

CHARTER TERMS AND CONDITIONS

1. Charter and Payment

- 1.1 The Owner shall let on bareboat or skippered charter, and the Charterer shall hire the Yacht for the charter period for the charter fee. The advance payment (Booking Deposit) shall be paid to the Managing Agent upon the signing of the BOOKING FORM. Upon signing this Agreement to put into effect the CONTRACT, all moneys payable hereunder are deemed due.
The balance of payment shall be paid to the Managing Agent not less than 28 days prior to the commencement of the charter period.

2. Security Deposit

- 2.1 The Security Deposit shall be paid to the Owner/Managing Agent prior to the Charter, such that it is cleared into Firstaways bank account prior to the commencement of the Charter.
- 2.2 The Managing Agent may retain and apply the Security Deposit in reduction or extinction of the following:
- Any liability of the Charterer to the Owner, howsoever the same may arise.
 - The cost of repairing any loss or damage to the Yacht, her equipment, or furnishings which occurs during the Charter, (which ends for this purpose upon the return of the yacht to the Port of Redelivery) and which is for any reason not recoverable under the Owner's insurance, howsoever the same shall occur.
The cost of repairing is to cover both loss and damage notified to the Owner / Managing Agent, or that which becomes apparent after the charter but is attributable to this Charter.
 - Any liability arising from damage caused to third party property.
- Provided always that such retention shall be without prejudice to the right of the Owner to recover any unsatisfied balance of such liability of cost from the Charterer.
- 2.3 Subject, as aforesaid, the Security Deposit or any balance remaining shall be returned to the Charterer within 14 days after the re-delivery of the Yacht to the Owner or, in the event of dispute, upon the determination of such dispute.

3. Owner's Obligations

- 3.1 The Owner or his Managing Agent will deliver the Yacht to the Charterer or his appointed representative in good and seaworthy condition complying with:
- The provisions made by the Department of Transport in their publication "Safety of Small Commercial Vessels Code of Practice", (HMSO 1993), to the extent that the said Code is applicable to the Yacht.
 - Standards and Equipment, meeting at least the minimum requirements of the Yacht Charter Association.
- For the avoidance of any doubt, the Owner / Managing Agent do not warrant the fitness of the Yacht to undertake safely, cruises within the Cruising Limits, in ALL weather conditions. The safety of the Yacht remains the responsibility of the Charterer, through his nominated Skipper.
- In the event of any loss of time occasioned as a result of the Owner's failure to comply with the provisions of this Clause, the Charterer's damages shall be limited to the charter fee and neither the Owner nor his Managing Agent shall have any liability for consequential losses of whatsoever nature.
- 3.2 The Owner or his Managing Agent will use his best endeavours to deliver the Yacht to the Charterer at the agreed time and place. If for any reason the Yacht, or equivalent alternative yacht, shall not be so delivered, a pro-rata refund will be made to the Charterer for each complete 12 hours delay. If such delay exceeds 25% of the total charter period, the Charterer shall be at liberty to treat the Charter as determined and the Managing Agent on behalf of the Owner shall thereupon return all sums paid.
In this event neither the Owner nor his Managing Agent, shall be liable to pay to the Charterer any other compensation for any loss or damage of whatsoever nature resulting from the delay, curtailment or cancellation of this Charter.
- 3.3 In that the Owner has appointed a full member of the Yacht Charter Association (YCA) as his Managing Agent, this charter will benefit from the YCA guarantee/bonding scheme when it comes into effect. In the event that the Managing Agent ceases to trade due to insolvency, the YCA plan to provide an alternative Yacht or a full repayment will be made of the moneys paid by the Charterer to the Managing Agent, in respect of this Charter. Please ask for details when making this Agreement.

4. Insurance and Liabilities

- 4.1 The Owner shall insure the Yacht and her equipment against fire, marine and collision risks with third party damage cover of not less than £500,000 subject to a policy deductible of no greater sum than the security deposit and excluding any damage to sails unless caused by the above risks.

Where racing use is agreed, the Charterer will be charged an additional premium and will remain personally liable for 1/3rd of the cost of repairing any damage to spars and sails which occurs whilst the Yacht is racing.

A copy of the Policy is available from the Owner upon request.

- 4.2 Notwithstanding the provisions of Clause 4.1, the Charterer shall indemnify the Owner in respect of any loss of or damage to the Yacht or her equipment or any other equipment or liability arising out of any act or omission of the Charterer, his servants or agents or any member of his party or any other person invited onto the Yacht, which is not for any reason covered by the Owner's Insurance.
- 4.3 The Owner/Managing Agent shall have no liability for death or personal injury, loss or damage to personal property, suffered by the Charterer, his servants, agents any member of his party or any other person invited onto the Yacht, nor for any consequential losses resulting from such incidents, save in the event that same is caused by wilful default.
- 4.4 The Charterer will not take the Yacht outside the cruising limits nor do any other act which may vitiate the Owner's Insurance or prejudice his right to claim there under.
- 4.5 The Charterer will not admit liability to any person for damage caused to the Yacht or third party property. He should give the Owner's name, address and telephone number, and provide an immediate verbal report, followed as soon as possible thereafter by a written report on the incident, directly to the Owner or his Managing Agent. The Owner shall not be responsible to the Charterer for any consequential losses or damages resulting from such incidents, however caused.

5. Charterer's Obligations

- 5.1 The Charterer warrants that he/she and his/her crew have the experience and competence as formally stated in the Booking Form and that they are capable of the safe handling of the Yacht. He shall appoint himself or a suitably experienced person to be skipper of the Yacht, prior to signature of this Agreement.
- 5.2 The Charterer shall pay for all running expenses during the Charter period and to the extent that upon return any consumables have not been restored to their level upon handover, the Charterer shall be liable to the Owner for the cost thereof.
- 5.3 In the event of any damage to or failure of the Yacht or any incident involving a third party, the Charterer shall at the earliest opportunity report such occurrence to the Owner or his Managing Agent and shall comply with any instructions given by him. A list of damage and defects, rectified or not, to be provided to the Owner or his Managing Agents, upon the return of the Yacht.
- 5.4 The Charterer will not lend, sub-charter, nor operate the Yacht in a manner contrary to National and International rules applicable to the waters in which the Yacht is being navigated. Nor shall the nominated Skipper part with the control of the Yacht, without the written consent of the Owner or his appointed representative.
- 5.5 The Charterer will not use the Yacht for any purpose other than private pleasure cruising for himself, his crew and guests unless otherwise agreed and recorded in this agreement. He will not race the Yacht without prior written consent of the Owner or his Managing Agent.
- 5.6 The Charterer, whilst cruising more than 3 miles offshore, will limit the number of persons in his party to not more than the number of berths stated in this agreement. The names and addresses together with Passport numbers of all persons on board, must be stated on the Booking Form, or otherwise notified to the Owner, prior to the commencement of the Charter.
- 5.7 The Skipper shall take care of and assume full responsibility for the safety and maintenance of the Yacht and its equipment at all times, including periods when the Yacht is left unattended.
- 5.8 The Charterer shall observe all regulations of Customs, Harbour or other Authorities and will not allow the Yacht to be used for unlawful purposes.
- 5.9 The Charterer shall not allow any animals on board the Yacht without the written consent of the Owner.
- 5.10 The Skipper shall ensure that the Yacht remains afloat at all times, including periods when berthed.
- 5.11 At the end of the charter period the Charterer shall ensure the re-delivery of the Yacht to the Owner or his Managing Agent at her port of re-delivery, free of any indebtedness, cleaned, in the condition as upon delivery (reasonable wear and tear excepted) and with her inventory complete. If the Charterer shall fail to re-deliver the Yacht at the time and place agreed, he shall be liable for an additional charge equal to twice the pro-rata daily charter fee for every day or part thereof by which re-delivery is delayed, plus any costs incurred by the Owner or his Managing Agent in returning the Yacht to the agreed port of re-delivery. The Charterer's obligation under this Agreement shall continue until eventual re-delivery of the Yacht. If by prior agreement, or the delay being caused by the operation of a peril covered by the Terms hereof or by such damage to, or failure of, the Yacht as reported to the Owner under clause 5.3 hereof, these additional charges shall be waived at the Owners/Managing Agents discretion.

6. General

- 6.1 The Owner or his Managing Agent shall have the right to accompany the Charterer and/or his Skipper for trials prior to delivery. In the event that they are not satisfied as to the ability of the Charterer/Skipper to handle the Yacht safely, the Owner or his Managing Agent, shall be at liberty to terminate this Agreement
- 6.2 The Owner or his Managing Agent shall have the right to restrict the cruising limits of the Charterer in the light of the experience of the Charterer, the members of his party, and/or the actual or anticipated weather conditions.

- 6.3 If the Charterer, having already contracted for the Charter, notifies the Owner or his Managing Agent that he no longer requires the Yacht, the Yacht will immediately be offered for Re-charter. If successful, the value of this Re-charter will be refunded to the Charterer, less the Advance Payment (Booking Deposit). Should the Yacht remain unchartered for the contracted charter period, then the full Charter Fee under this Agreement remains due and is forfeit at the discretion of the Owner or his Managing Agent.
- 6.4 The Charterer shall only Salvage or tow another Yacht if the saving of Life is involved and/or by so doing the safety of that Yacht is secured, but without placing the chartered Yacht in peril.
Any proceeds of Salvage shall belong to the Owner.
The Charterer shall only accept a tow, or otherwise risk a salvage claim, if the safety of Life and/or the Yacht is at stake.
- 6.5 Charter Bookings are on a "First Come First Served" basis and can only be confirmed upon the receipt and acknowledgement of:
- A signed Booking Form
 - A signed Charter Agreement
 - An Advance Payment (booking deposit) of 25%.
- 6.6 Where this Agreement is signed by the Managing Agent on behalf of the Owner, the Managing Agent does so in good faith but contracts as an Agent only and incurs no liability for any acts or matters done, omitted or suffered by either party.
- 6.7 Save as provided otherwise in the terms of business of the Managing Agent, the provisions herein shall exhaustively govern the rights and obligations of the parties hereto.
- 6.8 This Agreement is subject to English Law. Any and all differences or disputes of whatsoever nature arising out of this Charter shall be referred to a sole Arbitrator to be appointed by the President for the time being of the London Maritime Arbitrators Associations. The provision of the Arbitration Acts 1950 and 1972 and any statutory modification thereof shall apply to any Arbitration.
- 6.9 No action taken by the Owner/Managing Agent, or any failure to act or time allowed to the Charterer or any failure of the Owner/Managing Agent to insist upon and enforce their strict legal rights, shall constitute a waiver of any of the provisions of this Agreement which shall remain in full force and effect.
- 6.10 This issue of the "Bareboat Charter Agreement", incorporating "Charter Terms and Conditions" supersedes all previous issues.
- 7 Definitions**
- 7.1 The Owner comprises the Legal Owner of the Yacht.
- 7.2 The Managing **Agent** is a representative of Firstaway Charters or their nominated Agent.
- 7.3 The Charterer is the Person arranging the charter, signing this Agreement and responsible for the payment of the Charter Fee.
- 7.4 The Charter **Contract** (the Contract) comprises a signed 'Booking Form' and a signed 'Charter Agreement'
- 7.5 The Skipper **is** the Person so nominated, who is suitably qualified to take full responsibility for the safe conduct of the Yacht and its Crew.
- 7.6 For the purpose of the Agreement, Peril shall be any situation where the undertaking of a passage will put the safety of the Yacht and/or its Crew into excessive danger. If in any doubt, the Charterer should confirm the perilous nature of the planned passage with the Owner/Managing Agent.
- 7.7 The Security **Deposit** is a refundable Sum, held by the Owner/Managing Agent and paid by the Charterer prior to the Charter, to cover losses and damages that may occur during the Charter.

Authorised on behalf of FIRSTAWAY CHARTERS,

E.T.Hill and E Whitelaw

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Partners

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