

CITY OF LONG BEACH HARBOR DEPARTMENT
(PORT OF LONG BEACH)
P.O. Box 570
Long Beach, California 90801

APPLICATION FOR TEMPORARY BERTH ASSIGNMENT
(To be submitted 96 hours or more prior to receiving cargo or berthing vessel.)

NAME OF VESSEL _____ Registry _____

Operator _____ Draft _____ Flag _____

Overall Length _____ Gross Tonnage _____

Services Requested:

1. Discharge Berth CHECK Date Vessel Due at Berth _____ Max. Days to Discharge _____

Tons to be Discharged _____ Berth Desired _____

2. Loading Berth CHECK Date Vessel Due at Berth _____ Date Begin Receiving _____

Max. Days to Load _____ Tons to Load _____ Berth Desired _____

3. Other Services (Repairing, Laying up, etc.) (Describe) _____

Description of cargo and remarks: _____

4. The party responsible for financial obligations which may be incurred by or on behalf of the vessel during the above vessel call is:

Name: _____
Address: _____

Relationship to vessel (owner, charterer, agent, etc.): _____

5. The party identified in paragraph 4 above has: (a) consented to submit to the jurisdiction of any federal or state court in the County of Los Angeles, State of California, having subject matter jurisdiction as to any claim arising from or in connection with the above vessel call including, but not limited to, damage to wharf or other premises; and (b) appointed the undersigned as its agent for purpose of accepting service of any notice, demand, summons or other document given in connection with any such claim.

Name of Firm: _____
Individual Contact: _____
Phone: _____
Fax: _____
Address: _____

email: _____

Application is hereby made for a temporary berth assignment for the vessel and services shown above, and in consideration of the granting of the assignment the undersigned agrees to be bound by and comply with the provisions shown on the temporary berth assignment and incorporated herein by reference.

Name of Firm: _____
Address: _____

Date _____ By: _____
Title

FOR HARBOR DEPT USE ONLY

TEMPORARY BERTH ASSIGNMENT

Berth Assigned _____ From _____ To _____

Berth Assigned _____ From _____ To _____

Remarks: _____

Date _____ Executive Director
City of Long Beach
Harbor Department

Assignment No. _____ By: _____
CITY

Applicant for this Temporary Berth Assignment agrees to be bound by the following provisions:

1. USES. The assigned premises and facilities ("premises") shall be used only for the berthing and mooring of vessels owned, operated or represented by the Assignee, for the embarking and disembarking of passengers and their baggage, the assembling, distributing, handling, loading and unloading of goods, wares and merchandise into and from such vessels over, through and upon the premises and from and upon other vessels, barges and lighters or the repairing of vessels; provided, however, that the right hereby granted to use the premises shall not be exclusive; and whenever the premises, or any part thereof, are not required, in whole or in part, for the uses permitted hereunder, the Executive Director shall have the right to and may make other assignments to any other person, firm or corporation to use the premises, or any part hereof, as provided in Port of Long Beach Tariff No. 4, and any amendments or supplements thereto or reissues thereof, or its successor ("Tariff No. 4").

2. CHARGES. Assignee shall pay to the City, for the use of the premises the total amount of all charges accruing therefor under the schedule of rates covering the use of wharves and wharf premises, and other facilities, utilities and appliances owned, controlled or operated by the City, as provided in Tariff No. 4 and any amendments or supplements thereto or reissues thereof, or its successor.

Assignee shall file with the Executive Director on forms provided by/or acceptable to the City, a statement, verified by the oath of said Assignee, its manager or other duly authorized representative, (a) on or before the tenth day following the departure of each vessel, showing all charges which shall have accrued at the premises for dockage and wharfage and other applicable tariff charges with reference to such vessel, and (b) on or before the tenth day of each month, showing all charges which shall have accrued for wharfage where the departure of a vessel is not involved and for all wharf demurrage, storage and other applicable tariff charges, if any, during the preceding calendar month. Assignee agrees to furnish additional information relating to the use of the premises when requested by the Executive Director.

3. CONDITION OF PREMISES. Prior to its use of the premises and as a condition precedent to the effectiveness of this Temporary Berth Assignment, Assignee shall (i) inspect the premises, including the fender system composed of, but not limited to, pilings, chocks, breakers, whales, camels, dolphins, and rubber fenders; and (ii) notify the Chief Wharfinger in writing of all damage to the premises observed by Assignee during its inspection of the premises. The Assignee shall be liable for and shall pay to the City the actual cost of all repairs for all damage to the premises including the fender system and all other property and improvements located thereon and, which are caused, negligently or otherwise, by the Assignee, its officers, agents, employees, licensees, invitees, or permittees, or by vessels owned, operated or represented by it. The fender system is composed of, but not limited to, pilings, chocks, breakers, whales, camels, dolphins and rubber fenders.

4. MAINTENANCE OF PREMISES. Assignee shall at all times keep and maintain the premises, including the fender system and all other property and improvements located thereon, in the same good order, condition and repair as when received.

No offensive or refuse matter, or any substance constituting an unnecessary, unreasonable or unlawful fire, explosive or radioactive hazard, or material detrimental to the public health, shall ever be permitted to be or remain upon the premises. Assignee shall prevent any such material or matter from being or accumulating upon the premises. Assignee is responsible for disposal of all wastes in compliance with all applicable laws.

5. TACKLE AND LABOR. The Assignee, at its cost, shall provide all tackle, gear and labor for the docking or mooring of vessels at the premises and shall provide, at its cost, such appliances and employ such persons as it may require for the handling of goods, wares, merchandise, and passengers thereat.

6. APPLICABLE LAWS. Assignee, at all times in its use and occupancy of the premises and in the conduct of its operations thereon, shall comply with all laws, ordinances and regulations applicable thereto, enacted by federal, state, municipal or other governmental bodies or departments or officers thereof, including the City Charter, the Municipal Code of the City of Long Beach, and the Tariff No. 4. Assignee shall conduct its operations on and about the premises in such a manner as will, in the judgment of the Executive Director, in no way weaken, damage or destroy the premises.

7. INDEMNIFICATION.

(a) Assignee shall indemnify, protect and hold harmless City, the Board of Harbor Commissioners, and their officials, employees and agents ("Indemnified Parties"), from and against any and all liability, claims, demands, damage, loss, obligations, causes of action, proceedings, awards, fines, judgments, penalties, costs and expenses, including attorneys' fees, court costs, expert and witness fees, and other costs and fees of litigation, arising or alleged to have arisen, in whole or in part, out of or in connection with (i) by the use of the Premises or any equipment or materials located thereon, or from operations conducted thereon by Assignee, its agents, employees or invitees, or by any person or persons acting on behalf of Assignee and with Assignee's knowledge and consent, express or implied of Assignee; (ii) by the condition or state of repair and maintenance of the Premises; (iii) by the construction, improvement or repair of the improvements and facilities on the Premises by Assignee, its officers, employees, contractors, agents or invitees, or by any person or persons acting on behalf of Assignee and with Assignee's knowledge and consent, express or implied; or (iv) by Assignee's failure or refusal to comply with

the provisions of Section 6300 et seq. of the California Labor Code or any federal, state or local regulations or laws pertaining to the safety of the Premises or of equipment located upon the Premises. City shall notify Assignee of any claim, shall tender its defense to Assignee, and shall assist Assignee as may reasonably be requested in the defense thereof. Upon such notification and tender, Assignee shall have independent duties to defend such claim, and to indemnify the indemnified parties except to the extent that such injury, death or damage is determined by a court of competent jurisdiction to have been caused by the active negligence or willful misconduct of the indemnified parties. Payment of a claim by an indemnified party shall not be a condition precedent to recovery under this indemnity (collectively "Claims" or individually "Claim").

(b) In addition to Assignee's duty to indemnify, Assignee shall have a separate and wholly independent duty to defend Indemnified Parties at Assignee's expense by legal counsel approved by City, from and against all Claims, and shall continue this defense until the Claims are resolved, whether by settlement, judgment or otherwise. No finding or judgment of negligence, fault, breach, or the like on the part of Assignee shall be required for the duty to defend to arise. City shall notify Assignee of any Claim, shall tender the defense of the Claim to Assignee, and shall assist Assignee, as may be reasonably requested, in the defense.

(c) If a court of competent jurisdiction determines that a Claim was caused by the sole negligence or willful misconduct of Indemnified Parties, Assignee's costs of defense and indemnity shall be (1) reimbursed in full if the court determines sole negligence by the Indemnified Parties, or (2) reduced by the percentage of willful misconduct attributed by the court to the Indemnified Parties.

(d) The provisions of this paragraph shall survive the expiration or termination of this Assignment.

8. INSURANCE: As a condition precedent to the effectiveness of this assignment, Assignee shall comply with the insurance requirements attached hereto as Exhibit A. Assignee acknowledges that if, during the term of this Temporary Berthing Assignment, City receives a notice of cancellation of insurance concerning the insurance required by this Paragraph 8, then City may remove, without further notice, Assignee's vessel from the premises to a storage facility determined by City, Assignee shall be fully responsible for all charges incurred for such removal and storage, and the assignment shall be terminated.

9. REMOVAL OF ASSIGNEE'S PROPERTY. In the event Assignee fails, neglects, or refuses to remove its property from the premises promptly upon termination of this assignment, said property shall be deemed abandoned and the Executive Director shall have the right to remove, place in storage, or otherwise dispose of such property at the sole cost and expense of Assignee. Assignee hereby irrevocably appoints the Executive Director as its special attorney-in-fact to do and perform all acts necessary in removing, storing, and disposing of said abandoned property and to execute and deliver to any third party, including the City, a bill of sale thereof.

CMG:WRB:LEM:DAM:DRA [date] # (A09-02814 04/27/17)
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