

## **SUN HARBOR MARINA LICENSE AGREEMENT STORAGE LOCKER**

5000 NORTH HARBOR DRIVE • SAN DIEGO, CALIFORNIA 92106 • O: 619-222-1167 • F: 619-222-9387

This Storage Locker License Agreement (“Locker Agreement”) is entered into by and between Sun Harbor Marina (“Marina”) and the undersigned (“Licensee”) and is made effective as of the date indicated above the parties signatures below (the “Effective Date”):

1. License: In consideration of Owner’s agreement to pay the fees described herein, and to abide by the terms and conditions contained in this Locker Agreement, Marina hereby grants to Licensee a revocable license to occupy, for the purposes and term herein described, the locker space assigned on the last page of this Locker Agreement (the “Locker”) located at Sun Harbor Marina, 5000 North Harbor Drive, San Diego, California 92106 (the “License”). The specific locker assigned for Licensee’s use may be re-designated by Marina in Marina’s sole discretion at any time.
  
2. Term and Early Termination: Licensee’s permission to utilize the Locker shall commence on the Effective Date and may be terminated upon 30 days prior notice to by either party; provided, however, should Licensee breach or fail to observe any of the covenants and conditions herein contained, after notice (the “Notice”) and expiration of a reasonable opportunity to cure such deficiencies, then Marina may, without waiving any other legal rights or remedies, forthwith terminate this agreement. “Reasonable opportunity to cure” as used herein shall be that period of time required under the circumstances (and as indicated in the notice), but not to exceed 3 calendar days.
  
3. Use: The Locker is provided for the primary purpose of dry storage of equipment normally or incidentally used in connection with the ownership and operation of recreational and sportfishing vessels. Licensee may use the Locker for storage only, and may not conduct commercial activities nor operate a business nor workshop utilizing the Locker. No persons shall be allowed to sleep or live in the Locker. Licensee may not store toxic, hazardous, flammable or other environmentally harmful materials in the Locker, nor keep any items in or about the Marina or Locker which may be prohibited by a standard form of fire insurance policy or which may increase the existing rate of insurance upon the building in which Locker is located. Licensee agrees to remove and properly dispose of any such items upon demand by Marina. Licensee shall not commit, nor suffer to be committed, any waste or nuisance, or other act or thing which may disturb the quiet use or enjoyment of any other locker Licensee. Licensee shall not permit persons who are not Licensee’s guests or invitees to enter upon or gain access to the Marina leasehold areas.
  
4. Fees: The fees and security deposit set forth on the last page of this Locker Agreement shall apply, subject to Marina’s right to increase such fees upon 30 days notice. Licensee’s continued occupancy of the Locker commencing 30 days following notice of any increase in fees shall constitute Licensee’s consent to such increase. Fees for Locker use are in addition to fees payable for occupancy of any slip at the Marina, or the right to live-aboard any berthed vessel. If Licensee operates a refrigerator or freezer in the Locker, then Licensee shall pay to Marina the indicated utility surcharge fee as and for Licensee’s use of a heavy duty outlet. All fees for Locker usage are payable quarterly, in advance, on January 1, April 1, July 1, and October 1 of each year. If the Effective Date of this Locker Agreement is on a date other than the start of a calendar quarter, the first quarter’s Locker fees will be prorated for the time remaining in that quarter.
  
5. Security Deposit: In addition to the above-referenced license fees, Licensee shall pay Marina a security deposit to secure Licensee’s performance of the obligations assumed by Licensee under this agreement, equal to one month’s fees. In the event of any increase in fees, Licensee shall, within 30

days following receipt of such fee increase, pay to Marina a sum sufficient to increase the security deposit the same percentage as the fee increase. Marina may deposit Licensee's security deposit(s) in its general operating account which will not be segregated for Licensee's benefit and Marina will not pay interest on the security deposit.

6. Delinquent Accounts: Locker fees shall be deemed delinquent if not paid in full within 5 days of their due date and shall be subject to a 10% delinquency fee per month until paid. A \$25.00 fee will be charged for returned checks. Licensee and Marina agree Marina will suffer damages as the direct result of the late payment of fees and/or the tender of dishonored checks, such damages are difficult or impossible to ascertain, and the foregoing delinquency/dishonor fees are reasonable sums to fix as liquidated damages therefor.

7. Access: Licensee shall provide Marina access to the Locker space for emergencies, fire safety, and ordinary maintenance and repair. Licensee agrees not to block access to other storage locker spaces or parking facilities at the Marina. Licensee may park in the Marina packing lot for loading and unloading purposes only, not to exceed 15 minutes in duration at any one time. Licensee hereby grants Marina the right to enter and inspect the contents of the Locker, with or without notice, to ascertain whether Licensee is in compliance with this Locker Agreement and applicable laws and regulations.

8. Maintenance/Prohibited Activities. Licensee shall at all times keep and maintain the Locker and every part thereof in a good and sanitary order, condition and repair. Licensee shall further not make or suffer to be made any alterations to the Locker, or the building in which the Locker is located, without Marina's prior written consent. Under no circumstances, nor at any time, shall Licensee change, modify or otherwise alter the Locker or any property of Marina. The following activities are strictly prohibited on Marina property: (1) paint removal or burning of paint; (2) spray painting; (3) grinding of fiberglass or wood; (4) use of power tools, including grinders or belt sanders; and (5) use of open flame devices. Any oil, paint or other materials spilled, dripped or otherwise applied to Marina property must be removed. Licensee shall indemnify Marina for all liability and damages (including, but not limited to, cleaning, repair or replacement of Marina property) caused by any violation of this paragraph. Any expense incurred for clean up or disposal required by Marina personnel as the result of Licensee's failure to comply with the terms and conditions of this Locker Agreement shall be immediately reimbursed by Licensee.

9. Surrender. Upon the termination of the License granted herein for any cause, Licensee shall immediately vacate the Locker, remove Licensee's personal property therefrom, and restore possession of the Locker to Marina in good order and repair. In the event of any breach of Licensee's obligations under this Locker Agreement, and in addition to other rights or remedies it may have, Marina shall have the immediate right of re-entry and may remove all persons and property from the Locker. If Licensee abandons, vacates, surrenders possession of the Locker, or is dispossessed by process of law, or otherwise, any personal property belonging to Licensee and left in the Locker shall be deemed abandoned. In the event of such breach or abandonment, Marina may, at its option, dispose of any property left in the Locker according to California law regulating the disposition of abandoned property. Licensee hereby appoints Marina as Licensee's agent to relocate Licensee's personal property upon termination of this agreement for storage in a public warehouse or elsewhere, should Licensee fail to voluntarily restore possession of the Locker to Marina. The cost of such removal and storage shall be paid by Licensee.

10. Rules and Regulations: Licensee covenants and agrees to faithfully, promptly and strictly observe and otherwise comply with all Marina rules and regulations as may from time to time be promulgated by Marina, as well as the rules, regulations and instructions of the United States Coast Guard, local harbor authorities, the Marina Dockmaster or other authorized representatives of Marina, and all Municipal ordinances and State and Federal statutes now in force, or which may hereafter be in force, pertaining to Marina and its facilities. Licensee shall also comply with the terms, conditions and

requirements of Marina's master lease from the San Diego Unified Port District applicable to Licensee's use of Marina facilities. Failure to comply with the foregoing rules, regulations, instructions or laws shall constitute a material breach of this agreement, and if habitual or uncured, will constitute grounds for termination of this Locker Agreement by Marina.

11. Risk of Loss: In taking possession of the Locker and accessing or otherwise utilizing Marina property and facilities under this Locker Agreement, Licensee acknowledge (s)he does so at Licensee's own risk of loss or injury. Licensee has examined and knows the condition of the Marina premises and acknowledges receipt of the Locker in good order and repair. Licensee acknowledges all activities at and around a marina involve some inherent risk of personal injury or property damage, including those resulting from accidents and acts of God. Marina shall not be obligated to care for or otherwise protect the Licensee, or the contents stored in Licensee's Locker, or to perform any services for Licensee. **MARINA MAKES NO WARRANTY OF ANY KIND, EXPRESS OR IMPLIED, AS TO THE CONDITION OF THE LOCKER, LOCKER DOORS, LIGHTING, ELECTRICAL FIXTURES, VENTILATION OR OTHER CONDITIONS OF THE LOCKER OR THE BUILDING IN WHICH THE LOCKER IS SITUATED. NOR DOES MARINA WARRANT THE SUITABILITY OF THE LOCKER FOR LICENSEE'S INTENDED USE.**

Licensee's Initials \_\_\_\_\_

12. Indemnity. Marina shall not be liable for, and Licensee (on behalf of Licensee and Licensee's agents, employees, guests and invitees) hereby waives all claims against Marina for damages or other loss, injury or damage, whether direct, consequential or incidental, and regardless of cause or source of injury, including litigation costs (collectively "Claims") resulting from Licensee's use of or access to the Locker, including but not limited to, damage to goods, wares, and merchandise stored in the Locker, or for personal injury suffered by Licensee or the guests or invitees of Licensee, except those Claims directly and proximately caused by Marina's active negligence or intentional misconduct. Licensee shall insure, defend, indemnify and hold harmless Marina, and Marina's owners, officers, employees, agents, suppliers, guests and invitees, from such Claims at Licensee's sole expense. **IT IS LICENSEE'S RESPONSIBILITY TO OBTAIN INSURANCE AGAINST LOSS OR DAMAGE TO LICENSEE'S PROPERTY STORED IN THE LOCKER.**

Licensee's Initials \_\_\_\_\_

13. Assignment. This License, and Licensee's rights thereunder, are personal to Licensee, and may not be sold, transferred, encumbered, or otherwise assigned. Licensee may not sublet the Locker or otherwise transfer Licensee's rights under this Locker Agreement without Marina's prior written consent. Any such attempted transfer shall terminate Licensee's rights under this Locker Agreement, at Marina's option.

14. Attorney's Fees/Liens: In the event any controversy arises regarding the interpretation or enforcement of this Locker Agreement, the prevailing party shall recover, whether or not suit be instituted, all reasonable expenses incurred, including attorneys fees.

15. Notices. All notices to Licensee required under this License agreement may be given either personally, by facsimile transmission (in which event the notice shall be effective as of the time of delivery or facsimile transmission), or by depositing the same in the United States mail, postage prepaid, and addressed to Licensee at the above-referenced address (or such other address as Licensee may subsequently provide to Marina in writing), whether or not Licensee has abandoned or vacated the Locker (in which event the notice shall be effective 2 days after mailing). Written notices to Marina shall be addressed to Marina at 5000 Harbor Drive, San Diego, California, or submitted by facsimile transmission to (619) 222-9387.

17. Entire Agreement/Enforceability. This agreement, including any attachments, constitutes the entire agreement between the parties, supercedes all prior agreements or understandings between them, and may not be modified without their prior written consent. This agreement shall be interpreted fairly and shall not be strictly construed either for or against either party. In the event a court of competent jurisdiction finds any portion of this agreement unenforceable, then the unenforceable provision(s) shall be excised and the remaining portions shall remain binding and enforceable as between the parties. This agreement is binding upon the heirs, personal representatives and other successors in interest of the parties.

By executing this agreement Licensee acknowledges and agrees (s)he has read, understands and approves this agreement and agrees to be bound thereby.

Dated: \_\_\_\_\_

Locker: \_\_\_\_\_

**LICENSEE:**

**SUN HARBOR MARINA**

By: \_\_\_\_\_  
Signature

\_\_\_\_\_  
By:  
Title:

\_\_\_\_\_  
Printed Name

\_\_\_\_\_  
Billing Address

\_\_\_\_\_  
Phone No.

\_\_\_\_\_  
Fax No.

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**OFFICE USE**

Effective Date: \_\_\_\_\_ Access Commencement Date: \_\_\_\_\_ Assigned Locker: \_\_\_\_\_

Monthly Rental: \$ \_\_\_\_\_ + Utility Surcharge: \$ \_\_\_\_\_ = Total Monthly: \$ \_\_\_\_\_

Security Deposit: \$ \_\_\_\_\_ Key Deposit: \$ \_\_\_\_\_ Total Deposit: \$ \_\_\_\_\_ Date Paid: \_\_\_\_\_ Check #: \_\_\_\_\_

Date Key Issued: \_\_\_\_\_

**Licensee's Initials:**

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