

## TERMS AND CONDITIONS OF HAMBLE POINT CHARTER MEMBERSHIP

### 1. Definitions

<b>"Company"</b>	Hamble Point Yacht Charters Ltd (Company Number 2429196), Hamble Point Marina, School Lane, Hamble, Southampton, SO31 4JD;
<b>"Credits"</b>	Each credit equates to £1. The number of credits allocated at the commencement of a Membership Period is equivalent to the annual Membership Fee. Credits remain available until the end of the Membership Period in which they were allocated, and are used for the purchase of Membership Services;
<b>"Member"</b>	Any Hamble Point Charter Membership member;
<b>"Membership"</b>	Access to Membership Services provided upon payment by a Member of the requisite Membership Fee;
<b>"Membership Fee"</b>	The monthly sum of £300.00 for Standard Membership or £495.00 or £600.00 for Premier Membership, due and payable on the first day of every calendar month by standing order;
<b>"Membership Period"</b>	The period of 12 months commencing on the day the first Membership Fee is paid and annually thereafter;
<b>"Membership Services"</b>	The services and products offered to Members who have paid their Membership Fee, including but not limited to services provided by Hamble Point Yacht Charters, Hamble Point Sailing School and Seafin; and purchase of technical clothing, books and such other promotions that may be available to the Member in accordance with the pricing structure and other information as published in the Company literature and as updated from time-to-time;
<b>"Mooring Location"</b>	Hamble Point Marina, School Lane, Hamble, Southampton, S031 4JD;
<b>"Premier Membership"</b>	Membership with 5,940 Credits allocated at the commencement of the Membership Period, to be used within the Membership Period. Provides a 15% discount on standard charter bookings;
<b>"Standard Membership"</b>	Membership with 3,600 Credits allocated at the commencement of the Membership Period, to be used within the Membership Period. Provides a 10% discount on standard charter bookings;
<b>"Terms"</b>	These terms and conditions as amended from time-to-time;
<b>"Usage"</b>	The Member's use of a Vessel pursuant to a Membership Service. This covers the period from the Member first taking delivery of the Vessel until it is returned in accordance with clause 6;
<b>"Vessel(s)"</b>	Any yacht owned, managed and/or operated by the Company and chartered to a Member pursuant to the Membership Services;
<b>"Yacht Agreement"</b>	The Company's standard bareboat or skippered contract, Sailing School Booking Conditions, Seafin terms and conditions of booking, or other terms and conditions in force from time to time applicable to the Membership Services

### 2. The Contract

- 2.1. These Terms, together with the information and prices detailed in the literature for Membership Services and Company literature and the Yacht Agreements relating to Membership Services selected, will form the Member's contract with the Company.

### 3. Term

- 3.1 A Member's Membership shall come into effect on the date the Member's application for Membership is approved by the Company and the first Membership Fee is paid and shall continue for the Membership Term and thereafter shall continue until terminated in accordance with the provisions of clause 9.

- 3.2 A Member will have a period of 14 days from the date of signature of their application for Membership during which they may cancel the Contract by written notification. In the case of such cancellation, any Membership Fee paid under these Terms will be refunded less an administration fee of £50. After this initial period of 14 days the provisions of clause 9 will prevail.

#### **4 Membership**

- 4.1 The Membership Fee shall be paid promptly when due and, for the avoidance of doubt, is payable for the duration of the Membership Term and remains payable thereafter until the Membership is terminated in accordance with clause 9. Failure to pay may result in late payment charges and suspension of Membership.
- 4.2 A Member can redeem Credits in exchange for the provision of Membership Services.
- 4.3 The Company reserves the right to charge interest on a daily basis on Membership Fee payments that are more than 14 days overdue, from the date that payment was due to the date that payment is received, at the rate of 4% above the Bank of England base rate.
- 4.4 If one or more Membership Fee is not paid then the Member shall not be permitted to utilise the Membership Services until all of the Membership Fees due and payable have been paid.
- 4.5 The Member warrants the ability to comply with the terms and conditions contained within the Yacht Agreement for each Membership Service that is used:
- 4.6 Credits may only be used to purchase Membership Services. The Credits required to acquire each and every Membership Service shall be the number of Credits, as quoted by the Company or, where no Credits are quoted, the Credits as published by the Company at the time of the Member's booking.
- 4.7 To purchase a Membership Service the Member must have an allocation of Credits equal to or in excess of the number required, as detailed in clause 4.6 above. Should a Member seek to acquire more Credits, over and above those acquired through the payment of the Membership Fee, then the Member may purchase additional Credits at any point during the Membership at the rate of £1 (one pound sterling) purchases 1 (one) credit. There shall be no maximum limit on the additional Credits that can be acquired by a Member, however, each purchase must be for a minimum of 500 credits.
- 4.8 Credits are valid only for the Membership Period in which they are purchased save by prior written agreement from the Company. Any unused Credits at the expiry of a Membership Period may be used to purchase a Gift Voucher. Any such Gift Voucher will then be subject to the Company Gift Voucher terms and conditions.

#### **5 Bookings and Cancellations**

- 5.1 Any Member's booking of a Membership Service may be cancelled in accordance with the terms of the Yacht Agreement.
- 5.2 The Company will use its reasonable endeavours to ensure that where applicable, the Member's chosen Vessel is available for the Membership Service booked by the Member subject to events that are beyond the control of the Company in which circumstances the Company may procure a substitute vessel of similar length and specification. If a replacement is not available the Company's liability is limited to refunding the Credits used for that Membership Service.

#### **6 Usage**

- 6.1 Any Vessel chartered or other Membership Service taken by a Member is done so in accordance with the Membership Services and the Yacht Agreement and/or any change or variation to those as agreed in writing by the Company.
- 6.2 For the avoidance of doubt, no Vessel may be entered into a race, without the prior written permission of the Company which will be notified by the Member of the Member's intention to enter a race at least 48 hours in advance of the start of the race and a racing premium shall apply as notified to the Member from time to time.
- 6.3 The charter of any Vessel shall be subject to the Member entering into the Yacht Agreement. In respect of the operation and navigation of the Vessel, the Yacht Agreement shall take priority otherwise these Terms shall take priority.

#### **7 Member's Obligations**

- 7.1 The Member shall:
- 7.1.1 pay the Membership Fee by standing order in accordance with the provisions of these Terms;
  - 7.1.2 enter into the Yacht Agreement for each and every charter of the Vessel;
  - 7.1.3 be responsible for payment of any loss or damage up to the value of a security deposit in accordance with the Yacht Agreement. Payment or part payment may be made using available Credits;

#### **8 Company's Obligations**

- 8.1 The Company shall:
- 8.1.1 Maintain a selection of Vessels to be used by the Member through their Membership;

- 8.1.2 Create a system for the use of Credits which allows a Member, dependent upon the manner in which each member shall decided to use such Credits, a reasonable opportunity to use their acquired Credits on Membership Services;
- 8.1.3 ensure that the Vessels are kept insured with an insurer of repute for no less than their sound market value in respect of all risks customary for similar vessels including liability risks up to at least £3m;
- 8.1.4 ensure that the Vessels are at all times registered on a Red Ensign flag so as to provide both the Member and the Vessel with the benefits afforded by such registration;
- 8.1.5 ensure that the Vessels are commercially coded to the relevant standards as required by the flag state.
- 8.1.6 maintain the Vessels in the most appropriate manner to afford members the maximum choice of the Company's selection at any given time; and
- 8.1.7 reserve the right to modify the Credits system and related Membership Services in its sole discretion.

## **9 Termination**

- 9.1 The Member may terminate their Membership by serving 30 days written notice to the Company.
- 9.2 Should the Member be in breach of any of their obligations contained in these Terms and/or of each individual Yacht Agreement the Company reserves the right to terminate the Membership immediately with no entitlement to compensation or refund of Membership Fees already paid.
- 9.3 No refunds will be given for any unused Credits that would otherwise have remained valid at the time of termination of Membership.
- 9.4 If Membership is terminated other than at the end of a Membership Period, the Company will calculate the sum of the Membership Fees received during the current Membership Period less the sum of the published non-member cost of the Membership Services purchased by the Member within the current Membership Period. If this results in a negative balance then the Company will invoice the Member for the difference, which will be due for immediate payment.

## **10 Insurance**

- 10.1 The use of a Vessel is subject to the terms and conditions of the Company's insurance (the "Insurance"), which are deemed to be incorporated in these Terms. Full details and copies of the Insurance cover are available on request.

## **11 Liability**

- 11.1 The Company is not liable for any loss or damage sustained or incurred by the Member or any third party (including without limitation any loss of use of a Vessel) resulting from any fault in the Vessel unless such fault is cause by the negligence or wilful misconduct of the Company, its employees, agents or sub-contractors.
- 11.2 The Company shall not be liable to the Member if it is prevented from performing any of its obligations under these Terms by reason of any cause beyond its reasonable control including (without limitation to the generality of the foregoing) acts of God, war, insurrection, riot, civil commotion, government regulations, embargo, explosions, strikes, labour disputes, flood, fire or tempest.
- 11.3 The Company shall not be liable for and the Member shall indemnify and hold the Company harmless against any claim by or loss of or damage to any person or property directly or indirectly caused by or arising from the use or operation (other than by the Company) of the Vessel or possession of the Vessel (including the use in a manner other than detailed in these Terms and/or the Yacht Agreement) or default or misuse by or on the part of the Member or any person(s) other than the Company and this indemnity shall extend to any costs and expenses incurred by the Company and shall continue in force notwithstanding the termination of the Member's Membership.

## **12 Law and Disputes**

- 12.1 The formation, existence, construction, performance, validity and all aspects of these Terms including the legal relationships established by these Terms shall be governed by the law of England and Wales and the parties submit to the non-exclusive jurisdiction of the English courts.

## **13 Notices**

- 13.1 All notices must be in writing and sent to the address of the Member at the address set out in their Membership application or to the Company at its registered office or such other address as the recipient may designate.
- 13.2 Any such notice may be delivered personally or by first class prepaid letter, e-mail and shall be deemed to have been served if by hand when delivered, if by first class post 48 hours after posting and if by e-mail when despatched.

## 14 Miscellaneous

- 14.1 The Company reserves the right to temporarily or permanently remove a Vessel(s) from the fleet without warning or notice.
- 14.2 Nothing in these Terms shall create an agency, partnership or employment relationship.
- 14.3 The Member may not assign, transfer, charge or sub-contract its rights, powers, obligations or other interests under their Membership and/or these Terms.
- 14.4 The Company may assign and sub-contract its rights and obligations under these Terms or any part of it, to any person, firm or company.
- 14.5 Each right or remedy of the Company under these Terms is without prejudice to any other right or remedy of the Company whether under these Terms or not.
- 14.6 Failure or delay by the Company in enforcing or partially enforcing any provision of these Terms will not be construed as a waiver of any of its rights under these Terms.
- 14.7 If any provision of these Terms is found by any court, tribunal or administrative body of competent jurisdiction to be wholly or partly illegal, invalid, void, voidable, unenforceable or unreasonable it shall to the extent of such illegality, invalidity, voidness, voidability, unenforceability or unreasonableness be deemed severable and the remaining provisions of these Terms and the remainder of such provision shall continue in full force and effect.
- 14.8 Unless stated expressly otherwise these Terms, including those mentioned in clauses 2.1 and 6.3 form the entire agreement between the parties and supersede all previous agreements and understandings between the parties, and no warranty, condition, description, term or representation is given to or implied by anything said or written in negotiations between the parties or their representatives prior to the date of the Member's duly completed and approved application.
- 14.9 Words denoting the plural shall include the singular and vice versa; headings are for reference only, and shall be ignored in the interpretation of these Terms; references to statutes are to those statutes as from time to time amended, replaced or re-enacted.
- 14.10 The parties to these Terms do not intend that any of these Terms will be enforceable by virtue of the Contracts (Rights of Third Parties) Act 1999 by any person that is not a party to it.

I/We acknowledge acceptance of these Terms:

Signed for and on behalf of the Member:

\_\_\_\_\_

Full Name: \_\_\_\_\_

Date: \_\_\_\_\_

Signed for and on behalf of the Company:

\_\_\_\_\_

Full Name: \_\_\_\_\_

Date: \_\_\_\_\_