MEMORANDUM OF UNDERSTANDING

BETWEEN

THE DEPARTMENT OF THE ARMY,

U.S. ARMY CORPS OF ENGINEERS,

**[USACE DISTRICT OR ACTIVITY]**

AND

**[FULL NAME OF NON-FEDERAL ENTITY]**

FOR

SMALL BOAT OPERATIONS TRAINING

THIS MEMORANDUM OF UNDERSTANDING entered into this \_\_\_\_\_\_ day of \_\_\_\_\_\_\_\_\_\_\_, \_\_\_\_\_\_, by and between the Department of the Army, U.S. Army Corps of Engineers, **[USACE DISTRICT]** (“**[USACE DISTRICT]**”), and the **[FULL NAME OF THE NON-FEDERAL ENTITY]** (“Non-Federal Entity”) (collectively, the “Parties”).

WHEREAS, Section 4742 of Title 42 of the United States Code authorizes a federal agency to admit State and local government employees and officials to agency training programs; and

WHEREAS, the Non-Federal Entity exercises **[TYPE OF JURISDICTION]** over certain federally owned, U.S. Army Corps of Engineers (“USACE”)-managed lands within the responsibility of the **[USACE DISTRICT]**;and

WHEREAS, the Non-Federal Entity requests the **[USACE DISTRICT]** provide the employees and officials of the Non-Federal Entity with small boat operations training (“training”);

NOW THEREFORE, the parties memorialize their mutual understanding that the Non-Federal Entity may request, and the **[USACE DISTRICT]** may provide, training as follows:

1. Request for Training: A representative of the Non-Federal Entity may contact the District Motorboat Coordinator to request that training be provided to Non-Federal Entity personnel.

2. Admittance to Training: The District Motorboat Coordinator may admit personnel of the Non-Federal Entity to any available training. Admittance of Non-Federal Entity personnel to training will be on a space-available basis only, at the sole discretion of the District Motorboat Coordinator or an authorized **[USACE DISTRICT]** representative. The **[USACE DISTRICT]** will not increase the size of any training course to admit Non-Federal Entity personnel nor conduct training for Non-Federal Entity personnel only.

3. Course Prerequisites and Conduct: Trainees must be in good health to participate in the training and must satisfy the training prerequisites. The **[USACE DISTRICT]** will make available information on the training prerequisites, or other training policies or procedures, upon the request of the Non-Federal Entity. However, the Non-Federal entity, and not USACE, is responsible to ensure its personnel meet all course prerequisites and are in good health before attending training. Non-Federal Entity personnel will comply with all applicable laws, regulations, policies, and procedures, including any policies or procedures as set forth by the District Motorboat Coordinator, while participating in the training.

4. Assumption of Training Risks: The Non-Federal Entity acknowledges that the training involves the exercise of considerable discretion by the training instructor and other USACE personnel in conducting the training. Furthermore, the Non-Federal Entity acknowledges that the training involves substantial risks, including the risk of injury to, or the death of, any participants in the training, and that neither USACE nor any person employed by USACE has any duty to protect any Non-Federal Entity personnel from any such risks. Non-Federal Entity personnel participating in the training assume the risks of the training.

5. Training Agreement: Prior to participating in the training, each Non-Federal Entity person to be trained will sign a training agreement, to be provided by the **[USACE DISTRICT]**.

6. Personnel: Each Party is responsible for all costs of its personnel, including pay and benefits, support, and travel. Each Party is responsible for the supervision and management of its personnel.

7. Points of Contact: The following points of contact will be used by the Parties to communicate in the implementation of this MOU. Each Party may change its point of contact upon written notice to the other Party.

1. For **[USACE DISTRICT]** –
   * + 1. Primary: [Name and e-mail]
       2. Alternate: [Name and e-mail]
2. For the Non-Federal Entity –
   * + 1. Primary: [Name and e-mail]
       2. Alternate: [Name and e-mail]

8. Funds and Manpower: This MOU does not document nor provide for the exchange of funds or manpower between the Parties, nor does it make any commitment of funds or resources. This MOU does not obligate the **[USACE DISTRICT]** to expend, exchange, or reimburse funds, services, or supplies, or to transfer or receive anything of value. Further, no provision of this MOU will be interpreted to require obligation or payment of funds in violation of 31 U.S.C. § 1341.

9. Enforcement: Nothing in this MOU may be construed to obligate the United States to any current or future expenditure of resources. Each Party will use its own resources, including the expenditure of its own funds, in pursuing the objectives enumerated in this MOU.  Each Party will carry out its activities as consistent with any applicable laws, regulations, or policies.  Nothing in this MOU is intended to alter, limit, or expand the Parties’ statutory or regulatory authorities. Nothing in this MOU is intended to create any substantive or procedural right or benefit enforceable at law by any party against the United States, its agencies, its officers, or any person.

10. Exclusivity: This MOU in no way restricts USACE from participating in similar activities or arrangements with other public or private agencies, organizations, or individuals. Nothing in this MOU shall be construed as affording the Non-Federal Entity any preferential treatment or exclusive rights or privileges.

11. Trademarks and Promotion: USACE does not permit the use, reproduction, copying, or redistribution of its brands, trademarks, and logos without written permission from the Department of the Army. The Non-Federal Entity will obtain prior approval of all press releases, published advertisements, or other statements intended for the public, that refer to this agreement or to the agencies or to the name or title of any employee of the agencies, in connection with this agreement or the activities conducted under this agreement.

14. Modification of MOU: This MOU may be modified only by the written mutual agreement of the Parties, duly signed by their authorized representatives. This MOU will be reviewed annually on or around the anniversary of its effective date.

15. Disputes: Any disputes relating to this MOU will, subject to any applicable law, Executive order, directive, or instruction, be resolved by consultation between the Parties.

16. Termination: This MOU may be terminated at will by either Party. Termination will be effective upon the receipt of written notice by the representative of the non-terminating Party.

17. Transferability: This MOU is not transferable except with the written mutual consent of the Parties.

18. Entire Understanding: It is expressly understood and agreed that this MOU embodies the entire understanding between the Parties regarding the subject matter of the MOU.

19. Severability: Nothing in this MOU is intended to conflict with current law, regulation, or USACE policies. If a term of this MOU is inconsistent with such authority or policy, then that term shall be invalid, but the remaining terms and conditions of this MOU shall remain in full force and effect.

20. Effective Date: This MOU takes effect beginning on the day after the last Party signs.

21. Expiration Date: This MOU expires on **[insert date, not to exceed 9 years (a period of 5 years or less is recommended)]**.

APPROVED: **[Approval authority signature will never be alone on a blank page]**

For the U.S. ARMY CORPS OF ENGINEERS For the **[Non-Federal Entity]**

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DATE: DATE:

ACKNOWLEDGEMENT OF RISK AGREEMENT – U.S. ARMY CORPS OF ENGINEERS

SMALL BOAT OPERATIONS TRAINING

This agreement provides for the acknowledgement of the risks of the U.S. Army Corps of Engineers (“Corps”) small boat operations training (“training”). By signing this agreement, I agree that I participate in the training at my own risk. I agree that the Corps has no duty to protect me from any risks of the training. Such risks include, but are not limited to the risks set forth below. Furthermore, I agree that the Corps has no duty to protect me from the conduct of any instructors or participants in the training, including from my own conduct, which conduct would otherwise be reckless or negligent.

The training involves the operation, by myself and by an instructor, of a vessel on the water. As part of the training curriculum, I will be asked to perform activities that involve all types of inherent risks and man-made risks, including risks that could result in serious injury or death. These risks include, but are not limited to, any injury or death resulting from:

* Operation, by an instructor or student (including myself) of a vessel on the water;
* Collision with objects or hazards in or on the water (such as debris, vessels or other watercraft);
* Falling overboard the vessel or within the vessel, due to any cause, including sudden movements of the vessel;
* Physical contact with objects inside the vessel, or with the vessel itself; and
* Failure or malfunctioning of any equipment, including safety equipment (such as life preservers) provided to me by the Corps.

I acknowledge that the Corps is providing training to me for my own benefit or for the benefit of the agency that employs me, and that the Corps does not receive any compensation from providing the training. The training involves the exercise of discretion by a training instructor and other Corps personnel, who determine how to execute the training and also make inherently subjective judgments based on conditions on the water and elsewhere. On-water conditions vary due to weather events; obstacles or other hazards encountered on the water; other persons, vessels, or watercraft on the water; the features of the vessel used for the training; the reactions of the vessel and the vessel operator to events and conditions on the water; and, various other occurrences.

**By signing below, I agree that I participate in the training at my own risk. I understand that the Corps is under no obligation to protect me from any risk. I certify that I am in good health and that I have no physical limitations which might preclude my participation in the training. I understand that it is my duty to satisfy the training course prerequisites before participating in the training and that my failure to satisfy any prerequisite of the training places me at an increased risk for injury or death. I voluntarily assume all risks of the training.**

Name (please print): \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Agency: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Signature: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Date: \_\_\_\_\_\_\_\_\_\_