



San Diego Boat Tours Inc. Bareboat Charter Agreement

San Diego Boat Tours Inc. requires that this Bare Boat Charter Agreement (the "Agreement") be completed in full and signed by the Charterer identified below. This Agreement details your contractual rights and responsibilities as a client of the San Diego Boat Tours Inc.

San Diego Boat Tours Inc. ("SDBT") agrees to bareboat charter the vessel "**Ocean Spirit**" (the "Vessel") to:

Name: _____ **Address:** _____

City, State, Zip: _____

Phone (h): _____, **Phone (w):** _____

Drivers License #: _____ **Email:** _____

who is to be referred to in this Agreement as the "Charterer," on date(s) of;

Date/Time: _____ **Duration/Term:** _____

How did you discover San Diego Boat Tours? _____

Payments

Charter Fee.....\$ _____

Fuel Fee.....\$ _____

Deposit previously paid.....\$ _____ Date Paid _____

Total Balance Due Prior to Charter.....\$ _____

Security Deposit to be held\$ _____

The Charterer promises to comply with the terms and conditions of this Agreement. **SDBT will pass full possession, command, and navigation of the Vessel to the Charterer for the term of the charter.** If the Charterer is a corporation or an unincorporated association the person signing this Agreement and the corporation are jointly and severally liable for compliance with the terms herein.

Additional Terms of Agreement

1. Delivery, Breakdown and Weather. SDBT agrees to have the Vessel clean, operational and otherwise reasonably fit for her intended use prior to breaking ground. Should it be unsafe or impossible for SDBT to present the Vessel in said condition at the commencement of the charter term, the Charterer may cancel this Agreement and all moneys paid in advance will be returned to the Charterer. In the case of machinery breakdown during the charter term, SDBT will attempt to have the Vessel repaired within 24 hours after being notified thereof, failing which SDBT will refund to the Charterer the sum paid under this Agreement, on a pro rata basis, so the Charterer will be liable only for the period of time the Charterer used the Vessel prior to her breakdown. SDBT shall not be liable for inconvenience or other claimed damages resulting from SDBT is not responsible for weather conditions during the term of the charter, and all charter rates and agreements will continue in effect, notwithstanding incimate weather preventing the Charterer from using the Vessel.

2. Vessel Insurance. There is liability insurance in the amount of \$300,000.00 which **protects the vessel, SDBT, the Charterer, Master and from legal claims for property damage or bodily injury caused by the Vessel or her operation, to property or people not considered additional insured.** This limits your liability for the Vessel and her contents to the deposit amount except in the case of intoxication, gross negligence or willful misconduct. Should any claim exceed the limit of liability covered by the policy or insurance provided by SDBT, the Charterer shall be liable therefor, and it is agreed that in such event the Charterer shall and hereby does release the Vessel and SDBT from any such excess liability.

3. Inherent Risk. It is further understood and agreed between SDBT and the Charterer that boating has certain inherent risks that shall be borne exclusively by the Charterer, including activities associated with maneuvering, anchoring, docking, cruising, swimming, diving, as well as collisions, allisions and other marine casualties. Therefore, SDBT accepts no responsibility or liability whatever for accidents or injuries, of any nature whatsoever, occurring while the yacht is under charter. **The Charterer is responsible for assuring that all aboard the Vessel exercise great care while aboard and while engaging in the above and all other activities associated with the Vessel and the use of her tender (dinghy).**

4. Crew Placement Responsibility. During the period of the charter the Vessel must be under the command of a Master (Captain) holding a current 50 ton (minimum) U.S. Coast Guard Master's License, and who has experience within the preceding year, in the San Diego area, in commanding a chartered motor yacht at least 52-feet in length. **The Charterer shall be solely responsible for selecting, hiring and paying the Master. For the full term of the charter SDBT and their insurance underwriter will not be liable for personal injury, bodily injury, death, sickness, property damage, loss of income or expenses of any nature to the Charterer, or Charterer's Master/Skipper, crew or guests.** SDBT will provide the Charterer with a list of Masters holding at least 50 ton U.S. Coast Guard Licenses who are experienced (within the preceding year) in operating the Vessel in San Diego Bay and other waters in the San Diego area. The Charterer, however, is not limited to selecting a Master from the provided list, although all Masters must be acceptable to SDBT's underwriters. The Charterer shall not allow the Vessel to be operated by any person other than a Master selected by the Charterer, pursuant to the terms of this Paragraph.

5. Reporting Accidents. If the Vessel is involved in marine casualty of any kind, or any accident that might give rise to a claim to the insurance underwriter, or if the Vessel sustains a breakdown of machinery or otherwise becomes disabled for any reason, the Charterer agrees to contact SDBT immediately by the most direct possible means, and provide the full detail of such accident or incident, and to confirm the details in writing within 24 hours of such incident or accident. Unless legally compelled to do so, the Charterer agrees not to admit or accept responsibility for any property damage or bodily injury occurring during the term of the charter to anyone apart from SDBT's insurance underwriters, and to instruct all aboard the Vessel to do likewise. The Charterer agrees to cooperate and assist insurance underwriter with any and all information regarding any damages or claims made against the Vessel, SDBT or its insurer. The Charterer agrees not to authorize repairs, other than those required to secure or protect the Vessel from further damage, before obtaining written instructions from SDBT.

6. Private Pleasure. The Charterer shall not use, or allow any other person to use the vessel for any other purpose than private pleasure and recreation. Commercial use of the Vessel by the Charterer is strictly prohibited.

7. Drugs and Aliens. Federal and State laws prohibit the use of any Vessel for the transportation of drugs or controlled substances, and the carrying or passage of any illegal aliens. In addition to possible criminal and civil penalties against the violators, the law permits forfeiture of any vessel which is used in the transport of such substances or people. Should the Charterer, Master, crew or guests allow the Vessel to be used for such purpose SDBT and insurance underwriters will not be responsible in any way for any associated expenses of any nature. The Charterer agrees to accept full responsibility for any such acts by any person on the Vessel and agrees to reimburse SDBT or insurance underwriter for any costs or expense that they may incur, including the full value of the Vessel if she is forfeited.

8. Cruising Area. The cruising area for the charter period is limited to those within the waters covered in all insurance policies covering the Vessel or liability associated with the Vessel. In no event shall the Vessel travel more than 12 miles offshore, or into the waters of Mexico, or North of the Port of Oceanside, California.

9. Running Expenses. Except as below provided, SDBT will provide sufficient fuel in the Vessel's tanks for the period of the charter. The Charterer agrees to accept the vessel as delivered and to pay all additional running expenses during the period of the charter, including all mooring, wharfage or other docking fees and charges. In the event the Charterer takes on additional fuel or incurs any other expense related to the Vessel during the period of the charter, it shall pay all such expenses immediately at the time such expenses are incurred.

10. Re-delivery and Indemnification. The Charterer agrees to surrender the vessel at the expiration of this charter at the same place where delivery was accepted, free and clear of any liens or indebtedness that may have arisen during the term of the charter, and in as good condition and in as clean a state as when delivery was taken, normal wear and tear from ordinary use accepted. **On multi-day charters only**, fuel use and emptying of the holding tanks will be the responsibility of the charterer.

Should the Charterer not tender re-delivery to SDBT at the time and place stipulated for what ever cause, the Charterer shall be charged for the time that such delivery is delayed, plus losses that SDBT may sustain do the delayed delivery on account of not being able to meet its Charter Agreement with other Charterers. If the Vessel is not returned to SDBT and has to be picked up at a location other than

the place where delivery was taken, the Charterer will be charged for the expenses of redelivery, including a minimum of one day's charter fee.

11. Cancellation Terms. The Charterer may cancel this Agreement subject to the following penalty charges: (a) cancelling 15 days before your scheduled charter - incur no penalty; (b) cancelling less than 15 days in advance will incur a penalty of 50% of the yacht charter rate; and (c) cancelling the day of the scheduled charter, the Charterer will forfeit 100% of the charter fee.

12. Arbitration and Litigation. Should a dispute arise between the parties which refers, relates or implicates this Agreement, such dispute shall be submitted to a mutually selected Mediator. The parties acknowledge this is a maritime contract and that federal court judges preside over maritime contract cases far more frequently than do state court judges. They therefore agree that, in selecting a Mediator and Arbitrator, to attempt first to secure the mediation/arbitration services of a retired Federal Court Judge or Magistrate Judge providing such services in San Diego, if such Judge is available within 60 days of the date of request to provide the mediation/arbitration services. If the parties cannot agree on a Mediator, they shall each nominate one Mediator, and these two Mediators shall together be charged with collectively selecting a third Mediator, who shall serve as the Mediator of disputes between the parties. The parties shall each bear the expenses associated with the Mediator they nominate in connection with his/her efforts in selecting a third Mediator. If mediation is unsuccessful in resolving the dispute, the parties agree to submit the dispute for resolution by way of binding arbitration. The Arbitrator shall be the same person who serves as the Mediator. Mediation and arbitration, if any, shall occur within the County of San Diego, California. The Arbitrator shall decide the dispute by applying, to the fullest extent applicable, the maritime law of the United States. His/her decision shall be final, binding, non-appealable, and reducible to a judgment by a Court of competent jurisdiction. He or she shall be empowered to determine a "prevailing" party, and to include as part of the damages awarded a sum equal to the costs and attorneys' fees incurred by the "prevailing" party. The fees charged by the Mediator and Arbitrator, if any, shall be divided equally between the parties.

13. Additional Terms.

- No animals allowed aboard the Vessel.
- No tobacco in any form may be used within any part of the cabin.
- The Vessel may not be operated by anyone who is under the influence of alcohol or illicit drugs, or who is otherwise impaired.
- The Charterer agrees to abide by all laws and regulations of the United States and the State of California relative to the operation of the Vessel.

Agreement and Understanding. The Charterer acknowledges that (s)he has read this agreement and understands all clauses within the Agreement and that (s)he hereby binds him/herself, and his/her heirs, personal representatives, executors, administrators and assigns to this Agreement.

Charterer

San Diego Boat Tours Inc. Representative

Date

Date

Each of the persons signing below, who will be passengers aboard the Vessel, indicate by signing below that they understand that there are inherent risks associated with being aboard the Vessel (including those enumerated in the Inherent Risks paragraph above), and that such risks include property damage, property loss, personal injury or death, and that they agree to assume all such risks and to indemnify, protect and defend SDBT and its owners, employees, agents, successors and assigns from and against all liability associated with all such harm.

Guest: _____ **Email:** _____

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