

### INTRODUCTION

As a RAFSA member (full, or associate through another Service sailing association), you are chartering this RAFSA(O) Boat as an Association member, not on a commercial basis. The Boat is owned by RAFSA, which is a charity, and the Boat is legally classed as a pleasure vessel(1). The Takeover and Hand back of the Boat will be undertaken remotely; skippers are therefore required to familiarise themselves with the RAFSA(O) HR 34.2: Crew Reference Cards; Safety Manual, Systems Manual and Training Manual before commencement of the charter. These are available through the Charter Manager and the RAFSA(O) Web Site.

AN AGREEMENT MADE ON:

09 December 2022

BETWEEN:

Mr Harry Britten-Austin, Charter Manager, RAFSA(O)

"the Operator"

and Joe Bloggs

"the Charterer"

In respect of the Charter of the registered pleasure craft **Atlas**

Description: HR 34.2 ("the Boat") including all equipment machinery and gear on board and any specific inventory set out in the RAFSA(O) HR34.2 SOPs and forming part of this agreement.

### DEFINITIONS

"Charter Period" from 1200 hours on 12-Mar-23  
to 1200 hours on 19-Mar-23

"Cruising Limits" the area defined in RAFSA(O) SOP 5 (Mar 20)

"Charter Fee" £800.00

"Charter Deposit" £100.00 Due 09-Dec-22 Paid 09-Dec-22

"Balance of the Charter Fee" £700.00 Due 11-Feb-23 Paid

(1) Merchant Shipping (Vessels in Commercial Use for Sport or Pleasure) Regulations 1998 (SI 1998/2771), as amended.  
"pleasure vessel" means- (b) any vessel wholly owned by or on behalf of a members' club formed for the purpose of sport or pleasure which, at the time it is being used, is used only for the sport or pleasure of members of that club or their immediate family, and for the use of which any charges levied are paid into club funds and applied for the general use of the club. See also MGN 538 para 1.1.

### ADMINISTRATION

Skipper's Qualifications Checked

09-Dec-22

Mate's Qualifications Checked

Next of Kin and Crew List supplied

Mobile Number during Charter

07918 121212

If any of these 4 boxes are blank please let the Charter Manager have the information well before your charter dates

Operator's Contact Details: Email: chartermanager@hotmail.co.uk Phone: 01989 730453 07986 716236 Address: 3 Everstone Rise, Peterstow, Ross-on-Wye, HR9 6NF

### How to Pay Your Balance:

**RAFSA Members via the website:** [www.rafsailing.co.uk](http://www.rafsailing.co.uk) **Login first (important) then go to:**  
<https://www.rafsailing.co.uk/product-category/payment> **Select the correct yacht and the balance product**

**Non RAFSA Members (eg RNSA or ASA) via BACS:** Sort Code: Sort 16-19-26 Account: 10363691

Use Reference: RAFSA- 409 Please let me know if you pay by BACS so I can credit your account

[Link to RAFSA\(O\) Reference Documents](#)

[Link to Website Payment](#)

## **WHEREBY IT IS AGREED AS FOLLOWS:**

### **1. CHARTER AND DEPOSIT PAYMENT**

- 1.1 The Operator shall let and the Charterer shall Charter the Boat on bareboat Charter for the Charter Period for the Charter Fee.
- 1.2 The payment of the Charter Deposit shall be paid to the Operator on the signing of this Agreement; the provisional booking is not secured until the signed Charter Agreement and the Charter Deposit is received, in cleared funds. The Balance of the Charter Fee shall be paid to the Operator in cleared funds at least 30 days before the start of the Charter Period.

Following receipt by the Operator of the Charter Deposit, the Operator shall not enter into any other Agreement for the Charter of the Boat for the same period.

### **2. LIABILITY FOR LOSS OR DAMAGE**

- 2.1 The Charterer is liable to the Operator for any loss or damage occurring to the Boat or any third party occurring during the Charter Period which is the responsibility of the Charterer under Clause 6.4 and against any loss or damage suffered by the Operator due to any breach of this Agreement by the Charterer. In particular this includes:
- (a) Any liability of the Charterer to the Operator howsoever the same may arise;
  - (b) The cost of repairing any loss or damage to the Boat, her gear, equipment or furnishings for which the Charterer is responsible under Clause 6.4 and which is for any reason not recoverable under the Boat's own insurance, howsoever the same may arise; and/or
  - (c) Any liability for the death or personal injury of, or the loss of or damage to the personal property of, any third party.

Provided the Charterer does not operate the boat in a negligent or reckless manner the liability is limited to £500.

### **3. CANCELLATION**

- 3.1 Provided it is at least 30 days prior to the start of the Charter Period the Charterer may cancel the Charter within 30 days of initial booking and receive a full refund of the Charter Deposit.
- 3.2 In the event of a cancellation by the Charterer, or curtailment of the charter period, after the 30-day period mentioned in para 3.1, the whole balance of the charter will remain payable to RAFSA unless the Boat is re-let (see para 8). Charterers are strongly advised to insure against cancellation or curtailment.
- 3.3 In the event of cancellation or curtailment by RAFSA the Charter Manager is authorized to refund the charterer or provide compensation.

### **4. CHARTERER'S COMPETENCE**

- 4.1 The minimum qualification for the chartering skipper and crew are related to the sailing area and are set out in RAFSA(O) HR 34.2 SOP 5.
- 4.2 The Charterer warrants that he and his crew have the necessary qualifications, experience and competence to handle the Boat safely in the intended sailing area.
- 4.3 In the event that the Operator is not satisfied as to the ability of the Charterer to safely handle the Boat the Operator shall be at liberty to terminate this Agreement as if the Charterer had given notice of withdrawal at this time and the provisions of Clause 8.3 shall apply.

4.4 If the Charterer shall fail to accept delivery of the Boat within 48 hours from the start of the Charter Period and shall not have notified the Operator of his intention to accept delivery later during the Charter Period, then the Operator shall be at liberty to treat this Agreement as terminated. The Operator's rights upon termination are set out in Clause 8.1. The Charterer shall, however, be given credit for any sum recovered by the Operator if the Boat is re-let in accordance with the conditions set out in Clause 8.3.

## **5. OBLIGATIONS OF THE OPERATOR**

The OPERATOR hereby UNDERTAKES as follows:

5.1 To hand back the Boat to the Charterer at the start of the Charter Period in good and seaworthy condition and with all the necessary gear and equipment. If the Operator is in default of this provision the Charterer shall be at liberty to terminate this Agreement and shall be refunded all monies paid under this Agreement.

5.2 The Operator does not warrant the fitness of the Boat for any particular purpose within the Cruising Limits.

5.3 To deliver the Boat to the Charterer at the agreed time and place but in default his liability shall be limited to a pro-rata return of the Charter Fee for each period of 12 hours for which delivery is delayed. If such delay exceeds 25% of the Charter Period, the Charterer shall be at liberty to treat the Charter as cancelled. The Operator shall thereupon return all sums paid but shall have no further liability to the Charterer in respect of the curtailment or cancellation of the Charter.

## **6. OBLIGATIONS OF THE CHARTERER**

6.1 To read and comply the RAFSA(O) Safety Policy and HR34.2 SOPs and familiarise themselves with the RAFSA(O) document set and employ the direction and guidance therein.

6.2 To complete the takeover and handover process judiciously, including the relevant forms and defects logs and copy the completed forms as directed therein, at the beginning and end of the charter period.

6.3 To pay for all running expenses (with the exception of gas bottles) during the Charter Period including the cost of food, water, fuel, harbour dues, port dues, pilotage, victuals and provisions for himself and his party and the cost of Charts (if not supplied).

6.4 With the exception of loss or damage arising from latent defects or from fair wear and tear to make good all loss of or damage to the Boat, to any gear equipment or furnishings belonging to the Boat caused during the Charter Period as well as any loss or damage arising after the Charter Period but prior to re-delivery under Clause 9 which is not recoverable under the Insurance effected by the Operator.

6.5 In the event of damage to or failure of the Boat or her equipment or any incident involving the crew or a third party, the Charterer shall comply with RAFSA(O) HR 34.2 SOP 14. The Charterer shall comply with any reasonable instructions given.

6.6 Not to lend, sub-Charter or otherwise part with control of the Boat.

6.7 Not to take the Boat outside the Cruising Limits.

6.8 The Charterer shall not use the Boat for any purpose other than private pleasure cruising for himself, his crew and guests, nor race the Boat.

6.9 The Charterer shall limit the number of persons in his party to not more than Six persons based on life raft capacity.

6.10 Not knowingly or recklessly to permit to be done or to do or fail to do any act which may render void the Operator's policy of insurance or result in the forfeiture of the Boat.

6.11 If the insurance policy of the Boat shall be rendered void or the policy monies withheld in whole or in part by reason of any act or default of the Charterer or any member of his party, the Charterer hereby agrees to indemnify the Operator against any loss consequent upon such act or default.

6.12 To be fully responsible for the safety and security of the Boat at all times during the Charter Period. Unless the Boat is moored or anchored in a harbour, marina or similar location, the Charterer further undertakes that the Boat shall at no time be left unattended and at least one competent member of the party shall remain on board in such circumstances.

6.13 The Charterer shall not allow the Boat to dry out or be stranded and shall ensure that the Boat is moored only at a secure and well-maintained mooring point. The Charterer shall not anchor the Boat in a place where anchoring is restricted or that is not suitable for anchoring such a Boat.

6.14 To observe all regulations of Customs, Port, Harbour or other Authorities to which the Boat becomes subject.

6.15 The Charterer's obligations under this Agreement shall continue until re-delivery.

6.16 To carry out any routine Boat maintenance prescribed in the RAFSA(O) HR 34.2 Boat Folder and complete running repairs so as to maintain the Association's Boats in the best possible condition.

## **7. INSURANCE AND LIABILITIES**

7.1 The Operator shall insure the Boat for full market value against fire and all the usual marine and collision risks with protection and indemnity cover of at least £2m subject to a policy deductible except in cases of negligence by the Charterer, when the Charterer will be liable in full for the Operator's uninsured losses. The Operator will provide for the Charterer on request a copy of the policy or certificate and shall ensure that the Charterer is covered under the policy or certificate.

7.2 The Operator shall not be liable for any personal injury, or any loss of, or damage to, the personal property of the Charterer or any other member of his party, or any other person invited aboard the Boat by the Charterer during the Charter Period unless caused by negligence or wilful default on the part of the Operator.

7.3 The Charterer shall report to the Operator (and, where applicable, to the insurers) as soon as possible any event likely to give rise to a claim under the insurance and any other accident, damage or failure of or to the Boat and to comply with any reasonable instructions given to the Charterer by the Operator or the insurers.

7.4 Should major damage occur to the Boat during the Charter Period so as to involve a claim on the policy of insurance or should a major breakdown of the gear or machinery occur of a nature to make the Boat unseaworthy, a pro-rata refund will be made for the period during which the Boat was unseaworthy within 14 days after re-delivery PROVIDED ALWAYS that neither the Charterer nor any member of his party caused or contributed to the damage or breakdown.

7.5 Notwithstanding anything in this Agreement the Charterer shall not be entitled to claim from the Operator any other compensation in respect of damage or breakdown or of any consequential loss however caused.

7.6 If the Boat shall become an actual or constructive total loss during the Charter Period then this Agreement shall terminate and, provided that the insurance of the Boat has not been rendered void or the policy monies withheld in whole or in part by reason of any act or default of the Charterer or any member of his party, a pro-rata proportion of the Charter Fee shall be repaid to the Charterer within 14 days of the loss being declared.

## **8. TERMINATION OF AGREEMENT**

8.1 If any payment due under this Agreement is not made on or by the appointed day, or if the Charterer fails to comply with any other provision in this Agreement, the Operator may forthwith terminate this Agreement and resume possession of the Boat, but without prejudice to the right of the Operator to recover any unpaid part of the Charter Fee and damages in respect of any breach of this Agreement by the Charterer.

8.2 If the Charterer gives written notice to the Operator more than two calendar months before the start of the Charter Period that the Boat will not be required, no liability for the Balance of the Charter Fee will remain but the Charter Deposit shall be forfeit except that 100% will be refunded if the Operator re-lets the Boat for the Charter Period. In such circumstances the Operator agrees to use their best endeavours to re-let the Boat.

8.3 If the Charterer gives notice to the Operator within two calendar months before the start of the Charter Period that the Boat will not be required, then the Operator will use their best endeavours to re-let the Boat and the following provisions shall apply:

8.3.1 If the Operator is unable to re-let the Boat then the Charterer remains fully liable for the full Charter Fee.

8.3.2 If the Operator is able to re-let the Boat, then the Charterer's liability shall be limited to the Charter Deposit.

8.3.3 If the Operator is not able to re-let the Boat for the full Charter period, then the Charterer will be liable for the difference between the net sum which the Operator receives and the payments due under this Agreement.

## **9. RE-DELIVERY OF THE BOAT**

9.1 The Charterer will re-deliver the Boat to the Operator free of indebtedness at the end of the Charter Period in as good, clean and tidy condition (fair wear and tear excepted) and with her inventory complete, at the Boat's base or other place to be agreed between the Parties.

9.2 If the Charterer shall fail to re-deliver the Boat at the time and place agreed, he shall be liable to pay to the Operator 1/7th of the weekly charter fee for that period for every day or part of the day by which re-delivery is delayed, unless the delay is caused by the operation of a peril covered by the terms of the policy or certificate of insurance referred to in Clause 7.1 hereof or by such damage to, or failure of, the Boat as may have to be reported to the Operator under Clause 7.3.

## **10. DISPUTE RESOLUTION**

10.1 Disputes may, when they cannot be resolved by negotiation, with the written agreement of the Parties, be submitted to mediation.

10.2 If the Charterer is suspected or accused of negligence, RAFSA will convene a panel to consider the case. The panel will comprise three personnel, to include: a Trustee of the charity; and two commercially qualified RYA sailing instructors, one of whom must be a Yacht Master Instructor. The administration of such a case will comply with the principles of Natural Justice and the RAF's common law "duty to act fairly".

10.3 If any provision of this Agreement is held by any court or other competent authority to be void or unenforceable in whole or in part, this Agreement shall continue to be valid as to the other provisions thereof and the remainder of the affected provision.

## **11. LAW**

11.1 This Agreement shall be governed by the law of England and Wales (or of Scotland if the Operator's address shall be in that country) and the Parties agree to submit to the jurisdiction of the courts of those countries.

11.2 For Service personnel chartering the Boat on duty, the Armed Forces Act 2006 (and if applicable the Reserve Forces Act 1996) and the provisions of Service Law may also apply.

## **12. NOTICES**

12.1 Any notice to the Operator or Charterer under this agreement shall be in writing and shall be sufficiently served if delivered to him personally, emailed, or posted to the address set out in this Agreement. Any notice posted shall be deemed to have been received two days after the time of posting, and any notice delivered personally or by email shall be deemed to have been received from the time of delivery.

## **13. MARGINAL NOTES**

13.1 The construction of this Agreement is not to be affected by any marginal notes.

## **14. ENTIRE AGREEMENT**

14.1 This Agreement together with any schedule and/or inventory signed by both Operator and Charterer forms the entire Agreement between the Parties unless otherwise specifically agreed in writing between them.

## **15. THIRD PARTY RIGHTS**

15.1 For the purpose of the Contracts (Rights of Third Parties) Act 1999, this Agreement does not and is not intended to give any rights to enforce any of its provisions, to any person who is not a Party to it.

THE PARTIES ACKNOWLEDGE that they have read and understood the terms and conditions above and have caused this Agreement to be duly executed the day and year first above written.

**PLEASE ACKNOWLEDGE RECEIPT AND YOUR AGREEMENT BY EMAIL**  
**[chartermanager@hotmail.co.uk](mailto:chartermanager@hotmail.co.uk)**