

## **PASSENGER CONTRACT TERMS AND CONDITIONS**

THIS CONTRACT IS ISSUED SUBJECT TO THE IMPORTANT TERMS AND CONDITIONS ON THIS PAGE AND THE FOLLOWING PAGES. READ THESE TERMS AND CONDITIONS CAREFULLY.

THIS DOCUMENT IS A LEGALLY BINDING CONTRACT (THE "PASSENGER CONTRACT") BETWEEN YOU AND PREMIER YACHTS, INC., d/b/a ODYSSEY CRUISES (HEREINAFTER REFERRED TO AS "ODYSSEY") WHICH GOVERNS ALL DEALINGS BETWEEN YOU AND ODYSSEY. YOUR ATTENTION IS ESPECIALLY DIRECTED TO SECTIONS 5, 12, 13, and 15 BELOW, WHICH CONTAIN IMPORTANT LIMITATIONS ON YOUR RIGHT TO ASSERT CLAIMS AGAINST US AND CERTAIN THIRD PARTIES.

NOTICE: Certain third parties derive rights and exemptions from liability as a result of the Passenger Contract. Specifically, all of our rights, exemptions from liability, defenses and immunities under the Passenger Contract (including, but not limited to, those arising under Sections 12 and 13 of the Passenger Contract Terms and Conditions) or applicable law will also inure to the benefit of our employees and agents, the vessel upon which you shall travel ("Ship") and the Ship's tenders, operators, managers, charterers, officers, staff, crewmembers, and manufacturers. These third parties will have no liability to you, either in contract or in tort, which is greater than or different from our liability.

### **IMPORTANT TERMS AND CONDITIONS OF PASSENGER CONTRACT READ CAREFULLY BEFORE ACCEPTING.**

ODYSSEY MAY CANCEL THE PASSENGER CONTRACT IF A SIGNED AGREEMENT AND THE FULL AMOUNT OF THE DEPOSIT IS NOT RECEIVED BY ODYSSEY BY THE DATE STATED IN THE PASSENGER CONTRACT. ODYSSEY MAY ALSO CANCEL THE PASSENGER CONTRACT IF ANY OTHER PAYMENT REQUIRED TO BE MADE BY YOU IS NOT RECEIVED BY ODYSSEY WHEN DUE. THERE WILL BE NO REFUNDS OR EXCHANGES. IF PAYMENT IS MADE BY CREDIT CARD, YOU MAY NOT REVERSE THE CHARGE WITHOUT THE PRIOR WRITTEN CONSENT OF ODYSSEY. YOU AGREE TO BE RESPONSIBLE FOR ALL OF ODYSSEY'S COSTS OF COLLECTION, INCLUDING ATTORNEY'S FEES AND FEES FOR REVERSED CREDIT CARD CHARGES AND BAD CHECKS.

1) **Defined Terms:** "Cruise" refers to the specific cruise indicated in your ticket. "Odyssey" refers to Premier Yachts, Inc., d/b/a Odyssey Cruises. For the purposes of the defenses, limitations of liability and rights set forth in this Passenger Contract only, "Odyssey" includes the Ship and the Ship's tenders, operators, managers, charterers, officers, staff, crewmembers, and manufacturers. "Passenger" refers to any and all persons travelling under the Passenger Contract, including each of his or her successors in interest and personal representatives. "Passenger Contract" refers to this contract, entered into by and between You and Odyssey. "Purchaser" refers to the Purchaser of the ticket which constitutes the Passenger Contract. "Refund Amount" refers to that portion of the Cruise fare which has actually been received by us. "Ship" refers to the vessel upon which You shall travel. "We" and "Us" refers to Premier Yachts, Inc., d/b/a Odyssey Cruises. "You" refers to the Passenger and/or the Purchaser.

2) **Change in Itinerary/Cancellation:** Odyssey may, in its sole discretion, change the course or schedule of the Cruise, discontinue the Cruise, remain dockside or cancel the Cruise for any reason. Odyssey shall have no liability arising from any such change of course or schedule, discontinuance, cancellation or other failure to depart from or arrive at any port at the scheduled or announced time. If a Cruise is cancelled before commencement, You will be entitled, as your exclusive remedy, to receive the applicable Refund Amount.

3) **Cancellation or Breach of the Passenger Contract:** If Odyssey cancels this Passenger Contract for any reason other than your breach or if Odyssey breaches this Passenger Contract, Odyssey shall return to You all amounts received by Odyssey under this Passenger Contract as your sole and exclusive remedy. If You cancel or breach this Passenger Contract, all payments made by You shall be retained by Odyssey. Odyssey shall be entitled to seek any remedies available to it in addition to retaining any payments made by you.

4) **Passenger Condition:** You must, at the time You book your Cruise, inform Odyssey in writing of any existing physical or mental illness, disability or any other condition for which You or any other person in our care may require medical attention or special accommodation during the Cruise or for which the use of a wheelchair or service animal is contemplated or necessary. If any such condition arises after You have booked the Cruise, You must report this condition to Odyssey as soon as You become aware of it. Failure to report any such condition will release Odyssey and all Odyssey personnel from any liability related to the accommodation or treatment of such condition or for any other conduct whatsoever in connection therewith. Odyssey may refuse to embark You as set forth in Section 5.

5) **Authority to Refuse Transport and Remove Passengers:** Odyssey has the right to refuse to transport any Passenger, and to eject any Passenger at any port of call at such Passenger's expense. If any Passenger shall be ill, injured, act in a disorderly manner, or fail to comply with the Laws and Regulations (as such term is defined in Section 6 below), or any restrictions established during the Cruise for the general safety and comfort of others aboard the Ship, one of Odyssey's employees shall be the sole judge of the condition of the Passenger and the appropriate measures to be taken. Odyssey or its employee making such determination shall not be liable for any mistake in judgment exercised in good faith.

6) **Compliance with Laws and Regulations:** You agree to observe and obey all the Laws and Regulations (as such term is defined in the next sentence), inform all Passengers of the Laws and Regulations, and obtain the consent of all Passengers to observe and obey the Laws and Regulations. "Laws and Regulations" means all requirements of all laws, orders, ordinances and regulations of the federal, state, county, and municipal authorities, the terms of the Passenger Contract, and the orders of Odyssey, the Ship and the crew master of the Ship.

7) **Food and Beverages:** No food or beverage may be brought onto the Ship without the prior authorization of Odyssey, which may be granted in its sole discretion. No food or beverage may be removed from the Ship.

8) **Alcoholic Beverages:** Odyssey reserves the right to restrict the service of alcohol to any Passengers.

9) **Illegal and Controlled Substances:** The use of illegal or controlled substances onboard the Ship is prohibited. Odyssey reserves the right to discontinue the cruise and return the Ship to the pier if illegal or controlled substances are being consumed. No refunds or exchanges will be given.

10) **Passenger Liability in Certain Cases:** (a) You are responsible for the conduct and supervision of the Passengers on the Ship who are members of your party, including the consumption of alcoholic beverages by such Passengers. You agree to promptly pay Odyssey for all loss of or damage to the Ship, any equipment, decoration or fixtures caused by You or the Passengers attending your party, including any damage or loss caused by the failure to act in accordance with the terms of this Passenger Contract. (b) You will be required to reimburse Us for all expenses Odyssey may incur as a result of any misrepresentation made by You, as a result of the need to provide You with medical services, or as a result of any personal injury or damage caused by your acts or omissions or the acts or omissions of any minor (under age 21) traveling with You.

11) **Indemnification:** You agree to indemnify and hold Odyssey, its crew master, employees, owners and agents harmless for (a) any damages, liabilities, losses, penalties, fines, charges or other expense incurred by or imposed upon Odyssey, its crew master, employees, owners or agents as a result of any act, omission or violation of law by You or any minor Passenger for whom You are responsible; and (b) any liability, cost or expense (including all legal expenses) incurred by or imposed upon Odyssey, its crew master, employees, owners or agents associated with the defense or settlement of any claim, directly or indirectly related to personal injury, death or property damage relating to any act of You, or any Passengers traveling with you.

12) **Limitation on Liability:** (a) IN THE EVENT YOU ARE INJURED, BECOME ILL, OR DIE, OR YOUR PROPERTY IS LOST OR DAMAGED, ODYSSEY WILL NOT BE LIABLE TO YOU FOR ANY DAMAGES UNLESS THE OCCURRENCE WAS DUE TO OUR NEGLIGENCE OR WILLFUL FAULT. WE DISCLAIM LIABILITY TO YOU UNDER ANY CIRCUMSTANCES FOR INFLICTION OF EMOTIONAL DISTRESS, MENTAL SUFFERING

OR PSYCHOLOGICAL INJURY WHICH WAS NOT: (I) THE RESULT OF PHYSICAL INJURY TO YOU CAUSED BY THE NEGLIGENCE OR FAULT OF A CREWMEMBER OR THE MANAGER, AGENT, MASTER, OWNER OR OPERATOR OF THE SHIP; (II) THE RESULT OF YOU HAVING BEEN AT ACTUAL RISK OF PHYSICAL INJURY, AND SUCH RISK WAS CAUSED BY THE NEGLIGENCE OR FAULT OF A CREWMEMBER OR THE MANAGER, AGENT, MASTER, OWNER OR OPERATOR OF THE SHIP; OR (III) INTENTIONALLY INFLICTED BY A CREWMEMBER OR THE MANAGER, AGENT, MASTER, OWNER OR OPERATOR OF THE SHIP. IN NO EVENT WILL WE BE LIABLE TO YOU FOR CONSEQUENTIAL, INCIDENTAL, EXEMPLARY OR PUNITIVE DAMAGES. (b) ODYSSEY ASSUMES NO LIABILITY IN RESPECT OF THE ACTS OR OMISSIONS OF ANY THIRD PARTY. IN ADDITION TO THE LIMITATIONS OF, AND EXEMPTIONS FROM, LIABILITY GRANTED UNDER THE PASSENGER CONTRACT, WE ALSO RETAIN ANY AND ALL LIMITATIONS OF, AND EXEMPTIONS FROM, LIABILITY ACCORDED TO SHIPOWNERS AND TOUR OPERATORS BY STATUTE OR RULE OF LAW INCLUDING, WITHOUT LIMITATION, THOSE PROVIDED FOR IN 46 UNITED STATES CODE APP. SECTIONS 181-186 AND 188, WHICH ARE UNITED STATES STATUTES LIMITING THE LIABILITY OF VESSEL OWNERS. (c) TO THE MAXIMUM EXTENT PERMITTED BY LAW, INCLUDING 46 UNITED STATES CODE APP. SECTIONS 181-186 AND 188, YOU, ON BEHALF OF YOURSELF AND ANY AND ALL OF YOUR HEIRS, SUCCESSORS AND ASSIGNS, COVENANT NOT TO SUE OR TO INSTITUTE OR CAUSE TO BE INSTITUTED ANY KIND OF CLAIM OR ACTION IN ANY FOREIGN, FEDERAL, STATE OR LOCAL AGENCY OR COURT AGAINST ODYSSEY ARISING OUT OF, IN THE COURSE OF, FROM OR ATTRIBUTABLE TO THE CRUISE OR THE PASSENGER CONTRACT.

13) **Time Limits for Noticing Claims and Filing and Service of Lawsuits:** (a) IN ANY CASE GOVERNED BY 46 UNITED STATES CODE SECTION 183B, WHICH IS A UNITED STATES STATUTE THAT PERMITS ANY SHIPOWNER TO LIMIT THE TIME DURING WHICH A PASSENGER MAY FILE A CLAIM OR COMMENCE SUIT AGAINST A SHIPOWNER, YOU MAY NOT MAINTAIN A LAWSUIT AGAINST US OR THE SHIP FOR LOSS OF LIFE OR BODILY INJURY UNLESS WRITTEN NOTICE OF THE CLAIM IS DELIVERED TO US NOT LATER THAN SIX (6) MONTHS AFTER THE DAY OF DEATH OR INJURY, THE LAWSUIT IS COMMENCED NOT LATER THAN ONE (1) YEAR AFTER THE DAY OF DEATH OR INJURY, AND VALID SERVICE OF THE LAWSUIT ON ODYSSEY IS MADE WITHIN THIRTY (30) DAYS FOLLOWING THE EXPIRATION OF THAT ONE (1) YEAR PERIOD. (b) FOR ALL OTHER CLAIMS, INCLUDING BUT NOT LIMITED TO CLAIMS FOR LOSS OR DAMAGE TO PROPERTY, BREACH OF CONTRACT, ILLNESS OR DEATH OR INJURY, NOT GOVERNED BY 46 UNITED STATES CODE SECTION 183B, YOU MAY NOT MAINTAIN A LAWSUIT AGAINST US OR THE SHIP, NOR WILL WE OR THE SHIP BE LIABLE THEREFORE, UNLESS WE ARE PROVIDED WITH WRITTEN NOTICE OF CLAIM WITHIN THIRTY (30) DAYS AFTER CONCLUSION OF THE CRUISE, THE LAWSUIT FOR SUCH CLAIM IS COMMENCED NOT LATER THAN ONE (1) YEAR AFTER CONCLUSION OF THE CRUISE, AND VALID SERVICE OF THE LAWSUIT ON ODYSSEY IS MADE WITHIN THIRTY (30) DAYS FOLLOWING THE EXPIRATION OF THAT ONE (1) YEAR PERIOD. IN THE CASE OF A CLAIM BY OR ON BEHALF OF A MINOR OR LEGALLY INCOMPETENT PERSON, THE TIME PERIODS DESCRIBED ABOVE SHALL BEGIN TO RUN ON THE EARLIER OF: (i) DATE OF APPOINTMENT OF A LEGAL REPRESENTATIVE FOR THE MINOR OR LEGALLY INCOMPETENT PERSON, OR THEIR ESTATE (AS THE CASE MAY BE); OR (ii) THREE (3) YEARS AFTER THE DAY OF DEATH, INJURY OR DAMAGE, AS APPLICABLE.

14) **Governing Law:** The Passenger Contract is issued in Boston, Massachusetts. The Passenger Contract and its interpretation shall, to the maximum extent allowed under the general maritime law of the United States, be governed by and construed in accordance with the general maritime law of the United States; to the extent such maritime law is not applicable, it shall be governed by and construed in accordance with the laws of the Commonwealth of Massachusetts.

15) **Choice of Forum/Venue:** The parties expressly agree that any and all disputes and matters arising under or in connection with the Passenger Contract or the Cruise shall be litigated in and before the United States District Court located in the County of Suffolk, Massachusetts, or as to those lawsuits as to which the Federal Courts of the United States lack subject matter jurisdiction, in the courts of Suffolk County, the Commonwealth of Massachusetts, to the exclusion of all other courts.

16) **Arbitration:** You and Odyssey agree to submit any dispute that does not arise out of the negligence or willful fault of Odyssey or that is not otherwise governed by 46 United States Code Section 183c to binding arbitration. The arbitration shall be conducted by the American Arbitration Association in the venue specified in Section 15 above.

17) **Transferability; Separability; Miscellaneous:** Nothing contained in this Passenger Contract shall limit or deprive Odyssey of the benefit of the applicable statutes or laws of the Commonwealth of Massachusetts or United States of America. This Passenger Contract constitutes the entire understanding and agreement between You and Odyssey and supersedes any prior oral, or implied or other agreements between You and Odyssey and this Passenger Contract can only be modified by a writing signed by Odyssey. The Passenger Contract cannot be transferred by you. Any additions, deletions or other alterations to, or waivers of any term of, the Passenger Contract which are purported to have been made by Us and which have not been agreed to in writing by Odyssey will not be legally binding upon Us. Any provision of the Passenger Contract which is prohibited or unenforceable in any jurisdiction will, as to such jurisdiction, be ineffective to the extent of such prohibition or unenforceability and the validity and enforceability of the remaining terms and conditions of the Passenger Contract will not otherwise be affected, nor will the validity and enforceability of such provision be affected in any other jurisdiction.