



2020 Maritimo X50

BoatCo X50-1 Limited

Vessel Rules

Vessel Rules

Dated 11 December 2019

1 Use of Vessel

- 1.1 The Vessel's prime purpose is for the personal and recreational use of the Shareholders and their guests. Any use for commercial purposes will require the prior approval of both the Manager and the director(s). The decision to use the Vessel remains the responsibility of the Shareholder at all times.
- 1.2 All Shareholders will be graded by the Manager upon conclusion of the Shareholders training course which will form part of their Share application process. Following the grading process, the Manager shall determine how and where the Vessel may be used by the Shareholder.
- 1.3 A Shareholder's skill level is to be recorded and kept in the Shareholder's file either electronically or in the Manager's office.
- 1.4 A Shareholder can request additional training (at their expense) and/or have their grading level re-assessed by the Manager at a mutually convenient time.
- 1.5 As stated in clause 5.2, an experienced skipper can be arranged at the expense of the Shareholder (provided reasonable notice is given to the Manager in writing) to enable the Shareholder to use the Vessel within the guidelines of a grading level for which they are not personally qualified.

2 Who may use Vessel

- 2.1 The principal users of the Vessel will be the Shareholders and their guests while a Shareholder is on board. (Shareholders may temporarily absent themselves from the Vessel during their use of the Vessel but must be on board while the Vessel is in motion, subject to clause 2.2).
- 2.2 Persons other than a Shareholder may use the Vessel as the guest of a Shareholder without the Shareholder being on board, provided:
 - a the prior approval of the Manager has been obtained before the use;
 - b the guest has completed whatever sections of the Shareholder's training course as the Manager may consider appropriate in accordance with clause 5.1;
 - c the use of the Vessel is at no cost to the guest;
 - d the Shareholder accepts full responsibility for any damage caused by his or her guest to the vessel or its equipment; and
 - e the use shall form part of that Shareholder's annual use allowance.

3 Factors to be taken into account

- 3.1 Relevant factors to be taken into account in seeking and providing approval for use of the Vessel as the guest of a Shareholder without the Shareholder being on board include (but are not limited to):
- a the age of the prospective guest;
 - b the prospective guest's boating skills, including whether such guest has satisfactorily completed the NZ Day Skipper or higher marine qualification;
 - c which other prospective guests will be present;
 - d whether the prospective guest has previously been on board the Vessel, and for how long; and
 - e the amount of usage that has already been granted to guests of the applicable Shareholder.

4 Compliance and Indemnity

- 4.1 Shareholders and their guests must operate the Vessel in compliance with the laws, rules and regulations imposed by the relevant local authority, and indemnify BoatCo, the other Shareholders and the Manager from any penalty, damage or cost resulting from a breach of such laws, rules and regulations.
- 4.2 Shareholders and their guests undertake to return the Vessel in a clean condition. It is the responsibility of the Shareholder to ensure that no foreign objects are disposed of in the toilet facility. Shareholders will be charged for any additional costs incurred as a result of a blocked toilet or excess cleaning resulting thereof.
- 4.3 All personal effects must be removed from the Vessel at the end of the use of the Vessel by a Shareholder or Shareholder's guest.
- 4.4 No Shareholder may use the Vessel while a default exists in the making of any payment due to the Manager. While the Shareholder is in default, the Manager may allow other Shareholders and guests to use the Vessel during the defaulting Shareholder's time allocation.

5 Skippering the Vessel

- 5.1 Except with the prior permission of all Shareholders and in emergencies, the Vessel may only be skippered by persons who have satisfactorily completed a sea trial and oral examination by the Manager, and such parts of the Shareholders training course as the Manager considers necessary.
- 5.2 An experienced skipper can be arranged at the expense of the Shareholder, provided reasonable notice is given to the Manager in writing.
- 5.3 The Manager will be authorised by BoatCo and the Shareholders to place a qualified skipper on board at the Shareholder's expense if this is deemed to be necessary by the Manager in its absolute discretion.

6 Allocation of Time for Use

6.1 Each Share shall entitle the Shareholder to fifty-seven (57) Boat Days confirmed use of the Vessel and unlimited standby Boat Days per year, subject to availability and under the following conditions:

a The confirmed use entitlement shall be divided into thirty-nine (39) Off Peak Days use and eighteen (18) Peak Days use per year, spread evenly across the following three trimester periods:

- i Spring into summer
1 August – 31 November;
- ii Summer into autumn
1 December – 31 March; and
- iii Winter
1 April – 31 July,

with Shareholders being entitled to thirteen (13) Off Peak Days and six (6) Peak Days in each trimester.

Shareholders are allocated an average of 4.5 hours per Boat Day engine running time used. BoatCo may levy a mechanical service charge on a Shareholder for exceeding the allocation on an annual basis.

b Any booking cancellation must be received by the Manager prior to 7pm on the previous day. Any cancellation request received after this time will result in a forfeiture of the day or day's use.

c A booking in any trimester shall be for no more than seven consecutive days;

d Standby availability may be ascertained by contacting the Manager after 9.00am on any day. Such use shall be on a 'first come first served' basis and will be subject to a \$100 short notice booking fee.

6.2 Subject to clause 6.4, use of the Vessel will be allocated to Shareholders in intervals of one Boat Day. On each Boat Day, the Vessel must be collected from the Vessel's marina berth and returned to the same berth at the end of the Boat Day unless an alternative time and/or place has been agreed to by the Manager. The Manager will arrange for such regular service and valet to be carried out each evening prior to the next daily use as it deems necessary in accordance with the Management Agreement.

6.3 The Manager will be required to carry out the booking and allocation process on behalf of the Shareholders, in accordance with the Management Agreement.

6.4 Shareholders may, subject to the approval of the Manager, request consecutive allocated Boat Days and take the Vessel for overnight use provided the Manager has endorsed the Shareholder's competency for such use. Unless prior written approval has been given by the Manager, or an emergency situation arises, the Vessel is to remain at anchor or moored in a safe anchorage between the hours of sunset and sunrise.

6.5 Shareholders must notify the Manager of the time they intend to commence their Boat Day's use. On return the Shareholder is responsible for ensuring that the Vessel is fuelled, securely

moored at its nominated berth, all shutdown procedures as laid out in the Vessel's operating procedures manual are complied with, and the keys placed in the nominated safekeeping receptacle.

- 6.6 Any two Shareholders may swap or 'gift' Boat Days between each other by mutual agreement. Shareholders must notify the Manager of any daily booking exchanges between Shareholders at least 24 hours in advance.
- 6.7 If a Shareholder does not use their annual time allocation for any reason, that Shareholder's entitlement to use the Vessel for that interval will lapse and will not accrue or be carried over to the following year.
- 6.8 In the event that a Shareholder's booking becomes unavailable due to maintenance or repair requirements, the Shareholder may choose an alternative Boat Day (normally reserved for maintenance or contingency) subject to availability.
- 6.9 In the event that a Shareholder is unable to use their allocated booking, the Manager will endeavour to secure an alternate date, subject to availability, provided at least 48 hours' notice is given to the Manager by the Shareholder, or in the event of unfavourable weather or other unforeseen emergencies, provided notice is given to the Manager by 9.00am.

7 Insurance, Damage and Indemnity

- 7.1 Insurance will be obtained and maintained by BoatCo in respect of damage to the Vessel and third party property and personal injury liability.
- 7.2 The Shareholders authorise the Manager to claim and recover any amounts payable under an insurance policy.
- 7.3 Each Shareholder is individually responsible for payment of any insurance excess, non-insured Vessel or equipment loss or damage costs, or any guest or third party claims incurred during any Boat Day that the Vessel is in the Shareholder's or his or her guest's care.
- 7.4 For the avoidance of doubt, to the extent that the Manager claims and recovers any amount payable under an insurance policy where:
 - a the Shareholder or the Shareholder's guest operating the Vessel was affected by intoxicating liquor and/or drug(s); and/or
 - b the loss or damage was caused by a Shareholder or a Shareholder's guest and resulted from damage caused by that Shareholder or their guest's reckless acts or wilful misconduct,

BoatCo and/or the insurer has the right to recover from the responsible Shareholder the loss or damage to the Vessel.

- 7.5 Each Shareholder indemnifies each of the other Shareholders, BoatCo and the Manager from any action or claim that arises from such Shareholder's reckless use of the Vessel, wilful misconduct, or operating the Vessel while intoxicated with liquor and/or drugs, or from a breach of any applicable law regulation while the Vessel is in such Shareholder's or such Shareholder's guest's care.

- 7.6 In accordance with the Management Agreement, the Manager will be required to complete a condition report on the Vessel after every use by each Shareholder or his or her nominated guest. Shareholders will be liable for any repairs and additional maintenance which is directly attributable to a lack of reasonable care on the part of any person on board during that use period, which is noted in the condition report completed after their use of the Vessel.
- 7.7 For the purpose of clauses 7.3, 7.5 and 7.6 the cost of damage, loss, claim and repair is to be determined by the Manager or the Vessel insurer (as the case may be) in its sole discretion and may include (but is not limited to):
- a the cost of repairs to the Vessel or the market value of the Vessel at the time of the loss, whichever is the lesser;
 - b towing, recovery, storage and appraisal fees;
 - c an administration fee determined by the Manager; and
 - d a per Boat Day cost for Vessel downtime.

8 GPS Tracking

- 8.1 A log of the Vessel's use will be tracked via GPS and stored for the Manager's review each time the Vessel is used..

9 On Board Consumables

- 9.1 Shareholders and approved guests must bring their own food, drink, clothing and personal effects and remove all such at the end of the trip.

10 Fuel and Oil Expense

- 10.1 The Manager will ensure that the Vessel is full of fuel at the start of each Boat Day that the Vessel is moored at its home berth. Each Shareholder who uses the Vessel must ensure that the Vessel is refuelled prior to returning to its home berth. In addition the Vessel should be refuelled whenever its fuel capacity falls below one quarter full. In the event that the Vessel is not refuelled before being returned, an additional fee, on top of the fuel cost, may be levied on the Shareholder for time incurred by the Manager in refuelling the Vessel.
- 10.2 Where a Shareholder has allowed a guest to use the Vessel in accordance with clause 2.2, the Shareholder is responsible for the payment of all fuel and oil costs in connection with such usage.

11 Shareholders' Direct Expenses

- 11.1 Each Shareholder who uses the Vessel will be responsible for any breakages or damage arising from reckless or negligent behaviour and/or which are not covered by insurance, plus any insurance excess in insurable claim circumstances, which occur during the usage of the Vessel by such Shareholder.

12 Authority to Incur Expenses Payable by the Company

- 12.1 Any Shareholder may make emergency purchases urgently required to ensure the continued safety or seaworthiness of the Vessel where such purchase is less than \$500 and the Shareholder is prevented by means beyond his control from seeking and receiving approval for such emergency purchases.
- 12.2 All other purchases require the prior approval of BoatCo or the Manager.

13 Reimbursement Procedure

- 13.1 Subject to clause 12, any Shareholder who incurs expenses in respect of the Vessel must forward receipts of such expenses to the Manager promptly after incurring such expenses.
- 13.2 BoatCo will reimburse a Shareholder who has incurred expenses in connection with the maintenance of the Vessel by cheque or online banking within 10 Working Days after receipt by the Manager of the receipts for such expenses.

14 Fixtures

- 14.1 Any new fixtures to the Vessel, aside from items which are required as part of the normal maintenance schedule, require prior approval of all Shareholders even where the expense is to be met by a Shareholder individually and not by BoatCo.
- 14.2 Any Shareholder seeking to add or remove fixtures must:
 - a obtain the written approval of the Manager, BoatCo and the other Shareholders to add or remove such fixture or fixtures;
 - b notify the Manager, BoatCo and the other Shareholders at the time approval is sought of the estimated cost of making good the Vessel; and
 - c provide to BoatCo and the Manager a written undertaking to pay for the costs of making good the Vessel.

15 Claims and Proceedings

- 15.1 Where the use of the Vessel by a Shareholder or a Shareholder's guest results in any claim, accident, damage or loss, such Shareholder must ensure that the Shareholder and guest, if applicable:
 - a promptly report such incidents in writing to the Manager and the relevant authorities;
 - b do not, without the written consent of the Manager and BoatCo, make any offer, promise of payment, settlement, waiver, release, indemnity or admission of liability;
 - c permit BoatCo or its insurers at its own cost to bring, defend, enforce or settle any legal proceedings against a third party; and
 - d complete and furnish within a reasonable time any statements, information or assistance which BoatCo or the Manager may request and, if requested, appear at Court to give evidence.

- 15.2 BoatCo and the Manager are not and will not be liable to any person, and each Shareholder (or if a Shareholder is not an individual, the individual who controls or each of the individuals who control such Shareholder) indemnifies both BoatCo and the Manager from any and all claims, actions, or any property claims resulting from loss or damage to property stolen from the Vessel or otherwise lost during the contracted time, or to any property left on board the Vessel after its return.

16 Miscellaneous Provisions

- 16.1 Unless the Manager has given its prior consent, no animals of any kind are permitted anywhere on board the Vessel under any circumstances except in the case of an emergency.
- 16.2 No smoking is permitted at any time inside the cabin or cockpit of the Vessel.
- 16.3 In the event that an item is damaged, lost or fails to operate while the Vessel is in the possession of a Shareholder or Shareholder's guest, then such Shareholder and such Shareholder's guest are required to notify the Manager and BoatCo as soon as possible.
- 16.4 Should a Shareholder or Shareholder's guest require the assistance of any emergency service or other assistance, such assistance is to be contracted directly with the particular service and paid for by the Shareholder.

17 Glossary

- 17.1 In these Vessel Rules, unless the context otherwise requires:

BoatCo means BoatCo X50-1 Limited;

Boat Day means a day during which a Shareholder may use the Vessel being (unless otherwise agreed in accordance with these Vessel Rules) the period starting at sunrise and finishing at the earlier of 8.00pm or sunset on the same day;

Management Agreement means the management agreement between BoatCo and the Manager in respect of the Vessel;

Manager means Ownaship Limited or such other person appointed to manage the Business;

Off-Peak Day means any day that is not a Peak Day;

Peak Day means any Saturday, Sunday or Public Holiday;

Public Holiday means any New Zealand public holiday and any day designated as a public holiday by the Manager;

Shares means shares in the capital of BoatCo;

Shareholder means a holder of Shares and "**Shareholders**" means all of the holders of Shares;

Vessel means the vessel owned by BoatCo;

Vessel Rules means these rules as may be amended by the Manager from time to time in accordance with the Management Agreement; and

Working Days means any day from Monday to Friday of each week, but excludes Public Holidays.