

NANAIMO YACHT CHARTERS BAREBOAT CHARTER AGREEMENT

On this day _____, this Agreement is made by and between Nanaimo Yacht Charter & Sailing School Ltd. ("NYCSS") and _____ ("Charterer") to bareboat charter a vessel ("Yacht") from the Nanaimo Yacht Charters & Sailing School Fleet. The parties agree to the following terms, which incorporates all the following documents related to this Agreement, including: Invoices; Security Deposit Authorizations; Crew Lists; Pre-Departure Check-Out Sheets; On-Charter Fault Sheets; Dive Logs; Briefing Sheets; Inventory Lists; and Sailing Resumes.

YACHT, DATES OF CHARTER, CHARTER FEE:

Invoice No. _____

The name of the Yacht, times for pre-boarding, dates of departure and return, and all charter fees and amounts owing shall be found on the Invoice for this booking.

TIMES OF DEPARTURE & RETURN:

Pre-Boarding: See Invoice for times of arrival. Yacht to remain on dock at the NYCSS base.

Departure: All departures on the first day of charter shall begin at 9:00 a.m.

Return: All returns to Nanaimo, B.C. (Port of Return) *shall occur no later than 10:00 a.m.* on the last day, including removing all personal items, food, trash, and completing all COVID-19 cleaning tasks. See Sections 8 & 11 for details about late returns and your Security Deposit.

SECURITY DEPOSIT:

Deposit Amount: _____ \$ CAD

Security Deposits must be made prior to departure by pre-authorized credit card imprint in the full amount of the Security Deposit, to be held until NYCSS inspects the Yacht at the Port of Return, including underwater inspection and/or haul out, to determine any and all charges, costs, and/or expenses under the terms of this Agreement. See Section 8 for details.

INSURANCE:

Insurance Deductible: _____ \$ CAD

Per day Insurance covers Yacht hull and machinery and 3rd Party Liability up to \$5,000,000. The amount noted here serves as notice of your responsibilities. See Section 6 for details.

CHARTERER CERTIFICATION: I certify that I am experienced and competent in all aspects of the handling and operation of the Yacht under this Charter Agreement, including practical knowledge of seamanship, piloting, and the Rules of the Road. I certify as to the accuracy of the statements given. I agree not to allow the Yacht to be operated by any person not equally qualified.

If I am not qualified, the skipper for this charter shall be: _____. Final acceptance of the competency of the skipper shall be solely determined by NYCSS during check-in. If NYCSS determines that instruction is needed, I agree to engage these services at my expense.

_____ I understand that if a SeaTrial is requested that I must complete that SeaTrial and obtain consent to proceed by the assigned Instructional Skipper.

I have read, understand, and agree to all of the terms and obligations found within this Agreement. A contract exists as soon as NYCSS issues an invoice. Notification of discrepancies should be made immediately.

Charterer Signature _____ Date _____

NYCSS Signature _____ Date _____

1. Definitions

“Charterer” refers to the person named above who has full and complete responsibility for the safety of the vessel and its crew. “Charter Ready Condition” means the Yacht has properly cleared customs, free of all liens and encumbrances, and is in the same condition and clean state as when delivered. “Revenue” refers to the income, items or amounts charged to the client. “NYCSS” is NANAIMO YACHT CHARTERS & SAILING SCHOOL LTD. “Yacht” refers to the bareboat charter vessel specified above. “Dates of Charter” means the entire period of time between the date of departure and the date of return as stated on the Invoice for this booking.

2. Charter Fee Payment Terms

Unless stated otherwise on the Invoice(s) for this booking, payment terms are as follows: All payments must be made in Canadian Funds. 35% deposit required to confirm booking. Full payment due 60-days prior to departure. Late fees of 1.5% compounded monthly shall be applied to all unpaid balances. Visa and MasterCard payments are subject to a 4% convenience fee.

3. Rebooking, Cancellation, and Other Restrictions Resulting in Non-Performance

Unless stated otherwise in writing on the Invoice(s) for this booking, the Rebooking/Cancellation policy is as follows: 89 days or more before departure, our Raincheck Policy or a cancellation fee of \$600 CAD, plus transfer fees and applicable taxes applies; 89-60 days before departure, cancellations will incur a charge of 25% of the total charter fee, plus applicable taxes; no refunds will be issued on cancellations or rebookings that occur less than 60 days before departure. Under the terms of our Raincheck Policy: All retained funds, minus an administration fee of \$400, may be applied to re-bookings occurring within 12-months. NYCSS retains the right to cancel the Charter should any portion of the fees owing remain outstanding after any due dates stated on the Invoice. In the event of non-payment, any monies paid by the Charterer shall be surrendered to NYCSS not as a penalty but as liquidated damages.

In light of the COVID-19 pandemic, the Charterer agrees that NYCSS retains the right to cancel this booking at its sole discretion in the event of any federal, provincial, or local regulations, or requirements restricting travel, requiring the quarantine of the Charterer or any guest of the Charterer, or limiting the performance of this contract. Excluding the terms for rebooking or cancellation stated in writing in the Invoice incorporated under this Agreement, the Charterer assumes full risk and responsibility for personal expenses associated with the cancellation or rebooking of this Agreement, including but not limited to: airfare, hotel accommodations, car rentals, etc.

4. Obligations of NYCSS

NYCSS agrees to make available for the Charterer the Yacht and provide the services and supplies described herein and the Charterer agrees to charter the Yacht and pay for the services on the terms outlined in this agreement. Should the specified Yacht not be available NYCSS reserves the right to substitute with a similar Yacht. In the event that the substitute Yacht costs less or is smaller, NYCSS will refund the price difference, or alternatively, NYCSS has the option to return the full charter fee. In this case, the Charterer can have no claims against the owner of the Yacht or NYCSS for any loss, damage, expense or delay.

The Charterer must examine the Yacht prior to departure to determine whether the vessel and dinghy are in good working order, are properly outfitted with all Transport Canada standard safety equipment and accessories as well as any other requested items (inventory). Departure from the docks shall be interpreted as acceptance by the Charterer that NYCSS has fulfilled its obligations.

5. Availability and Running Expenses

The Charterer takes possession of the Yacht when the following formalities have been completed and submitted to NYCSS: full payment of the charter; submission of the crew list; boating resume; and refundable Security Deposit is provided by a pre-authorized credit card imprint. The Yacht is handed over with full fuel, water and one tank of cooking fuel. ***The Charterer agrees to pay any additional running expenses during the term of the charter, including, but not limited to: food and other consumable stores; fuel; pilotage; mooring and dockage fees; port charges; park permits; customs and provisions; and supplies for the Charterer and their crew.***

6. Insurance & Charterer Liability

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6 (a). Yacht Insurance Coverage

Insurance covers a hull and machinery and 3rd Party Liability up to \$5,000,000. The Charterer is responsible for all insurance deductibles applied per occurrence of damage or loss, as defined by NYCSS, which may be taken at any time from Charterer's Security Deposit at NYCSS's sole discretion. The Charterer shall be solely responsible for any loss or damage not covered by insurance, including, but not limited to, the failure to comply with the terms of this Agreement and/or the failure to immediately notify NYCSS of any/all incidents of damage or injury that arise, or may arise, due to the operation of the vessel during the period of charter. The Charterer shall make themselves available to speak to NYCSS upon request at the time of any incidents of damage or injury arising during the Dates of Charter.

6 (b). Items Not Covered by Insurance

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The Charterer shall be solely responsible for loss or damage arising from any of the following: negligent or willful misuse of the Yacht; fines or violations received while operating the Yacht during the Dates of Charter; violations of Use of the Yacht per Section 9 of this Agreement; lost or stolen equipment or inventory; damage or loss resulting from operation of the Yacht under the influence of drugs or alcohol; and/or failing to adhere to the briefing and/or on-board instructions.

Additionally, the Charterer is solely responsible for loss, damage, and or repair resulting from any of the following enumerated items below:

- i. Any/all fines and/or penalties arising from actions of the Charterer during the Dates of Charter;
- ii. Groundings or the Wrapping of a Rope around the Propeller "Prop Wrap";
- iii. Lost or Damaged Tender/Dinghy, Anchor and Ground Tackle, Electronics, Accessories, or Inventory;
- iv. Any Towing and/or Charter call-out expenses for emergencies and/or repairs necessitated by the actions/inaction of the Charterer;
- v. Haul-outs and Underwater inspections arising out of damage or incidents

occurring during the period of charter under the Agreement; and/or
vi. Insurance denial due to the failure of the Charterer to immediately notify NYCSS, of accidents, damages, injuries, or other incidents where injury or damage may occur to the Yacht or third-party injury or property damage may arise and/or to make themselves available to speak to NYCSS upon immediate request or comply with any/all terms stated within this Agreement.

7. Accidents; Loss; Damage; Repairs

7 (a). Notice of Accident, Injury, or Loss

The Charterer shall immediately notify NYCSS of any accident involving the Yacht, any serious injury of any person aboard the Yacht, or any violation of any law rendering the Yacht liable to claim, penalty or detention. The following actions or inactions by the Charterer may render the Charterer's Insurance void:

- i. Failure to immediately notify NYCSS of any accident, serious injury of any person, or any violation of any law rendering the Yacht liable to claim, penalty or detention, occurring at any time during the Dates of Charter;
- ii. Failure to communicate verbally upon request by NYCSS immediately following any incident causing damage to the yacht or third-party property, accidents, serious injury of any person, or the violation of any law rendering the Yacht liable to claim, penalty or detention, occurring at any time during the Dates of Charter;
- iii. Failure to complete in writing on the "**Vessel Accident Report Form**" upon return of the Yacht, prior to departure from NYCSS.

In the event of breakdown, Charterer is liable for aggravated damages resulting from continuing the voyage without consulting NYCSS. In the event of damage, collision, loss of equipment, and/or delay to Port of Return, reasonable steps must be taken to minimize further loss, including, but not limited to:

- i. Report immediately to NYCSS the incident, damage, and/or loss, per all requirements stated within this Agreement; and
- ii. Promptly report 3rd party damage or incidents to relevant authorities of damage or loss to people and/or third-party property.

7 (b). Repairs

In the event of a breakdown, the Charterer will not attempt repairs without the authorization of NYCSS. All claims for NYCSS authorized reimbursement shall be supported with receipts from recognized marine repairers and suppliers. Failure to comply with these terms may void the insurance coverage.

7 (c). Fair Market Value for Repairs and Other Losses

Any losses, damages, or repairs that occur will be assessed at Fair Market Value and invoiced accordingly.

8. Security Deposit

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8 (a). Credit Card Authorization

The Charterer must leave a Security Deposit in the form of a Credit Card Authorization prior to departure. Security Deposit amounts owing will be charged after the Yacht is returned to the Port of Return and inspected by NYCSS (which may include underwater inspection

and/or haul-out) to determine any and all reasonably necessary charges. A credit card processing fee of 4.00% of the amount due will be applied.

8 (b). Use of Security Deposit

The Security Deposit may be used to pay for any and all Charterer liabilities arising from this Agreement, including, but not limited to: insurance deductibles; repairs and services for loss or damage; refueling; damaged, lost, or stolen equipment or other inventory; lost Charter Revenue; fines or penalties arising from the use of the Yacht during the Dates of Charter, aggravated or liquidated damages; costs associated with inspection of the Yacht upon its return and surrender in order to ensure that the Yacht is in Charter Ready Condition; cleaning; and/or other such charges as may be deemed reasonably necessary by NYCSS. All amounts owing after the end of the Charter Dates shall be paid on demand, including all amounts in excess of the Security Deposit. Unpaid balances shall bear interest of a rate equivalent to the current bank prime rate from time to time plus 18% compounded monthly from the due date to the day before the date the payment is received.

8 (c). Groundings and Prop Wrap

In the event of a grounding or prop wrap, however it may occur, the Charterer is responsible for all fair market costs of the repair(s), including any and all amounts that exceed the amount of the Security Deposit, arising from any and all damages, repairs, and/or losses under any Section of this Agreement, including, but not limited to, expenses related to ensuring the Yacht is in Charter Ready Condition.

9. Use of the Yacht

9 (a). Use of Yacht as Pleasure Vessel Only

The Charterer agrees to take on board only the number of crew as stated on the crew list. The Yacht shall be employed exclusively as a pleasure craft, engaged in lawful activities. The Yacht shall not transport merchandise, carry passengers for pay, engage in any trade, nor in any way violate the laws of Canada or the United States or of any other government within the jurisdiction of which the Yacht may be at the time and shall comply with the law in all other respects.

9 (b). Cruising Area

The Charterer agrees to restrict use of the Yacht to the "cruising area" and not to navigate the West Coast of Vancouver Island (including inlets on the West Coast of Vancouver Island) without prior written approval of NYCSS and then completion of a WAIVER FORM. When sailing outside the cruising area, the Charterer is fully responsible for the maintenance and management of the Yacht and no support can be guaranteed.

9 (c). Prohibited Activities

Strictly prohibited activities include: single-handed operation of the Yacht; rafting to another vessel at anchor; and night sailing (between 30 minutes before sunset and 30 minutes after sunrise). The Yacht shall not be operated in fog; in the event that fog

conditions occur, the Charterer shall exercise all reasonable precautions to ensure the safety of all persons on board as well as the safety of the Yacht to travel to safe harbour. The Charterer shall stand well clear of any commercial shipping. Racing is not permitted, except with advance written approval by NYCSS.

9 (d). No Assignment or Sub-Charter

The Charterer shall neither assign this agreement nor sub-charter the Yacht without the prior written approval of NYCSS.

10. Competency

10 (a). Charterer's Competency

The Charterer certifies that he/she is experienced and competent in the handling and operation of inboard auxiliary powered sailing craft of the general type and size as the Yacht herein chartered and that the Charterer has sufficient practical knowledge of seamanship, piloting and Rules of the Road. The Charterer shall not permit any person not equally qualified to operate the Yacht. The Charterer agrees not to operate the Yacht single-handed, and will ensure that at all times a competent skipper and/or leading crew member are aboard, except while safely moored. NYCSS may in its sole discretion verify the Charterer's or leading crew's competency at any time during the charter.

The Charterer acknowledges that NYCSS does not independently investigate the competency of any Charterer to operate the Yacht but relies solely and exclusively on the resumes provided. The Charterer further acknowledges that while NYCSS may refuse to release the Yacht to the Charterer in its sole discretion that this exercise of discretion shall in no way be construed as an acknowledgement or determination of the competency of the Charterer's crew or the assumption of any liability for loss or damages incurred, for which the Charterer assumes sole responsibility.

10 (b). Instructional Skipper

At any time prior to or during the period of the charter, should NYCSS, in its sole discretion, determine that the Charterer and/or leading crew is less than fully competent, NYCSS may require the Charterer, at the Charterer's expense, to pay for an Instructional Skipper/Captain to assist the Charterer in achieving competency. Should the Charterer choose not to hire an Instructional Skipper/Captain, or if the Instructional Skipper/Captain is unavailable, NYCSS may restrict the Charterer's use of the Yacht by requiring that the Yacht remain at the dock until a qualified Skipper/Captain is available.

All Instructional Skippers/Captains hired by the Charterer shall be selected from the NYCSS pre-approved list of Instructional Skipper/Captains, who shall be hired by the Charterer as an independent contractor. The Instructional Skipper/Captain shall be the sole judge as to whether it is reasonable or prudent to operate the Yacht at a given time or place, having taken into account weather, anchorages, and pertinent matters. NYCSS shall not be responsible for any loss, damage, delay, or expense caused to the Charterer and/or

crew by reason of an act or neglect of the Instructor.

Once hired, if the Yacht is no longer on the docks of NYCSS, the Charterer must immediately notify NYCSS of any decisions to discharge the Instructional Skipper/Captain and obtain instructions from NYCSS as to the proper procedures for securing the Yacht (should the Yacht be left at any other location). All responsibilities under Section 11 of this contract shall remain in effect and cannot be waived without written consent of NYCSS.

11. Return of the Yacht

11 (a). Surrender of the Yacht/Disembarking on Time

The Charterer shall surrender the Yacht on time to the Port of Return Charter Ready Condition. The Charterer is responsible for allowing sufficient time for unforeseen contingencies to permit the return of the Yacht at the agreed upon time and place and in Charter Ready Condition. Failure to return the Yacht and/or disembark on time, as stated on the Invoice, may incur a charge of a minimum of one-half (½) of the daily rate of charter plus 25% for delays of 1-3 hours and one (1) full day of charter plus 25% for any delays exceeding 3 hours after the stated time of disembarkment as stated on the Invoice.

11 (b). Cleaning, Re-Fueling, and Holding Tanks _____ **Initial**

NYCSS has the right to charge additional fees if deemed necessary. Fuel tanks for the vessel and the outboard must be filled by the Charterer. Failure to refuel the Yacht and/all outboard engines or generators shall be charged in addition to the costs of fuel. Failure to empty holding tanks, plugged heads, cleaning, and refueling fees shall be stated in writing on the On-Charter Fault Sheet and/or Vessel and Crew Orientation Checklists provided to the Charterer in advance of the first day of charter.

11 (c). Return to Port of Return

If at any time the Charterer requests assistance returning the Yacht to the Port of Return, or if in NYCSS's sole discretion NYCSS determines it necessary, the Charterer is solely responsible for all expenses related to returning the Yacht to the Port of Return.

11 (d). Notice to NYCSS

Charterer must immediately notify NYCSS of any delays or potential delays of the return of the Yacht to the Port of Return. All terms in this section related to charges for late return may apply at the sole discretion of NYCSS, the waiver of which shall be stated in writing.

11 (e). Failure to Return Yacht on Time and in Charter Ready Condition Should the Charterer not deliver the Yacht to the Port of Return in Charter Ready Condition for any cause, other than an occurrence beyond the Charterer's control, NYCSS has the right to immediately charge the Charterer the following amount:

- i. One-half (½) of the daily rate of charter plus 25% for delays of 1-3 hours and one (1) full day of charter plus 25% for any delays exceeding 3 hours after the stated time of

- disembarkment as stated on the Invoice; plus
- ii. All expenses involved in returning the Yacht to the to the port of origin (should the Yacht be left at any other location); and
 - iii. All lost charter revenue if the delay in return causes cancellation of the succeeding charter.

At the sole discretion of NYCSS, any charges under this section occur immediately and may not be applied against the Security Deposit amount on file.

12. Termination

The Charterer accepts responsibility for the proper conduct of themselves and their crew. NYCSS reserves the right, in our absolute discretion, to terminate, without notice, this contract with any Charterer who refuses to comply with NYCSS instructions or orders and/or whose behavior or competence in NYCSS's sole discretion is likely to cause distress, damage, danger or annoyance to their crew, other clients, staff, any third party, or property. Upon such termination, NYCSS's responsibility for the Charterer's vacation ceases and shall not be liable for any costs incurred by the Charterer. Upon such termination, NYCSS may charge the Charterer immediately for all expenses involved in returning the Yacht to the Port of Return (should the Yacht be left at any other location).

13. Liability, Hold Harmless, and Indemnity It is understood that NYCSS is acting for and on behalf of the owner of the Yacht. Neither NYCSS nor the Owner will be liable to any person for any loss, damage, injury, or death that results from the Charterer's use of the Yacht. NYCSS makes no representations other than those contained in this Contract, the rate sheet, and any written materials provided as part of the booking procedures. NYCSS will not be responsible for any fees, expenses, airline tickets, hotel rooms, food, phone calls, or other expenses incurred by the Charterer for any reason whatsoever. The Charterer will indemnify and hold harmless NYCSS and the Owner of the Yacht, including reasonable attorney fees, against any and all claims for loss or damage to property or injury to persons (including loss of life) resulting from use, operation, or possession of the Yacht and related equipment or other Inventory by the Charterer or any crew, and from any claims whatsoever from loss or damage to personal property of the Charterer or any crew carried on the Yacht or dinghy. This Agreement shall be construed and interpreted in accordance with the laws of British Columbia with the exception of any admiralty or maritime claims which shall be construed under the maritime, admiralty laws of Canada or the United States including the International Convention on Limitation of Liability for Maritime Claims 1976 as in effect. The venue for any proceedings hereunder shall lie in Nanaimo, British Columbia, Canada.

14. Alcohol and Drug Use

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14 (a). Alcohol and Drug Use

NYCSS strictly prohibits the use or consumption of illegal drugs on board. The Charterer and crew accept the risk that the consumption of alcohol or drugs, including substances deemed legal under provincial or federal law and/or prescription medication, may increase

the risk of injury around the water and boats. NYCSS shall be held harmless from any and all claims or liability for property damage, personal injury, or death arising from or related to, directly or indirectly, the use or consumption of alcohol or drugs, even if the property damage, personal injury or death is caused in whole or in part by the negligence of NYCSS. This shall in no way limit or diminish NYCSS's accountability for its negligence where the property damage, personal injury, or death does not arise from or relate to, directly or indirectly, the use or consumption of alcohol or drugs.

14 (b). Charterer & Crew Alcohol and Drug Testing

The Charterer specifically acknowledges for himself/herself and crew that NYCSS has the right to insist the skipper or any other crew member take a drug and/or alcohol test administered by the police or a doctor after any incident involving the Yacht or its auxiliary equipment.

15. Charter Guarantee

If during a sailing day (8 a.m. to 5 p.m.) the Yacht is out of commission for more than 6 hours after notifying the base, NYCSS will refund the lost charter time. The Guarantee covers engine, transmission, sails, rigging, battery, and alternator. Excluded from the Guarantee are refrigeration, heat, CD player, dinghy and outboard, and any other items that do not prevent Yacht usage.

The time of breakdown will commence from the point when direct contact is made with NYCSS. If NYCSS is unable to resolve the problem within 6 hours the guarantee comes into immediate effect. NYCSS and the Charterer must agree on the time lost, in a writing signed by both parties, prior to the Charterer's departure from the NYCSS base. All breakdowns occurring outside the agreed sailing area or due to user negligence and/or operation of the Yacht in bad weather are excluded from the Guarantee. Under the terms of this Agreement, there the defense for Force Majeure is prohibited.

16. Assignment of Payments

NYCSS may assign rights to payments under the charter.

17. Lien Prohibition

Neither the Charterer nor any of his/her passengers or agents shall have the right, power, or authority to create, incur, or permit to impose upon the Yacht any liens whatsoever.

18. COVID-19

NYCSS appreciates your business and continued friendship during this difficult time. Concerns about the spread COVID-19 and the availability of supplies and medical resources has caused some of our neighboring communities to restrict transient moorage and shore access and/or develop local protocols for visitors. CHARTERERS assume sole responsibility to ensure that all crew and persons aboard the Yacht conform to all applicable safety recommendations and honour local rules and customs encountered

throughout the term of this Agreement.

18 (a). Personal Protective Equipment (“PPE”)

The Charterer is solely responsible for maintaining the safety of his/her crew and Yacht and should consult with Health Canada for guidance regarding COVID-19. The Charterer is solely responsible for providing any necessary PPE for all passengers aboard the Yacht. Charterer’s will respect all local rules and customs, including the wearing of masks or gloves when asked to do so. Charterer’s crew, and guests will be asked to wear masks during all briefings and interaction with NYCSS staff. The wearing of PPE and expectations of maintaining social distancing requirements must be adhered to whether or not any members of the crew have received a COVID vaccination.

18 (b). Quarantine Requirements; Border Restrictions

The Charterer is solely responsible for conforming to all rules and quarantine requirements under any local, provincial, and/or federal orders or regulations. The Charterer is solely responsible for monitoring these matters before and for the duration of the charter and agrees that NYCSS is not responsible for any losses or expenses related to these matters.

18 (c). Marina and Park Closures; Preparing for Your Charter

Rules, regulations, and customs regarding the use of any parks or marinas, and/or going ashore is an evolving landscape. CHARTERERS must conduct their own research to ensure that the locations they plan to visit are open and understand local expectations, customs, and rules in order to ensure the health and safety of their crew and Yacht and respect the rights and safety of third parties.

NYCSS is not responsible for providing the Charterer or crew with information or guidance regarding COVID-19 related crew health and safety, the availability of transient moorage or shore access, or any rules regarding shore access to local, provincial, or federal park land. Please educate yourself and remain diligent by updating information about local closures, border closures, local customs, ferry schedules, and regulations for all areas where you plan to visit throughout your charter.