

ARGYLL YACHT CHARTERS

YACHT CHARTER AGREEMENT

1. DEFINITIONS

1.1 For the purpose of this Agreement, it is understood that Argyll Yacht Charters of Cairnbaan, Argyll act on the instructions of the vessel Owners. "Charterer" is understood to mean the person whose name and signature indicating acceptance of the terms herein, appears below.

1.2 For the purpose of this agreement the term "Yacht" is understood to include the Yacht's machinery, equipment fixtures & fittings.

2. CHARTER AND PAYMENT

2.1 The Owner/Operator will let, and the Charterer will hire the Yacht for the charter period for the agreed charter Fee. The Charterer must be at least 25 years of age. The Charter period is considered to run from 1600 hours on the first day of charter until 10.00 hours on the final day of the charter unless otherwise agreed in writing.

2.2 For the Yacht to be considered booked this Agreement must be signed and the Booking Deposit as listed in the price list must be paid. Charterers are obliged to pay the balance of the Charter Fee due 4 weeks before the commencement of the charter.

2.3 If the Charterer require to cancel the booking, notice must be given in writing to the Owner/Operator. All attempts will be made by the Owner/Operator to resell the cancelled dates. If such attempts are successful, then the Charterer's deposit will be returned minus an administration fee of £100. If the dates cannot be resold then the Charter remains liable for the full Charter Fee.

3. SECURITY DEPOSITS

A Security Deposit, as listed in the price list, is required to be paid 4 weeks before the commencement of the Charter. The owner/Operator may retain the Security Deposit in reduction or extinction of:

- a) any liability of the Charterer to the Owner/Operator howsoever the same may arise
- b) the cost of any loss, damage or dilapidation to the Yacht which occurs during the charter period.
- c) cleaning charges and the replacement of any diesel, fuel and gas used.

The retention of the security deposit does not preclude the right of the Owner/Operator to pursue any unsatisfied balance of such liability or cost from the Charterer. Subject to the aforesaid the security deposit will be returned to the Charterer within two weeks of the re-delivery of the Yacht or, in the event of a dispute, upon the determination of such dispute. The whole security deposit will be forfeited in the event of an insurance claim.

4. DELIVERY OF THE YACHT

4.1 Before the start of the charter period the Charterer will inspect the Yacht in order to satisfy himself, that it is in seaworthy condition, its fixtures and fittings in sound condition and the equipment in good working order and by acceptance of the Yacht the Charterer will be held to be so satisfied.

4.2 If the Charterer fails, without good cause, to accept delivery of the Yacht within 48 hours of the start of the Charter Period and shall not have notified the Owner/Operator of his intention to accept delivery later during the charter period, the Owner/Operator shall be at liberty to treat the charter as terminated without notice to the Charterer. Such termination shall be without prejudice to the right of the Owner/Operator to recover any unpaid part of the Charter Fee in respect of any other loss caused to the Owner/Operator through the failure of the Charterer to accept delivery of the Yacht. The Charterer shall, however, be given credit for any sum recovered by the Owner/Operator if the Yacht is re-let during any part of the charter period, but subject to the deduction of all proper expenses incurred by the Owner/Operator in connection with the Agreement and such re-letting.

4.3 The Skipper and one senior member of his crew shall be available to go over the pre-charter briefing and handover of the Yacht with the Owner/Operator's representatives at the appointed handover time.

4.4 The Skipper will be given an inventory of the Yacht's removable equipment on handover and he shall be responsible for checking the inventory and any discrepancy shall be notified to the Owner/Operator immediately. The Inventory is deemed to be part of this Agreement and will be checked at the termination of the Charter.

4.5 The Charterer undertakes to replace or pay for any items of the equipment that have been lost or damaged.

4.6 The Owner/Operator reserves the right to refuse to hand over the Yacht to anyone who, in the Owner/Operator's opinion, is not suitable to take charge. No further explanation needs to be given by the Owner/Operator. In this event, the Charter Fee and security deposit will be refunded in full, and the Charterer will have no further claim against the Owner/Operator.

5. OBLIGATIONS OF THE OWNER/OPERATOR

5.1 The Owner/Operator shall deliver the Yacht to the Charterer at the start of the Charter Period in what the Owner/Operator reasonably believes to be seaworthy condition and adequately equipped for cruising for pleasure within the stipulated Cruising Limits.

5.2 The Owner/Operator does not warrant the fitness of the Yacht in all conditions of weather for any particular cruise or passage within the Cruising Limits.

5.3 If, on issuing their best endeavours, the Yacht is not delivered to the Charterer at the agreed time and place a pro-rata refund will be made to the Charterer for each complete 12 hours delay. If such delay exceeds 48 hours the Charterer shall be at liberty to cancel the charter and the Owner/Operator shall return the Charter Fee and security deposit without further liability on the part of either party to pay compensation to the other.

5.4 If, despite their best endeavours, a non-essential piece of equipment is not working (such as refrigerated icebox or wind instruments) then the Owner/Operator is not liable for any compensation to the Charterer.

5.5 Every attempt has been made to provide an accurate description of the Yacht, but the Owner/Operator reserves the right to change equipment where necessary.

6. INSURANCE AND DAMAGE

6.1 The Yacht is insured for the usual marine and collision risks, including third party liability up to £1,000,000.

6.2 The Insurance does not cover personal effects, nor does it cover loss or damage to sails, nor a dinghy, which is towed behind the Yacht, or any use of the Yacht other than cruising for pleasure purposes.

6.3 Notwithstanding the provisions of clause 6.1, the Charterer shall be liable to indemnify the Owner/Operator in respect of loss or damage to the Yacht or other expense, or liability, arising out of the Charterers use of the Yacht or any act or omission of any member of his party which is not for any reason covered by the Yacht's insurance, including repudiation of liability by the insurers, wholly or in part, by reason of the act, default, negligence or breach of contract of the Charterer, or his servants or agents, including any member of his party.

- 6.4 The Owner/Operator shall have no liability for death or personal injury suffered by the Charterer, his servants or agents, or any member of his party, or any other person except insofar as such death or personal injury is caused by the express act, default or negligence of the Owner/Operator.
- 6.5 Save as provided in clause 6.4 the Company shall have no liability for any loss or damage howsoever arising out of the Charterer's use of the Yacht.
7. OBLIGATIONS OF THE CHARTERER
- 7.1 The Charterer shall not sub-let or part with control of the Yacht without the written consent of the Owner/Operator. In the event of delay occasioned by being storm bound, the Charterer and crew shall remain with the Yacht and re-deliver the Yacht back to base as soon as conditions improve. The Owner/Operator shall be kept informed by the Charterer of any such delay.
- 7.2 The Charterer shall limit the number of his party to not more than the number of berths on the Yacht.
- 7.3 The Charterer will not take the Yacht outside the Cruising Limits nor do any other act which might invalidate the Yacht's insurance or prejudice the Owner/Operator's right to claim thereunder. The Cruising Limits are herewith defined as an area not further south than the Northern coast of Ireland, nor further than the west side of St Kilda, and not north of Cape Wrath. In certain circumstances the Cruising Limits may be extended, for example to include the Orkney Islands and the Caledonian Canal, but approval in writing must be given by the Owner/Operator prior to the commencement of charter.
- 7.4 The Charterer is responsible for all running expenses during the Charter Period including the cost of water, fuel, harbour dues, mooring fees and all provisions for himself and his party.
- 7.5 The Charterer shall take good care of the Yacht during the Charter Period and shall operate the Yacht in a safe and seamanlike manner and conduct himself in accordance with what the Department of Transport describes as "the ordinary practice of seamen"
- 7.6 The Charterer shall ensure that the First Mate has the necessary experience to take over from the Skipper in the event of the Skipper becoming ill or falling overboard. The Skipper or one of the crew shall hold a VHF licence and be able to safely navigate without the need to use electronic aids.
- 7.7 In the event of any accident or breakdown of the Yacht, or upon the happening of any event which is likely to give rise to the failure of the Yacht (including machinery or equipment), the Charterer **shall report by telephone to the Owner/Operator as soon as possible**, giving the names and addresses of any witnesses (where relevant). Although it must be reported, engine breakdown in a Yacht, or failure of electrical or electronic equipment, are not deemed to make the Yacht unfit for use. The Charterer shall comply with any reasonable instructions given by the Owner/Operator, or by the Insurers, or their representatives. No repairs are to be put in the hands of any other party without the prior consent of the Owner/Operator. Receipts should be retained.
- 7.8 The Charterer shall not use the Yacht for any purpose other than private pleasure cruising and shall not race the Yacht.
- 7.9 The Charterer will assume responsibility for the safe navigation of the Yacht at all times during the Charter Period, including the security of the Yacht when in harbour, at anchor, or when left unattended. If the Charterer requests the services of a Skipper appointed by the Owner/Operator, then the Skipper shall assume responsibility for the safe navigation of the yacht only.
- 7.10 The Charterer will observe all regulations of HM Customs, Port, Harbour or other authorities to which the Yacht becomes subject.
- 7.11 The Charterer will not allow any animals on board the Yacht without the express written consent of the Owner/Operator.
- 7.12 The Charterer will ensure that no person smokes below decks.
- 7.13 The Charterer and all members of his party are deemed to:
- a) be aware that sailing can be dangerous and has certain inherent risks. (For example, the possibility of sailing in adverse weather conditions is one of the inherent risks)
 - b) voluntarily accepts the risk of injury. (For example, some of the obvious kind such as might be sustained to the skull during an accidental gybe, or to a hand or neck trapped in a mainsheet or to a back while hauling on a halyard are all part and parcel of the obvious risks that must willingly be accepted by the Charterer and all members of his party).
 - c) voluntarily accepts the risk of severe injury or even the possibility of death. (For example, some of the less obvious dangers of sailing are the possibility of drowning and hypothermia following a sudden change of weather, or man overboard, or capsize, or incident).
- 7.14 The Charterer shall accept personal responsibility for the safety of himself and all members of his party. The Charterer, and all members of his party, shall be physically fit. In particular, they shall not be liable to epilepsy or any complaint which precludes exertion and shall not be suffering from disability, giddy spells, asthma, diabetes, angina or other heart condition.
- 7.15 The Charterer shall ensure that he and all members of his party are familiar with the stowage and use of lifejackets and safety harnesses and furthermore shall carry out a daily inspection on all fittings and equipment which involve the safety of life at sea. (For example, standing and running rigging, the forestay retaining pin, lifejackets, safety harnesses, lifelines, skin fittings, radio telephone, engine oil levels and gas connections).
8. TERMINATION OF CHARTER
If the Charterer fails to comply with any provision of the Agreement, the Owner/Operator may forthwith terminate the Agreement and resume possession of the Yacht, but without prejudice to the right of the Owner/Operator to recover damages in respect of any breach of the Agreement of the Charterer.
9. RE-DELIVERY OF THE YACHT
The Charterer will re-deliver the Yacht to the Owner/Operator, free of indebtedness, at the Owner/Operator's base. The Yacht should be clear of all personal effects by 10.00 hours on the last day of the charter, ready for the Owner/Operator inspection and in a clean and tidy condition. The Charterer should allow for the possibility of adverse weather conditions when planning the return cruise to base. If the Charterer shall fail to re-deliver the Yacht to base at the agreed time, he shall be liable to pay to the Owner/Operator a sum equal to twice the pro-rata daily charter fee for every day, or part of a day, by which re-delivery is delayed. If a delay looks inevitable for any reason, the Charterer shall keep the Owner/Operator informed. The Charterer's obligations under the Agreement shall continue in force until eventual re-delivery.
10. DISPUTES
This Agreement is subject to the Law of Scotland

