

**BOAT and TRAILER STORAGE, RENTAL & SERVICE AGREEMENT  
DANA POINT HARBOR**

THIS BOAT and TRAILER STORAGE, RENTAL AND SERVICE AGREEMENT (the “**Agreement**”), is dated for reference purposes as of this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_, between the County of Orange, a political subdivision of the State of California (the “**County**”), and Owner (the “**Owner**”). County and Owner may sometimes hereinafter individually be referred to as “**Party**” or jointly as “**Parties**.” Owner is defined below in Attachment A of this Agreement, attached hereto and incorporated herein, and is made and entered into with reference to the following:

- A. The County is the owner of the Dana Point Harbor located in Dana Point, California (the “**Harbor**”).
- B. The County operates, owns and maintains a boat dry storage facility at the Harbor for the rental of space to boat owners and operators, for boat storage and the provisions of hoist and valet services for boats stored at the facility (collectively, the “**Dry Boat Storage Facility**”).
- C. Owner desires to contract with County for dry boat storage space in the Dry Boat Storage Facility and other optional service, including but not limited to hoisting and valet services, for the Boat (as such term is defined in Section 1 of this Agreement).

**NOW, THEREFORE, COUNTY AND OWNER AGREE TO AND ACCEPT THE FOLLOWING TERMS AND CONDITIONS WITH RESPECT TO OWNER’S BOAT STORAGE AND SERVICE:**

1. The following capitalized terms used in this Agreement shall have the respective meanings assigned to them in this Section I unless the context in which they are used clearly requires otherwise:

- (a) “**County**” shall mean the County of Orange, a political subdivision of the State of California.
- (b) “**Boat**” shall mean the boat or vessel identified on Attachment A attached to this Agreement.
- (c) “**Trailer**” shall mean the trailer that the stored boat or vessel is stored upon.

(c) “**Director**” shall mean the Director of the County’s Dana Point Harbor Department or his or her designee. The Director, through the County’s Dana Point Harbor Department office (“**County Harbor Department Office**”), shall exercise all authority of the County under this Agreement unless Owner is otherwise notified in writing. Said County Harbor Department Office shall directly supervise the County’s authorized Operator (defined below) of the boat storage facilities under this Agreement.

(d) “**Dry Boat Storage Facility**” shall mean County’s dry boat storage facility in the Harbor, as the same may be expanded, improved, altered, or relocated by County from time to time in County’s sole and absolute discretion. If at any time during the Term of this Agreement County relocates the dry boat storage facility from its existing location, all references in this Agreement to the Dry Boat Storage Facility shall be deemed to refer to the Dry Boat Storage Facility as so relocated and thereafter Owner shall have no right, title, or interest in the prior location of the dry boat storage facility or Owner’s storage space in the prior location of the dry boat storage facility.

(e) “**Harbor**” shall mean that certain public recreational and commercial craft harbor owned and operated by the County, and commonly known as Dana Point Harbor, Dana Point, California.

(f) “**Owner**” shall mean (1) the individual or individuals who are named on the wait list maintained by the Operator for the **Storage Space** (if a wait list was used in connection with this Agreement) and (2) the registered, legal owner of the Boat and Trailer. No person or persons may enter into this Agreement if they are not both the individual or individuals named on said wait list and the registered, legal owner or owners of the Boat and Trailer. **OWNER SHALL AT ALL TIMES BE AT LEAST A TWENTY PERCENT (20%) LEGAL OWNER OF THE BOAT AND TRAILER, PROVIDED THAT IN NO EVENT SHALL ANY OTHER CO-OWNER OF THE BOAT AND TRAILER HOLD A LEGAL INTEREST IN THE BOAT AND TRAILER THAT IS GREATER THAN OWNER’S.**

(g) “**Operator**” shall mean Vintage Marina Partners L.P., the County’s agent for managing and operating the Dry Boat Storage Facility. If Vintage Marina Partners, L.P., ceases to be the County’s agent for managing and operating the Dry Boat Storage Facility at any time during the Term of this Agreement, upon written notice of such fact delivered to Owner all references in this Agreement to the Operator shall be deemed to refer to any replacement operator appointed by County or, if none, to County itself.

- (h) “**Security Deposit**” means the sum of \$\_\_\_\_\_ to be paid by Owner to County (and delivered to Operator).

County or Operator shall use the Security Deposit consistent with Section 3 below. If the Term of this Agreement is renewed or extended, County reserves the right to increase the amount of the Security Deposit, as provided in that section.

(i) **“Storage Fee” or “Storage Fees”** shall mean the sum of \$\_\_\_\_\_ Dollars to be paid by Owner to County (and delivered to Operator) as monthly rental for Owner’s right to occupy and use the Storage Space for storage of the Boat, Trailer, and which may include fees for Optional Services, as defined hereafter in Section 4(b). Said Storage Fee is subject to adjustment as provided in this Agreement. Storage Fees are payable in advance at the time of the execution of this Agreement and on the **first (1st) day** of each calendar month commencing after the Commencement Date as set forth in Section 2 below, and each succeeding calendar month thereafter during the Term. In addition to the key and security deposits described herein, upon the execution of this Agreement and assignment of a Storage Space, Owner shall pay to County (and deliver to Operator) the sum of \$\_\_\_\_\_, representing prorated Storage Fees due for the remaining portion of the calendar month between the Commencement Date and the last day of the calendar month in which the Commencement Date occurs, with such prorated amount determined on the basis of an assumed thirty (30) day month. This payment is non-refundable. If the amount of Owner’s payment does not accurately represent the Storage Fees due for the balance of said partial calendar month (due to the Commencement Date falling on a day other than the date assumed for purposes of making such payment) an appropriate adjustment shall be made (either an additional or reduced Storage Fee payment) at the time the Storage Fee payment is paid for the next succeeding month.

(j) **“Storage Space”** shall mean the dry storage space in the Dry Boat Storage Facility designated by Operator for securing the Boat and Trailer, subject to Operator’s right to reassign Owner another storage space in accordance with Section 4 of this Agreement. As of the date this Agreement is being executed, the Storage Space designated by Operator for Owner is identified by the County as Storage Space No. \_\_\_\_\_ (reference Attachment A). If Operator designates a different storage space for Owner during the Term of this Agreement, all references in this Agreement to the Storage Space shall be deemed to refer to the newly designated storage space and thereafter Owner shall have no right, title, or interest in or to the prior storage space.

2. **Term.** Subject to the provisions set forth in this Agreement for renewal/extension and termination/revocation, the term hereof (the “Term”) shall be for a month to month tenancy for the rental of the Storage Space, and shall commence on the \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_\_\_\_, or on the date when County notifies Owner that the Storage Space is available for Owner's use, **whichever is later (the “Commencement Date”)**, and shall expire on the \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_\_\_\_. Owner expressly acknowledges that his/her contractual right to occupy the assigned Storage Space is not automatically renewable, but is subject to termination or revocation upon either thirty (30) days notice from County or Operator or upon Owner’s failure to timely abide by each and all of his/her contractual duties detailed in this Agreement, including the duty to make timely monthly payment of fees, including, but not limited to, the Storage Fee. Unless County and Owner agree otherwise in writing, if Owner holds over with County’s permission after expiration of the original Term or any renewed or extended Term, it shall be presumed that this Agreement has been renewed and extended for another month on the same terms and conditions set forth herein.

3. **Security Deposit.** Upon execution of this Agreement, Owner shall pay to the County (and deliver to Operator) the Security Deposit defined in Section 1(h) of this Agreement. Upon termination of this Agreement, but only after and upon the condition that Owner has vacated the Storage Space and surrounding areas of the Dry Boat Storage Facility and Harbor in an undamaged condition (save ordinary wear and tear) and performed all of Owner's covenants and conditions under this Agreement (including payment of all fees and other charges) and returned all access keys and/or cards to the Operator, County shall refund to Owner the total Security Deposit received by County, less any amount necessary to pay for restoring the Storage Space to a rentable condition, or any other fees or charges owed by Owner. Owner may not use the Security Deposit as, nor deduct it from, the Storage Fee for any month. However, the County may elect at any time, at its option, to apply all or any portion of the Security Deposit to the Storage Fee or other account arrearages, or for purposes of effecting repairs necessary due to damage to County’s property caused by Owner (or his/her guest/invitee), in which event Owner shall immediately become obligated to tender the sum necessary to replace any of the Security Deposit funds applied to such arrearages, or used for such repairs and/or cleaning. Should County increase the monthly Storage Fee, there will be a proportional increase in the amount of the Security Deposit to correspond with the new monthly Storage Fee. Owner acknowledges and agrees that no interest shall be payable by County on any Security Deposit held by County, and that County shall not be required to keep the Security Deposit separate from its general funds.

4. **Services Provided.**

(a) **Storage Space Rental.** County hereby rents the Storage Space, as specified in Section 1(j) above, and in Attachment “A,” to Owner and Owner accepts and agrees to rent the Storage Space from County. Owner may relocate to another Storage Space within the Dry Boat Storage Facility or to any other storage facility that may be maintained by County in the Harbor only upon obtaining the advance express written permission of County. County and Operator shall have the right at any time, in its or their sole discretion, to reassign Owner’s Boat and Trailer to a different Storage Space. Owner further agrees that County and Operator shall have the right but not the obligation, in the event of emergency or operational necessity, to immediately, and without prior notice to Owner, relocate Owner's Boat and Trailer to another Storage Space. Owner hereby grants to County and Operator permission to board the Boat and Trailer for the purpose of moving the Boat and Trailer to another Storage Space in such circumstances and it is understood and agreed that as long as County and/or Operator is not act with intentional misconduct or gross negligence neither the County nor Operator, nor their respective employees, officers or agents, shall be liable for any loss/damage resulting from such movement of the Boat and Trailer. Owner hereby acknowledges that he/she has inspected (or had an opportunity to inspect) the

Storage Space, its surrounding environs and those portions of the Dry Boat Storage Facility and Harbor associated with the Storage Space, including without limitation, the docks, floats, walkways and gangways. Owner understands that neither County nor Operator warrants the condition of the Storage Space, the Dry Boat Storage Facility, or the Harbor or surrounding environs, and that users of the Storage Space, the Dry Boat Storage Facility, and Harbor do so at their own sole risk. Owner agrees to accept the Storage Space in its "AS-IS" condition.

(b) Optional Services. Pursuant to this Agreement, County may also provide other optional services, including but not limited to hoisting and valet services to assist in the placement of the Boat in the Harbor for Owner ("Optional Services"). These Optional Services shall be provided pursuant to the fee schedule as provided by Operator and attached hereto as Attachment "B," and shall be governed by all of the terms of this Agreement, including but not limited to Sections 7 and 12, hereafter.

5. Storage Space Use. The Storage Space is for Owner's exclusive use in connection with the Boat and Trailer. Owner further agrees that the Boat, Trailer, and the Storage Space shall be used for recreational purposes only and not in any commercial undertaking or purposes, including but not limited to chartering or brokerage operations, without the prior written approval of the County. Except as provided in this Section 4 and in Section 15, hereafter, Owner agrees not to use the Storage Space, the Dry Boat Storage Facility, or the Harbor area for any other purpose nor to engage in or permit any other activity within or from the Storage Space, the Dry Boat Storage Facility, or the Harbor. Owner shall not commit or permit any waste or nuisance to be committed on or around the Boat or Trailer, in the Storage Space, the Dry Boat Storage Facility, or any other place in the Harbor, and neither he/she nor his/her guests, agents or invitees may commit any act of waste or nuisance, improper conduct or any other act which might disturb the quiet and peaceful use of any portion of the Harbor by others. Owner agrees no improvements shall be erected, placed upon, operated, nor maintained within or from the Storage Space or Harbor, nor shall any business be conducted or carried on therein or therefrom, in violation of the terms of this Agreement, or of any regulation, order of law, statute, bylaw, or ordinance of a governmental agency having jurisdiction. This Agreement and the rights and privileges granted Owner in and to the Storage Space, the Dry Boat Storage Facility, and Harbor are subject to all covenants, conditions, restrictions, and exceptions of record or apparent from a physical inspection of the Storage Space, the Dry Boat Storage Facility, and Harbor, and including those which are set out in the Tidelands Grant by the State of California to the County of Orange (Chapter 321, Statutes of 1961, State of California). Nothing contained in this Agreement or in any document related hereto shall be construed to imply the conveyance to Owner of rights in the Storage Space, the Dry Boat Storage Facility, or the Harbor which exceed those owned by County.

6. Gate Cards. Harbor entrances and/or other areas of the Harbor are accessed by use of a card and/or key. Upon execution of this Agreement Owner shall pay to County (and deliver to Operator) a \$25.00 non-refundable fee per gate card, limited to two (2) gate cards per Owner. Lost gate cards may be replaced for a \$50.00 non-refundable charge provided the lost card(s) is identified and deactivated. All cards/keys shall be deactivated at the termination of this Agreement. County reserves the right to limit the number of keys and cards issued. Owner shall be provided with parking for one (1) vehicle only. Space limits do not allow free parking for extra vehicles on Harbor premises. **Use of Owner's Gate Card for admission of other than Owner's automobile is prohibited and is cause for immediate termination of this Agreement, at the option of County.**

7. Owner's Risk. This Agreement is for the use of space only for storage (and the Optional Services as indicated on Attachment "B," attached hereto), such Storage Space to be used at the sole risk of Owner, and County shall not be liable or responsible for the care or protection of the Boat or Trailer (including gear, equipment and contents) or any loss or damage of whatever kind or nature to the Boat or Trailer its contents or equipment, howsoever occasioned. There is no warranty of any kind as to the condition of the floats, walks, gangways, ramps or mooring gear, or for security services within the Dry Boat Storage Facility or the Harbor, nor shall County be, responsible therefor, or for injuries to persons or property occurring thereon or on any part of the premises or for any other reason whether herein specifically stated or not. Owner further assumes full responsibility for providing adequate covering to protect the Boat and Trailer from any and all perils, and for the proper maintenance of such covering while the Boat and Trailer is on the premises.

8. Compliance With Laws, Rules, and Regulations. Owner agrees to comply and secure the compliance by his/her invitees, guests, and employees with all applicable federal, state, and local statutes, regulations, and official policies and rules pertaining to the ownership, use, operation, maintenance, and repair of the Boat, or Trailer and all activities of any of such persons occurring within the Dry Boat Storage Facility and the Harbor (collectively, the "Harbor Rules"), including any amendments to any of the Harbor Rules in effect as of the date this Agreement is being executed, as fully as though the Harbor Rules were set forth herein, and should any breach of this Agreement or violation of any such rules occur, this Agreement may be immediately terminated by County, and County may remove the Boat and Trailer from the Storage Space at Owner's risk and expense, and retake possession of the Storage Space. The Harbor Rules may include but are not limited to hours of operation of the Dry Boat Storage Facility and the boat launch ramp in the Harbor, restrictions on Owner's right to enter into the Dry Boat Storage Facility and areas in and around the Dry Boat Storage Facility where potentially hazardous activities are occurring, clean-out of any holding tanks and storage containers on the Boat or Trailer containing human waste, food, and degradable products, a prohibition on smoking within the Dry Boat Storage Facility and any other enclosed buildings in the Harbor, and restrictions on the types and quantities of fuel and combustibles that Owner is permitted to possess and store on the Boat or Trailer. Owner acknowledges this Agreement applies primarily to dry storage of the described Boat and Trailer, but may also apply to work and services provided by County for the Boat and Trailer. Accordingly, this shall constitute actual notice in writing to the Owner that work, services, and County may provide storage for the Boat and Trailer within the terms of Harbors & Navigation Code Section 501. Further, Sections 500 to 509 inclusive, of the Harbor & Navigation Code pertaining to possessory liens, as they now exist or later may be amended, are made a part of this Agreement, to which reference is made for full particulars.

9. **Payment of Monthly Fees.**

(a) Owner shall tender all payments hereunder, including payments for the Storage Space and Optional Services, to County of Orange at Operator's office or via mail addressed to P. O. Box 249, Dana Point, CA 92629, or such other place as may be designated by County or Operator from time to time. **PAYMENTS OF ALL FEES AND CHARGES ARE DUE ON THE FIRST (1ST) DAY OF EACH MONTH WITH OR WITHOUT A BILLING STATEMENT AND ALL STORAGE FEES NOT PAID BY THE DUE DATE SHALL BE DELINQUENT.** Owner further agrees to pay as an additional fee any and all excise or other taxes that may be imposed or levied on or against the Boat by any governmental agency and to maintain such taxes current. Any failure to make payments when due under this Agreement shall constitute a material breach of this Agreement. If Owner is in breach of this Agreement, County may immediately terminate this Agreement and pursue all remedies available in admiralty, at law or in equity.

(b) Owner shall reimburse County a \$25.00 administrative fee for any check or automatic clearing house (ACH) charge returned to County or Operator as unpayable, for any reason. After tender of a returned check County may require Owner to thereafter tender payment by bank check or money order. Failure to pay fees due by the **tenth (10<sup>th</sup>) day** of the month will result in a charge to Owner of a late charge in the amount of five percent (5%) of the monthly fee due for each month a delinquency continues until the account is brought fully current. In addition, a \$100.00 administrative fee will be imposed and added to Owner's account and his/her Boat and Trailer on any occasion when County prepares legal documents to recover the amounts due and/or possession of the Storage Space. A failure to timely pay the Storage Fee and any other fees and costs then due will result in enforcement of County's rights and remedies, including as appropriate those under this contract and pursuant to admiralty law.

10. **Default Under Agreement by Owner.** Owner shall be in default under this Agreement in the event:

(a) Owner fails to make any payment of Storage Fees or other fees or charges when due;

(b) Owner attempts to make or suffers to be made any transfer or assignment of this Agreement or the Storage Space without County's prior written consent, which consent to the fullest extent of the law may be withheld by County in its sole and absolute discretion;

(c) Owner attempts to make or suffers to be made any sublicensing of the Storage Space without County's prior written consent, which consent to the fullest extent of the law may be withheld by County in its sole and absolute discretion;

(d) Owner fails to provide the insurance in the form and in the amounts required under Section 17 hereof within five (5) days after written notice from County;

(e) Except as permitted under Section 22 hereof, Owner vacates the Storage Space for longer than ten (10) days without the prior written consent of the County or Owner abandons the Storage Space; or

(f) Owner fails to observe, keep, perform or cure within three (3) days after written notice from County any of the other terms, covenants, agreements or conditions contained in this Agreement.

11. **County's Remedies.** Upon the occurrence of a default by Owner under this Agreement, in addition to and without waiving any other rights or remedies available to County at law or in equity or otherwise provided in this Agreement, County may, at its option, cumulatively or in the alternative, exercise all or any of the following remedies:

(a) **Maritime Lien.** County may pursue all of its rights or remedies under state or federal law to attach the Boat and Trailer and sell the Boat and Trailer at auction to satisfy a maritime lien arising from Owner's failure to pay for the dry storage services provided to Owner under this Agreement. Owner agrees that in the event of a default under this Agreement the County and Operator shall become entitled, without providing advance notice, to move the Boat and Trailer to any other location either within or outside the Harbor and to chain or otherwise secure the Boat and Trailer at its new location, charging impound fees of fifty dollars (\$50) per day. Owner specifically agrees that if County elects to move or secure the Boat as herein provided, Owner shall indemnify, defend and hold County, Operator, and their respective elected and appointed officials, officers, employees, and agents free and harmless from and against all claims, liabilities, and losses arising from or in any way connected with the moving or securing of the Boat and Trailer. Owner shall in such event remain liable for the full amount of the Storage Fees as they become due, notwithstanding that the Boat and Trailer has been moved and/or secured at another location.

(b) **Other Lien Rights and Remedies.** County may pursue, at its sole election, all other measures available to enforce its remedies available in admiralty, at law and/or equity, including vessel and trailer arrest or attachment, sale of the Boat and Trailer pursuant to federal maritime law, the California Boaters Lien Law, and any other available remedy, without prior notice to Owner, and may exercise other rights herein detailed. By execution of this Agreement, Owner acknowledges that pursuant to Harbors and Navigation Code Section 501 and by the terms of this Agreement, County shall have a lien on the Boat and Trailer for money which may become due under this Agreement. Owner agrees County and Operator have the right to take possession and control of and

remove and store the Boat and Trailer, at Owner's sole risk and expense, for the purpose of perfecting and executing upon County's statutory lien rights in the Boat and Trailer. Upon County's commencement of actions to obtain a lien against the Boat and Trailer, Owner shall be charged a one hundred dollar (\$100) lien process fee. Should County take action against Owner to enforce payment of any sum due hereunder or to enforce any obligation of Owner hereunder, Owner agrees to pay costs of such action, including all costs of investigation and preparation and all post-judgment costs to enforce any final order or judgment obtained in such action, together with expert witness fees and reasonable attorney's fees.

(c) Right to Terminate. County's obligation to provide storage under the Agreement may be unilaterally terminated by the County in the event of Owner's default under this Agreement at which time County may pursue any or all of its legal, equitable and/or admiralty remedies.

(d) Waiver of Breach. The waiver of any breach hereof by County shall not constitute consent to any further breaches. Any violation hereof shall automatically be deemed a default under the provisions of this Agreement.

## 12. Liability and Indemnity.

(a) In addition to all other liability and indemnity provisions herein contained, Owner, as a material part of the consideration to be rendered County under this Agreement, hereby waives all claims, causes of action, liabilities and losses (collectively "Claims") against County and Operator and their respective elected and appointed officials, officers, agents and employees (collectively "County Parties") for interruption of or interference with service, and all claims for damage to the Boat, Trailer its gear and its equipment, or any goods, wares, or equipment in, upon, or about the Boat or Trailer, the Dry Boat Storage Facility, or the Harbor, and for injuries or death to persons including, but not limited to, Owner's family, agents, licensees or invitees, including all such Claims relating to events or occurrences arising from any cause whatsoever and at any time on, in or about the Boat, or Trailer, the Dry Boat Storage Facility, or the Harbor, including, but not limited to, theft, fire, acts of God, riots, strikes, collision, insufficiencies involving the electrical and other utility systems, chaffing, sinking, or other causes. Owner agrees to indemnify, protect and defend the County Parties from and against all such Claims, with such attorneys as may be approved by County. Payment is not a condition precedent to the obligation to defend the County Parties under said indemnity.

(b) During the term of this Agreement or while the Boat and Trailer remains in the Harbor or in the possession of County or Operator or its or their assignee, all risk of loss of or damage to the Boat and Trailer shall be upon Owner. No County Parties shall under any circumstances whatsoever be charged with or liable for direct or consequential damages sustained by Owner or his/her family, employees, invitees, charterers or underwriters by reason of the loss of or damage to the Boat or Trailer caused by theft, fire, act of God, collision, chafing, dock maintenance or faulty repair occasioned by ordinary negligence, or by reason of any other cause, or for property damage or economic loss of any kind, or for personal injury or death. Owner agrees to indemnify, protect and defend the County Parties from and against any and all actual or potential liability arising or potentially arising from any such damage, injury, death or loss, with such attorneys as may be approved by County.

(c) The liability of County (whether by virtue of any act or omission of County itself or an act or omission of the Operator or an act or omission of both County and Operator) may be established only by way of an affirmative showing of gross negligence or willful misconduct. Liability, if so established by way of such a showing, shall be strictly limited to the cost of repair, correction or replacement, and in no event shall County or Operator be liable for any consequential damages whatsoever, including, but without limitation, delay, detention, demurrage, towing and pilotage.

13. Termination. This Agreement may be terminated by either Party, by no less than thirty (30) days written notice to the other (unless the notice of termination is given due to default of Owner), provided that if Owner desires to terminate this Agreement, all rent to and including the date fixed for termination is paid on or before the date Owner gives such notice. Notices may be personally delivered or deposited in the United States mail. Deposit of a letter, first class, postage prepaid, in the United States mail addressed to the other Party at the address provided for County in Section 28 or the address for Owner in Attachment A, as applicable, shall be deemed to have been received by the addressee and become effective five (5) days after postmarked. Unless the Boat and any trailer or any other equipment and personal property of Owner's are removed by the termination date, County has the right to remove and impound same and to re-rent the space without removing Owner's debt(s) herein. In the event Owner holds over and fails to completely vacate by the applicable termination date, Owner hereby agrees to pay County (delivered to Operator) at County's option an additional amount of \$20.00 per day (in addition to the Storage Fees also due) for each day that Owner is in possession of the Storage Space beyond the applicable termination date.

14. Solicitors/ Boarding of Boats or Trailers. Owner shall not permit solicitors, brokers, salesmen or workmen, other than regular employees of County (and others authorized by County or Operator for work deemed by either of them to be necessary) and hands regularly employed on the Boat or Trailer, to access the Storage Space and the Dry Boat Storage Facility except as otherwise approved in writing by Operator. Owner shall not post any "For Sale" sign(s) or notices on the Boat, Trailer, or floats, gangways, docks or on any other County property. The Operator or any of his/her assistants may board the Boat or Trailer at any time, without prior notice, regardless of documentation, for health, environmental or safety purposes, or to protect the Dry Boat Storage Facility, the Harbor, and any other County property, and/or the public peace.

15. **Maintenance of Boats and Trailers.** Owner shall not permit paint remover, burning of paint, or spray guns to be used on top side or above decks, nor shall Owner paint topsides while in the Storage Space, the Dry Boat Storage Facility, or the Harbor; provided, however, that ordinary maintenance shall be permitted. County and Operator shall be sole judge of what work constitutes "ordinary maintenance." Owner at all times shall keep and maintain the Boat in a safe and seamanlike condition and shall meet County standards for appearance and maintenance. Owner shall keep and maintain the Trailer in a safe and roadworthy condition and shall meet the County standards for appearance and maintenance. The use of Harbor electrical outlets for the operation of power tools, battery chargers, welders, air conditioners, etc., is prohibited except by special permission of Operator.

16. **Non-Transferability of Agreement.**

(a) Owner agrees that should he/she sell or part with possession of the Boat or Trailer that this Agreement is automatically terminated, and the new owner or possessor has no right whatsoever under this Agreement. Should Owner transfer any interest in, or part with possession of Boat or Trailer such that Owner no longer qualifies under Section 1(f) hereof, or if Owner parts with possession of the Boat or Trailer, the new owner(s) and/or possessor(s) of the Boat and Trailer shall have no right to the Storage Space, no rights under this Agreement and upon notice of such transfer from Owner this Agreement shall terminate. The sale, assignment or transfer of any interest in the Boat or Trailer from Owner inconsistent with Section 1(f) of this Agreement shall constitute a sale of the Boat and Trailer pursuant to this Agreement. OWNER AGREES, FOR HIMSELF AND ALL HIS SUCCESSORS, THAT UPON SUCH TERMINATION HE WILL IMMEDIATELY REMOVE OR CAUSE THE BOAT AND TRAILER TO BE REMOVED FROM SAID STORAGE SPACE. OWNER FURTHER AGREES THAT SAID BOAT AND TRAILER MAY BE REMOVED AS A TRESPASSING BOAT AND TRAILER. THE TRANSFER OF ANY INTEREST IN OR POSSESSION OF THE BOAT OR TRAILER SHALL NOT RELIEVE OWNER OF HIS OBLIGATIONS HEREUNDER.

(b) Owner understands that he/she is not allowed under the terms of this Agreement to bring any Boat or Trailer other than the one's described in Attachment A hereto into the assigned Storage Space. A new Attachment A must be filled out by Owner if Owner sells or transfers the Boat or Trailer and replaces the Boat or Trailer with a new boat or trailer that is appropriate for the Storage Space within the time permitted under this Agreement, and upon County's written approval. Owner shall not represent to any third party that the Storage Space is transferable with the Boat and trailer and shall indemnify, defend and hold the County Parties harmless for any damages resulting from such representation.

**17. INSURANCE (AML10.1 S)**

OWNER agrees to purchase all required insurance at OWNER's expense and to deposit with the COUNTY and Operator certificates of insurance, including all endorsements required herein, necessary to satisfy the COUNTY that the insurance provisions of this License have been complied with and to keep such insurance coverage and the certificates and endorsements therefore on deposit with the COUNTY and Operator during the entire term of this License. This License shall automatically terminate at the same time OWNER's insurance coverage is terminated. If within ten (10) business days after termination under this Clause OWNER obtains and provides evidence of the required insurance coverage acceptable to \*County, this License may be reinstated at the sole discretion of \*County. OWNER shall pay COUNTY **One Hundred & 00/100 Dollars (\$100.00)** for processing the reinstatement of this License.

OWNER agrees that OWNER shall not operate on the License Area at any time the required insurance is not in full force and effect as evidenced by a certificate of insurance and necessary endorsements or, in the interim, an official binder being in the possession of \*County and Operator. In no cases, shall assurances by OWNER, its employees, agents, including any insurance agent, be construed as adequate evidence of insurance. \*County will only accept valid certificates of insurance and endorsements, or in the interim, an insurance binder as adequate evidence of insurance. OWNER also agrees that upon cancellation, termination, or expiration of OWNER's insurance, COUNTY may take whatever steps are necessary to interrupt any operation from or on the License Area until such time as the \*County reinstates the License.

If OWNER fails to provide \*County with a valid certificate of insurance and endorsements, or binder at any time during the term of the License, COUNTY and OWNER agree that this shall constitute a material breach of the License. Whether or not a notice of default has or has not been sent to OWNER, said material breach shall permit COUNTY to take whatever steps necessary to interrupt any operation from or on the License Area, and to prevent any persons, including, but not limited to, members of the general public, and OWNER's employees and agents, from entering the License Area until such time as \*County is provided with adequate evidence of

insurance required herein. OWNER further agrees to hold COUNTY harmless for any damages resulting from such interruption of business and possession, including, but not limited to, damages resulting from any loss of income or business resulting from the COUNTY's action.

All contractors performing work on behalf of OWNER pursuant to this License shall obtain Commercial General Liability insurance with limits of \$1,000,000 per occurrence and a \$2,000,000 aggregate and subject to the same terms and conditions as set forth herein for OWNER. OWNER shall not allow contractors or subcontractors to work if contractors have less than the level of coverage required by the COUNTY under this License. It is the obligation of the OWNER to provide written notice of the insurance requirements to every contractor and to receive proof of insurance prior to allowing any contractor to begin work within the License Area. Such proof of insurance must be maintained by OWNER through the entirety of this License and be available for inspection by a COUNTY representative at any reasonable time.

All self-insured retentions (SIRs) and deductibles shall be clearly stated on the Certificate of Insurance. If no SIRs or deductibles apply, indicate this on the Certificate of Insurance with a zero (0) by the appropriate line of coverage. Any self-insured retention (SIR) or deductible in excess of \$25,000 (\$5,000 for automobile liability), shall specifically be approved by the County Executive Office (CEO)/Office of Risk Management upon review of OWNER's current audited financial report.

If the OWNER fails to maintain insurance acceptable to the COUNTY for the full term of this License, the COUNTY may terminate this License.

Qualified Insurer

The policy or policies of insurance must be issued by an insurer with a minimum rating of A- (Secure A.M. Best's Rating) and VIII (Financial Size Category as determined by the most current edition of the **Best's Key Rating Guide/Property-Casualty/United States or ambest.com**). It is preferred, but not mandatory, that the insurer be licensed to do business in the state of California (California Admitted Carrier).

If the insurance carrier does not have an A.M. Best Rating of A-/VIII, the CEO/Office of Risk Management retains the right to approve or reject a carrier after a review of the company's performance and financial ratings.

The policy or policies of insurance maintained by the OWNER shall provide the minimum limits and coverage as set forth below:

<u>Coverages</u>	<u>Minimum Limits</u>
Protection & Indemnity Insurance (P&I) (Preferred, but not mandatory)	\$300,000 per occurrence
Auto Liability	\$100,000 per occurrence
Hull Coverage	Replacement Cost Value

Required Endorsements

The Protection and Indemnity policy shall contain the following endorsements, which shall accompany the Certificate of insurance:

- 1) An Additional Insured endorsement naming the County of Orange, its elected and appointed officials, officers, employees, agents and Vintage Marina Partners L.P.as Additional Insureds.

- 2) A primary non-contributing endorsement evidencing that the Owner's insurance is primary and any insurance or self-insurance maintained by the County of Orange and Vintage Marina Partners L.P shall be excess and non-contributing.

The Protection and Indemnity policy shall waive all rights of subrogation against the County of Orange, its elected and appointed officials, officers, agents and employees and Vintage Marina Partners L.P. when acting within the scope of their appointment or employment.

OWNER shall notify County in writing within thirty (30) days of any policy cancellation and ten (10) days for non-payment of premium and provide a copy of the cancellation notice to County. Failure to provide written notice of cancellation may constitute a material breach of the LICENSE, upon which the County may suspend or terminate this LICENSE.

Insurance certificates should be forwarded to the COUNTY address provided in the Clause (NOTICES) below or to an address provided by \*County. OWNER has ten (10) business days to provide adequate evidence of insurance or this License may be cancelled.

COUNTY expressly retains the right to require OWNER to increase or decrease insurance of any of the above insurance types throughout the term of this License. Any increase or decrease in insurance will be as deemed by County of Orange Risk Manager as appropriate to adequately protect COUNTY.

COUNTY shall notify OWNER in writing of changes in the insurance requirements. If OWNER does not deposit copies of acceptable certificates of insurance and endorsements with COUNTY incorporating such changes within thirty (30) days of receipt of such notice, this License may be in breach without further notice to OWNER, and COUNTY shall be entitled to all legal remedies.

The procuring of such required policy or policies of insurance shall not be construed to limit OWNER's liability hereunder nor to fulfill the indemnification provisions and requirements of this License, nor in any way to reduce the policy coverage and limits available from the insurer.

18. **Security.** County provides no security protection within the Dry Boat Storage Facility and the Harbor other than normal law enforcement services and County assumes no responsibility whatever for the personal safety of Owner or his/her invitees, guests, or employees, or for the safety of any vessels or trailers or their appurtenances. If County elects from time to time to provide any supplemental or extraordinary security services in or around the Dry Boat Storage Facility or the Harbor, it is understood such security is solely for the protection of County's property and creates no duty by County to Owner.

19. **Release From Soot, Smoke, Oil and Wake Damages and Other Hazards in the Harbor.** Owner does hereby release County and Operator from any and all claims, damages or liabilities arising out of the injury or damage to Owner, his/her guests or employees, or his/her Boat or Trailer or its contents, from soot, smoke, oil, wake or any other substance existing upon, in or over waters in the Harbor, from the water depth of the Harbor once the Boat is put into the Harbor, and from any patent or latent conditions or dangers existing in the Harbor, including without limitation rocks and revetments, physical obstructions to free navigation, and other boats and boaters.

**No Interference with County Lien Rights.** Both possessory and non-possessory liens arise in favor of County by operation of both state and federal law, respectively. Owner represents and warrants that there is no existing sales agreement or other agreement, such as a finance agreement, which would limit County's ability to impose or enforce such liens, and that Owner is fully authorized to enter into contractual agreements such as the instant one which may give rise to a lien upon the Boat under the Federal Maritime Lien Act or pursuant to state law. If Owner is without such authority or is unsure as to his/her authority then the following must be supplied: the name, address and telephone number of the individual or agency, if any, whom Owner believes should be contacted and informed of the possibility of imposition of liens encumbering the Boat.

21. **Documentation/Registration and Condition of Boat and Trailer.** A current copy of the California Boat and Trailer Registration (D.M.V.) or United States documentation must be on file in Operator's office. **Boat and Trailer**



**registration/documentation shall list Owner and all County approved co-owners.** Owner shall tender to County on a yearly basis, with or without prior demand therefor, a true and correct copy of the Boat's and Trailer's then-current state registration or federal documentation. Owner warrants that the Boat and Trailer are properly documented or registered pursuant to the laws of the United States and/or the State of California and that the Boat and Trailer are in compliance with all applicable U.S. Coast Guard and US Department of Transportation or Department of Motor Vehicles safety regulations. Owner shall maintain the Boat in a seaworthy, operable condition, and shall maintain the Boat's appearance; including regular cleaning, maintenance and replacement of all painted and varnished surfaces, all brightwork, rigging, safety equipment and any other appurtenances of the Boat. Owner shall maintain the Trailer in safe roadworthy, operable condition, and shall maintain the Trailer's appearance, including regular cleaning and maintenance. County shall be the sole judge of the adequacy of the Boat's and Trailer's condition and maintenance.

22. **Storage Space Vacancy/Extended Absence.** Owner agrees that County may use the Storage Space when temporarily not in use by Owner, without compensation to Owner. Further, Owner shall notify County in writing (by notice to Operator's attention) if the Boat and Trailer will not be in the assigned space at the Harbor for any period exceeding seven consecutive (7) days. In such event, Owner agrees County or Operator may assign another boat and Trailer to the Storage Space during the period of the absence of Owner's Boat and Trailer; if another boat and trailer is so assigned to the Storage Space during such period of temporary absence, Owner understands and agrees Owner will remain responsible for payment of the current monthly slip fees regardless of any additional fees collected by County or Operator for said Storage Space. To assure the assigned Storage Space is available upon a Boat and Trailer's return, in the event the Boat and Trailer are absent from their Storage Space for seven (7) or more consecutive days, Owner is required to provide County at least 72 hours advance notice (by notice to Operator's attention) of the date and time the Boat and Trailer will return to their Storage Space. In the event the Boat and Trailer are absent from their assigned Storage Space for a period exceeding thirty (30) days, and Owner has failed to notify the County (through Operator) of an extended absence as herein required, County or Operator may elect to terminate this Agreement without advance notice and assign the Storage Space to another boat and Trailer. In such event of non-notification, Owner shall remain liable, in addition to other fees then owing, to tender a sum equal to thirty (30) days Storage Fees.

23. **Reporting of Damage.** Owner shall immediately report to County (c/o Operator) any damage caused by Owner, Owner's guests/invitees, or Owner's Boat or Trailer to County property, the Dry Boat Storage Facility, the Harbor or another's property located at the Harbor.

24. **Damage to County Property by Owner, Etc.** In the event County property is damaged or destroyed by any negligent conduct by Owner or his/her guests or invitees, or the negligent failure of Owner to maintain or operate his/her Boat or Trailer, Owner shall immediately, upon demand by County and presentation to Owner of a statement of damages, tender full payment to County (c/o the Operator) to cover the cost of such damage(s) or loss(es).

25. **Emergency.** In case of emergency, as determined by County or Operator shall be authorized to move the Boat and Trailer, if possible or practical, to a safer area to protect the Boat and Trailer, property or general welfare if the Boat and Trailer are unattended, and Owner cannot be reached. However, under no circumstances is County under any obligation to provide this service. Any cost incurred by County shall be borne by Owner. Owner agrees to indemnify, defend, and hold the County Parties harmless from and against any and all claims, liability, loss or damage caused by or to the Boat or Trailer which may arise out of failure of Owner to move the Boat and Trailer, the inability of County to reach Owner, or by the movement of the Boat and Trailer by County in general; Owner shall be solely responsible for any and all emergency measures.

26. **Effect of Damage or Destruction.** In the event of damage to or destruction of all or a portion of the Harbor, the Dry Boat Storage Facility, or the Storage Space by fire, flood, earthquake, or any other cause or causes, County shall have the option to: (a) treat this Agreement as continuing and repair or restore the Harbor, the Dry Boat Storage Facility, or Storage Space to their condition before such damage or destruction within thirty (30) days of the occurrence of the same or, if insured, within thirty (30) days after the County receives permission from the insurer to proceed with repair or restoration; or (b) terminate this Agreement and all further obligations hereunder of either party by written notice to Owner. After the occurrence of such damage or destruction, Owner's obligation to pay fees hereunder shall be abated in an amount which County, in its sole discretion, shall determine to be proportionate to the portion of the Storage Space tendered unfit for use by Owner during the period of repair or restoration.

27. **Boat and Trailer Abandonment -- Disposal At Owner's Cost.** If Owner fails to pay the Storage Fee or other fees as required herein, or if he/she fails to remove the Boat and Trailer from the Storage Space following termination of this Agreement, it is agreed the Boat and Trailer will be regarded for all purposes as a trespasser. It is agreed that in such event County shall charge Storage Fees for the Boat and Trailer at the then current impound Boat and Trailer rates until such time as the Boat and trailer are removed or disposed of as provided by state and/or federal law. In the event County terminates this Agreement by providing written notice to Owner (at his/her last known address) of such termination, Owner shall immediately remove his/her Boat and Trailer from the Harbor. After the date of such termination storage rates for the Boat and Trailer, which will be regarded as a trespasser, will be calculated at the then current impound Boat and Trailer rate. If for any reason the Boat and Trailer are not removed within 60 days of the date of termination of this Agreement it is agreed the Boat and Trailer shall be conclusively regarded for all purposes as having been abandoned. In such event, County shall become entitled to dispose of the Boat and Trailer in any manner, including but not limited to destruction, public or private sale, or any other means. If the Boat and Trailer are disposed of in such manner, Owner shall indemnify,

protect and defend the County Parties from and against all actual or potential liability (including but not limited to legal claims, liens and judgements) arising from or in any way pertaining to such Boat and Trailer disposal. Owner shall be liable for all costs of such disposal, including but not limited to surveying costs, disposal costs, storage costs, and legal fees.

28. **Tender of Required Notice(s)**. All notices by one party to the other under this Agreement shall be in writing and mailed via United States first class regular mail, postage prepaid. Notice to Owner shall be to Owner's address indicated on Attachment "A". It is Owner's sole responsibility to notify County (c/o Operator) of any change of this address, and Owner agrees that notice sent to Owner's address as listed in Attachment "A" shall be conclusively deemed as legally effective until such date that Owner delivers a proper change of address form to Operator. County reserves the right to change its address for notification purposes by providing written notice of such change to Owner at his/her last known address. Notice by Owner to County shall be mailed to:

Vintage Marina Partners, L.P.  
P.O. Box 249  
Dana Point, CA 92629

29. **Agreement As Complete Expression Parties' Understandings**. The Agreement contains a complete expression of the Agreement between the parties hereto and there are no promises, representation, agreements, warranties or inducements except such as are made herein and fully set forth. No alterations of any of its terms, covenants or conditions shall be binding unless reduced to writing and signed by the parties hereto. It is agreed that all of the rights, remedies and benefits provided by the Agreement shall be cumulative, and shall not be exclusive of any other of said rights, remedies, and benefits allowed by law.

30. **Waiver & Severability**. The failure of County to insist upon the performance of any term hereof, or the waiver of any breach of any term hereof, shall not be construed as thereafter waiving any such terms and conditions, but the same shall continue and remain in full force and effect as if no such forbearance or waiver had occurred. No action taken by County in equity or at law, whether in state or federal court, shall be construed as a waiver of County's maritime statutory or contractual or other rights at law, in equity or in admiralty, including its right to recover as part of its lien directly against the Boat all costs incurred in connection with collection of Storage Fees and other fees due under the Agreement. The invalidity of any portion of this Agreement will not and shall not be deemed to affect the validity of any other provisions. In the event any term or condition herein contained is held to be invalid, the parties agree the remaining provisions shall be deemed to be in full force and effect, as if they had been executed by both parties subsequent to the expungement of the invalid provision(s).

31. **Termination of Prior Agreements**. It is mutually agreed that this Agreement is the sole and only agreement between the parties regarding the subject matter hereof and shall terminate and supercede any prior agreements, either oral or written, between the parties hereto covering all or any portion of the Storage Space, the Dry Boat Storage Facility, or the Harbor. Notwithstanding the foregoing, this provision shall not release Owner from any obligations under any prior agreements to be performed through the effective date of this Agreement or from any obligations of indemnification based upon events occurring prior to the effective date of this Agreement.

32. **Taxes and Assessments**. It is understood and agreed that all taxes and assessments (including but not limited to any possessory interest tax) due and payable in connection with this Agreement or upon the Boat, Trailer and any fixtures, equipment, or other property used in connection with this Agreement shall be the full responsibility of Owner. Owner shall cause said taxes and assessments to be paid promptly and prior to delinquency.

33. **Disposition of Abandoned Personal Property**. If Owner abandons the Storage Space or is dispossessed thereof by process of law or otherwise, title to any personal property belonging to Owner (except for the Boat and Trailer provisions of Section 11, entitled County's Remedies) and left within the Storage Space, the Dry Boat Storage Facility, or the Harbor ten (10) days after such event shall be deemed, at the Director's option, to have been transferred to County. Director shall have the right to remove and to dispose of such property without any County liability therefor to Owner or to any person claiming under Owner, and shall have no need to account for the property.

34. **Waiver of Jury Trials**. Each party acknowledges that it is aware of and has had the opportunity to obtain the advice of counsel of its choice with respect to its rights to trial by jury, and each party, for itself and its successors and assigns, does hereby expressly and knowingly waive and release all such rights to trial by jury in any action, proceeding or counterclaim brought by any party hereto against the other (and/or against its officers, directors, employees, agents, or subsidiary or affiliated entities) on or with regard to any matters whatsoever arising out of or in any way connected with this Agreement and/or any claim of injury or damage.

35. **Governing Law and Venues**. This Agreement has been negotiated and executed in the State of California and shall be governed by and construed under the internal laws of the State of California, without regard to conflict of laws principles. In the event of any legal action to enforce or interpret this Agreement, the sole and exclusive venue shall be a court of competent jurisdiction located in Orange County, California, and the parties hereto agree to and do hereby submit to the jurisdiction of such court, notwithstanding Code of Civil Procedure section 394.

36. **Owner's Legal Capacity**. The person signing below as "Owner" attests that he/she is legally entitled to bind the Boat, Trailer

and all of Owner's co-owners of the Boat and Trailer to all terms of this Agreement, that in the event the person signing below is not the sole owner of the Boat and Trailer he/she has obtained the express permission of all persons with an ownership or equitable interest in the Boat and Trailer to all of the provisions set forth in this Agreement, and that he/she at the time of reviewing/executing this Agreement is not under the influence of alcohol or any legal or illicit drug, and that he/she has reached the legal age of maturity, and that he/she is not legally incapacitated or otherwise unable to fully understand and appreciate the terms contained herein.



ATTACHMENT "A"

**COUNTY OF ORANGE  
DANA POINT HARBOR, CALIFORNIA  
BOAT STORAGE AGREEMENT**

ACCOUNT# \_\_\_\_\_ SPACE# \_\_\_\_\_ SIZE: \_\_\_\_\_ EFFECTIVE DATE: \_\_\_\_\_

OWNER'S NAME \_\_\_\_\_

HOME ADDRESS \_\_\_\_\_

CITY \_\_\_\_\_ STATE \_\_\_\_\_ ZIP \_\_\_\_\_

MAILING ADDRESS \_\_\_\_\_ KEYCARD NO. \_\_\_\_\_

CITY \_\_\_\_\_ STATE \_\_\_\_\_ ZIP \_\_\_\_\_

EMPLOYER \_\_\_\_\_ EMAIL \_\_\_\_\_@\_\_\_\_\_

EMPLOYER'S ADDRESS \_\_\_\_\_

CITY \_\_\_\_\_ STATE \_\_\_\_\_ ZIP \_\_\_\_\_

TELEPHONE: HOME: (\_\_\_\_)\_\_\_\_\_ BUSINESS (\_\_\_\_)\_\_\_\_\_ CELL PHONE (\_\_\_\_)\_\_\_\_\_

BIRTHDATE \_\_\_\_\_ SSN \_\_\_\_\_ DRIVERS LICENSE \_\_\_\_\_

NAME OF LEGAL SPOUSE \_\_\_\_\_

**OPTIONAL SERVICES**

Hoist Service \$ \_\_\_\_\_

Jeep Service \$ \_\_\_\_\_

Truck Service \$ \_\_\_\_\_

**INSURANCE INFORMATION:**

INSURING COMPANY \_\_\_\_\_

INSURANCE AGENT/AGENCY \_\_\_\_\_

ADDRESS \_\_\_\_\_ CITY \_\_\_\_\_ STATE \_\_\_\_\_ ZIP \_\_\_\_\_

PHONE \_\_\_\_\_ POLICY # \_\_\_\_\_ EXPIRATION DATE \_\_\_\_\_

VMP/ORANGE COUNTY ADDITIONAL INSURED: Y  N

**BOAT INFORMATION:**

YEAR \_\_\_\_\_ MAKE \_\_\_\_\_ LENGTH \_\_\_\_\_ BEAM \_\_\_\_\_

POWER  SAIL  HULL ID \_\_\_\_\_ CF # \_\_\_\_\_

EXPIRATION YEAR \_\_\_\_\_ BOAT NAME \_\_\_\_\_

MAKE OF TRAILER \_\_\_\_\_ TRAILER LIC # \_\_\_\_\_ TRAILER SER # \_\_\_\_\_

DOCUMENTATION # \_\_\_\_\_ EXPIRATION (MM/YY) \_\_\_\_\_

**EMERGENCY INFORMATION:**

NAME: \_\_\_\_\_ PHONE: \_\_\_\_\_ RELATIONSHIP: \_\_\_\_\_

NAME: \_\_\_\_\_ PHONE: \_\_\_\_\_ RELATIONSHIP: \_\_\_\_\_

*(Owner's signature(s) on page 14)*

**By signing this contract I understand and agree that the maximum overall length of any and all Boats and Trailers to occupy this Storage Space, including all extensions shall not exceed \_\_\_\_\_'.**

\_\_\_\_\_  
Owner's Signature

\_\_\_\_\_  
Date

PREPARED BY:

# **EMBARCADERO MARINA**

REVISED 2/2018

## **RULES, REGULATIONS AND INFORMATION**

THE FOLLOWING INFORMATION IS A GUIDE LINE FOR NEW TENANTS. THE PURPOSE IS TO HAVE A BETTER UNDERSTANDING OF OUR EMBARCADERO MARINA OPERATION, RULES AND REGULATIONS.

**SIGNED TENANTS MUST COMPLY WITH ALL EMBARCADERO MARINA RULES AND REGULATIONS.**

**ALL COUNTY, CITY, STATE AND FEDERAL LAWS AND REGULATIONS APPLY WHILE WITHIN THE EMBARCADERO MARINA PREMISES, LAND OR WATERS.**

**THE RULES AND REGULATIONS SUMMARIZED HEREIN, AND AS AMENDED FROM TIME TO TIME, AND ALL OTHER REGULATIONS ESTABLISHED BY REGULATORY BODIES HAVING JURISDICTION AT THIS MARINA, SHALL FORM A PART OF STORAGE AGREEMENT AS THOUGH PRINTED THEREON IN THEIR ENTIRETY.**

## **OPEN/CLOSED DAYS AND HOURS**

1. OPEN EVERY DAY EXCEPT THANKSGIVING AND CHRISTMAS.
2. WE HAVE SET SEASONAL HOURS, **SEE PRICE LIST FOR HOURS OPEN.**

## **GATE CARD**

1. ***GATE CARD WORKS ON CAR SIDE ONLY*** (RIGHT SIDE OF DRIVEWAY).
2. ONLY USE WHEN ENTERING WITH A VEHICLE - NOT WHEN PULLING A TRAILER OR A BOAT.
3. IF YOU DO NOT HAVE YOUR GATE CARD WITH YOU, PULL UP TO THE GATE AND SAY "OFFICE". WAIT FOR US TO ANSWER - TELL US YOUR NAME AND SPACE NUMBER. WHEN THE INFORMATION IS VERIFIED - WE CAN LET YOU IN.
4. THE EMBARCADERO MARINA RESERVES THE RIGHT TO CHARGE A PARKING FEE TO THOSE NOT IN POSSESSION OF THEIR GATE CARD.
5. GATE CARDS ARE FOR ***TENANT'S USE ONLY*** AND CAN BE REVOKED IF LENT OUT TO ANYONE ELSE OR USED TO ADMIT OTHER VEHICLES OR BOATS and TRAILERS.

## **SERVICES**

1. IF YOU DO NOT HAVE SERVICES BUT NEED HOIST OR JEEP SERVICE, WE ASK THAT YOU NOTIFY THE OFFICE, IN ADVANCE. WE CAN ADD THESE SERVICES TO YOUR ACCOUNT, BUT PREFER YOU PAY AT THE TIME OF THE SERVICE.
2. IF YOU HAVE PAID SERVICES AND YOU WOULD LIKE YOUR BOAT AND TRAILER TAKEN TO THE HOIST, WORK AREA OR WASH RACK, PLEASE COME INTO THE OFFICE AND TELL ATTENDANT YOUR NAME AND SPACE NUMBER - WHERE YOUR BOAT AND TRAILER ARE AND WHERE YOU WOULD LIKE THEM TO GO.

### **EXAMPLE:**

SMITH, N123, SPACE TO HOIST  
SMITH, N123, SPACE TO WORK AREA

3. WHEN COMING IN TO PORT, YOU CAN TELL OUR EMPLOYEES WHERE TO TAKE YOUR BOAT AND TRAILER FROM THERE.

4. WHEN CALLING TO HAVE YOUR BOAT AND TRAILER TAKEN FROM YOUR SPACE TO THE OPEN LOT (PARKING LOT) FOR SECURITY PURPOSES YOU WILL BE REQUIRED TO ANSWER QUESTIONS ASKED BY OUR OFFICE PERSONNEL TO VERIFY OWNERSHIP.

**5. REMEMBER: ALL JEEP AND HOIST SERVICES SHUT DOWN 1/2 HOUR BEFORE CLOSING.**

6. THE HOIST DOES NOT ACCOMMODATE ALL BOATS. HOIST SERVICE IS DETERMINED BY SIZE, WEIGHT, TRAILER AND EQUIPMENT.

**WET SLIPS**

1. WE HAVE NINE AVAILABLE WET SLIPS FOR OUR TENANTS **ONLY** \$10.00 PER NIGHT. THESE ARE RESERVED AND PAID FOR IN ADVANCE. NO CHARGES CAN BE MADE TO YOUR ACCOUNT FOR WETSLIPS.
2. RESERVATIONS CAN BE MADE UP TO 2 WEEKS IN ADVANCE, AND MUST BE PAID IN ADVANCE TO SECURE THE SLIP. SLIPS ARE RENTED ON A FIRST COME – FIRST SERVED BASIS.
3. ***DURING SUMMER MONTHS WE REQUIRE A TWO NIGHT MINIMUM STAY*** WITH A MAXIMUM FIVE-NIGHT STAY.
4. PLEASE USE ONLY THE WET SLIP DESIGNATED TO YOU BY THE EMBARCADERO MARINA OFFICE.
5. WHEN RENTING A WET SLIP YOU CAN GET A KEY TO ACCESS THE WALK-THRU GATE FOR A \$100.00 DEPOSIT, DEBITED TO YOUR ACCOUNT. – THIS CHARGE IS CREDITED BACK TO YOUR ACCOUNT WHEN YOU RETURN THE KEY. THE RESTROOMS CAN BE ACCESSED BY USING THE ADDITIONAL KEY BUT YOU MUST BE SURE TO LOCK AFTER USING.
6. IF WE ARE CLOSED, PLEASE DROP KEY IN MAIL SLOT IN OUR OFFICE DOOR (BE SURE TO UNLOCK GATE AND LEAVE AJAR BEFORE DROPPING KEY).
7. ***YOU MUST VACATE THE WETSLIP BY 12:00 NOON*** ON YOUR LAST RESERVED DAY AND ***THE KEY MUST BE RETURNED AT THE END OF EACH STAY.***
8. WE DO HAVE ELECTRICITY AT SLIPS 1 – 6 SHOULD YOU NEED IT. NO ELECTRICAL HOOK-UP AT SLIPS 7 – 9. NO CORDS OR HOSE MAY BE STRUNG ACROSS ANY IN-WATER DOCKS.

**REMOVING BOAT FROM PREMISES**

1. WE WOULD LIKE TO KNOW WHEN YOUR BOAT AND TRAILER ARE OFF OUR LOT FOR MORE THAN A DAY AT A TIME. PLEASE COME IN THE OFFICE AND ASK TO SIGN OUT YOUR BOAT AND TRAILER.
2. IF YOU LEAVE FROM OUR PORT, PLEASE PUT YOUR TRAILER BACK IN YOUR SPACE.
3. IN THE EVENT YOU NEED TO LEAVE YOUR VEHICLE AND OR TRAILER IN OUR PUBLIC PARKING LOT OVER NIGHT PLEASE FIRST OBTAIN AN OVERNIGHT PARKING PASS FROM OUR OFFICE. THE OVERNIGHT PUBLIC PARKING PASS MUST BE RETURNED TO THE OFFICE THE FOLLOWING DAY BY 5PM. IF THE OVERNIGHT PARKING PASS IS NOT RETURNED BY 5PM YOU WILL BE CHARGED THE DAILY OVERNIGHT PARKING FEE.

**BILLING**

1. WE SEND STATEMENTS EACH MONTH FOR THE FOLLOWING MONTH.
2. IF PAYMENT IS NOT RECEIVED BY THE **10<sup>TH</sup>** A LATE FEE OF 1.5% ON THE BALANCE DUE IS CHARGED.

**PERSONAL MAINTENANCE OF BOAT**

1. EMBARCADERO MARINA PROVIDES A WORK AREA LOCATED NEXT TO OUR OFFICE. USE OF THIS WORK AREA IS LIMITED. IT HAS ELECTRICITY FOR MINOR REPAIRS AND CLEAN UP. NO SPRAY PAINTING OR STRONG DETERGENTS ARE TO BE USED.
2. **MESSY OR MAJOR REPAIRS AND MAINTENANCE ARE PROHIBITED ON BOTH LOTS (INSIDE AND OUT).**
3. **MECHANICS ARE NOT AUTHORIZED TO ACCES THE MARINA TO COMPLETE REPAIRS TO OWNER'S VESSEL AND OR TRAILER.**



## **COURTESY TO OTHERS**

1. NO PART OF BOAT OR TRAILER IN SPACE SHALL EXTEND OVER WALKWAY OR AISLES. NO CORDS OR HOSES MAY BE STRUNG ACROSS DRIVEWAYS, BEHIND BOATS AND TRAILERS OR IN ANYWAY ENCROACH UPON THE USE OF ANOTHER TENANT'S SPACES.
2. THE COOPERATION OF ALL TENANTS IS REQUESTED IN REPORTING TO THE MANAGER, ANY BREAKAGE, DEFICIENCIES, OR ANY HAZARDOUS CONDITIONS EXISTING WITH ANY SPACE, UPON WHICH SUCH CONDITIONS CAN BE QUICKLY REMEDIED.
3. WHEN YOU RETURN YOUR BOAT AND TRAILER TO THEIRSPACE, PLEASE MAKE SURE THEY ARE ***BACKED IN AND WITHIN THE BOUNDARIES*** SO AS NOT TO ENCROACH ON YOUR NEIGHBORS.
4. IF DAMAGE OCCURS TO ANOTHER BOAT OR TRAILER OR DAMAGE OCCURS TO YOURS BY ANOTHER, PLEASE REPORT INFORMATION TO THE OFFICE IMMEDIATELY. THESE REPORTS HAVE BEEN FEW AND FAR BETWEEN BUT A REPORT WILL BE TAKEN AND PUT IN YOUR FILE.
5. WE ARE NOT RESPONSIBLE FOR DAMAGES UNLESS WE INFLICT THEM. YOUR INSURANCE SHOULD COVER YOUR BOAT, TRAILER AND A COPY MUST BE IN YOUR FILE.

## **NOTICE TO TERMINATE**

1. EMBARCADERO MARINA REQUIRES A **30-DAY** NOTICE TO QUIT. A **NOTICE TO VACATE** CAN BE OBTAINED IN OUR OFFICE OR YOU CAN FAX THE NOTICE TO (949) 496-0641.
2. WHEN GIVING A 30 DAY NOTICE BE AWARE THAT IT IS EFFECTIVE 30 DAYS AFTER EMBARCADERO MARINA'S RECEIPT OF SUCH NOTICE. PLEASE STATE IN YOUR NOTICE IF YOU WOULD LIKE TO APPLY YOUR SECURITY DEPOSIT TO YOUR LAST MONTHS RENT.
3. BEFORE REMOVING BOAT AND TRAILER FROM YOUR SPACE, WE REQUEST THAT YOU HAVE A ZERO BALANCE AND RETURN ALL GATE CARDS.

## **OVERNIGHT PARKING**

1. NO CHARGE TO TENANTS FOR SHORT STAYS (48 HOURS OR LESS). IF YOU REQUIRE AN EXTENDED STAY (LONGER THAN 48 HOURS), YOU WILL BE CHARGED A FEE ACCORDING TO THE SERVICE REQUIRED. PLEASE SEE CURRENT PRICE LIST.

## **WASHRACKS**

WE HAVE WASHRACKS AVAILABLE FOR A FEE INSIDE THE LOCKED YARD NEXT TO THE K-LOT AREA. THIS WASH AREA IS FOR OUR TENANTS ONLY. THERE IS A TIME LIMIT AT THE WASHDOWN RACKS. WASH ONLY YOUR BOAT/TRAILER – NO CARS, ETC....

## **OTHER RULES AND REGULATIONS**

1. ALL VESSELS, AND TRAILERS STORED MUST BE CURRENTLY REGISTERED. A CERTIFICATE OF INSURANCE MUST BE FURNISHED TO EMBARCADERO SHOWING ADEQUATE BOAT/TRAILER COVERAGE. ALL PARTNERS USING BOAT AND TRAILER MUST SIGN STORAGE AGREEMENT AND HAVE ADEQUATE INSURANCE.
2. MANAGEMENT AT ANY TIME MAY CHANGE THE STORAGE SPACE ASSIGNMENT AND OWNER NOTIFIED.
3. ASSIGNMENT OR SUBLETTING OF STORAGE SPACE IS EXPRESSLY FORBIDDEN AND WILL TERMINATE THE RENTAL AGREEMENT.
4. FISHING, FISH CLEANING, SWIMMING, RUNNING, PLAYING, OR PUTTING OBJECTS ON THE DOCK IS STRICTLY FORBIDDEN.

5. ANIMALS SHALL BE LEASHED AT ALL TIMES ON PREMISES. OWNER/TENANT SHALL BE FULLY RESPONSIBLE FOR CLEANING OF FECES AND FULLY LIABLE FOR ANY OTHER DAMAGES CAUSED BY ANIMAL(S).
6. NO ONE SHALL THROW, DISCHARGE, PUMP OR DEPOSIT ANY REFUSE, OIL, SPIRITS, FLAMMABLE MATERIAL OR POLLUTING MATTER INTO THE WATERS IN, ON OR ADJACENT TO EMBARCADERO MARINA PREMISES.
7. OPEN FIRES, BAR-B-QUE, ETC. ARE NOT PERMITTED IN THE STORAGE AREA, PARKING AREAS OR ANY AREA ON PREMISES.
8. DISORDERLY OR INDECOROUS CONDUCT BY TENANT OR HIS/HER GUESTS WHICH MIGHT CAUSE INJURY OR DAMAGE TO PROPERTY OR HARM TO THE REPUTATION OF MARINA IS CAUSE FOR PROMPT RENTAL AGREEMENT TERMINATION.
9. ALL MARINE SANITATION DEVICES MUST BE EMPTIED INTO THE DUMPS PROVIDED IN THE HARBOR.
10. MARINA DOES NOT ACCEPT PHONE CALLS FOR TENANTS EXCEPT IN AN EXTREME LIFE-THREATENING SITUATION.
11. SIGNS ARE NOT PERMITTED TO BE POSTED ON DOCK OR BOATS WITHOUT PRIOR WRITTEN EMBARCADERO MARINA APPROVAL.
12. PROSPECTIVE BUYERS MAY NOT VISIT A TENANT'S BOAT OR TRAILER WITHOUT TENANT BEING PRESENT OR WITHOUT A PRIOR WRITTEN LETTER OF PERMISSION APPROVING SAME, BEING IN MARINA'S FILE, SIGNED BY OWNER.
13. OWNER/TENANT MUST GIVE PRIOR WRITTEN CONSENT FOR ANY PERSON OR ENTITY TO WORK ON HIS/HER BOAT OR TRAILER.
14. NO BICYCLE, MOTORCYCLES, SKATEBOARDS OR SKATES ARE ALLOWED ON DOCKS OR AMONG STORED BOATS AND TRAILERS.
15. NO TENANT OR OTHER PERSON IS PERMITTED INSIDE THE STORAGE AREA DURING CLOSED HOURS. LOCAL LAW ENFORCEMENT DEPARTMENTS HAVE BEEN REQUESTED TO CITE ANY SUCH INTRUDERS THEY MAY OBSERVE/DETAIN.
16. IF YOUR BOAT OR TRAILER IS SOLD, THE STORAGE SPACE DOES NOT TRANSFER TO THE NEW OWNER. (THEY MUST BE PLACED ON THE WAITING LIST).
17. EMBARCADERO MARINA RESERVES THE RIGHT TO REFUSE SERVICE TO ANY PERSON(S) FOR ANY REASON IT BELIEVES MAY PRESENT A PROBLEM TO PERSONS OR PROPERTY, OR CREATE ANY LIABILITY TO MARINA OR ITS' EMPLOYEES.
18. THE MAXIMUM SPEED LIMIT WITHIN DANA POINT HARBOR SHALL BE 5 MPH . THE MAXIMUM SPEED LIMIT WITHIN ALL MARINA PARKING LOTS SHALL BE 5 MPH AND ALL UNSAFE DRIVING IS STRICTLY PROHIBIT.
19. OWNER AGREES TO MAINTAIN THE STORAGE AREA AND SURROUNDING AREAS OF THE STORAGE AREA IN A NEAT, CLEAN AND UNOBSTRUCTED CONDITION AT ALL TIMES. SHOULD IT BECOME NECESSARY FOR THE COUNTY TO MAINTAIN THE STORAGE AREA AND SURROUNDING AREA OF THE STORAGE AREA IN SAID CONDITION, IT WILL BE DONE AT OWNER'S EXPENSE.
20. OWNER SHALL NOT STORE OR LEAVE ANY ITEMS IN OR ABOUT THE STORAGE AREA, WITH THE EXCEPTION OF THE BOAT AND TRAILER. THE COUNTY SHALL NOT BE HELD LIABLE FOR THE LOSS OR THEFT OF ANY PERSONAL BELONGINGS.
21. PROVIDING FALSE INFORMATION OR DOCUMENTATION TO COUNTY OR OPERATOR TO OBTAIN OR MAINTAIN A STORAGE AREA SHALL BE CONSIDERED GROUNDS FOR IMMEDIATE TERMINATION OF THIS AGREEMENT.
22. OWNER MAY UNDERTAKE BASIC BOAT AND TRAILER PROJECTS AS NEED TO MAINTAIN THEIR BOAT'S AND TRAILER'S SAFETY, APPEARANCE AND UTILITY. THE EXTENT OF SUCH REPAIRS AND PROJECTS ALLOWED IN DANA POINT HARBOR SHALL BE AT THE SOLE DESCRETION OF OPERATOR.

23. ALL OWNERS ARE REMINDED THAT THE MARINA IS A RECREATIONAL AREA AND NOT A BOAT YARD OR REPAIR FACILITY. ALL REPAIRS DONE IN THE DESIGNATED WORK AREA ARE REQUIRED TO PROTECT WATER QUALITY AT ALL TIMES.
24. OWNERS ARE REQUIRED TO USE ENVIRONMENTALLY FRIENDLY CLEANING PRODUCTS. PRODUCTS SHOULD BE PHOSPHATE FREE AND BE BIOGRADABLE. AVOID CLEANERS THAT CONTAIN LYE, SODIUM, HYDROCHLORIDE, CHLORINE, OR PETROLEUM DISTILLATES.
25. OWNERS ARE REQUIRED TO USE NON-TOXIC AND LEGAL PAINTS.
26. OWNERS MUST USE ABSORBENT BILGE PADS TO SOAK UP OIL AND FUEL; NOT TO DISCHARGE BILGE WATER IF THERE IS A SHEEN TO IT; TO RECYCLE OIL AND FUEL PRODUCTS PROPERLY; DISPOSE OF ABSORBENT PADS AND FILTERS PROPERLY; TO NOT DISPOSE OF ANY FUEL, PAINT, OIL, ABSORBENT PADS/RAGS, BATTERIES, ENGINE PARTS, OR OTHER CONTAMINATED MATERIALS INTO THE MARINA TRASH DUMPSTERS; TO ALWAYS USE CAUTION WHEN FUELING TO AVOID SPILLS AND POTENTIAL HAZARDOUS SITUATIONS; CHECK ENGINES FOR LEAKS AND USE DRIP PANS OR ABSORBENT PADS UNDER ENGINES; REPORT ALL SPILLS TO THE OPERATOR'S OFFICE IMMEDIATELY AT (949) 496-6177.
27. LIMIT THE AMOUNT OF SOLVENTS OR PAINTS IN THE STORAGE AREA TO ONE GALLON AT A TIME; ALWAYS MIX PAINTS AND EPOXY OVER A TARP; ALWAYS USE A PAN OR DROP CLOTH; USE UP REMAINING BITS OF PAINT BY SPREADING IT ON AN OLD BOARD; SPRAY PAINTING OR SPRAYING OF VARNISHES IS PROHIBITED IN THE STORAGE AREA AND DESIGNATED WORK AREA; PAINT, OIL, VARNISH, PAINTS, SOLVENTS AND OTHER HAZARDOUS MATERIALS MUST BE DISPOSED OF LEGALLY AT A HOUSEHOLD HAZARDOUS WASTE STATION (714) 834-6752 OR OTHER APPROPRIATE DISPOSAL FACILITY.
28. USE BIODEGRADABLE SOAPS, CLEANERS AND TEAK CLEANERS APPROVED FOR OCEAN WATERS, THE LIBERAL USE OF TARPS TO CAPTURE ALL SCRAPINGS, DEBRIS AND DRIPS; THE USE OF VACUUM POWERED SANDERS, TO VACUUM ALL DUST AND DEBRIS.

THANK YOU FOR FAMILIARIZING YOURSELF AND YOUR FAMILY WITH ALL OF THE ABOVE EMBARCADERO MARINA RULES AND REGULATIONS.

IF YOU HAVE ANY QUESTIONS, PLEASE DO NOT HESITATE TO CALL THE EMBARCADERO MARINA OFFICE AT: (949) 496-6177.