



## EXPRESS ASSUMPTION OF THE RISK, WAIVER OF CLAIMS, RELEASE OF LIABILITY AND IMDEMNIFICATION AGREEMENT

Print Name: \_\_\_\_\_ Trip Date: \_\_\_\_\_ to \_\_\_\_\_

**READ THIS DOCUMENT CAREFULLY: BY SIGNING THIS "EXPRESS ASSUMPTION OF THE RISK, WAIVER OF CLAIMS AND RELEASE OF LIABILITY" YOU ARE GIVING UP AND WAIVING SUBSTANTIAL LEGAL RIGHTS, INCLUDING THE RIGHT TO SUE.**

In consideration of HORIZON CHARTERS, INC. permitting me, or persons I represent, to be a passenger aboard the vessel HORIZON, and to engage in any activity during the voyage, including but not limited to fishing, swimming, snorkeling, shark cage diving, scuba diving, skin diving, boating, hiking, whale watching, occupying accommodations, boarding, disembarking, standing, walking, sitting, spear fishing, fish cleaning, fish and marine life handling, climbing and descending ladders and steps, boarding tenders in water, entering or exiting shark cages in water, kayaking, rafting, abandoning ship, life raft related activities and/or participating in any sponsored or unsponsored, organized or unorganized activities (hereinafter "**ACTIVITIES**"), as conducted and/or provided by HORIZON CHARTERS, INC., and/or the Captain and crew of said vessels, and/or by any other entity or person, for myself, my spouse, my personal representatives, my children, heirs, administrators, executors, successors, assigns and next of kin, I hereby acknowledge and agree as follows:

### EXPRESS ASSUMPTION OF RISK

I UNDERSTAND AND ACKNOWLEDGE THAT AS A PASSENGER ON THE VESSEL AND FOR THE VOYAGE WE ARE TO UNDERTAKE AND FOR ALL **ACTIVITIES**, THERE ARE KNOWN AND UNKNOWN RISKS AND PERILS THAT COULD CAUSE OR RESULT IN INJURY, ILLNESS, DISEASE, DEATH, EMOTIONAL DISTRESS AND DAMAGES TO MYSELF AND MY FAMILY MEMBERS. DESPITE THOSE RISKS AND PERILS, I AM VOLUNTARILY PARTICIPATING, WITH FULL KNOWLEDGE AND UNDERSTANDING OF THE POTENTIAL DANGERS INVOLVED, KNOWN AND UNKNOWN, AND I EXPRESSLY AGREE TO ACCEPT, WITHOUT LIMITATION, ANY AND ALL RISKS OF BODILY INJURY, WRONGFUL DEATH, DAMAGE, CONDITION, AILMENT, SICKNESS, HEART ATTACK, INFECTION, STROKE, PANIC ATTACK, HYPERVENTILATION, DECOMPRESSION SICKNESS, EMBOLISM, HYPERBARIC INJURY, ALLERGIC REACTION, ANIMAL ATTACK, BITE, CORAL ROCK INJURY, STINGS AND ATTACKS BY MARINE CREATURES ARISING OUT OF OR RELATED TO OR AS A RESULT OF BEING A PASSENGER ON THE VESSEL AND/OR MY PARTICIPATION IN THE **ACTIVITIES**.

I FURTHER PROMISE to be careful at all times, to pay attention, follow instructions and use common sense to minimize my chances of injury or injuring others while a passenger and during any, AND AGREE AND ACKNOWLEDGE AS FOLLOWS:

1. Snorkeling, skin diving, scuba diving, shark cage diving, spearfishing and fishing and angling are inherently hazardous, risky and dangerous **ACTIVITIES** and involve risk of serious bodily injury and/or death.
2. On this voyage, fishing trip, open water diving trip and/or land tour, I will be at remote locations with no immediate hyperbaric care and/or emergency medical care (including a defibrillator in the event of a heart attack). I expressly assume all risks of engaging in **ACTIVITIES** in such remote locations without such care.
3. Any injury may be compounded by negligent rescue operations or emergency acts of the Captain and crew of the vessel, or others.
4. The vessel is constantly rocking and pitching on the ocean in unpredictable ways. At all times while standing, sitting and/or walking about the vessel (including boarding and disembarking, climbing and descending steps, stairs, ladders, etc.), I will exercise caution, look where I am stepping, and utilize all available handholds, railings and hand-grabs, so that I will not lose my balance and/or fall and possibly be injured.
5. I will be on the lookout for any potential dangers, including but not limited to: 1) Open hatches. I could fall into one and be injured. 2) Doors on vessels. I understand they open and close differently than on land. I will keep my hands free of all doors at all times. 3) Falling. I will remain seated in the stern (rear of vessel) while the vessel is entering or departing the harbor, and when sea conditions are rough. 4) Slipping. I know vessel decks and stairs can become slippery due to water, fish, fish scales, fish slime, blood, etc. I will be careful at all times so as not to slip and fall. 5) Footwear. Flip-flops, slip-ons, high heels and leather soles are not safe. I will wear suitable shoes. 6) Fishing Injuries. I know that while fishing, I could be injured (including eye injuries) by other passengers' or crewmembers' poles, gaffs, hooks, sinkers, tackle and gear and I will be careful so that I am not injured by others (I will wear protective eyewear at all times). 7) Diving. I am aware of the dangers of breathing Nitrox and/or compressed air and of underwater hazards (netting, caves, kelp entanglement, traps, etc.). 8) Assistance. I represent I am physically and mentally fit to be a passenger aboard the vessel and engage in the **ACTIVITIES**. I will ask for

assistance from a crewmember if needed. 9) I will not take any drug, alcohol, or medication that is contraindicative of engaging in the **ACTIVITIES**.

## **EXPRESS ASSUMPTION OF THE RISK, WAIVER OF CLAIMS, RELEASE OF LIABILITY AND INDEMNIFICATION AGREEMENT**

**Print Name:** \_\_\_\_\_ **Trip Date:** \_\_\_\_\_ **to** \_\_\_\_\_

### **WAIVER RELEASE AND INDEMNIFICATION**

I, on behalf of myself, my heirs, children, spouse, parents and assignees (“**RELEASORS**”), hereby release, discharge, waive and forever relinquish HORIZON CHARTERS, INC., the vessel HORIZON and its owner, OCEAN HORIZON, Inc., the Captain and crew of said vessel and their owners, operators, shareholders, officers, directors, employees, parent and/or subsidiary and/or related entities (“**RELEASEES**”), of any claim, demand and cause of action, whether matured or unmatured, foreseen or unforeseen, for any personal injuries, emotional distress, pain and suffering, illness, wrongful death and/or property loss, arising out of, relating to, or as a result of my being a passenger on the vessel and/or engaging any **ACTIVITIES**, wherever and howsoever such injuries, damages or death may occur, and for whatever period of time the **ACTIVITIES** may continue, whether caused in part or in whole by the negligence of **RELEASEES**, or others.

That, under no circumstances will **RELEASORS** (I, my spouse, children, heirs, estate, executors, administrators and assigns), sue **RELEASEES**, for personal injury, illness, theft, property damage or wrongful death as a result of **RELEASEES**' negligence, or the negligence of others, and should such an action be brought, I agree to hold harmless, defend and indemnify **RELEASEES**, including paying all attorney fees and costs.

**Severability.** If any provision of this document is unenforceable or invalid, that provision shall be severed from this contract and the remainder shall remain in full force and effect.

**Venue.** Any lawsuit filed against **RELEASEES** shall be only filed and adjudicated in the United States District Court for the Southern District of California, to the exclusion of any other court or tribunal.

**ONE YEAR STATUE OF LIMITATION TO FILE SUIT.** Any lawsuit or legal proceeding for personal injuries, wrongful death and/or property damage arising out of the voyage and/or related to being a passenger on the vessel and/or any **ACTIVITIES**, shall be filed within one (1) year of the date of the accident, event or occurrence. Any lawsuit filed more than one (1) year after the date of the accident, event or occurrence shall be absolutely time-barred.

**Fax signatures.** Facsimile signatures shall be considered the same as originals.

I HAVE CAREFULLY READ THIS “**EXPRESS ASSUMPTION OF THE RISK, WAIVER OF CLAIMS, RELEASE OF LIABILITY AND INDEMNIFICATION AGREEMENT**” AND FULLY UNDERSTAND ITS CONTENTS. I AM AWARE THIS IS A BINDING CONTRACT AND I FREELY AND VOLUNTARILY SIGN.

**Signature:** \_\_\_\_\_ **Date:** \_\_\_\_\_

### **For Children/Minors (under 18 years):**

Signature of Parent/Guardian \_\_\_\_\_ Date: \_\_\_\_\_

Name of Child / Minor: \_\_\_\_\_

Age of Child / Minor: \_\_\_\_\_

Relationship to Child / Minor: \_\_\_\_\_

**INQUIRES: Horizon Charters, Inc., 4368 Bermuda Circle, San Diego, CA 92107 858 344-0365**