

Clyde Yacht Charters Ltd
Standard Charter Conditions Forming Part of Each Charter Contract
(effective from 1st October 2022)

Terms & Conditions

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Interpretation – throughout these Terms & Conditions, reference to ‘the Owner’ shall be interpreted as meaning ‘the Owner or his representative, Smashin Boats Ltd, trading as Clyde Yacht Charters Ltd’, except where the Yacht is ‘Deep Blue’ or ‘Lotus’, in which case the Owner and the Owner’s representative are the same party, namely Smashin Boats Limited, trading as Clyde Yacht Charters Ltd.

1. CONDITIONS OF PAYMENT

1.1 The Owner will let the yacht and the Charterer will hire the yacht for the Agreed Charter Period for the Charter Fee. The Charterer will be over 25 years of age. The Booking Deposit payment will be paid to Clyde Yacht Charters, on behalf of the Owner, and the Charterer will be required to sign the Charter Contract. The balance of the Charter Fee will be paid to Clyde Yacht Charters, on behalf of the Owner, not less than 60 days before the start of the Agreed Charter Period. Non payment of the balance of the Charter Fee not less than 60 days before the start of the Agreed Charter Period will result in the Charter Contract being terminated and the Booking Deposit payment being forfeit.

1.2 In the event of the Charterer giving notice in writing of cancellation: -

a) If the notice in writing of cancellation is given at least 60 days in advance of the start of the Agreed Charter Period, the Booking Deposit payment shall be forfeit, but the Charterer shall have no liability for the balance of the Charter Fee.

b) If the notice in writing of cancellation is given less than 60 days in advance of the start of the Agreed Charter Period the Charterer will be liable for the full balance of the Charter Fee.

1.3 A standard Security Deposit is payable prior to the Charterer taking control of the yacht. See section 8. ‘Security Deposit’ below.

1.4 Skipped charters: For skipped charters, Charterers will be required to pay the standard Security Deposit . Charterers are also required to provide/pay for all meals for the skipper whilst on charter.

1.5 The full amount of the Security Deposit must be paid by the Charterer by bank transfer, not less than 7 days before the start of the Agreed Charter Period. Non payment of the Security Deposit not less than 7 days before the start of the Agreed Charter Period will result in the Charter Contract being terminated and the Charterer will be liable for the full balance of the Charter Fee.

2. DELIVERY OF THE YACHT

2.1 At the start of the period of charter the Charterer will have the opportunity to inspect the Yacht and complete and sign the yacht handover paperwork. Upon acceptance of the Yacht, the Yacht shall be deemed to be in good order and fully in compliance with its description.

2.2 The Owner reserves the right to accompany the Charterer for trials prior to delivery and, if not satisfied with the ability of the Charterer and his crew to handle the yacht safely, to terminate this agreement (in terms of section 2.3) or restrict the Permitted Cruising Area or allow the charter to proceed as a skipped charter only.

Where the charter is allowed to proceed only as a skipped charter, the Charterer will be liable for full cost of the skipper.

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2.3 The Owner reserves the right to refuse to hand over the Yacht to anyone who, in their opinion, is not suitable to take charge. In this event all sums paid will be refunded with no claim against the Owner

2.4 If the Charterer does not accept the Yacht by the appointed check-in time a late check-in fee of £100 per yacht is chargeable. If the Charterer contacts the Owner in advance of this time to advise of late arrival, this fee may be waived at the discretion of the Owner.

2.5 If the Charterer shall, without good cause, fail to accept the Yacht within 24 hours of the start of the Agreed Charter Period and shall have failed to notify the Owner of the intention to accept at a later date within the Agreed Charter Period, the Owner will then be at liberty to conclude the Charter Contract as fulfilled without notice to the Charterer. Such termination will be without prejudice to the right of the Owner to recover any unpaid part of the Charter Fee and damages in respect of any other loss caused to the Owner due to the failure of the Charterer to accept the yacht on the due date.

3. OBLIGATIONS OF THE OWNER

3.1 The Owner will endeavour to deliver the yacht to the Charterer at the start of the Agreed Charter Period fully commissioned, in good condition and with all gear and equipment complying with MCA regulations in force at the time for the specified cruising limits of the yacht. The vessel will carry a set of tools and spares necessary for foreseeable minor repairs. The Owner does not warrant the fitness of the yacht in all conditions of weather for any particular cruise or passage within the cruising limits.

3.2 The Owner will deliver the yacht to the Charterer at the agreed time and place. If for any reason the Owner is unable to deliver the yacht a refund will be made to the Charterer pro rata for each complete 12-hour period of such delay. If such delay exceeds 48 hours, the Charterer shall have the right to terminate the Charter Contract and receive a return of the Charter Fee without further liability of either party to pay compensation to the other.

4. INSURANCE AND DAMAGE

4.1 The Owner will insure the Yacht against all the usual marine risks with protection and indemnity insurance of at least £3,000,000 and subject to policy excess no greater than the amount of the Security Deposit. The yacht insurance does not cover personal effects of the Charterer or any member of the charter party.

4.2 Sailing is subject to a number of dangers and risks to the lives and physical and economic wellbeing of any participants. The Charterer and all members of the charter party should ensure they are covered by sufficient insurance for the duration of their charter which includes cover for any cancellation payment. Damage to a charter party member's personal property during the charter will not be the responsibility of the Owner. Please ensure that you have adequate insurance cover. If you are unsure or think that your current policy may not offer sufficient cover, we recommend that you talk to a qualified marine insurance company such as Topsail Insurance Ltd. who offer a specialist Yachtsman's travel policy.

4.3 Notwithstanding the provisions of 4.1 and 4.2, the Charterer shall be liable for any damage or loss to the Yacht, its equipment or furnishings occasioned by the Charterer or any member of the charter party's negligence or misuse.

4.4 If during the period of charter, the Charterer is prevented from using the yacht through reason of breakdown of machinery or gear or by damage to the yacht which is not due wholly or in part to the Charterer, his servants or agents, or any member of the charter party's negligence, act or omission, then a pro rata return of the Charter Fee shall be paid to the Charterer for any period that the yacht is unfit for use. Engine breakdown is not considered to make the yacht unfit for use under the terms of this agreement.

4.5 If during the Agreed Charter Period the Yacht becomes a total loss, whether actual or constructive, and provided such total loss is not due wholly or in part to any act of

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negligence, omission or misuse by the Charterer, his servants or agents, or any member of the charter party, then a pro rata payment of the unexpired portion of the Charter Fee shall be made to the Charterer.

4.6 The Owner shall have no liability for death or personal injury to the Charterer, his servants or agents or any member of the charter party or any other person except where such death or injury is caused by the express act, default or negligence of the Owner.

4.7 Save as provided in clause 4.6, the Owner shall have no liability for any loss or damage, however caused, arising out of this agreement or of the Charterer's use of the yacht.

5. OBLIGATIONS OF THE CHARTERER

5.1 Identification: The Charterer agrees to provide photo ID (Passport or National ID Card) to the Owner on arrival at the start of the Agreed Charter Period. The Owner will retain a copy with this copy being destroyed within 14 days of the end of the Agreed Charter Period.

5.2 The Charterer warrants both that he and his crew are competent and medically fit to handle the Yacht safely and also the truth, accuracy and provision in good faith of all information provided by them to the Owner, including in respect of their sailing qualifications and experience. The Owner reserves the right to request a Doctor's note confirming medical fitness for all those aged 70 or over. The Charterer or one of his crew must hold a current VHF Radio Licence.

5.3 The Charterer shall take over at current market prices at the start of the period of charter all consumable stores on board the Yacht and the cost of those items not replaced by the Charterer at the end of the Agreed Charter Period shall be deducted from the Security Deposit.

5.4 The Charterer shall pay for all running expenses during the Agreed Charter Period including the cost of charts (other than those supplied) food, laundry charges, bills of health, harbour dues, port dues, fuel, gas, mooring charges, pilotage and all other provisions for himself or his party.

5.5 The Charterer shall take good care of the Yacht and all its gear and equipment during the Agreed Charter Period, and in doing so shall ensure that a competent person is on board and in charge of the Yacht at all times when it is underway. In this regard, for an individual to be regarded as a competent person, he or she must at least (a) hold the RYA Day Skipper (or RYA Coastal Skipper if chartering a yacht over 40 feet in length) practical qualification; or (b) hold an equivalent overseas qualification; or (c) have previous experience in charge of a vessel or craft of similar type and size, of duration at least equivalent to the minimum which would be expected of an individual holding the relevant practical qualification noted above.

The Charterer agrees to provide evidence to the Owner of the sailing qualifications and experience of the skipper and first mate before the start of the Agreed Charter Period.

5.6 Insurance:

(a) The Charterer will ensure they are covered by sufficient insurance for the duration of their charter. Damage to a charter party member's personal property during the charter will not be the responsibility of the Owner

(b) In the event of any accident or damage to or failure of the Yacht or the happening of any other event which might give rise to a claim under the Owner's insurance, the Charterer shall report such occurrence to the Owner forthwith and shall comply with any instructions given to him by the Owner or the insurers. Where loss or damage is caused to the Yacht the Charterer shall use his best endeavours to obtain the prior approval of the Owner and will in any event obtain a written estimate for any work likely to cost more than £100.00 before putting any repairs in hand.

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5.7 The Charterer will not sub-let or part with control of the Yacht without the consent of the Owner

5.8 The Charterer will not use the Yacht for any other purpose other than for private cruising for himself, his crew and his guests. Racing is not permitted. Charterers must not take part in any racing activity with the Yacht.

5.9 The Charterer will limit the number of persons on board, whilst at sea, to not more than the number of persons for which the Yacht is MCA coded.

5.10 The Charterer will not take the Yacht outside the Permitted Cruising Area nor do any other act which might violate the Owner's insurance or prejudice any right to claim thereunder.

5.11 The Charterer will assume full responsibility for the safe navigation of the Yacht at all times during the period of charter including the security of the Yacht and all equipment while in harbour, at anchor or when otherwise left unattended.

5.12 The Charterer must inform the Owner as soon as possible after any grounding of the Yacht. This condition applies irrespective of whether the Charterer believes no damage has been done to the Yacht. Following any grounding, however slight, the Yacht will require to be lifted in the hoist and inspected by a suitably qualified marine surveyor. The costs of lifting the Yacht and the inspection will be charged to the Security Deposit for the charter. The Owner can accept no liability for loss of use of the Yacht by the Charterer caused by the need to have the Yacht lifted and inspected.

5.13 The Charterer will not allow any animals on board the Yacht without the prior written permission of the Owner and any damage caused by such animal will be the liability of the Charterer.

5.14 The Charterer will comply with all the rules and regulations of Customs, port, harbour or other authorities to which the Yacht becomes subject.

5.15 Canals: Permission to go through any canal system must be sought at time of booking. If permission is granted, please note that by leaving the Firth of Clyde area, as stated in section 8 below, an increased Security Deposit will be payable.

5.16 Smoking: The use of cigarettes or e-cigarettes on board the Yacht is not permitted. Any contravention of this condition will result in a £250 charge for the deep cleaning of the Yacht ahead of the next charter. Determination of whether this condition has been breached will be at the sole discretion of the Owner.

6. AGENCY

Where the Charter Contract is signed by an agent on behalf of the Owner the agent acts in good faith but contracts as agent only and incurs no liability for any acts, matters or things done, omitted or suffered by either party.

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7. DISPUTES

7.1 In the event of any dispute between the parties arising out of this agreement, the Owner will seek to help resolve the dispute. Where it judges it to be appropriate and at its absolute discretion, the Owner may refer the matter for arbitration or alternatively, to the Courts.

7.2 Where the matter is referred for arbitration, the determination of the independent arbitrator who may be appointed will be binding on both parties.

7.3 For reference purposes all correspondence relating to any dispute may be lodged with the disputes committee of the Association of Scottish Yacht Charters, or such other party chosen by the Owner, for independent determination.

8. SECURITY DEPOSIT

8.1 A minimum Security Deposit of £1500 will be payable by the Charterer not less than 7 days prior to the start of the Agreed Charter Period. The amount of the Security Deposit may be increased, up to a normal maximum of £2500 (other than where, exceptionally, a higher figure has been agreed and specified in the Charter Contract), as follows:

(a) by up to £500 where there is any intention during the Agreed Charter Period that the Yacht should navigate beyond the Firth of Clyde by either transiting the Crinan Canal or sailing South or West of the Mull of Kintyre (and please note that to extend the Permitted Cruising Area beyond the Firth of Clyde will require the prior written agreement of the Owner at the time of booking); and/or

(b) by up to £500 where a cruising chute or spinnaker is hired with the yacht; and/or

(c) by up to £500 where waterproof sailing gear is hired by the skipper/crew of the yacht; and/or

(d) by up to £1000 where it is intended that the yacht should be raced during the charter; and/or

(e) by up to £500 for each Stand Up Paddleboard or canoe hired by the Charterer for use during the Agreed Charter Period.

8.2 The Security Deposit will be retained by the Owner pending completion of the charter.

8.3 The Owner may retain the Security Deposit in reduction or extinction of:-

a) any liability of the Charterer to the Owner howsoever the same may arise: and/or

b) The cost of repairing any loss or damage to the yacht, her equipment, or furnishings which occurs during the Agreed Charter Period and which is for any reason not recoverable under the Owner's insurance howsoever the same shall occur – provided that such retention shall be without prejudice to the right of the Owner to recover any unsatisfied balance of such liability or cost from the Charterer.

c) Putting right any failure of the Charterer to return the Yacht in a clean and tidy condition, which will incur a charge against the Security Deposit of £100. If any toilet is left blocked there will be a charge of £100 per toilet blocked in addition to any cleaning fee.

d) Replacing fuel used and not replaced by the Charterer by the end of the Agreed Charter Period – unless otherwise agreed, the Yacht will have a full fuel tank at the start of the charter and will be returned with a full tank at the end of the charter. If the Owner is required to refuel the Yacht a handling fee of £100 will apply in addition to the cost of the fuel. This will be charged against the Security Deposit.

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Any such retention under this clause 8.3 shall be without prejudice to the right of the Owner to recover any unsatisfied balance of such liability or cost directly from the Charterer.

8.4 Subject as aforesaid, the Security Deposit or any balance remaining shall be returned to the Charterer within 14 days after the redelivery of the Yacht to the Owner or the termination of the Charter Contract under clause 9 hereof or, in the event of dispute, upon the determination of such dispute.

9. TERMINATION OF AGREEMENT

If the Charterer fails to comply with any provision of the Charter Contract, of which these Terms and Conditions form part, the Owner may forthwith terminate the Charter Contract and resume possession of the Yacht, but without prejudice to the right of the Owner to recover damages in respect of any breach of the Charter Contract by the Charterer.

10. RE-DELIVERY OF THE YACHT.

The Charterer will re-deliver the Yacht to the Owner free of indebtedness at the end of the Agreed Charter Period in as good, clean and tidy condition as when delivered to the Charterer (reasonable wear and tear excepted) and with her inventory complete, to her berth at Largs Yacht Haven or other place as detailed in the Charter Contract. If the Charterer shall fail to re-deliver the Yacht at the time and place agreed, he shall be liable to pay to the Owner 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. The Charterer's obligation under this agreement shall continue in force until eventual re-delivery.

11. LAW

In this agreement the singular will include the plural, the male and the female. The Charter Contract is subject to the Law of Scotland. Any unresolved disputes arising shall be determined by the Scottish courts. Neither the owner nor Clyde Yacht Charters may be pursued in any country other than Scotland.