



## ***FEATURES:***

### **Why A Charter Agreement Is A Good Idea**

By John K. Fulweiler, Esq.

Towing and salvage companies sometimes have vessels they aren't using. Being savvy business folk, they'll occasionally charter one of their boats to serve as a launch for a local film crew, to carry a survey crew around the coast or what have you. The point is, the vessel is put to work and starts making money, but has the company considered the downstream risk if things get sideways?

All too often, vessel owners informally charter their vessels without fully understanding the serious and costly problems that can develop. Even worse, the charter is often undertaken without a written agreement defining the owners' and charterers' obligations. When a personal injury or property damage claim arises (or even a mundane dispute over the timing of payments), friendly business dealings can quickly turn sour.

Charter agreements remind me of that old adage about good fences making good neighbors. Like a fence, the charter agreement draws a line between the liabilities and responsibilities of the parties and helps eliminate uncertainties. Without a charter agreement, the parties have no clear basis for allocating the risks of the maritime venture. That is, the parties have no quick reference to seek out a solution to some simmering dispute. In addition, without a charter agreement, a vessel owner may not be able to effectively assert various defenses and/or claims unique to the maritime law.

Aside from liability concerns, a charter agreement is beneficial in other ways as well. For instance, an owner can include terms ranging from a limit on the charterer's right to create liens on the vessel to the kinds of damages a charterer may seek in the event of a claim. The amount of insurance each party agrees to carry, warranties as to the vessel's performance capabilities, and the forum and manner in which disputes will be resolved are just some of the many issues typically addressed in a charter agreement.

A charter agreement doesn't have to be a big document. Any admiralty attorney worth their salt should be able to provide you with a bare bones document which will prove invaluable. Tendering your proposed charter agreement is a great way to facilitate a negotiation while, at the same time, demonstrate a savvy knowledge of commercial marine practices.

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