

Yachting Charter Parties

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By chartering vessels, owners rent either the whole of vessels without crew and the charterer provide the crews and operate the vessels themselves (“bareboat” or “demise” charters), or rent all or parts of the carrying capacity of vessels, under time and voyage charters.

Legally, a Charter is simply the lease or rental of a vessel or the use of the vessel. A Charterer is a person who charters a vessel. A Charter party is the maritime term for a written charter agreement. The Charter hire is the agreed sum or rate the charterer is obligated to pay to the owner for use of the vessel. Generally concerning pleasure boating industry, there are two types of charters: (1) demise (“bareboat”) charters and (2) time and voyage charters.

A demise/bareboat charter means a legally binding document where during the charter period the party who leases or charters the vessel, known as the demise or bareboat charterer, assumes legal responsibility for all of the incidents of ownership, including insuring, manning, supplying, repairing, fueling, maintaining and operating the vessel. 46 CFR 169.107. Under a demise charter, the charterer charters the vessel without the crew and takes over full control of all of the vessel and its operation and navigation, operates the vessel as the owner (frequently subject to some restrictions imposed on the terms of the agreed charter party on trading terms, compliance with insurance warranties, crewing standards, and the cargoes which may be carried). With respect to liability for any injury or damages to any third party, a demise charterer is regarded as the “owner pro hac vice”. The length of a demise charter may be defined in terms of a specific time (days, months or years) or by a designed voyage or number of voyages. To constitute demise, the owner must so far as relinquish possession, command and navigation: of the vessel as to be “tantamount to, although just short of, an outright transfer of ownership”. The F.Y.B.A Charter Agreement is an example of a demise charter.

A time charter occurs when the services of a vessel are engaged for a fixed period of time for the carriage of goods on as many voyages as can fit into the charter period. The charterer merely rents space on the vessel and the vessel owner retains control over management and navigation of the vessel, but the charterer designates the ports of call. The time charterer assumes no liability for negligence of the crew or unseaworthiness of the vessel. The A.Y.C.A. and M.Y.B.A Charter Agreement is an example of a time charter.

A voyage charter occurs when the varying capacity of a vessel is engaged to carry a full cargo on a single voyage or a defined number of voyages between specific ports. The shipowner retains control over management and navigation and remains legally responsible for the vessel.

When deciding on which charter agreement to use, it is important to understand the facts surrounding the transaction, the characteristics of the vessel and the legal concepts of these charter agreements. As your client’s agent, make sure they are aware of the risks and liabilities that they are assuming with each agreement.

** The information offered in this column is summary in nature and should not be considered a legal opinion.*

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