

CONDITIONS OF CHARTER | NISI

The Hiring Party includes the Hiring Party's family, employees, agents and guests. In these Terms and Conditions, unless the context otherwise requires, the singular includes the plural and vice versa, words denoting gender shall include all other genders. Children are defined as persons under the age of sixteen years.

BOND

A security deposit of \$5,000 will be taken either as a credit card guarantee or held in cash payable no less than 14 days prior to the commencement of the Charter. The Hirer acknowledges that they are chartering a high value vessel and that utmost care must be taken at all times. Any damages caused by the Hiring Party will be the responsibility of the Hirer, who will reimburse all costs of rectification to NISI. Care should be taken with all surfaces such as timber floors and stone benchtops. Do not use products that could mark fabrics or cause damage to the premium finishes of the vessel.

CONDITIONS OF CHARTER

VESSEL: M.Y. NISI

ACCESS: Day charters have access to one guest cabin to store belongings and change. Day charter guests are not permitted use of beds. Overnight charters have full access excluding crew areas, flybridge helm and engine room.

DURATION: The duration of the Charter is the Charter Period. The Charter Period includes time taken by passengers to embark and disembark and the Master may pull into the point of disembarkation up to 10 minutes prior to the end of the Charter Period to allow time for passengers to disembark the vessel. If passengers take longer than 15 minutes past the end of the Charter Period to disembark, the Hirer reserves the right to charge for every 30-minute period thereafter (or part thereof) at pro rata the Charter Fee. The Owner is not responsible for any delays caused by the late arrival of the Hirer or any passengers, delays at the wharf caused by third parties or any other events beyond the control of the Owner.

NO SHOES: Strict no shoe policy onboard the vessel.

NO NUDDITY: Strict no nudity policy onboard the vessel.

SMOKING: Strictly only permitted when berthed and in designated area specified by the crew.

SAFETY BRIEFING: All guests must participate in a safety briefing on embarking.

EXTENSION: Should the Hirer wish to extend the charter beyond the agreed duration, this will be subject to availability and additional charges will apply.

AVAILABILITY: Should the vessel become unavailable for any reason including inoperability, damage, safety or crew availability, the Operator reserves the right to substitute a suitable alternative vessel or where a suitable alternative vessel is unavailable a refund will be offered. The Owner shall then have no further liability to the Hirer beyond that refund.

DESTINATION & ITINERARY: It is agreed that the Hirer may determine the general movements, program and destination of the vessel within limits of this Agreement, but it is understood that the Captain is in full command, and the Hirer agrees to depend upon the Captain for safe navigation of the vessel, and at all times to abide by his/her judgment as to sailing, weather, anchorage, clearance, and the like.

MAXIMUM CAPACITY: The Hirer shall not, at any time during the charter period, exceed the maximum number of booked passengers. Where children are taken on board, the Hirer will be fully responsible for their safety, conduct and entertainment and no member of the crew shall be called upon in anyway to be responsible for their safety, behaviour or entertainment. Final guest manifest to be confirmed by The Hirer and returned to Operator prior to charter date.

WATERSPORTS: All guests entering the water do so at their own risk. NISI, its owners, crew or representatives shall not be liable for accidents, injuries or death due to swimming, snorkelling, paddle boarding, kayaking or any other water-based activity or use of the vessel's tender or other equipment supplied or otherwise.

ILLICIT SUBSTANCES: The use or consumption of illegal drugs by anyone either ashore or afloat is strictly prohibited. The consumption of alcohol may increase the risk of injury and the Hirer accepts that risk. The Owner shall not be liable for any personal injury or death arising from or in any way related to the use or consumption of alcohol or illegal drugs.

USE OF THE YACHT: The Hirer shall use the vessel exclusively as a pleasure vessel for the use of himself and his guests. The Hirer agrees that:

- a. No more than the specified number in his/her party shall be carried aboard the vessel.
- b. No pets or animals are brought on board.
- c. No narcotics shall be used or carried on board.
- d. Children must be under the control of a responsible adult. That adult is responsible for the conduct and personal safety of the children while on board.
- e. The use by him/her and their guests shall not cause any nuisance or offence to any person.
- f. All guests shall comply with the Laws and Regulations of Australia.
- g. Maximum guests on the vessel's tender at one time must not exceed 4. Operation is only under the control of qualified crew.

NON-ASSIGNMENT: The Hirer shall not assign this agreement or sub-let the vessel without the consent, in writing, of the Owner.

OWNER'S RIGHTS & OBLIGATIONS:

- a. Agreement to Let - The Owner shall let the vessel for the charter period and agrees not to enter into any other agreement for the same period.
- b. Delivery: The Owner shall deliver the vessel to the port of delivery in full working order, clean and good condition and ready for service.
- c. Crew: The Owner shall provide a properly qualified Captain and a properly qualified crew.
- d. Delay in delivery: If for any reason, the Owner is unable to make the vessel available to the Hirer at the commencement of the charter period, the Owner may at its absolute discretion make a pro-rata refund of the charter hire for the lost period, or, if it be mutually so agreed, shall allow pro-rata extension of the charter period.
- e. If by reason of Force Majeure, the yacht is not available due to breakdown of machinery, grounding, collision, or other cause so as to prevent reasonable use of the yacht, the charter shall be replaced by at least similar or better vessel, the Hirer may cancel the agreement and a full refund of the charter fee will be paid.

CAPTAIN'S AUTHORITY: The Captain shall observe all reasonable directions given to him by the Hirer regarding the movement of the vessel, wind, weather and other conditions permitting, but retains full authority as the Master of the vessel and is not bound to observe any direction which, in the Captain's sole discretion might result in the yacht or any of its occupants being placed at risk. Further, without prejudice to any other remedy of the Owner, if in the reasonable opinion of the Captain, the Hirer or any of his guests fail to observe all or any part of their obligations and after the Captain has given due warning to the Hirer in respect of same, the Captain shall be entitled to return the vessel to port and upon such return the charter period shall be terminated without any entitlement by the Hirer to any refund of the charter fee.

TRAVEL INSURANCE: The Hirer is responsible for non-refundable charter fees in the event of any charter cancellation or reduction caused by any occurrence, and accordingly, the Owner recommends that Travel Insurance is obtained by the Hirer.

The Master reserves the right to terminate the charter at any time should the conditions of the charter be breached.

ADVANCE PROVISIONING ALLOWANCE – Applicable to term charters only

Advance Provisioning Allowance (APA) in the amount of 20% of vessel hire is to be paid in addition to the charter fee, which covers expenses including additional fuel and relevant costs for the vessel and its tender, provisions for food/beverages, special requests and other additional costs for the vessel, crew, client and guests during the entire charter period. A reconciliation of the APA will be provided at the conclusion of the charter. Any APA not used will be returned to the Hirer post charter by direct deposit. On the other hand, if expenses exceed the APA The Hirer will be required to reimburse the vessel as they leave the charter.

PAYMENT TERMS & CANCELLATION POLICY

DEPOSIT TERMS:

A deposit of 50% of the total Charter Fee must be paid to secure the booking with the balance to be paid in full no less than 14 days prior to the commencement of the Charter. The payment confirms the Hirer's acceptance of these Terms and Conditions even if the agreement is not signed by the Hirer. Failure to pay deposit or balance will void the booking.

CHARTER PAYMENT TERMS: Outstanding vessel hire and any additional costs are to be paid in full no less than 14 days prior to the Charter date.

AMENDMENT: A fee of \$400 and any rate difference as per schedule is required to amend an existing charter date. Charter deposit is credited to amended date.

SPECIAL EVENTS /PUBLIC HOLIDAYS: Owner reserves the right to amend payment terms on busy dates or public holidays.

NON-REFUNDABLE: All payments are non-refundable. Travel insurance is recommended.

CANCELLATION:

- 1) Should the Hirer choose to cancel the charter, the Owner will consider transferring the charter to a date suitable to both parties, provided that at least 48 hours' notice has been given prior to the due date for payment of the Charter Fee.
- 2) Should the Hirer not wish to utilise any alternate dates offered, the following will apply:
 - a) If the Hirer has cancelled the Charter more than 45 days prior to the commencement date of the Charter, the deposit will be returned less 20% of the Charter Fee (20% non-refundable deposit).
 - b) If the Hirer has cancelled the Charter less than 45 days prior to the commencement date of the Charter and elects not to utilise any alternate dates offered, the 50% deposit will be forfeited.
- 3) Should the Hirer cancel the Charter 14 days or less, prior to the commencement date of the Charter, 100% of the Charter Fee will be payable.
- 4) In the event of the cancellation of the Charter due to an event beyond the control of the Owner, alternate dates suitable to both parties will be offered. The Owner will have no liability in relation to the cancellation and if alternate dates cannot be agreed, the Hirer will be entitled to a refund of any deposit or Charter Fee paid.

1. OBLIGATIONS ON BEHALF OF HIRING PARTY

The person signing these Terms and Conditions on behalf of the hiring party ("you" or "The Hirer") accepts sole responsibility for the actions of each person who occupies the vessel during the period of hire, excluding employees of NISI (each a 'passenger'). You irrevocably and unconditionally guarantee and will procure the performance by each passenger of all present and future obligations set out in these Terms and Conditions, including the giving of all waivers and indemnities, as if reference to you was a reference to each passenger. You agree to indemnify each indemnified party (as defined in section 3 below), and pay each indemnified party on behalf, the amount of any loss or damage of any kind suffered or incurred by an indemnified party which arises in connection with a failure by a passenger to perform or comply with any obligations set out herein.

2. REPRESENTATIONS AND ASSUMPTIONS OF RISK

You agree that you will board the vessel and occupy it with full appreciation of the risks involved in hiring the vessel, and you undertake to NISI that this expedition is solely at your own risk. You represent and undertake to NISI that your health is such that it would not prevent you from boarding the vessel or occupying it for the period of hire. You further agree that occupying the vessel, and any associated water based or related activities, (including the consumption of any food or alcohol in connection with such activities) comes with various types of risks including but not limited to;

- (a) The vessel striking objects at sea, choppy seas making navigation difficult, causing sea sickness or capsizing the vessel or rapidly changing the weather conditions.
- (b) Being in the vessel or undertaking any associated physical activity, for any duration of time.
- (c) Participating in a physical activity in an unpredictable environment.
- (d) Poor or ill-fitting clothing for the weather conditions.
- (e) Consumption of food and/or alcohol on board the vessel or before boarding the vessel; including food poisoning or inadequate storage/ preparation.
- (f) Your inexperience in boating or water-based activities or your lack of knowledge to participate in such activities whilst onboard the vessel.
- (g) Physical illness or injury due to your own physical condition, health and how you deal with the activity and environment around you or threats and contact with wildlife and sea creatures.

3. EXEMPTION AND RELEASE FROM LIABILITY

You hereby exempt and fully release NISI and its officers, directors, agents, servants, employees, shareholders, subsidiaries, related entities, successors and assignees (each an "indemnified party"), on your own behalf as well as on behalf of your heirs, successors and assignees, from any and all liability, claims, demands or actions or causes of action whatsoever arising out of any damage, loss or injury to you or your property, or your death, which may occur as a result of or in the context of your participation in the hiring of the vessel, usage or occupation of the vessel, or any associated activity, whether such loss, damage, injury or death results from (directly or indirectly) the negligence or other fault, either active or passive, of any indemnified party, or from any other cause whatsoever.

4. COVENANT NOT TO SUE

You agree never to institute any suit, claim, proceeding or action at law or otherwise against any indemnified party, or to initiate or assist in the prosecution of any claim for damages or cause of action which you may have by reason of injury to your person or property or your death, arising from or in connection with the activities described in these Terms and Conditions, whether caused by (directly or indirectly) the negligence or fault, either active or passive, of any indemnified party, or from any other cause whatsoever. You further expressly agree that you will never bring any claim against any indemnified party above for product liability, failure to warn, negligence, breach of warranty, breach of contract or strict liability, or any other claim or cause of action in statute, at common law or in equity, regardless of whether your claims for damages or injuries are alleged to result from the fault or negligence (directly or indirectly) of the parties so released. You further agree that (and so instruct) your heirs, executors, administrators, personal representatives or anyone else claiming on your behalf shall not institute any suit, claim, proceeding or action at law or otherwise against any indemnified party. Should any suit, claim, proceeding or action at law or otherwise be instituted in violation of these Terms and Conditions against an indemnified party, you agree that such persons shall be entitled to recover from you in addition to any other loss or damage which they may incur, all fees and costs (on a full indemnity basis) incurred in the defence of such suit claim.

5. INDEMNITY AGAINST CLAIMS

You agree to indemnify, defend, save and hold harmless each indemnified party from any and all losses, claims, actions, or proceedings of every kind and character, including legal fees and expenses which may be incurred in connection with any activity that may be presented or initiated by any person and that may arise directly or indirectly from your participation in the activities described in these Terms and Conditions (or any associated or related activities), whether resulting, (directly or indirectly) from or in connection with the negligence or other fault, either active or passive of any indemnified party, or from any other cause whatsoever.

6. VALIDITY OF WAIVER

You understand that you institute or join, or any of your behalf institutes or joins, any suit, claim, proceeding or action at law or any claim for damages or cause of action against any indemnified party, because of injury to your person or property, or your death in connection with the activities described in these Terms and Conditions (or any associated or related activities), these Terms and Conditions will be pleaded in a court or other body hearing the matter as a bar to any such claim or proceeding, and that such waivers have been upheld previously.

7. SEVERABILITY MULTIPLE WAIVERS

You agree, should one or more provisions in these Terms and Conditions be judicially determined to be unenforceable, the remaining provisions shall continue to be binding and enforceable against you. If you have executed any other liability and waiver form containing provisions relating to the exemption or release from liability or covenant not to sue in connection with the activities described in these Terms and Conditions (or any associated related activities), you agree that the liability and waiver form which provides the greatest protection from liability or suit to each indemnified party shall be enforceable against you.

8. APPLICABLE LAW

You agree that the laws of New South Wales, Australia shall govern the construction, interpretation and validity of these Terms and Conditions and any dispute arising from or in connection with the matters described herein.

9. SPECIAL PROVISIONS

Unless otherwise agreed to by the Captain, the vessel has a no shoe and non-smoking policy. The Captain has the sole discretion to determinate swimming off the back of the vessel and use of equipment supplied with the vessel. In an event that guests fail to use equipment supplied with the vessel in a responsible manner and/or are not in suitable swimwear attire or are affected by excessive alcohol consumption, cause an incident of nuisance or unacceptable behaviour the Captain may prohibit swimming.

The Hiring party shall ensure at all times that the conduct and behaviour of all person(s) on board the vessel during the charter shall not cause a nuisance to any person, bring the vessel into disrepute and not use the vessel for photo or film shoots without consent from NISI in writing. During the charter the vessel operates a zero tolerance policy towards excessive alcohol consumption, use of illegal substances and any type of harassment sexual or otherwise.

The Hiring Party acknowledges and agrees that if excess of (19) balloons are discharged and/or released from the vessel it is in breach of the NSW protection of the environment operations amendment (Balloons) Act 2000 No.82 or any similar legislation in any state or territory whereby the Hirer will be full and solely liable and responsible of the remedy of the breach including payment of all penalties imposed and should fully indemnify and hold NISI harmless against the breach and any penalties imposed including any claim or course of action of whatever kind which may be brought against NISI as a result of breach by the Hiring Party.

The Hirer and the Operator hereby agree that these Terms and Conditions form the agreement between the parties, and the Hirer hereby warrants that: all information provided by the Hirer is true and correct; and the Hirer has fully read and understood this agreement and these Terms and Conditions.

Not included in the charter fee:

- Crew gratuity (at Charterer's discretion)
- Shore side transfers and excursions
- Hire of Lifeguard or Dive Instructor
- Dockage at Charterer's request
- Meals ashore and on-shore lodging
- Relocation charges for pick-up or/and drop-off from locations.

By making payment, you are accepting all the above Terms and Conditions.

Signature – Authorised Person for the Hirer

Print Name

Agent / Company

Signature – Authorised Person for the Owner

Print Name