

TERMS and CONDITIONS

Fort Lauderdale, 01/01/2018



1. Definitions

For the purpose of this document, the following definitions apply:

SERVICE or SERVICES: this term refer to labor supplied by Yachting Marine Service and refer to man/hours of work provided

PART or PARTS: this term refer to any component supplied by Yachting Marine Service, including but not limited to Spare Parts, which are mounted in place during a Service

MATERIAL or MATERIALS: these terms refer to rough materials transformed by Yachting Marine Service in order to perform a Service.

YMS: indicate Yachting Marine Service LLC

CLIENT or CLIENTS: indicate any party commissioning Services or Parts to YMS, including but not limited to Yacht Owners, Captains, Yacht Agents, Yacht Brokers and/or any of their legitimate representative.

2. General Sale Conditions

- For a Service to be effective, a payment is required and must be received by YMS. Payments can be partial or in full, according to the quotation provided. When purchasing Parts, advanced payment is always required.
- Scheduling of Services can occur only when they are effective. YMS can change the schedule at its own sole decision, at any time and without prior notice.
- When performing a Service on board, YMS must receive a clean and clear area of intervention. When servicing components or systems they must be as readily accessible as possible. It is the sole responsibility of the Client to make sure that all personal effects or properties of any type are safely stored. Therefore, YMS will not be responsible for any missing personal effect or property.
- Any change to the Service required is subject to YMS approval and must be notified in writing by the Client at info@ymsusa.com
- Any Yard costs, such as Docking, Waste removal, Electricity, Forklifts and Cranes, and are excluded. Clients agree to pay directly the selected facility.
- In the event of an emergency, YMS might hire a contractor to perform the required services, without any prior authorization.
- Any damages sustained due to meteorological conditions are not in the responsibility of YMS. Any fee associated with securing, dismantling or re-erecting scaffoldings or other amenities damaged by wind and/or heavy rains will be responsibility of the Client.
- Clients irrevocably grants YMS permission to use photographs and video of Vessels, its interiors, exterior and equipment related to perform Services. Clients agree that such material, including but not limited to print and digital publications, will become sole property of YMS. Notwithstanding this authorization, YMS agrees not to publish the name of the vessel or its owner in any such publications. The yacht owner and the Client hold harmless and forever discharge YMS from all acclaims, demands and causes of action which the owner, his heirs, representatives, executors, administrators, or any other person acting on his behalf have or might have by reason of this authorization.
- The vessel owner, whatever corporate or individual, his heirs, successors, insurers and/or assigns hereby expressly release, acquit, discharge, indemnify and hold harmless YMS its officers, employees, agents, insurers, successors, contractors, subcontractors and/or any other individual on or around the vessel arising from duties assumed performing any service, including but not limited to fire, thief, vandalism, water damage, collision, wind, rain and/or storm damage, whatever attributable in whole or in part to the fault, neglect, omission and/or negligence of YMS, its officers employees, agents, insurers, successors, contractors, subcontractors and/or assigns. Further, YMS shall not be liable for any consequential, incidental or specific damages, including loss of use of any kind or type whatsoever.
- Indemnity and hold harmless agreement. Owner shall indemnify and hold harmless YMS, its members, managing members, managers, employees and agents from and against any and all claims and causes of action of every kind arising from any and all physical or emotional injuries, death, and/or damages caused primarily by the negligence or fault of Owner, its employees including the vessel's captain and crew, guests, agents and independent contractors. The term contained in this paragraph is governed by Florida Laws.
- Under no circumstances shall YMS be liable for consequential or special damages such as: loss of use of the vessel, loss of charter hire, the cost of chartering or hiring a replacement vessel, diminution on the vessel's fair market value, demurrage charges, loss of pre-paid transportation expenses for the vessel, captain and crew wages, captain or crew repatriation expenses, surveyors' fees, salvage expenses and sue and labor expenses. Owner waives its right to recover consequential damages, special damages or punitive damages from YMS. Terms in this paragraph are governed by Florida law.
- The Commercial Instruments and Maritime Linens Act, Title 46 U.S.C. – 31301 ET. Seq. (the Act) provides YMS a preferred maritime lien against the vessel, including its engines, tenders, personal watercrafts, furniture, finishing and appurtenances for work, services and or supplies provided to the vessel. Under the federal maritime law, YMS preferred maritime lien exists the moment the agreement is effective (the moment the Clients pay for the services). YMS has the statutory right to sue the vessel in rem to foreclose its preferred maritime lien. The in-rem suit shall be filed in the federal district court that has the jurisdiction over the area where the vessel is physically located. The act also allows YMS to sue the owner to recover the amount due for necessities provided to the vessel. The parties agree that YMS is entitled to recover all its court costs, including custodian legit expenses, from the vessel in rem and/or the Owner in person if YMS recovers a minimum of 1,00 \$ in its claim. As a prevailing party, YMS shall also be entitled to recover its reasonable attorney's fees and litigation expenses from the vessel under a Supplemental Admiralty Rule B attachment. The terms of this paragraph are governed by the Commercial Instruments and Maritime Linen Act, Title 46 USC -31301 ET. Seq and federal maritime law.
- Clients agree that any dispute under this contract agreement with YMS will be in the jurisdiction of Broward County, Florida, USA.

3. Acceptance

- This Terms & Conditions are implicitly accepted by the Client at order confirmation and at beginning of services.

4. Payments

- YMS is relying on the credit worthiness of the vessel under USC sec 31342 et seq.
- Payments are essential part of service acceptance from YMS.
- Advanced payments in full is always required for parts.
- All deposits are no-refundable

5. Limited Warranty

- YMS warranties its labor for a period of one (1) year and the validity and claims should be made to the sole direction of YMS. The warranty only applies to contracted, billed and payed in full services. All parts and components supplied by YMS are subject to the warranty provided by the vendor or by the manufacturer.
- Warranty terms start at the day of delivery of the services which imply their acceptance.
- Warranty is in the name of the Client and cannot be transferred to a third party.
- Warranty claims must be submitted in writing, within 30 days from service approval.
- Any repair carried out under warranty do not extend the warranty period.
- No warranty is accepted unless explicitly acknowledged in writing by YMS
- Any warranty job will be performed at Lauderdale Marine Center.
- YMS is not responsible for dockage and yards costs during warranties repairs.