

SAN MATEO COUNTY HARBOR DISTRICT

**Oyster Point Marina/Park
95 Harbormaster Road #1
South San Francisco, CA 94080
Phone: (650) 952-0808**

**Pillar Point Harbor
One Johnson Pier
Half Moon Bay, CA 94019
Phone: (650) 726-4382**

APPLICATION FOR BERTH RENTAL

DATE _____

APPLICANT/ REGISTERED OWNER INFORMATION

LAST NAME		FIRST NAME & INITIAL		CDL #			
E-MAIL ADDRESS:							
MAILING ADDRESS				CITY		STATE	ZIP CODE
RESIDENCE ADDRESS				CITY		STATE	ZIP CODE
HOME PHONE		WORK PHONE		EMERGENCY PHONE		DATE OF BIRTH	
LAST NAME (ADDITIONAL PERSON)		FIRST NAME & INITIAL		CDL #			

NOTE: The San Mateo County Harbor District (District) will conduct reference checks on all applicants applying for monthly berth rentals with the District.

RENTAL/ BUSINESS REFERENCE		PHONE # REFERENCE		REFERENCE RELATIONSHIP	
RENTAL/ BUSINESS REFERENCE		PHONE # REFERENCE		REFERENCE RELATIONSHIP	

VESSEL INFORMATION

REGISTRATION or DOCUMENTATION No.		VESSEL NAME			MAKE		
LENGTH OVERALL	DRAFT		BEAM		YEAR		SAIL OR POWER
HULL MATERIAL		HULL COLOR		TRIM COLOR		GAS OR DIESEL	
NAME OF VESSEL'S LEGAL OWNER (<i>i.e. CORPORATION, LIENHOLDER, OR OTHER NAME APPEARING ON TITLE</i>)							
ADDRESS OF VESSEL'S LEGAL OWNER							
INSURANCE: COMPANY NAME AND POLICY NUMBER							

BELOW LINE FOR OFFICIAL USE ONLY

Account No.		Effective Date		Berth No.	
Berth Rent		Security Deposit		Parking Permit #	
Live Aboard		Keys		Parking Permit #	
Other		Key #		Key #	
		TOTAL PAID		\$	

BERTH RENTAL AGREEMENT

By signing the following agreement, Owner represents and warrants to the San Mateo County Harbor District that the foregoing information is complete and accurate, that no other party has any legal right, title or interest in or to the Vessel, and that Owner shall give the San Mateo County Harbor District written notice of any changes in the above information immediately upon the occurrence of any such change. If Owner consists of more than one person, then the obligations of each said person as Owner, including but not limited to the indemnification provisions of Paragraph 6, shall be joint and several.

NOW, THEREFORE, the parties hereby agree as follows:

THIS AGREEMENT, entered into this _____ day of _____, _____ (year),

by and between _____ (hereinafter "Owner") and the San
(print name)

Mateo County Harbor District (hereinafter "District") for rental of a berth at _____ on a

month to month basis commencing on the _____ day of _____, _____ (year), and at a rate as prescribed by the San Mateo County Harbor District Rates and Fees Schedule, payable in advance on the first day of each and every month, on the following terms and conditions:

1. GRANT OF BERTH RENTAL:

The District hereby rents to Owner, and to Owner only, and grants him/her permission for the use of the assigned berthing space described below, and continuing thereafter until terminated pursuant to the provisions of this Agreement, for the purpose of berthing the designated vessel as described above, so long as Owner complies with each and every term and condition of this agreement and all resolutions and ordinances of the District, and all other applicable laws. During the term of this Agreement, Owner shall also have the non-exclusive right to use in conjunction with other authorized members of the public, adjacent floats, docks, gangways, lighting, fresh water, power outlets, vehicle parking spaces, and restrooms owned by District, subject to such reasonable charges for using any one or more of the same as District may chose to assess from time to time.

ASSIGNED BERTH: DOCK _____ BERTH _____

2. CHARGES:

a. The monthly berthing charges and late charges have been adopted by resolution as a part of the District Rates and Fees Schedule for District Facilities. Annually, and effective on July 1 of each year, said Rates and Fees are subject to adjustment by District resolution, and a copy of said fees shall be made available to each Owner.

b. Upon execution of this agreement the first month's berth fees shall be paid in advance, plus a security deposit, in the amounts as prescribed by District Rates and Fees Schedule. The first month's berthing charges may be prorated for the days the vessel is actually occupying the assigned berth. Thereafter payment of the recurring monthly charges shall be due and payable in advance on the first day of each and every month.

c. The late charges shall be assessed for any fees under this agreement according to the adopted District Rates and Fees Schedule.

d. In addition to any other rights of the District, if fees are delinquent, the District shall take actions as authorized and directed by resolutions of the District, the State of California, and any other applicable regulatory agency to recover said delinquent fees.

3. **SECURITY DEPOSIT:** Owner upon execution of this Agreement, shall deposit with the District the amount as required by the District Rate and Fee Schedule as a deposit for the faithful performance of Owner's obligations hereunder. District, at its sole option, and without limiting in any way any other rights

or remedies it may have under this Agreement or at law, may claim and apply from time to time such amounts of said deposit as are reasonably necessary in District's judgment to remedy Owner's defaults in the payment of fees and other charges hereunder, to repair damages to the Marina (over and above normal wear and tear) caused by Owner or Owner's family and guests, and to pay any reasonable costs, expenses and attorneys' fees incurred by District in connection with any breach of the Agreement by Owner. In the event said security deposit or any portion thereof shall be applied as provided herein, Owner shall within ten (10) days after written request from District restore the deposit to its original amount. Additionally, during the occasional changes to the District Rates and Fees Schedule as stipulated above, deposit may require adjustment by Owner or District. Upon termination of the Agreement, any remaining portion of said deposit shall be returned to Owner as soon as District has regained possession of the Berth and is able to determine the amount of the deposit it may claim hereunder. District shall have the right to commingle the security deposit with other funds of the District and shall not be obligated to pay Owner interest on the security deposit. Owner may not, without District's consent, use any portion of the security deposit as payment of Owner's last month's or other berth fees or any other charges.

4. RENTAL/LAWS:

District desires to rent said berthing space to Owner, and Owner desires to rent said berthing space from District in accordance with all covenants and conditions set forth herein, and all applicable ordinances and resolutions of the District, the State of California, and any other applicable regulatory agency.

5. ADDRESSES/ NOTICES:

Any notice or communication given pursuant to this Agreement shall be given in writing and may be delivered personally or be sent by first class mail, postage prepaid, addressed to the party to whom given at its address as shown hereinabove and deposited in the United States mail. Either party hereto shall give immediate notification of any changes to mailing address, physical address, and/or phone numbers as presented in the original application to the other party hereto.

6. HOLD HARMLESS / INDEMNIFICATION:

a) Waiver of Claims: Owner hereby waives any and all claims of liability against District, including but not limited to its Board of Commissioners, agents and employees (the District and its subordinates are all hereinafter collectively referred to as the "Indemnitees"), for any personal injury to or death of any Owner and/or any member of Owner's family, and/or Owner's guests, agents, or employees, or for damage to or destruction of any property, including, without limitation, the Vessel, occurring on or about the Harbor, arising from any cause whatsoever other than the sole gross and active negligence or willful misconduct of District. Such waiver shall extend to, but not be limited to, damage or loss from fire, theft, vandalism, malicious mischief, or collision, sustained by any boat, automobile or other personal property belonging to Owner permanently or temporarily maintained, stored, berthed, parked, or operated in or about the Harbor, including, but not limited to its floats, piers, parking lots, small boat launching ramp, and fuel float.

b) Indemnification: In addition to the foregoing, Owner shall indemnify and hold harmless the Indemnitees from and against any and all damage, loss and expense, including but not limited to attorneys' fees and costs and expenses of litigation, and shall at his sole cost, upon the request of the District, defend all suits brought against all or any of the Indemnitees, resulting from or arising out of any act or omission of Owner or its agents, employees, invitees, or anyone else for whom Owner may be legally responsible, occurring on or about the Harbor, including but not limited to the breach of this Agreement or the District Ordinances by any of such parties.

7. POSSESSORY INTEREST TAX:

Owner recognizes and understands that this agreement creates a possessory interest in public property which will subject the Owner and his/her property to taxation which he/she shall have the sole obligation and be required to pay, as administered by the San Mateo County Tax Assessor's Office.

8. DISTRICT POWERS:

a. The General Manager of the District, acting through the Harbor Master or any other designated agent, shall have full authority in the interpretation and enforcement of all pertinent rules and regulation of the District, and terms of this agreement.

b. The General Manager, Harbor Master, or their designee, may board any vessel at any time in order to take reasonable steps to protect property, to preserve the public peace, or to take necessary steps to protect

the health and safety of others using said Harbor. Reasonable notice shall be provided to Tenant as dictated by the circumstances requiring District to board vessel.

c. The District shall have the authority pursuant to District Ordinance Code Section 3.1.10.1 to require any boat to change its berth space, to satisfy the needs of the District in the overall operation of the facility.

d. The Owner of a vessel is solely responsible for his/her crew, guests and all personal property on board his/her vessel. Despite the power to board vessels described above, the District has no obligation to the Owner to take steps to board, secure, or otherwise protect Tenant's vessel.

e. If the Owner's berth is vacated for a period exceeding thirty (30) days without notifying the Harbor Master in writing, the District may deem the berth space permanently abandoned, and terminate this berth rental agreement, and assign said berth to another individual.

9. ATTORNEY'S FEES: In the event any legal action is instituted by either party hereto against the other party to enforce or interpret any provision of the Agreement or of any amendment or modification of this Agreement made subsequent hereto, the prevailing party shall be entitled to recover all costs of litigation, including without limitation, reasonable attorneys' fees, incurred in connection with such action, whether or not such action is prosecuted to final judgment.

10. ENTIRE AGREEMENT AND AMENDMENTS: This Agreement constitutes the entire agreement between the parties hereto with respect to the subject matter hereof, and terminates and supersedes as of the date hereof any prior agreement(s) between the parties, written or oral. Any subsequent modifications to this agreement must be executed in writing and attached hereto. The parties may not enter into any other oral agreements. The District reserves the right, with thirty (30) days notice to revise this agreement and require Owner to execute a new berth agreement in a new standard form, if such is generally applicable to berth holders in the facility.

11. REFERENCE CHECK AND CREDIT APPROVAL: This Berth Rental Agreement may be subject to advance reference checks and approval of the Owner's credit by the District. Information obtained through a reference or credit check by District may, upon written notice, immediately nullify and void this agreement. By signing this agreement, owner hereby authorizes District to perform such checks.

12. INSURANCE: With the exception of registered commercial fishermen, all owners shall maintain Vessel Liability Insurance (including Protection and Indemnity coverage) for vessel as described above, for a minimum amount of \$300,000.00. The San Mateo County Harbor District (Oyster Point Marina/Park) shall be named as additionally insured on this policy. A current certificate of insurance shall be submitted and maintained with the Harbor Master.

13. TERMINATION: This Berth Rental Agreement may be terminated by either party upon giving thirty (30) day advance written notice pursuant to paragraph 5 above. The last month's berth rent may be prorated. Additionally, Owner shall notify District within twenty four (24) hours of vessel permanently vacating berth.

14. GENERAL CONDITIONS:

a. SMCHD Ordinance Code Section 3.1.10.2: The Harbor Master shall have the right to refuse access to District facilities for any vessel if the Harbor Master believes that said vessel constitutes a hazard to the environment, District facilities or personnel, other vessels, or other individuals.

b. SMCHD Ordinance Code Section 3.1.12 Repairs to and maintenance of a vessel may be made or accomplished while such vessels is at its assigned berth, provided all such work is done within the confines of the vessel itself and is not carried on in any manner whatsoever upon floats, gangways, or docks. Any repairs on vessel must not interfere with any other vessels. These repairs must be accomplished in the assigned berth of the owner of the vessel and not have a negative environmental effect. No person shall spray paint or sand blast while such vessel is in the berthing area.

c. SMCHD Ordinance Code Section 3.4.10 Subletting by berth renters is not permitted.

d. This agreement is non-transferable or assignable by Owner under any circumstance, and any attempted transfer or assignment shall void this agreement and subject the Owner to a forced removal of his/her vessel from the Harbor.

e. SMCHD Ordinance Code Section 3.4.14 Use of a berth is restricted to one (1) vessel only. A dinghy or small boat up to twelve (12) feet in length can also be kept in the berth provided that neither vessel extends beyond the limits of the berth width and length. The Harbor Master may permit an exception to this provision if the size of the berth will permit its use by two (2) or more vessels. The rental charge for those boats will be based on the overall length of each vessel, or the length of the berth, which ever is greater.

f. SMCHD Ordinance Code Section 3.1.11.4 The District may require, on fifteen (15) days written notice, a demonstration of any vessel's operability. Failure of vessel to prove operability shall be justification for termination of this agreement in accordance with SMCHD Ordinance Code Section 3.4.12.2.

g. Sewage is to be contained in a self contained marine head, holding tanks, or other device bearing the approval of the U.S. Coast Guard or other entity authorized to issue such approvals, with no outlet to allow tank or device to be emptied except by authorized pumping, pursuant to Section 3.1.17.7 SMCHD Ordinance Code. Registered commercial fishermen that do not reside on or occupy the vessel while the vessel is on SMCHD property are not subject to the sewage containment provisions in Section 3.1.17.7 of the SMCHD Ordinance Code.

h. Lodging or living aboard vessels for more than three (3) nights in any seven (7) day period is prohibited unless a live aboard permit is obtained in advance from the Harbor Master.

i. Under limited circumstances the General Manager or his designee may temporarily adjust Owner's berth rent when the District chooses to assign the Owner a berth that is significantly larger than necessary to accommodate the Owner's vessel. If a more appropriately sized berth is made available or if a larger vessel is in need of the occupied berth, the Owner may be reassigned (if possible) to a smaller available berth, or if none, Owner shall either pay the unadjusted rates for the berth or remove the vessel from the Harbor. In addition no vessel shall overhang the main walk at any time, nor shall the berth limits be exceeded so as to cause a safety concern.

j. The above rules and regulations have been extracted from the District Ordinance Codes, but do not constitute all applicable rules and regulations for the use of the District facilities. Each Tenant is solely responsible for reading the full text of District Ordinance Codes pertaining to renting of a berth and use of District facilities.

TENANT HEREBY ACKNOWLEDGES THAT HE/SHE HAS READ THIS BERTH RENTAL AGREEMENT AND UNDERSTANDS THE CONTENTS HEREIN, AND AGREES TO BE BOUND THEREBY. IN WITNESS WHEREOF, THE PARTIES HAVE EXECUTED THIS BERTH RENTAL AGREEMENT ON THIS THE _____ DAY OF _____, _____ (year).

TENANT:

SAN MATEO COUNTY HARBOR DISTRICT

BY: _____
(signature)

BY: _____
(signature)

BY: _____
(signature)

TITLE: _____