayaks.

## **7. Water Activity Zones**

Kayak tours will adhere to San Diego Municipal Code (63.20.2) defining Water Activity Zones and buoy demarcated use areas at all times including, but not limited to, swim zones, no board surfing zones, boat launch zone and no boat zone.

All kayak rentals, whether for tours or for individuals, will adhere to San Diego Municipal Code (63.20.9) defining rules for boat beaching and launching.

## **8. Equipment:**

At least one (1) kayak guide must have a U.S. Coast Guard approved visual and auditory signaling device, a hand held Vhf radio and/or cell phone, and provided the training in there use.

All kayak tours conducting tours of LJ Sea Caves area shall possess and wear a properly fitting and secured helmet, appropriate for whitewater use.

Concessionaire shall maintain all kayaks and operational equipment in sound working order and condition.

Rental kayaks may not be deposited at the designated rental kayak storage area prior to 8:00 a.m and must be removed before 8:30 p.m.

Kayak operators must provide an employee to monitor the rental kayak storage area at all times during operation.

Kayak storage area will be maintained in a neat and orderly manner at all times, rental kayaks and/or equipment will be stacked, in the designated area, so as not to impede any and/or all other activities within the boat launch.

The CITY has the right to adjust the location of the rental kayak storage site based on safety or other considerations.

## **9. Waivers**

The Concessionaire must have on file a signed waiver from each participant, or their legal guardian if under 18 years of age, which holds the CITY, its agents, officers and employees harmless and indemnifies the same from any claims relating to the participates' activities on the CITY beach which arise from or are in any manner connected with the services provided to the participants under this Agreement.

## **10. Safety Precautions/Emergency Response Plan**

Concessionaire must maintain a record of the client's name, local contact number and kayak identification number to aid with locating the client should they go missing.

Rental kayak clients shall be provided with a waterproof map of the adjacent water area, clearly depicting all CITY of San Diego Municipal Code (63.20.2) Water Activity Zone Areas, known hazards and off limits areas.

Concessionaire must make clients aware of know hazards, off limits areas and CITY of San Diego Municipal Code (63.20.2) Water Activity Zones, preferably by referencing the provided map, and that any violations may result in a citation and/or injury.

Concessionaire shall provide a properly fitting U.S. Coast Guard approved Type III or Type V personal flotation device to each client.

If a client reports an injury to licensee or the Concessionaire is aware of an injury or accident that requires medical Services and the injury occurs during the performance of a licensee's services from launch to beaching, in addition to alerting the SD Fire-Rescue Lifeguards the licensee shall file an accident report with the manager.

Concessionaire shall keep a file on record of all accident reports for three (3) years after each event.

## 11. Minimum Requirements for Guides

Must be at least eighteen (18) years old.

All kayak guides are responsible for completing and maintaining the minimum qualifications as outlined:

- A valid Basic First Aid certification from the American Red Cross or the equivalent.
- A valid CPR certification by either the American Red Cross as a Professional Rescuer or American Heart Association as a Healthcare Provider or the equivalent.
- Certificate of completion for the San Diego Fire-Rescue Lifeguard Three (3) R's (Rocks, Reefs and Rips) Course.
- A valid Canoeing Safety Test star rating certification from the British Canoe Union.
- Supervise and instruct clients and be capable of giving a suitable orientation talk to all clients in his or her kayaks on relative subjects which may include, but not limited to, overall safety, personal floatation devices, emergency signaling devices, kayak paddling/maneuvering skills.
- Possess a general knowledge of emergency access and evacuation routes, and summon and assist, when requested, any emergency response personnel.

Concessionaire may request variations from the kayak guide qualifications set forth in this section. Requests for variations must be made in writing to the Park and Recreation Department and the request shall substantiate that the variation does not reduce the intent of the qualification set forth in this rule.

Documents relating to the requirements of this section shall be kept at the Concessionaire's storefront for inspection by the manager or representative.

**Keeping patrons safe while engaged in kayak tours and kayak rentals will be the highest priority of each kayak operator. Should the manager or representative, San Diego Fire-Rescue Lifeguards or other official CITY personnel find violations or a pattern of violations of any requirement of this permit then a "Violation of Permit/Safety Notice" will be issued.**

## 12. Violations/Safety Notice

The CITY reserves the right to perform inspections and/or reviews with or without advanced notice. These inspections and/or reviews may be for any or all aspects related to the Concession Agreement and its exhibits, including but not limited to certificates and qualifications of tour guides; other safety issues; adherence to a tour schedule; records pertaining to renters. Violation of any aspect of the Concession Agreement may result in suspension or revocation of the Agreement. With regard to safety, the CITY or any other officer with authority to enforce local, state or federal law, has the right to terminate any tour or individual kayak rental if there is a violation of safety requirements.

As a guideline, when a licensee or licensee's agent is issued a "Violation of Permit/Safety Notice" or convicted for any violation related to their kayak operations, in addition to any penalty assessed by the courts, the following actions will occur:

- First Notice or conviction in a one year period - no additional action taken against the licensee or licensee's agent
- Additional notices or convictions shall be evaluated by the CITY for an appropriate and reasonable sanction, up to and including suspension or revocation of the permit.
- Third Notice or conviction in a one (1) year period - the licensee's permit may be revoked.

**13. Rental Kayaks - additional stipulations for weekends during the peak summer season**

In addition to designated tours, each licensee will be permitted to rent no more than fifteen (15) kayaks to other individuals (non-tour) at any one time.

**14. Additional Concession Stipulations**

Concessionaire must have a valid license to do business within the City of San Diego, as well as a storefront, as stated in the Agreement, where business will be conducted.

No business transactions or solicitation for business are permitted on CITY property (i.e. advertising, signing of waivers, collecting of money, etc.). All business transactions must be conducted within licensee's storefront address stated in the Agreement.