

NOTICE: THE ATTACHED FORM IS OFFERED BY THE CHANNEL ISLANDS WATERFRONT HOMEOWNERS ASSOCIATION (CIWHA) AS AN EXAMPLE OF A WHAREFAGE AGREEMENT BETWEEN A VESSEL OWNER AND A DOCK OWNER TO ADDRESS THE DISPLACEMENT OF VESSELS WHERE THE VESSEL OWNER'S HOME DOCK HAS BEEN MOVED AS A RESULT OF SEA WALL REPAIRS. **THERE IS NO OBLIGATION TO USE THIS AGREEMENT.** AS THIS AGREEMENT IS BEING PROVIDED TO YOU IN A WORD FORMAT, THIS AGREEMENT MAY BE MODIFIED TO MEET THE INDIVIDUAL NEEDS OF THE VESSEL OWNER AND DOCK OWNER. BY USING THIS AGREEMENT, THE VESSEL OWNER AND THE DOCK OWNER RELEASE ANY AN ALL CLAIMS THEY MAY HAVE AGAINST THE CIWHA, ITS EMPLOYEES, VOLUNTEERS AND ATTORNEYS WHICH MAY ARISE FROM THE LANGUAGE OF THIS AGREEMENT OR ITS USE. ANY QUESTIONS A PERSON HAS REGARDING THE TERMS UTILIZED IN THIS AGREEMENT AND THE LEGAL OBLIGATIONS ARISING FROM ITS USE SHOULD BE DIRECTED TO THAT PERSON'S LEGAL REPRESENTATIVE.

Temporary Wharfage Agreement – No Lease; No Rental

Name of Vessel Owner(s): _____

Vessel Owner's Physical Address: _____

Vessel Owner's Mailing Address (if different than Physical Address): _____

Vessel Owner Phone No: _____ (cell) _____
(alternate) _____

Vessel Owner's E-Mail Address: _____

Vessel Owner's Driver License: _____

Name of Vessel Co-Owner (If Any): _____

Co-Owner's Mailing Address: _____

Co-Owner Phone No: _____ (cell) _____ (alternate)

Co-Owner's E-Mail Address: _____

Co-Owner's Driver License: _____

CF Or USCG Documentation No.: _____

Length Overall: _____ Beam: _____ Draft: _____

Make: _____ Hull No./Color: _____ / _____ Year: _____

Check one: Power, Single Screw Power, Twin Screw Sail

If attached to the Vessel: Dinghy Information: _____ (Length) _____ (Beam)
_____ (Color) Type (Check one): Rigid Inflatable

Identify Holders of Mortgage & Other Liens Against Vessel:

Name: _____ Phone Number: _____

Address: _____

Vessel Insured By: _____ (Co. Name)

Insurance Policy No.: _____ Effective Date: _____

Insurance Agent Name: _____

Phone Number: (_____) _____ Email: _____

Address: _____

(Please Attach Insurance Declaration Page; as well as a copy of the Vessel's state (D.M.V.) Registration or United States or foreign documentation, together with a current photograph of the Vessel.)

Dock Owner's Physical Address: _____

Length Limitation of Dock Owner's Dock: _____

Dock Owner's Mailing Address (if different than Physical Address): _____

Dock Owner's Email address: _____

Dock Owner's Phone No: _____ (cell) _____

(alternate) _____

AGREEMENT

1. This contract is for Private Wharfage (the "Agreement") by and between the Owner of the Vessel identified above (Vessel Owner or VO) _____ and _____ referred to herein as the Dock Owner or DO and whose signature(s) are set forth below. This Agreement becomes effective when signed by all parties. It is understood and agreed that this Agreement does not create a bailment or a residential landlord-tenant relationship. DO is offering the use of his or her dock (including walkways, ramps, floats) as a good neighbor accommodation to the VO and VO acknowledges the wharfage established hereunder is for temporary wharfage, not to exceed twenty-eight (28) days while repairs are being made to the sea wall near or adjacent to VO's home and home dock and while the VO's home dock is unavailable. Unless this Agreement is extended by a signed writing extending its term, at the end of twenty-eight (28) days this Agreement will terminate and the VO must remove the Vessel from DO's dock. It is understood that this Agreement specifies rights and obligations of the parties to this Agreement, and that it contains important terms, including provisions for releasing the DO from any and all liability. By signing below, VO affirms he/she is the legal owner of the Vessel and or legally permitted and authorized by all owners of the Vessel to enter into this Agreement for his, her or their benefit. Similarly, the DO affirms he or she is the legal owner of or is otherwise entitled to the use of the dock and is empowered to enter into this Agreement. **The Parties shall signify by signing where indicated below that he/she have received complete copies of this Agreement, have read it, understands it and agrees to abide by all its terms.**
2. In the event the Vessel is owned by a corporation or other business entity rather than a single or several individuals, the person whose signature appears below agrees to be held personally and severally liable, together with such business entity, for satisfaction of the duties of the VO which arise hereunder, including but not limited to the obligations pertaining to payment of claims arising from wharfage. It is agreed that the person whose signature appears below "Vessel Owner's Signature" shall have and maintain primarily liability for performance of the payment and all other terms and obligations of this Agreement.
3. If the Vessel is owned by a partnership, the person who executes this Agreement shall be an equity partner who has authority under the partnership agreement to bind the partnership and enter into this Agreement. Such person agrees to be personally and primarily liable, for payment of all claims due hereunder and compliance with all other terms and conditions herein, in addition to the liability of the partnership for such compliance.
4. VO shall have in effect bodily injury, property damage and pollution insurance, as well as insurance covering contractual liability the VO assumes under this Agreement, for the protection of DO and others with a minimum coverage limit of \$_____ [\$300,000] per

occurrence. VO shall, as noted above, before docking at DO's dock, provide an original or a true and correct copy of the Vessel's Certificate of Insurance evidencing such coverage, with a combined minimum limit of _____[\$300,000] per occurrence. While this Agreement is in effect, DO shall be named as an additional insured and that as such will be provided immediate notice in the event coverage is reduced, or if the policy is canceled or not renewed. VO shall be responsible, with or without demand, for tendering a copy of the Vessel's current registration/documentation and Certificate of Insurance, so DO will have current copies. VO agrees to provide written notice to DO of any change in insurance carrier, insurance agent or policy number, within five (5) days of the occurrence of any such change. VO shall use the DO's dock only for non-commercial, pleasure purposes and will not use the Vessel in connection with any commercial purpose. VO shall not use the Vessel for overnight purposes.

5. VO represents and warrants that he or she has sailed or powered the Vessel to DO's dock and that the Vessel has not been towed to the dock. If equipped with an engine or motor, the engine or motor must be operable and capable of producing sufficient way to make the Vessel maneuverable. If the Vessel is a sailboat without an engine, she must be equipped with sails, and her standing and running rigging must be seaworthy. Owner warrants that the Vessel is properly documented or registered pursuant to the laws of the United States and/or the State of California, or a foreign nation or state, and that the Vessel is in compliance with all applicable U.S. Coast Guard safety regulations. VO further represents and warrants the Vessel does not leak and is otherwise seaworthy in all respects and shall remain seaworthy during the term of this Agreement. VO further represents and warrants that all Vessel batteries used to power her bilge pump(s) or other denaturing equipment are in a fully charged condition, sufficient that the vessel can be unplugged from dockside electricity for the twenty-eight (28) day duration of this Agreement. VO also understands as a result of not being connected to shore power it is possible refrigeration systems might be inoperable. As a result, it is VO's responsibility to remove perishable food items from the Vessel's refrigerators/freezers during the period of this Agreement. At all times during which the Vessel is at DO's dock, VO shall cause the Vessel to be safely and properly secured in a manner acceptable to DO. Security in mooring is the VO's duty alone. The Vessel will be secured to the Dock with over-sized lines for the size and weight of the vessel, which will include rubber mooring compensators, if necessary. Dock lines will be maintained in a safe manner (non-chafed). Any damage to other vessels or docks caused by the Vessel will be the sole responsibility of VO. DO has no obligation what-so-ever to bail, dewater or provide any salvage service to the Vessel should the Vessel leak or otherwise need assistance in remaining afloat. If DO discovers that the Vessel is in peril, DO may at its option render aid to the Vessel without liability of loss of any kind. If the Vessel sinks, VO shall be responsible for all costs and expenses associated with refloating and or removing the Vessel as soon as possible and no later than within ten (10) days and at all times, in compliance with all laws and local ordinances.

6. VO acknowledges he/she has inspected DO's dock and surrounding areas and confirms that after such inspection that such dock is good, serviceable and suitable condition and all cleats are firmly attached to the dock and suitable for use. VO understands and acknowledges that the DO does not, either expressly or impliedly warrant the condition of the dock or surrounding areas, or its fitness for use and that except as otherwise provided herein, VO use of the dock, is at his or her own risk and peril. VO also acknowledges that this Agreement allows access to the dock only and does not, in and of itself, allow or provide access to DO's home or outside decks and does not allow access to DO's water or electricity. VO and DO may separately agree to allow access to DO's water and electricity. VO acknowledges that VO has no right to access the dock by passing through DO's home or across DO's real property and VO must obtain permission from DO each time VO wants to have access to his or her Vessel. VO acknowledges and agrees VO may, as a result of this Agreement and utilization of DO's dock, have both limited and restricted access to his or her Vessel for the duration of this Agreement.
7. VO acknowledges that use of DO's dock is predicated upon an easement granted by the City of Oxnard to DO in association with the DO's ownership of the adjacent real property. Under the terms of the easement, there may be a limitation on the length of a vessel that may be docked at DO's dock. If at any time it is determined that the length of the Vessel is longer than specified above and such length constitutes a violation of the DO's easement, VO shall immediately vacate DO's dock.
8. As the location of DO's dock is in a residential area, VO shall not commit or permit VO's guests, agents or invitees to commit any waste, nuisance on or at DO's dock which might disturb DO or DO's neighbors' quiet enjoyment and peaceful use of their respective residences. VO shall not permit the Vessel to discharge any petroleum product or waste into the waters surrounding DO's dock.
9. Upon three (3) days written notice sent to either party's address set forth above with a copy emailed to the email address set forth above, this Agreement may be cancelled by either party for any reason, including but not limited to a breach of this Agreement. In the event this Agreement is cancelled, VO must remove the Vessel within ten (10) days from the date of the Notice of Cancellation.
10. If at the end of twenty-eight (28) days (the intended duration of this Agreement unless extended by written agreement) or the ten (10) days referenced in the preceding paragraph, if VO does not remove the Vessel, DO may assess the VO a penalty of \$75.00 per day starting on the twenty-ninth (29th) day or the eleventh (11th) day, which ever time period is applicable and such penalties shall become a maritime lien on the vessel and the personal obligation of VO. VO acknowledges and understands that maritime law provides that a vessel may be arrested by the U.S. Marshal to satisfy a maritime lien arising from the provision of maritime necessities, including wharfage. Failure of the VO to move the Vessel allows the DO move the Vessel to any other location in Channel Islands Harbor or on land

and chain the Vessel at its new location. VO specifically agrees that if DO elects to move or chain the Vessel as herein provided, VO shall indemnify, defend and hold DO harmless from and against any and all liability and any damage to the Vessel arising from or in any way connected with the chaining or movement of the Vessel. VO shall in such event remain liable for the full amount of the penalties notwithstanding the vessel has been moved and/or chained or disabled. In the event VO fails to pay all the penalties and or fees due within thirty (30) days, DO may, at his or her sole election, take all measures available to enforce his or her remedies in admiralty, at law and/or equity, including vessel arrest and sale by the U.S. Marshal pursuant to federal maritime law, disposal under the California Boaters Lien Law, and any other available remedy, without further notice to VO. It is agreed that in the event the DO retains counsel to enforce its rights or remedies pertaining to this Agreement, whether or not a legal action/arbitration claim is actually filed, attorneys' fees shall be recoverable by DO, together with all costs of any suit. If DO engages a collection agency to recover sums due hereunder, VO agrees to pay all associated costs and expenses, in addition to other sums due pursuant to this Agreement. In the event of either party seeks to enforce the terms of this Agreement by pursuing arbitration or otherwise, the prevailing party, as determined by the Arbitrator, shall be entitled to recover attorneys' fees and costs of arbitration.

11. At no time during the term of this Agreement shall VO place a "For Sale" sign on the Vessel, permit repairs to be made to the Vessel unless such repairs arise from an emergency. In the event VO sells the Vessel during the term of this Agreement, this Agreement shall immediately terminate upon the transfer of ownership and the Vessel shall be moved immediately. Similarly, if DO during the term of this Agreement sells his or her home to which the dock is adjacent, this Agreement shall immediately terminate upon the transfer of ownership and close of escrow and the Vessel shall be moved immediately. This Agreement is not transferable or assignable and VO may not assign or sublet use of DO's dock.
12. Release and Indemnification: During the term of this Agreement and while the Vessel remains at DO's dock, all risk of loss or damage to the Vessel and or personal injury, to anyone arising out or related to the Vessel shall be responsibility of VO. VO, as a material part of the consideration to be rendered to DO under this Agreement, hereby waives any and all claims against DO, DO's family, heirs, agents, licensees, employees, invitees, successors or assigns for any and all reasons and any all causes arising out of, related to, or connected with VO's use of the dock or Vessel by VO, VO's family, heirs, agents, licensees employees, invitees, successors or assigns. In addition to such waiver, VO does hereby release DO, DO's family, heirs, agents, licensees employees, invitees, successors and assigns from any and all such claims, damages or liabilities. Moreover, in addition to VO's release and waiver, VO agrees to indemnify, protect, hold harmless and defend DO, DO's family, heirs, agents, licensees employees, invitees, successors and assigns, from any and all claims brought against DO or DO's family, heirs, agents, licensees employees, invitees, successors

and assigns arising from or related to VO's use of the dock or other portions of DO's real property, which DO may now or hereafter incur, as a result of or related to VO's use of the dock or other portions of DO's real property. While all such claims cannot be identified, such claims may include but shall not be limited to: (1) damage to the Vessel and Vessel's contents (its gear and its equipment; or any goods, wares, or equipment in, upon, or about the Vessel) arising from soot, smoke, oil, wake or any substance existing upon, in or over waters surrounding DO's dock; (2) claims arising from disruption or interference with utilities (if connected); (3) claims for injuries (including death) to persons occurring on, in or about the Vessel, or the Dock or DO's surrounding property; (4) damage or loss arising from theft, fire, storm, riots, strikes, collision, insufficiencies involving the electrical and other utility systems (if connected), chaffing of mooring lines, sinking; (5) any claims that might arise or occasioned by DO's negligence, except for damage or claims arising from DO's harm directly caused by DO's *willful* misconduct or *gross* negligence.

13. The failure of DO 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. 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).

14. Arbitration of Disputes: ANY CLAIM, DISPUTE OR CONTROVERSY (WHETHER IN CONTRACT OR IN TORT) BETWEEN DO AND VO, INCLUDING SUCH PARTY'S FAMILY, HEIRS, AGENTS, LICENSEES, INVITEES, SUCCESSORS OR ASSIGNS SHALL TO THE FULLEST EXTENT BY APPLICABLE LAW BE RESOLVED EXCLUSIVELY AND FINALLY BY BINDING ARBITRATION ADMINISTERED BY a retired Judge or Magistrate of the Ventura Superior Court or a licensed California attorney in Ventura County who has at least five years of experience in the day-to-day practice of civil and or maritime law selected mutually by the DO and VO. In the event the Parties are unable to agree to a mutual selection of an Arbitrator, each party shall select an Arbitrator and the Arbitrators so selected shall select a third Arbitrator. This matter may be either heard before a three (3) Arbitrator panel or if the Parties agree, by the selected third Arbitrator. The Arbitrator or Panel shall be empowered to grant whatever relief would be available in a court under law or in equity. In signing this provision, YOU ACKNOWLEDGE THAT YOU ARE GIVING UP YOUR RIGHTS TO LITIGATE CLAIMS IN COURT AND BEFORE A JUY WITH RESPECT TO ANY SUCH CLAIM AND WAIVE ANY RIGHT TO APPEAL. NOTE: The foregoing arbitration requirement does not apply to any claims the DO has against the Vessel for the Vessel's debts or torts. Nothing in this Agreement shall be construed to limit in any way the DO's right to seek recovery directly against the Vessel in an in rem action in a U.S. District Court for liens based on the debts and/or torts of the Vessel.

I have read and understand this paragraph

_____ VO

_____ DO

15. The Agreement contains a complete expression of the agreement between the Parties hereto. 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 this Agreement shall be cumulative, and shall not be exclusive of any other of said rights, remedies, and benefits, or of any other rights, remedies and benefits allowed by law.

Dated: _____ 20__

Dock Owner

Printed Name:

Dated: _____ 20__

Vessel Owner

Printed Name:
