

# Island (Cutter) Ltd. Charter Terms and Conditions

## 1. The Charter Agreement

- 1.1 This document sets out the terms and conditions on which we, Island (Cutter) Limited (registered Company number 05925756, whose registered office is at 17 Halyards, Topsham, Exeter, Devon, EX3 0JU) agree to you, the individual or organisation named in the relevant booking form, chartering our vessels for the charter period or voyage described in the booking form. To avoid any confusion:-
- 1.1.1 if you are an individual booking a place on a particular voyage with Pegasus, Moosk or Johanna;
    - 1.1.1.1 references in these terms and conditions to the "charter", "charter period", and "charter fees" should be read as references respectively to your booking for the relevant voyage, the period of the voyage and the fees payable for that voyage;
    - 1.1.1.2 your "booking form" is the Booking Contract.
  - 1.1.2 if you are a group booking your "booking form" is the Booking Contract completed for and on behalf of your organisation.
- 1.2 Where you are chartering Pegasus, Moosk or Johanna for the purposes of bringing a group of people on board (whether a group of young people, employees, colleagues, friends, family or otherwise) that group will be referred to in these terms and conditions as "your group". You must provide us with approximate numbers for your group at the time of booking and provide us with completed, signed consent forms at least 7 days before the start of the charter period. In any event, the maximum number of people in your group must not exceed the number stated on this booking form.
- 1.3 Your booking will not be confirmed and no binding contract will exist between you and us for your booking on Pegasus, Moosk or Johanna until we have issued you with written confirmation of the booking and received from you:-
- 1.3.1 Either,
    - this signed and completed booking form (as sent by us for you to complete for group charters),
    - or ticked as agreeing to our terms and conditions on our online individual booking process;
    - and
  - 1.3.2 your deposit.

## 2. Your Obligations

- 2.1 You and (where applicable) all members of your group are expected to take a full part in sailing Pegasus, Moosk or Johanna and, unless we have agreed otherwise with you, you must ensure that you and all members of your group are medically fit to sail. Accordingly:-
- 2.1.1 if we ask you to do so, you must provide us with details of any medication that you or (where applicable) any members of your group may be using;
  - 2.1.2 you must also inform us if you or (where applicable) any member of your group is pregnant, suffers from epilepsy or any communicable disease, or has any other medical condition that may affect fitness to sail;
  - 2.1.3 we reserve the right to refuse permission for you or (where applicable) any member of your group to sail on Pegasus, Moosk or Johanna if we reasonably believe that, as a result of any relevant medical condition, allowing you/the relevant member of your group to sail might put you/the relevant member of your group or others at risk. Please note that we will not be under any obligation to refund any part of the charter fees if we exercise our rights under this clause, so please check with us at the time of making your booking if you have any queries about fitness issues.
- 2.2 Those young people aged 16-25 who come in an organised (eg school or youth) group are brought at the discretion of the group leader (contract holder) and are not DBS checked by Island (Cutter) Ltd.
- 2.3 If you, as group leader, have offered spare berths for Island (Cutter) Ltd to fill, you accept that young person on board on the understanding that they may not be DBS checked.
- 2.4 Young people who come as individuals during Teenage/Individuals Sailing Weeks whether over 18 or with parental consent if under 18, do so on the understanding that other individuals on board (other than Island (Cutter) Ltd staff and volunteers) are not DBS checked by us.
- 2.5 You must not bring on board and (where applicable) must ensure that no one in your group brings on board, any alcoholic drinks, unless otherwise agreed in advance by the Skipper on board. You must not bring on board and (where applicable) must ensure that no one in your group brings on board, illegal drugs or weapons.

- 2.6 At all times whilst you are on board, you are responsible for ensuring that you and (where applicable) every person in your group:-
- 2.6.1 observes and complies with all reasonable instructions and notices that we give you, via our crew members, from time to time;
  - 2.6.2 shows respect to our crew members and all other people on board and refrains from any conduct which may cause annoyance or danger to others;
  - 2.6.3 does not misuse or otherwise damage Pegasus, Moosk or Johanna (including any of her equipment) or any other items belonging to us or to others that are brought on board.
- 2.7 If you or any person in your group fails to comply with the obligations imposed by any of the preceding parts of this clause 2:-
- 2.7.1 we will be entitled (without having to refund any charter fees already paid by you) to return to port and require you or members of your group (as appropriate) to disembark either for the remainder of the day or (where applicable and at our discretion) for the remainder of the charter period;
  - 2.7.2 you will in any event be responsible to us for all damage, claims or losses that we suffer as a result of that failure.
- 3. Charter Fees**
- 3.1 You must pay the deposit specified on the booking form, at the time of booking. Your deposit will not be refunded if you subsequently cancel your booking, except where (and then only to the extent that) you are entitled to a refund in the circumstances described in clause 5 below (Non-Availability of Vessel).
- 3.2 We will issue you with an invoice for the balance of the charter fees (as specified in the booking form) and this invoice must be paid by you in full no later than eight weeks prior to the start of the agreed charter period. Where The Island Trust has agreed in writing to subsidise the charter fees, the invoice that we issue to you will be for the balance of the charter fees, less the amount of The Island Trust subsidy, but please note clauses 3.3.2 and 4.2.2 below.
- 3.3 If you fail to pay our invoice at the time required by clause 3.2 above, then we will be entitled to cancel your booking by giving you written notice to this effect and in these circumstances:-
- 3.3.1 you will not be entitled to any refund of your deposit;
  - 3.3.2 you will still have to pay the balance of the charter fees, although we will subsequently provide you with a partial or full refund (in respect of the balance, but not the deposit) to the extent that we are able to re-charter Pegasus, Moosk or Johanna following the cancellation for some or all of the relevant charter period. Where The Island Trust agreed to subsidise the charter fees, the "balance" that you will be required to pay under this clause includes the amount invoiced to you plus the amount of The Island Trust subsidy.
- 3.4 For the avoidance of doubt, where you have made a group booking:-
- 3.4.1 you will not be entitled to any discount or refund if there is a reduction in the number of people in your group, as your group booking is for the sole use of the vessel.
  - 3.4.2 you will be required to cover the amount we are unable to claim from a funder if there is a reduction in the number of people in your group, and The Island Trust subsidy is awarded on a specified number of young people attending. This amount will be invoiced to you upon completion of the voyage.
- 4. Cancellation by You**
- 4.1 If you cancel your booking more than eight weeks prior to the start of the agreed charter period (as set out in the booking form), then in line with clause 3.1 above you will not be entitled to any refund of your deposit. However, you will not have any obligation to make any payment in respect of the balance of the charter fees.
- 4.2 If you cancel your booking within eight weeks of the start of the agreed charter period:-
- 4.2.1 you will not be entitled to any refund of your deposit;
  - 4.2.2 you will still have to pay the balance of the charter fees, although we will subsequently provide you with a partial or full refund (in respect of the balance, but not the deposit) to the extent that we are able to re-charter Pegasus, Moosk or Johanna following the cancellation for some or all of the relevant charter period. Where The Island Trust agreed to subsidise the charter fees, the "balance" that you will be required to pay under this clause includes the amount invoiced to you plus the amount of the Island Trust subsidy.
- 5. Non-Availability of the Vessel**
- 5.1 For the purposes of these terms and conditions, "circumstances beyond our reasonable control" include (but are not limited to) the following:-

- 5.1.1 non-availability, due to illness or injury, of sufficient crew members for us to be able to take out Pegasus, Moosk or Johanna safely, although we can only rely on this as an excuse for not being able to take Pegasus, Moosk or Johanna out where we have used all reasonable efforts to find alternative crew members and have been unable to do so;
  - 5.1.2 any breakdown or other disablement of Pegasus, Moosk or Johanna which is not caused by our negligence.
  - 5.1.3 any condition, regulation or statutory requirement imposed by National or Local Government or any other body of authority, as a result of which none of the vessels can be made available.
- 5.2 If it becomes apparent to us in advance of the agreed charter period that we will be unable to take you out on Pegasus, Moosk or Johanna for some or all of that period due to circumstances beyond our reasonable control, then we will notify you of this and you will have the following rights:-
- 5.2.1 the right to cancel your booking and receive a full refund of your deposit and any charter fees you have already paid us; or
  - 5.2.2 to the extent that we are able to take you out for some part of the originally agreed charter period, the right to accept a charter for that reduced period in return for a proportionate reduction in the charter fees;

but in either case we will not have any other liability to you.

- 5.3 If there is a last minute delay to the start of the charter period due to circumstances beyond our reasonable control, or Pegasus, Moosk or Johanna is disabled at some point during the charter period (other than due to our negligence) or any other problem arises due to circumstances beyond our reasonable control which means we are unable to continue the charter (whether temporarily or otherwise), then the following will apply:-

- 5.3.1 if the period of the relevant delay, disablement or problem is less than 1/7<sup>th</sup> (one seventh) of the length of the remainder of the agreed charter period (as measured from the start of the delay, disablement or problem in question), then you will not have the right to bring the charter to an end but you will be entitled to receive a proportionate refund of the charter fees calculated by reference to the length of the relevant delay, disablement or problem;
- 5.3.2 for any longer delay, disablement or problem, you will have the right to bring the charter to an end and receive a proportionate refund of the charter fees calculated by reference to the length of the remainder of the agreed charter period (as measured from the start of the delay, disablement or problem in question);

but in either case we will not have any other liability to you. For the avoidance of doubt, this clause does not apply if any voyage or itinerary has to be cut short or varied due to poor weather or sea conditions and in these circumstances we will not have any obligation to make any refund to you. See also clause 6.3 below.

## 6. **Our Liability**

- 6.1 All Island (Cutter) Ltd staff and volunteers who work directly with young people are DBS checked.
- 6.2 We are not responsible for any damage to or loss of any items belonging to you or (where applicable) anyone in your group that are brought on board Pegasus, Moosk or Johanna, except where the loss or damage is caused by our negligence. We recommend that you and (where applicable) each person in your group take out appropriate travel insurance for the charter period.
- 6.3 We will do all that we reasonably can to stick to any advertised or agreed voyage(s) or itinerary, but our crew will have ultimate authority to determine where Pegasus, Moosk or Johanna is sailed, having regard in particular to our overriding responsibility to ensure the safety of everyone on board, and we will be entitled to make reasonable changes to the relevant voyage or itinerary where we judge them necessary or appropriate.
- 6.4 For the avoidance of doubt:-
  - 6.4.1 we do not have any responsibility for, and will not have any duty to exercise any control over, what you or your group do or do not do when not on board the vessel.
  - 6.4.2 subject to clause 5.2 above we will not be liable to you for any delay in performing, or failing to perform, any of our obligations in relation to the charter of Pegasus, Moosk or Johanna where that delay or failure results from circumstances beyond our reasonable control (as to which see clause 5.1 above);
  - 6.4.3 nothing in these conditions or on the booking form is intended to confer on any third party (such as any person in your group) any right to enforce any term of the charter contract between you and us.

## 7. **Governing Law**

The charter contract between you and us will be governed by English law.