



**KARISMA OPERATOR Pty Ltd
(trading as Karisma Cruises)**

CHARTER AGREEMENT

This agreement is for the charter of a vessel by the Charterer, operated by the Operator and covers the rights and obligations of the Parties.

This Charter Agreement (the "Charter") is by and between **Karisma Operator Pty Ltd** of PO BOX 542 PYRMONT NSW 2009 (the "Operator"), and the Charterer identified below:

Name:
Address:
Phone:
Drivers Lic:

Name:
Address:
Phone:
Drivers Lic:

All persons identified in this bordered section are referred to individually and collectively as the Charterer.

In consideration of Charterer's payment of the Security Deposit and of the mutual agreements herein, the Operator and Charterer (the "Parties") agree as follows:

DURATION OF THE CHARTER:

Duration: Beginning at the Scheduled Departure Time being _____ on _____.

_____, and continuing until the Scheduled Return Time of _____ on _____.

Charter Deposit: \$2,000.00 – required in order to secure your booking date and time
Security Bond: \$2,000.00 (applicable for all BYO Charters only)
Balance Payment: Required 10 working days prior to charter date
Maximum Occupancy: 50 patrons.

TERMS AND CONDITIONS OF CHARTER

CLAUSE 1 - DEFINITIONS

- (a) Charter – the cruise for which the Charterer is paying and the Operator is providing;
- (b) Charterer – the client of the Operator, who is paying for the Charter;
- (c) Charterer's Group – all the passengers who will take part in the Charter;
- (d) Master – the qualified person in charge of the vessel;
- (e) Operator – the person or organisation providing the vessel for the Charter and to whom the money is being paid by the Charterer.

(f) FORCE MAJEURE

In this Agreement *force majeure* means any cause directly attributable to acts, events, non-happenings, omissions, accidents or Acts of God beyond the reasonable control of the Charterer or the Operator (including, but not limited to, strikes, lock-outs or other labour disputes, civil commotion, riots, acts of terrorism, blockade, invasion, war, fire, explosion, sabotage, storm, collision, grounding, fog, governmental act or regulation, contaminated fuel, major mechanical or electrical breakdown beyond the Charterer's control and not caused by lack of maintenance and or Operator's negligence).

(g) OPERATOR, CHARTERER, AGENT

Throughout the Agreement, the terms Charterer, Operator, Agent and corresponding pronouns shall be construed to apply whether the Charterer, Operator, Agent is male, female, corporate, singular or plural, as the case may be.

CLAUSE 2- AGREEMENT TO CHARTER

The Operator agrees to let the Vessel to the Charterer and not to enter into any other Agreement for the charter of the Vessel for the same date and time.

The Charterer agrees to charter the Vessel and shall pay the Charter Fee, the Security Deposit and any other agreed charges, in cleared funds, no later than the dates specified and to the Bank Account specified in this Agreement.

CLAUSE 3 - INCLUSIONS

The property subject to this agreement is the Vessel and everything on, or brought on, to the Vessel for the duration of the Charter, and all fixtures and attachments to the Vessel ("the Vessel and Equipment").

In accepting the Vessel and Equipment, the Charterer acknowledges that he/she has duly examined the Vessel and Equipment and has satisfied him/herself that the Vessel and Equipment are of the standard required.

PLEASE NOTE: The vessel has four (4) fully equipped bedrooms below deck. The rooms are not available for use by the Charterer and or the Charterer's guests unless they have been specifically booked for use on an overnight or multi night charter and the appropriate payment for such use has been made. At all other times, the rooms shall be locked and out of bounds to the Charterer and the Charterer's guests.

CLAUSE 4 - CHARTER COSTS

The Charter Fee includes the charter of the Vessel with all its equipment in working order; tools; stores; cleaning materials and basic consumable stores for engine room, deck, galley and cabins and the insurance of the Vessel as per Clause 11. The Charterer will pay, at cost, for all other expenses. These include, but are not limited to; food and all beverages for the Charter Party; and hire or purchase costs of any special equipment placed on board at the Charterer's request.

Payment for extraordinary expenses such as special requirements or equipment, shore side transport or excursions or any other expenses not customarily considered part of the Vessel's operating costs may be required to be paid to Karisma Operator Pty Ltd prior to the commencement of the Charter duration.

A cleaning fee will be charged in the event of an amount of waste, spillage, markings and the like is in excess of what is reasonable, caused by members of the Charterer's group, given the nature of the Charter, which, in the sole discretion of the Operator, therefore requires an excessive amount of cleaning to make good.

CLAUSE 5 - USE OF THE VESSEL

The Charterer shall comply, and shall ensure that the Guests comply, with the laws and regulations of the State of New South Wales and the Commonwealth of Australia into whose waters the Vessel shall enter during the course of this Agreement.

The Charterer shall ensure that the behaviour of the Charterer and his Guests shall not cause a nuisance to any person or bring the Vessel into disrepute. The Vessel is not to be used for commercial photo or film shoots of any nature, unless by written permission from the Operator.

In the event that the Charterer or any of the Guests shall commit any offence contrary to the laws and regulations of New South Wales and the Commonwealth of Australia which results in any guest or the Charterer being detained, fined or imprisoned, or the Vessel being detained, arrested, seized or fined, the Charterer shall indemnify the Operator against all loss, damage and expense incurred by the Charterer as a result, and the Operator may, by notice to the Charterer, terminate this Agreement forthwith.

The Vessel operates a zero tolerance policy and the possession or use of any illegal drugs or any weapons (including firearms) is strictly prohibited on board the Vessel. Failure to comply shall be sufficient reason for the Operator to terminate the Charter forthwith without refund or recourse against the Operator.

If the Charterer or any members of the Charterer's group does not comply with the standard of behaviour referred to in this clause, the Master may, at his sole discretion:

- (i) terminate the Charter by berthing the vessel at the nearest safe location and discharging all passengers or, at least, the offending ones;
- (ii) summon the Water Police to remove offending passengers;
- (iii) negotiate with the Charterer to agree on some other course of action to resolve the problem, which course of action must be satisfactory to the Master.

If the Charter is terminated early, as in (i) of this clause, no money will be refunded to the Charterer.

CLAUSE 6 – DURATION OF THE CHARTER

The Operator is not responsible for any delays caused by the late arrival of passengers or delays at the wharf caused by crowds, the arrival of other vessels or any other item beyond its control. It is similarly not responsible for delays at the point of disembarkation for reasons outside its control.

If the Charterer seeks to extend the duration of the Charter, during the Charter, this extension will be at the sole discretion of the Master.

Any such agreed extension will be paid for by the Charterer before the end of the Charter by cash or credit card. The amount will be pro rata of the vessel charge.

CLAUSE 7 – CHARTER COURSE

The course to be undertaken during the Charter may be agreed in advance with the Operator or with the Master on the occasion of the Charter; however the Operator reserves the right, at its sole discretion or of that of the Master, to vary the agreed course because of weather, traffic or any other cause which the Master believes is justified in the interests of the safety of passengers, crew and other vessels, at the Master's sole discretion.

CLAUSE 8 – SUBSTITUTION OF A VESSEL

The Operator may substitute another vessel(s) for the one(s) originally contracted for and shall incur no penalty provided that the substituted vessel satisfactorily provides the service originally contracted for.

CLAUSE 9 - CANCELLATION BY CHARTERER & CONSEQUENCES OF NON-PAYMENT

Should the Charterer give notice of cancellation of this Agreement on or at any time before the commencement of the Charter date, some or all of the Charter Fee may be retained by the Operator determined as follows:

- (i) After this Agreement is signed but before the final installment is due to be paid, the Operator shall be entitled to retain the first installment and or deposit;
- (ii) If any booking fee is due to be paid but has not been paid then the Operator shall have a claim against the Charterer for the amount so due.

CLAUSE 10 - NON-ASSIGNMENT

The Charterer shall not assign this Agreement, sub-let the Vessel or part with control of the Vessel without the consent in writing of the Operator, which consent may be on such terms as the Operator thinks fit.

CLAUSE 11 - SECURITY DEPOSIT

Unless otherwise provided on Page One of this Agreement, a Security Deposit of \$2000 may be taken and held by the Operator or his agent on any Charter and may be used in, or towards, discharging any damage or liability that the Charterer may incur under any of the provisions of this Agreement.

The Charterer and the Operator and or his agent shall inspect the vessel at the conclusion of each and every charter whether overnight or otherwise in order to determine or discharge any damage or cleaning requirements. The security deposit or part thereof shall be returned once agreement has been reached by the Charterer and the Operator.

CLAUSE 12 – UNFORSEEN EVENTS

The Operator will be free from liability for failing to perform hereunder due to industrial action, unsuitable weather conditions, technical problems or other events beyond the Operator's reasonable control.

The Operator shall endeavour to reschedule any Charter that is forced to cancel due to industrial action, unsuitable weather conditions and or technical problems within four weeks of the original charter. The weather shall be deemed to be unsuitable or dangerous at the sole discretion of the Master of the vessel and his decision shall relate only to safety of the vessel and its passengers.

In the event that the Charterer cancels the Charter due to inclement but not dangerous or unsatisfactory weather, then the Charterer shall forfeit the deposit held by the Operator.

CLAUSE 13 – LIMITED LIABILITY

It is a condition of the charter that the liability of the Operator, its servants, agents and sub-contractors is agreed to be limited in accordance with the Limitation of Liabilities and Maritime Claims Act 1989 (Cth).

To the extent permitted by law, any liability of the Operator for a breach of any provisions of this agreement or related obligations shall not exceed re-supply or the payment of the cost of re-supply of the service in question.

CLAUSE 14 - DAMAGE TO THE VESSEL

The Charterer shall indemnify the Operator in respect of any loss or damage to the vessel (s) or its equipment or fittings howsoever caused by members of the Charterer's group, fair wear and tear excepted.

If the Charterer damages the Vessel or Equipment to the extent that the Charter Period cannot continue, the Operator is not liable to pay any refunds, compensation or replace the Vessel with another. The Charterer may take out insurance to cover this event.

The Charterer will be liable to costs as follows:

- (a) in the case of loss, the costs incurred and moneys forfeited by the Operator due to the loss of use and the replacement costs of the Vessel and Equipment as determined by the Operator; or
- (b) in the case of damage, such amount being the repair costs of the Vessel and Equipment or the replacement cost of the Vessel and Equipment, whichever is the lesser amount and the costs incurred and moneys forfeited by the Operator due to the loss of use of the Vessel and Equipment

CLAUSE 15 – BYO CHARTER CONDITIONS

-The Charterer must supply all catering items including beverages, ice, all serving equipment, platters & napkins.

-Price of BYO vessel hire charge includes the crew, use of 2 large eskies on board and use of the BBQ only.

-Beverages will be at times served and at all times monitored by RSA certified staff members on board.

-RSA laws will still be enforced to align with our Liquor License including a strict 'no shots policy.

-Where applicable, charges will be incurred for any excess guests attendance not declared prior to the day.

-Substantial food (cold meat selection, BBQ meats, salads, seafood, bread etc) must be brought on board for BYO charters by the Charterer.

-All leftover BYO items including alcohol, if not taken upon disembarkation, will need to be collected the following working day or as organised otherwise with the Operator. Failure to collect on the day may result in it being discarded or left on the wharf for the Charterer's collection and is of no responsibility to the Operator.

Rowdy or unruly behaviour, as a result of excessive consumption of liquor, is against RSA law and offenders may be prosecuted.

Given that the vessel is still licensed, alcohol will not be served to those under the age of 18 years or to those who are deemed to be intoxicated by RSA qualified staff.

If any of the Charterer's group exhibits the following behaviour, they will be deemed to have had a sufficient amount of alcohol:

-Aggressive or anti-social behaviour – inability to walk unaided – vomiting – slurring words.

If the Charterer or any members of the Charterer's Group exhibit the following behaviour, the Master may, at his sole discretion,

- (i) Terminate the Charter by berthing the vessel at the nearest safe location and discharging all passengers or, at least, the offending ones;
- (ii) Summon the Water Police to remove offending passengers;

(iii) Negotiate with the Charterer to agree on some other course of action to resolve the problem, which course of action must be satisfactory to the Master.

If the Charter is terminated early, as in (i) of this clause, no money will be refunded to the Charterer.

Note also that it is an offence for individuals to carry open liquor from the vessel on disembarkation. Therefore, 10 minutes before the end of the charter, alcohol service will cease so that all bottles and cans can be repacked into containers in which they were brought on board, for removal by the Charterer. Any unruly or rowdy or other illegal behaviour on disembarkation will result in the Charterer's deposit being forfeited.

CLAUSE 16 – INDEMNITY

The Charterer agrees to indemnify, reimburse and hold the Operator harmless from and against any acts and all claims, losses, liabilities, demands, suits, judgment or causes or actions and all legal proceedings whether civil or criminal, penalties, fines and other sanctions and any other costs and expenses in connection which may result from, or arise in any manner out of any matter related to this agreement or arise out of the Charterer's management, control, encumbering use or operation of the Vessel and Equipment. The Charterer shall bring no claim of any nature against the Operator and the Charterer agrees that he /she shall indemnify the Operator in respect of any amount the Operator has paid in respect of any such claim.

CLAUSE 17 – SWIMMING

Swimming is permitted from and near the vessel at a time and place determined by the Master of the vessel. The Charterer and all and any guests of the Charterer hereby accept all risks associated with swimming in open waters and said Charterer and guests are at all times responsible and liable for their own behavior, safety, risk, actions and or inaction.

The Charterer agrees to indemnify the Operator harmless from and against any and all claims, losses, liabilities, demands, suits, judgment or causes and actions and all legal proceedings whether civil or criminal, penalties, fines and other sanctions and any other costs and expenses in connection which may result from, or arise in any manner out of any matter related to this agreement or arise out of the Charterer and or his or guests swimming in waters surrounding the vessel and or jumping from the vessel and climbing onto the vessel.

CLAUSE 18 - COMPLAINTS

The Charterer shall give notice of any complaint to the Operator or its agent within twenty-four (24) hours of the event or occurrence unless it is impracticable due to failure or non-availability of communications equipment. The complaint may be made verbally in the first instance, but shall be confirmed as soon as possible in writing specifying the precise nature of the complaint.

CLAUSE 19- NOTICES

Any notice given or required to be given by either Party to this Agreement shall be communicated in any form of writing and shall be deemed to have been properly given if proved to have been dispatched pre-paid and properly addressed by mail, email or courier service or by fax in the case of the Operator, at their addresses as per this Agreement or, in the case of the Charterer, to his address as per this Agreement or, where appropriate, to him on board the Vessel.

CLAUSE 20 - ARBITRATION & LAW

Any dispute in connection with the interpretation and fulfillment of this Agreement shall be decided by arbitration in accordance with the laws of New South Wales and or the Commonwealth of Australia.

The dispute shall be referred to a single Arbitrator to be appointed by the parties hereto.

If the parties cannot agree upon the appointment of a single Arbitrator, the dispute shall be settled by two Arbitrators, each party appointing one Arbitrator.

Appointment of Arbitrators, shall be made within two (2) weeks of written notice by the other party, failing which any appointed Arbitrator shall also appoint an Arbitrator on behalf of the party who fails to appoint one.

The decision rendered by the Arbitration shall be final and binding upon both parties and may if necessary be enforced by the Court or any other competent authority in the same manner as a judgment in a Court with appropriate jurisdiction in Australia.

If notice of arbitration proceedings is given by either party, the Operator or its agent, after receiving notification of such proceedings, shall not deal with those monies held by them without the agreement of both parties or in accordance with the order of the Arbitrators or their final decision. The monies should be held in a designated client account. This account should be interest bearing where national banking rules permit.

The Operator or its agent may, with the agreement of both parties, pay the monies into an Account jointly controlled by the accredited legal representatives of both parties pending the result of the Arbitration.

SIGNED BY THE CHARTERER(S)

SIGNED BY THE OPERATOR

Dated:/...../.....