

RECREATIONAL BAREBOAT CHARTER AGREEMENT - PAGE 1 OF 7

NAME OF VESSEL ("Vessel"): Length: Type:
Port of Registry or U.S. Official Number: Flag:
Insurance Limits for Vessel Hull: Protection & Indemnity: Deductible:
This Charter Agreement ("Agreement") is dated _____ and placed _____ between the
Undersigned Parties and it has been agreed as follows:
OWNER: ADDRESS:
CHARTERER: ADDRESS:
BROKER: ADDRESS:
BROKER(Escrow Agent): ADDRESS:

CHARTER PARTICULARS

CHARTER PERIOD: From _____ To _____
PLACE OF DELIVERY: _____ PLACE OF RE-DELIVERY: _____
Cruising Area:
Maximum Number of Overnight Guests Sleeping () and Cruising () on Board
Crew Consisting of:

CHARTER HIRE FEE:
Plus: Delivery/Re-delivery Fees:
Additional Payments:
Security Deposit (see Clauses 16 and 17):
To be paid as follows:
FIRST INSTALLMENT:
SECOND INSTALLMENT:
To the following Broker's Clients' Account and it shall only be deemed paid only when cleared.

In addition to the Charter Hire Fee and at cost, the CHARTERER shall pay: 1) all fuel costs for the Vessel, its tenders and all watersports equipment, 2) all harbor, pilot and divers' fees, customs formalities, water, electricity and national and/or local taxes as applicable, and 3) food and beverages, personal laundry and all communications costs for the CHARTERER's party. **SEE ADDITIONAL CONDITIONS – CLAUSE 30**

SIGNATURES

The Owner and Charterer expressly agree that **Clauses 1 – 30** below, inclusive, form part of this agreement, which consists of **seven (7)** pages, plus any Additional Conditions or Addenda attached. Signed facsimile copies of this Agreement shall be binding.

OWNER _____ Date _____ CHARTERER _____ Date _____
WITNESS _____ WITNESS _____

Print Name and Address of Witness Print Name and Address of Witness
BROKER (Escrow Agent) _____ BROKER _____
WITNESS _____ WITNESS _____

Print Name and Address of Witness Print Name and Address of Witness

CLAUSE 1. Agreement To Let And Hire.

- A. The OWNER agrees to charter the Vessel to the CHARTERER and not to enter into any other Agreement for the charter of the Vessel for the same period.
- B. The CHARTERER agrees to hire the Vessel and shall pay the Vessel's Charter Hire Fee, Delivery/Redelivery Fee, the Security Deposit (if any) and any other agreed charges, in cleared funds, on or before the dates and to the Account specified in this Agreement as set forth on Page 1 of this Agreement and any Addendum executed by both the OWNER and CHARTERER.

CLAUSE 2. Delivery.

- A. At the beginning of the Charter Period, the OWNER shall deliver the Vessel to the Port of Delivery and the CHARTERER shall take delivery of the Vessel in full commission and working order, seaworthy, clean, in good condition throughout with tanks filled and ready for service, with all equipment required by the U.S. Coast Guard and Vessel's flagstate, including up-to-date safety and life-saving equipment (including life-jackets for children if any are included in the CHARTERER's Party).
- B. The Vessel shall be fitted out as appropriate for a Vessel of her size and type as required to operate in the Cruising Area in which this charter takes place and enabling the CHARTERER to use the Vessel as set out in Clause 13.
- C. The OWNER does not warrant her use and comfort in bad weather conditions for all cruises or passages within the Cruising Area.
- D. The CHARTERER shall inspect the Vessel before beginning the charter and must immediately notify the Broker or OWNER in writing if there is any complaint or visible defect as to the condition, equipment or accommodations of the Vessel.

CLAUSE 3. Re-Delivery. The CHARTERER shall re-deliver the Vessel to the OWNER at the Port of Re-delivery free of any debts incurred for the CHARTERER's account during the Charter Period and in as good a condition as when delivery was taken, except for fair wear and tear arising from ordinary use. If CHARTERER wishes, the CHARTERER may re-deliver the Vessel to the Port of Re-delivery and disembark prior to the end of the Charter Period, but such early re-delivery shall not entitle the CHARTERER to any refund of the Vessel Hire Fee.

CLAUSE 4. Cruising Area. The CHARTERER shall restrict the cruising of the Vessel to the Cruising Area designated on Page 1 of this Agreement and to regions within the Cruising Area in which the Vessel is legally permitted to cruise.

CLAUSE 5. Maximum Number Of Persons - Responsibility For Children - Health Of The Charterer's Party.

- A. The CHARTERER shall not, at any time during the Charter Period, permit more than the Maximum Number of Guests sleeping or cruising on Board as provided on Page 1 hereof.
- B. If children are taken on board, the CHARTERER shall be fully responsible for their conduct, entertainment and safety.
- C. The nature of a charter may render it unsuitable for anybody with physical disability or undergoing medical treatment. By signature of this Agreement the CHARTERER warrants the medical fitness of all members of the CHARTERER's party for the voyage contemplated by this Agreement. The CHARTERER and CHARTERER'S party undertake to have all necessary visas and vaccinations for the countries to be visited.

CLAUSE 6. Charterer's Authority and Responsibilities.

- A. **This is a Demise Charter Agreement as defined and described under U.S. Maritime Law.** Therefore, it is mutually agreed to by the Parties that the full possession and control of the Vessel is transferred to the CHARTERER for the Charter Period. The CHARTERER will furnish its own crew and is responsible for operating expenses for the term of the Charter Period.
- B. If the CHARTERER chooses to utilize the services of a Captain, the CHARTERER shall remain responsible for the operation and management of the Vessel, except for the safe navigation of the Vessel, which shall be the responsibility of that Captain, and the CHARTERER shall abide by the Captain's judgment for vessel safety in regards to sailing, weather, anchorages, and other pertinent matters.

CLAUSE 7. Captain's Authority.

- A. If the Charterer is to operate the Vessel, the CHARTERER certifies that Charterer is experienced, licensed, if applicable, and competent in the handling and operation of a Vessel of the type named in this Agreement and that Charterer has sufficient practical knowledge of seamanship, piloting, and Rules-of-the-Road to properly exercise full authority over the Vessel.
- B. CHARTERER agrees that Charterer will not allow the Vessel to be operated by any person not qualified to do so during the Charter Period.
- C. The CHARTERER shall direct the general course of the voyage, operation and movement of the Vessel, winds, weather and other circumstances permitting. However, the Captain shall not be bound to comply with any order or request which, in the reasonable opinion of the Captain, could result in the Vessel moving to any port or place that is not safe and proper.

CLAUSE 8. Expenses And Operating Costs. The CHARTERER shall be responsible for the operating costs, as specifically defined under "**Conditions**" on Page 1 of this Agreement, for the entire Charter Period for Charterer, CHARTERER's Guests, and any retained Captain and Crew, if any.

CLAUSE 9. Delay in Delivery or Failure to Deliver.

- A. **Owner's Delay In Delivery.** If by reason of force majeure (as defined in Clause 18. A.), the OWNER fails to deliver the Vessel to the CHARTERER at the Port of Delivery at the commencement of the Charter Period, OWNER shall not be in default of this Agreement so long as the delivery is made within forty-eight (48) hours of the scheduled commencement date, or within one-tenth (1/10th) of the Charter Period, whichever period is the shorter. In such event, the OWNER shall pay to the CHARTERER a refund of all payments made by the CHARTERER to the OWNER or Escrow Agent, at a pro rata daily rate, or if it be mutually agreed, the OWNER shall allow a pro rata extension of the Charter Period.

B. Owner's Failure To Deliver As A Result of Force Majeure.

- (1) If by reason of *force majeure*, the OWNER fails to deliver the Vessel within forty-eight (48) hours or a period equivalent to one-tenth (1/10th) of the Charter Period, whichever period is the shorter, from the due time of delivery, OWNER shall be considered in default and the CHARTERER shall be entitled to treat this Agreement as terminated.
- (2) The CHARTERER's exclusive remedy will be to receive repayment, without interest, of the full amount of all payments made by CHARTERER to the OWNER or Escrow Agent.
- (3) Alternatively, if the Parties mutually agree, the Charter Period shall be extended by a time equivalent to the delay.

C. Owner's Failure To Deliver Other Than As A Result of Force Majeure.

- (1) If the OWNER fails to deliver the Vessel at the Port of Delivery at the commencement of the Charter Period, other than by reason of *force majeure*, the CHARTERER shall be entitled to treat this Agreement as repudiated by the OWNER.
- (2) The CHARTERER will be entitled to repayment, without interest, of the full amount of all payments made by him to the OWNER or Escrow Agent, and shall, in addition, be paid by the OWNER as liquidated damages an amount equivalent to fifty percent (50%) of the Vessel Charter Hire Fee.
- (3) The Parties hereto expressly stipulate, acknowledge and agree that the liquidated damage provision preceding herein as well as set forth below in subparagraphs Clause 9. D. and Clause 9. E. represent a reasonable and fair liquidated allocation of damages in circumstances where the same would otherwise be difficult, if not incapable, of ascertainment.

D. Cancellation By OWNER As A Result of Force Majeure. If prior to the commencement of the Charter Period as set out in Page One of this Agreement, the OWNER tenders notice of cancellation via the Broker and if the cancellation is by reason of *force majeure*, the remedy in Clause 9. B. above shall apply.**E. Cancellation By OWNER Other Than As A Result of Force Majeure. If the cancellation is for any reason other than *force majeure*, the CHARTERER shall be entitled to repayment, without interest, of the full amount of all payments made by him to the OWNER or Escrow Agent, and CHARTERER shall in addition be entitled to liquidated damages to be calculated and paid forthwith as follows:**

- (1) thirty (30) days or more before commencement of the Charter Period, an amount equivalent to twenty-five percent (25%) of the Vessel Hire Fee.
- (2) more than fourteen (14) days, but less than thirty (30) days before commencement of the Charter Period, an amount equivalent to thirty-five percent (35%) of the Vessel Hire Fee;
- (3) fourteen (14) days or less before commencement of the Charter Period, an amount equivalent to fifty percent (50%) of the Vessel Hire Fee.

F. Broker's Commissions In Event of Delay or Cancellation. In all such instances, OWNER shall also pay to Broker the full Broker's Commission due as if the Charter had been completed.**CLAUSE 10. Delay In Re-Delivery.**

- A. If re-delivery of the Vessel is delayed by reason of *force majeure*, re-delivery shall be effected as soon as possible. Thereafter and in the meantime, the conditions of this Agreement shall remain in force, but without penalty or additional charge against the CHARTERER.
- B. If the CHARTERER fails to re-deliver the Vessel to the OWNER at the Port of Re-delivery due to intentional delay or change of itinerary, then the CHARTERER shall pay forthwith to the OWNER by direct wire transfer via the Broker/Escrow Agent's Account for such additional time at the daily charter rate plus forty percent (40%) of such daily rate until the Vessel is re-delivered at the agreed location, and CHARTERER shall also pay any additional necessary expenses incurred by OWNER in effecting such delivery. If delay in Re-delivery exceeds twenty-four (24) hours, the CHARTERER shall also be liable to indemnify the OWNER for any loss or damage which the OWNER shall suffer by reason of deprivation of use of the Vessel or cancellation of, or delay in delivery under any subsequent Charter of the Vessel.

CLAUSE 11. Cancellation By Charterer and Consequences of Non-Payment.

- A. Should the CHARTERER give notice of cancellation of this Agreement on or at any time before the commencement of the Charter Period, the CHARTERER shall remain liable for all payments due to the OWNER prior to and unpaid at the date of cancellation.
- B. Should notice of cancellation be given by the CHARTERER or should the CHARTERER fail, after having been given notice, to pay any amount due under this Agreement, the OWNER shall be entitled to treat this Agreement as having been repudiated by the CHARTERER and to retain the full amount of all payments.
- C. Notwithstanding the OWNER's right to receive or retain all payments referred to above, the OWNER shall be under a duty to mitigate Owner's loss. In the event that the OWNER is able to re-charter the Vessel for all or part of the Charter Period under this Agreement, the OWNER will give credit for the net amount of all payments made to OWNER or Escrow Agent arising from the re-chartering after deduction of all commissions and other consequential expenses arising from such re-chartering.
- D. The intention is that the OWNER shall receive the same in net proceeds from any re-chartering as would have been received under this Agreement.
- E. The OWNER shall use Owner's best efforts to re-charter the Vessel and shall not unreasonably withhold Owner's agreement to re-charter, although charters, which may reasonably be considered detrimental to the Vessel, its reputation, its Crew or its schedule, may be refused.
- F. If prior to the date of cancellation the Vessel has utilized the Delivery/Re-delivery Fee or any other Additional Payments as set out on Page One of this Agreement, then the CHARTERER shall pay for this expense, unless it is refunded in accordance with Clause 11.C

- G. If, after signature of this Agreement, the OWNER suffers financial failure, is adjudged bankrupt or becomes subject to a liquidator, receiver or administrator appointed over all or part of the OWNER's assets, the CHARTERER shall be entitled to cancel the Charter and all monies paid to the OWNER, Owner's agent, or the Escrow Agent pursuant to this Agreement shall be refunded without deduction. In such event, the OWNER shall remain liable for payment to Broker, the commission earned in booking the charter which otherwise would have been carried out but for the OWNER's financial circumstances.

CLAUSE 12. Breakdown Or Disablement.

- A. If, after delivery, the Vessel shall at any time be disabled by breakdown of machinery, grounding, collision or other cause so as to prevent reasonable use of the Vessel by the CHARTERER for a period between twelve (12) and forty-eight (48) consecutive hours or one-tenth (1/10th) of the Charter Period, whichever is the shorter (and the disablement has not been brought about by any act or default of the CHARTERER), the OWNER shall make a pro rata refund of the all payments made by the CHARTERER to the OWNER or Escrow Agent for the Period of the disablement or, if mutually agreed, allow a pro rata extension of the Charter Period corresponding with the period of disablement.
- B. If the CHARTERER wishes to invoke this clause CHARTERER shall give immediate notice in writing to the Broker or OWNER. The CHARTERER shall remain liable for normal expenses during the period of disablement. In the event of the actual or constructive total loss of the Vessel or if the Vessel is disabled, as aforesaid, for a consecutive period of more than forty-eight (48) hours or one-tenth (1/10th) of the Charter Period, whichever is shorter, the CHARTERER may terminate this Agreement by notice in writing to the OWNER or the Broker.
- C. As soon as practicable after such termination, all payments made by CHARTERER to OWNER or Escrow Agent shall be repaid by the OWNER pro rata without interest for that proportion of the Charter Period outstanding after the date and time on which the loss or disablement occurred. In the event of such termination, the CHARTERER may effect re-delivery by giving up possession of the Vessel where she lies.
- D. The CHARTERER shall be entitled to recover from the OWNER the reasonable cost of returning the charter party to the port of re-delivery in scheduled services together with reasonable accommodation expenses incurred.
- E. Alternatively, after a consecutive period of disablement of more than forty-eight (48) hours or one-tenth (1/10th) of the Charter Period, whichever is shorter, and dependent on the nature and seriousness of the disablement, by mutual agreement the CHARTERER may elect to remain on board for the duration of the Charter Period and the CHARTERER will then have no further or additional claim against the OWNER.

CLAUSE 13. Use Of Vessel.

- A. **Pleasure Use Limitation.** The CHARTERER agrees that the Vessel shall be used exclusively as a private pleasure Vessel and shall not transport cargo, nor engage in trade, nor violate any laws of jurisdictions where the Vessel may travel, including parks, sanctuaries and protected areas.
- B. **Navigational Limits.** The Vessel shall not navigate beyond the navigational limits set forth in the Vessel's insurance policy without prior written approval by the Vessel's insurer, with any additional premium that may be due, paid by CHARTERER.
- C. **Compliance With Laws.** The CHARTERER shall comply and shall ensure that the Guests comply with the laws and regulations of any country into whose waters the Vessel shall enter during the course of this Agreement.
- (1) If the CHARTERER or any of the CHARTERER's guests shall commit any offense contrary to the laws and regulations of any country which results in the Vessel being detained, arrested, seized or fined, the CHARTERER shall indemnify the OWNER against all loss, damage and expense incurred by the OWNER as a result and the OWNER may, by notice to the CHARTERER, terminate this Agreement forthwith.
- (2) CHARTERER shall be liable for fines, penalties, damages and forfeitures as a result of negligence or intentional acts of CHARTERER, guests or invitees, and CHARTERER shall indemnify, hold harmless and defend OWNER and Broker for such acts.
- D. **No Pets Without OWNER Written Consent.** The CHARTERER shall ensure that no pets or other animals are brought on board the Vessel without the consent in writing of the OWNER.
- E. **No Nuisance.** The CHARTERER shall ensure that the behavior of the CHARTERER and the CHARTERER's Guests shall not cause a nuisance to any person or bring the Vessel into disrepute.
- F. **Zero Tolerance For Drugs or Contraband.**
- (1) The use, transport or possession of illegal drugs or narcotics, or of any other contraband, or the participation in any other unlawful activity, such as the transport of illegal aliens, is strictly prohibited.
- (2) The participation in any of these activities by any member or Guest of the charter party constitutes a breach of the charter and shall be cause for immediate termination of the charter without refund of Vessel Hire Fee and additional payments made by CHARTERER.
- (3) **No Weapons.** It is also specifically understood that the possession or use of any weapons (including particularly firearms) is strictly prohibited on board the Vessel and failure to comply shall be sufficient reason for the OWNER to terminate the Charter forthwith without refund or recourse against the OWNER.
- G. If the CHARTERER desires, as part of this charter, CHARTERER may request a survey of the Vessel at CHARTERER's expense to take place before the charter and again at the end of the charter to assess Vessel condition, or CHARTERER may waive this right to survey. CHARTERER shall request CHARTERER's right to survey in writing via the Broker at the time of signing this Charter Agreement.

CLAUSE 14. Non-Assignment. The CHARTERER shall not assign this Agreement, sub-let the Vessel or part with control of the Vessel at any time.

CLAUSE 15. Sale Of The Vessel.

- A. The OWNER agrees not to sell the Vessel during the Charter Period as set out on Page 1 of this Agreement.

PLEASE INITIAL: OWNER: _____ CHARTERER: _____

- B. Should the OWNER agree to sell the Vessel after the signing of this Charter Agreement, but before delivery to the CHARTERER, the OWNER shall immediately give notice of such sale in writing to the CHARTERER via the Broker. All Parties to this Agreement shall keep this information in strict confidence. Should the Vessel be sold, one of the following provisions will apply:
- (1) The OWNER shall arrange for the Buyer to take over the Charter Agreement and perform the Charter on the same terms and conditions either by assignment of this Charter Agreement or by way of a new Charter Agreement between the CHARTERER and the Buyer, having substantially the same terms and provisions without material deviation, and written cancellation of this original Agreement. Where the Charter is taken over by the Buyer on the same terms and conditions there shall be no penalty against the OWNER and no additional commission due to the Broker.
 - (2) If the Buyer is unwilling or unable to fulfill the Charter Agreement, the OWNER hereby appoints the Broker to procure the Charter of a replacement Vessel of similar or superior standards and condition for the Charter Period upon the same terms as this Charter. If a suitable replacement Vessel is found, a new Charter Agreement shall be prepared and this original Agreement cancelled. The OWNER shall pay the Broker's commission on the original Charter and the Broker may retain any commission due on the replacement Vessel.
 - (3) Should the OWNER be unable to obtain a similar or superior Vessel for the use of the CHARTERER on the same terms as this original Agreement, or should the CHARTERER reject the proposed replacement (the CHARTERER shall not unreasonably reject a substitute Vessel of same or superior standards), then this Charter Agreement shall be considered as having been cancelled by the OWNER in accordance with Clause 9. All payments made by the CHARTERER shall be promptly repaid in full to CHARTERER without deduction, and in addition, liquidated damages calculated in accordance with Clause 9. E. (e)(1), (2) or (3), as appropriate, shall be paid. The OWNER shall pay the Broker the full commission due on this original Agreement.

CLAUSE 16. Insurance.

- A. The OWNER has the Vessel insured with first-class insurers against all customary risks for a Vessel of her size and type on cover no less than is provided under Institute Vessel Clauses 1.11.85 or other recognized terms extended to provide permission to Charter under a Demise Charter Agreement and to cover Third Party Liability. OWNER shall pay the Vessel's insurance premium with the pro rata share of the Charter Hire.
- B. All such insurances shall be on such terms and subject to such excess (deductible) as are customary for a Vessel of this size and type. Copies of all relevant insurance documentation shall be available for inspection by the CHARTERER prior to the Charter on reasonable notice to the OWNER, and shall be carried on board the Vessel.
- C. The CHARTERER has the sole responsibility and duty to determine whether such insurance coverage and applicable deductibles are adequate and appropriate for CHARTERER's purposes and, if necessary, arrange for additional coverage, at least to the extent of covering liability not included in the OWNER's insurance, prior to commencement of the Charter.
- D. If the CHARTERER chooses to arrange for separate or supplemental insurance in addition to the insurance provided by OWNER, the same may be arranged with a marine insurance broker at CHARTERER's additional cost.
- E. Under normal circumstances the CHARTERER shall only be liable for such costs or losses as may be incurred repairing damage caused by the CHARTERER or CHARTERER's Guests, either intentionally or through passive or active negligence to the Vessel or any third party up to the level of the excess (deductible) on the OWNER's insurance policy for each separate accident or occurrence.
- F. The CHARTERER shall be liable for a sum greater than the excess (deductible) on any one accident or occurrence if the CHARTERER or any of his/her Guests acted in such a manner, intentionally or through passive or active negligence, as to void, or limit, the cover under the OWNER's insurance.
- G. The CHARTERER shall be responsible for having independent insurance for personal effects while on board or ashore and for any medical or accident expenses incurred other than as covered under the Vessel's insurance.
- H. The CHARTERER is aware and acknowledges that neither Cancellation and Curtailment Insurance, nor CHARTERER's Liability Insurance is included in this Agreement.

CLAUSE 17. Security Deposit. Unless otherwise provided on Page 1 of this Agreement, any required Security Deposit shall be held by the Escrow Agent in the Escrow Agents's Client's Account on the OWNER's behalf and may be used in, or towards, discharging any liability that the CHARTERER may incur under any of the provisions of this Agreement. To the extent that the Security Deposit is not so used, then it shall be refunded to the CHARTERER without interest, within twenty-four (24) business hours after the end of the Charter Period, or the settlement of all outstanding questions, whichever occurs the later.

CLAUSE 18. Definitions.

- A. **Force Majeure.** In this Agreement "*force majeure*" means any cause directly attributable to acts, events, non-happenings, omissions, accidents or Acts of God beyond the reasonable control of the OWNER or the CHARTERER (including, but not limited to, strikes, lock-outs or other labor disputes, civil commotion, riots, acts of terrorism, blockade, invasion, war, fire, explosion, sabotage, storm, collision, grounding, fog, governmental act or regulation, contaminated fuel, major mechanical or electrical breakdown beyond the OWNER's control and not caused by lack of maintenance and / or OWNER's or Crew's negligence). Shipyard delays and crew changes do not constitute force majeure. *Force majeure* does not excuse the OWNER from payment of broker commissions.
- B. **Owners, Charterers And Brokers.** Throughout the Agreement, the terms "OWNER", "CHARTERER" and "Broker" and corresponding pronouns shall be construed to apply whether the OWNER, CHARTERER or Broker is male, female, or corporate, singular or plural, as the case may be. For purposes of this Agreement, the terms OWNER and CHARTERER shall be understood to mean the named company or individual, or any company owned or controlled by them including companies owned indirectly or via Trustees, any Director of such a company, beneficial owner, Nominee, Agent, or CHARTERER's Guest or Invitee.
- C. **Escrow Agent.** OWNER, CHARTERER, and Broker recognize the Escrow Agent to fulfill such fiduciary requirements as Stakeholder and be the holder of all Charter Funds, except applicable other fees, such as delivery fees, that might be paid directly to the Vessel's Account. The

PLEASE INITIAL: OWNER: _____ CHARTERER: _____

Escrow Agent shall hold all Charter Funds in accordance with the stated instructions under Disbursement of Funds in a separate Charter Fund Account not accessible to the OWNER or CHARTERER, and shall release those funds to the appropriate parties only as stated in Clause 22.

CLAUSE 19. Salvage. During the period of the Charter, the benefits, if any, from all derelicts, salvages and towages, after paying the crew's proportion, hire for the relevant period and expenses, shall be shared equally between the OWNER and the CHARTERER.

CLAUSE 20. Arbitration, Applicable Law & Venue. Subject to the provisions herein contained and unless otherwise specified in the appropriate space on Page 1 of this Agreement, any dispute in connection with the interpretation and fulfillment of this Agreement shall be decided by, and in accordance with, the rules and procedures of the American Arbitration Association, such arbitration to be held in the city and state of the OWNER's residence, unless another place is mutually agreed upon.

- A. The dispute shall be referred to a single Arbitrator to be appointed by the Parties hereto. If the parties cannot agree upon the appointment of a single Arbitrator, the dispute shall be settled by three (3) Arbitrators, each party appointing one (1) Arbitrator, the third being appointed by the current president of the American Yacht Charter Association ("AYCA") or the Mediterranean Yacht Brokers Association ("MYBA").
- B. Appointment of Arbitrators, or substitution of Arbitrators who are not available, shall be made within two (2) weeks of written notice by the other party, failing which, the current president of AYCA or MYBA appointing the third Arbitrator shall also appoint an Arbitrator on behalf of the party who fails to appoint an Arbitrator.
- C. The award rendered by the Arbitration Panel shall be final and binding upon both parties and may, if necessary, be enforced by a Court of any other competent authority in the same manner as a judgment in that same Court.
- D. If either party gives notice of arbitration proceedings, the Escrow Agent, after receiving notification of such proceedings, shall not deal with those monies held by Escrow Agent without a mutual written agreement signed by both the OWNER and CHARTERER or in accordance with the order of the Arbitrators or their final award.
- E. The monies should be held in a designated client account. This account should be interest bearing where banking rules permit. The Escrow Agent may, with the agreement of OWNER and CHARTERER, pay the monies into an escrow account jointly controlled by the accredited legal representatives of both parties pending the result of the Arbitration.

CLAUSE 21. Brokers. The OWNER and CHARTERER each acknowledge that the Broker of Record represents the CHARTERER, and the Central Agent/Clearing House/Management Company represents the OWNER, each representing the party that the respective broker has brought to this transaction. The OWNER and the CHARTERER also acknowledge and agree that in case of a sole Broker, such Broker represents the interest of both the OWNER and the CHARTERER and that such representation shall not render this Agreement voidable. OWNER agrees to pay said Broker the customary and usual brokerage fees in connection with said charter, any extensions, renewals, subsequent charters, and/or in connection with the subsequent purchase of the Vessel by CHARTERER within a period of two (2) years from the date of completion of the charter term. The Brokers shall sign this Agreement for the purposes of this Clause only. By their signatures to this Agreement the OWNER and the CHARTERER both confirm and agree to the following:

- A. The Brokers' commission shall be deemed to be earned by the Broker(s) upon the OWNER and CHARTERER signing this Agreement and Broker's receipt of CHARTERER's initial Deposit in cleared funds. The commission shall be payable by the OWNER on the full Vessel Hire Fee plus the Delivery/Re-delivery Fee, if applicable, but excluding running expenses, according to Clause 22 below, whether or not Owner defaults for any reason including *force majeure*. In the event of cancellation by the CHARTERER, the commission shall be deducted as an expense from the Deposit. In the event that CHARTERER's Deposit is refunded, OWNER shall pay the commission.
- B. If the CHARTERER should extend this Charter, the Brokers shall be entitled to and shall be paid by the OWNER, a commission on the gross Vessel Hire Fee for the extension, on the same basis as provided herein.
- C. If the CHARTERER should re-charter the Vessel from the OWNER, Owner's Agent or the Stakeholder, within two (2) years from the date of completion of this Charter, whether or not on the same terms, then the Brokers shall be entitled to, and shall be paid by the OWNER, commission on the Vessel Hire Fee paid for that further Charter upon the same basis as provided herein. However, if the CHARTERER should choose to re-charter the Vessel within this two-year period via another bona fide Broker, to whom the commission is being paid, the OWNER shall pay a commission of one third (1/3rd) of the full rate to the original Broker and two-thirds (2/3rds) to the new Broker. This only applies following the free choice of the CHARTERER and is not relevant if the change of Broker is suggested or solicited by the OWNER, his/her agent, Captain or representative.
- D. If any Agreement should be reached directly between the CHARTERER and the OWNER for the purchase of the Vessel within two (2) years from the date of commencement of this Charter then the Broker(s) shall be entitled to and be paid by the OWNER the sales commission. However, should the CHARTERER purchase the Vessel from the OWNER via a bona fide Sales Broker to whom the commission is being paid, then the OWNER shall pay, or shall ensure that the new Broker shall pay, a sum equivalent to not less than fifteen percent (15%) of the gross sales commission. It is the responsibility of the OWNER to advise any future Sales Broker of this liability. This only applies following the free choice of the CHARTERER and is not relevant if the change of Broker is suggested or solicited by the OWNER, his/her agent, or representative. Any dispute under this Clause may be separately arbitrated.
- E. The Brokers in this Agreement shall have no responsibility for any loss, damage or injury to the person or property of the OWNER or CHARTERER or any of their Guests, servants or agents, and further the Brokers shall be under no liability for any errors of judgment or description or otherwise of whatsoever nature and howsoever arising and shall be under no further obligation, duty or responsibility to the OWNER or the CHARTERER save as set out herein. The OWNER and the CHARTERER shall jointly and severally indemnify and hold harmless the Brokers for any loss or damage sustained by them as a result of any liability by the Brokers to any Third Party (person, firm, company or authority) arising from promoting or introducing this Charter, assisting in the performance of this Agreement or performing the duty of Escrow Agent.
- F. The parties understand and agree that the Broker does not guarantee the performance of OWNER and CHARTERER under this Agreement. All information and data regarding the Vessel has been provided and represented to the Broker by the OWNER, and while the Broker stands ready to

provide CHARTERER with such information which is believed to be reliable, the Broker does not act as a Guarantor of such information, and the OWNER and CHARTERER agree to indemnify and hold the Broker harmless if such information is not reliable.

- G. It is understood that the function of the Broker is solely that of arranging the charter, and the Broker is in no way responsible for the actions of the CHARTERER or OWNER under this Agreement. It is further understood that once this Agreement has been signed by both parties and a deposit of the Vessel Hire Fee has been paid, the said Broker shall have no further obligation or responsibility in connection herewith to either party, nor will the Broker be liable to be sued on the contract, nor be liable for any matters which occur during the charter. The parties agree to indemnify, hold harmless and defend Broker from any and all claims by either of them, their guests, invitees, employees, agents and third parties for any liabilities for loss, damage, personal injury, death or any claims whatsoever.
- H. The Broker shall not be responsible or liable in any way for any claim, loss, death, injury, or damage to persons or property suffered or incurred by any person in connection with this charter, or any portion of it. Further, the Broker also shall not be responsible for any delays, substitutions, equipment, change in services or accommodations, or the acts or omissions on the part of the operators or crew of any Vessel described in the charter or for any changes in the itinerary deemed necessary or appropriate for the safety or convenience of the CHARTERER, GUESTS, Captain, Crew or any other passengers.
- I. Representations made by Broker concerning the Cruising Area and the Vessel, Captain and Crew are made in good faith but without warranty. It is understood and agreed by the OWNER and CHARTERER that the Broker has made no representations or warranties, either actual, expressed, or implied, as to the condition or operation of the Vessel chartered hereunder, nor has the OWNER or CHARTERER been influenced to enter into this Agreement in reliance upon any representation or warranty made by the Broker, which is expressly set forth in this Agreement.

- CLAUSE 22. **Force Majeure.** When *force majeure* is invoked in relation to breakdown or disablement, the Owner will instruct the Captain or Owner's representative to submit a detailed technical report, a copy of the vessel's maintenance log if applicable, and all the relevant supporting documentation to the Charterer or the Charterer's representative.
- CLAUSE 23. **Payment Of Charter Fees And Other Monies To The Owners.** All funds received by the Broker(s) pursuant to this Agreement shall be transferred net of commission immediately upon receipt to the Escrow Agent (if the first Broker is not the Escrow Agent) and then held by the Escrow Agent in a designated Account in the currency of this Agreement. Fifty percent (50%) of the Vessel Hire Fee shall be paid to the OWNER by the Escrow Agent after deduction of the full commission by Bank Transfer on the date of commencement of the Charter Period or on the first working day thereafter. The Delivery/Re-delivery fees and any other Additional Payments shall be paid with the first payment to the OWNER or as agreed by the Owner or directly to the Captain. The balance of the Vessel Hire Fee shall be paid to the OWNER on the first working day following completion of the Charter Period.
- CLAUSE 24. **Complaints.** CHARTERER shall give notice to the OWNER or to the Broker on the OWNER's behalf as soon as practicable after the event giving rise to the complaint has taken place and in all cases within twenty-four (24) hours of the event or occurrence unless it is impracticable due to failure or non-availability of communications equipment. The complaint may be made verbally in the first instance, but shall be confirmed as soon as possible in writing (by fax, mail or email) specifying the precise nature of the complaint.
- CLAUSE 25. **Notices.** Any notice given or required to be given by CHARTERER or OWNER to this Agreement shall be communicated in any form of writing and shall be deemed to have been properly given if proved to have been dispatched pre-paid and properly addressed by mail or bona fide courier service or by fax in the case of the OWNER, to him or to the Broker at their respective addresses set forth on Page 1 of this Agreement or, in the case of the CHARTERER, to CHARTERER's addresses set forth on Page 1 of this Agreement or, where appropriate, to CHARTERER on board the Vessel.
- CLAUSE 26. **Attorney Fees.** The prevailing party shall be entitled to costs, expenses and attorney fees for litigation/arbitration between OWNER and CHARTERER for disputes arising out of this Agreement or the charter. Either party is entitled to reimbursement from the other party for costs, expenses and attorney fees incurred while defending any third party claims for which the other party is found to be responsible. Broker shall be entitled to costs, expenses and attorney fees from the losing party for litigation/arbitration arising out of this Agreement or the charter, and Broker shall be entitled to payment from OWNER for costs, expenses and attorney fees for any action necessary to collect Broker's fees.
- CLAUSE 27. **Indemnification, Hold Harmless, Defend.** CHARTERER agrees to indemnify, hold harmless and defend OWNER from any and all claims and liabilities for loss or damage to CHARTERER, Guests, invitees, and to any third parties whatsoever, which may be occasioned by the negligence or intentional acts of CHARTERER, guests or invitees, except to the extent such claims are covered by insurance.
- CLAUSE 28. **Owner's Assurances.** Upon signing this agreement, Owner accepts full responsibility to assure that the Vessel is in compliance with all charter laws of the country to which the Vessel is flagged and/or in which the vessel is operating, whichever takes precedence and is in compliance with vessel documentation, registration and custom's laws as are necessary to support the nature of this Agreement, or accepts all responsibilities as if the vessel was in such compliance.
- CLAUSE 29. **Maritime Liens.** CHARTERER shall not permit maritime liens, salvage or debts to be incurred against the Vessel or the credit of OWNER. CHARTERER shall not abandon the Vessel or enter into any salvage agreement without prior consent of OWNER. If CHARTERER does allow a maritime lien, salvage or debts to be incurred against the Vessel or the credit of the OWNER, then CHARTERER agrees to indemnify and hold harmless OWNER from any and all claims and liabilities concerning such liens.
- CLAUSE 30. **Additional Conditions.**