

STOCKTON DOWN MARINA

ADDENDUM TO LICENSE AGREEMENT – LIVING ABOARD

WHEREAS, a written month-to-month Maritime Contract for Private Wharfage (hereinafter the “Wharfage Contract”) currently exists between _____ (hereinafter “Vessel Owner”) and Stockton Downtown Marina (hereinafter the “Marina), pursuant to which the Marina is obliged to provide at its Stockton, California location certain wharfage services, and the Vessel Owner is obliged among other things to tender compensation to the Marina for such services; and

WHEREAS, Vessel Owner desires, in accordance with the terms herein contained, to live aboard his/her vessel, identified in the Wharfage Contract (hereinafter the “Vessel), while she is docked at the Marina’s premises; and

WHEREAS, the Marina agrees to permit the Vessel Owner to live aboard his/her Vessel, identified in the Wharfage Contract, pursuant and subject to the below conditions;

IT IS THEREFORE UNDERSTOOD AND AGREED AS FOLLOWS:

1. Addendum Supplements and Prevails Over Wharfage Contract. This Addendum to Contract for Private Wharfage is additional to and supplements the Contract for Private Wharfage, which is fully incorporated herein by this reference; to the extent the Wharfage Contract and this Addendum to Maritime Wharfage Contract are inconsistent or redundant, this Addendum to Maritime Wharfage Contract shall control and be effective.
2. Terms in Wharfage Contract Remain Effective. To the extent not inconsistent with the terms herein contained, all terms and conditions contained in the Wharfage Contract shall remain in full force and effect.
3. Additional Monthly Consideration for Live Aboard. In consideration of the grant to Owner of live aboard privileges, the monthly wharfage rate shall be increased by an additional \$_____ above and additional to the wharfage fee required by the Wharfage Contract, as amended, said additional sum being due the same day as the wharfage fee is due pursuant to the Wharfage Contract. It is understood and agreed that Vessel Owner and his/her Vessel shall be liable for payment of this live aboard fee for all periods during which any person(s) is living or has actually lived aboard the Vessel, irrespective of whether an Addendum to Contract for Private Wharfage has been executed.
4. Number of Persons Permitted to Live Aboard. Marina shall be entitled in its unfettered discretion to restrict the number of persons living aboard any vessel located at its premises, at the time of execution of this document or at any time thereafter while this Addendum to Contract for Private Wharfage is in effect, and Vessel Owner agrees that with respect to living aboard his Vessel, in addition to the Vessel Owner, only the person(s) named immediately below shall be permitted to live simultaneously aboard the Vessel:

Name of Live Aboard

Name of Live Aboard

Owner agrees to indemnify, protect and defend the Marina and its owners, employees, officers and agents from and against all actual or potential liability arising from, relating to or occasioned by the presence of Owner's pet(s) or any pet(s) brought onto the hotel or Marina's property by Owner's partner(s), guests, agents, or invitees.

The living aboard of any person not identified above, or the presence overnight of any pet not identified above, shall be grounds for immediate termination of the Wharfage Contract and this Addendum thereto. The Marina reserves the unrestricted rights to decline a request to live aboard and to terminate live aboard privileges for any reason, including where the Marina has concerns pertaining to an Owner's pet.

6. Marina May Terminate Live Aboard Privileges If Contract Breached. Living aboard a vessel at the Marina's docks is privilege which, in the event of Vessel Owner's breach of any term or condition contained herein or in the Wharfage Contract, may be revoked at the Marina's sole discretion after 15 days advance written notice (by mail, personal service or overnight service) to Vessel Owner, and upon two days written notice if in the sole opinion of the Marina the breach adversely impacts the health, welfare or safety of persons on Marina property.

7. Termination of Contract. In the event no breach has occurred, the Wharfage Contract and/or this Addendum thereto may be terminated by either party with or without cause, provided 30 days' advance written notice is provided to the other party in the manner specified in the Contract for Private Wharfage.

8. No Pro-Rating of Wharfage Fees. Payments due pursuant to the Wharfage Contract and this Addendum thereto shall not be prorated, and hence wharfage is due through the end of the month, even if the Vessel is permanently removed from her slip prior to the last day of the month.

9. Floating Home Residency Law Inapplicable. It is agreed the Floating Home Residency Law (California Civil Code sections 800 *et seq.*) has and shall have no application to the Wharfage Contract or this Addendum to Contract for Private Wharfage, as the Owner represents the Vessel has a mode of power of her own, is not designed to be used as a stationary waterborne residential dwelling and has no permanent continuous hookup to a shore side sewage system, and therefore is not a "floating home" as defined by that law.

10. No Residential Tenancy Created. This is a commercial contract. The central collective purpose of the Wharfage Contract and this Addendum to Maritime Wharfage Contract is the provision of wharfage or docking services, and not to create a residential tenancy of any

kind, and therefore neither contract shall under any circumstance be deemed to create a residential tenancy.

11. Application of Admiralty Law/Choice of Forum. The Wharfage Contract and this Addendum to Contract for Private Wharfage are maritime contracts for the provision of necessities," as defined in the Commercial Instruments and Federal Maritime Lien Act, and they shall be enforced and construed solely in accordance with the general maritime law of the United States, the Federal Maritime Lien Act and other applicable federal statutes. In the event the Marina terminates this Live Aboard Addendum and the Contract for Private Wharfage, all living aboard must cease living aboard and the Vessel must vacate the Marina no later than the date specified in the Marina's notice of termination. Any disputes hereunder shall be resolved by way of mediation and arbitration occurring in the Stockton area, as mandated by the Contract for Private Wharfage.

12. Entitlement to Vessel Arrest for Nonpayment of Wharfage Fees. In the event of nonpayment for wharfage services rendered or commission of a maritime tort resulting in liability or loss by the Marina (including a failure to vacate the Vessel following termination of the Contract for Private Wharfage), the Marina shall (in addition to other available remedies at law and/or equity) be entitled to avail itself of all rights available in admiralty, including seizure of the Vessel, Pursuant to an Order of a United States District Court, to satisfy the Marina's maritime lien(s), in which event Vessel Owner understands U.S. Marshals will order ashore anyone found aboard the Vessel (including live aboards) and it is agreed that in such event costs of arrest will be borne solely by Vessel Owner.

13. Rights Not Transferrable. Neither the rights created in the Wharfage Contract nor those contained herein are transferrable without the express prior written approval of both the Marina and the Vessel Owner.

14. Evidence of Insurance. Upon execution of this Addendum Owner shall provide evidence of insurance, as detailed in the Wharfage Contract.

15. Marina Indemnified for Injury to Persons/Property. In the absence of intentional misconduct or gross neglect by the Marina or its officers, employees or authorized agents, Vessel Owner shall indemnify, defend and hold the Marina and its officers, employees and authorized agents harmless from and against all liability, however arising, from injury to the person or property of Vessel Owner or his/her family, agents, guests, or invitees occurring while aboard the Vessel or on the Marina's premises. All limitations and/or exonerations of liability included in the Contract for Private Wharfage are intended to and shall apply to this Addendum as well.

16. Use of Alcohol Stoves/Ovens Prohibited. Vessel Owner shall not use, and shall prevent all aboard his/her Vessel from using, any alcohol stove or oven while the Vessel is located at the Marina's premises.

17. Discharge of Prohibited Materials. In the event Vessel Owner discharges, or permits the discharge, of human waste, oil, gasoline or any other noxious or hazardous material from his/her Vessel, Owner shall immediately take all necessary action to clean up such discharge in accordance with applicable laws. In the event of such a discharge, both the Wharfage Contract and this Addendum thereto shall be regarded as fundamentally breached, in which event the Marina shall be entitled to immediately and without notice terminate all wharfage services and

recover from Vessel Owner any and all clean-up and associated costs incurred, including attorneys' fees.

18. No Operation of Business from Vessel. Vessel Owner shall not operate any business from his/her Vessel while she is located at the Marina's premises without the prior written approval of the Marina.

19. Delivery of Mail. Vessel Owner shall maintain an independent means for delivery of mail, such as a post office box, and shall not cause any mail addressed to him/her to be delivered in care of the Marina without the express prior written approval of the Marina.

20. No Mounting of Satellite Dishes on Marina Property. Vessel Owner shall not affix or cause to be affixed a satellite dish or any other object to pilings or other Marina property, without the express written consent of the Marina.

21. Whole Contract/Modifications Must Be In Writing. The terms herein contained and in the Wharfage Contract accurately reflect the complete understanding of the parties, and any modifications thereto must be written and executed by all parties hereto to be effective.

22. No General Waiver. Waiver of any provision or condition herein by the Marina shall not be deemed to be a continuing waiver or a waiver of any other provision or condition.

23. Understanding of and Assent to All Terms. Vessel Owner has been afforded ample opportunity to fully read this Agreement and to consult with counsel prior to executing it, and by executing it he/she attests that he/she has read, understands and agrees to abide by each and every term herein contained.

24. Owner's Legal Capacity. Vessel Owner attests that he/she is legally entitled to bind the Vessel to all terms of this Agreement, that he/she is not, at the time of reviewing/executing this Agreement, under the influence of alcohol or any legal or illicit drug, and that he/she has reached the legal age of majority and is not legally incapacitated or otherwise unable to fully understand and appreciate each and every term contained in this Agreement.

Vessel Owner Signature

Date: _____

Vessel Co-Owner Signature

Date: _____

Marina Manager/Authorized Rep. Signature

Date: _____