

Name of Vessel (the "Vessel"):	Length:	Type:
Port of Registry or U.S. Official Number:	Flag:	
Vessel Insurance Limits: Hull:	Protection & Indemnity:	Deductible:
This Date:	and Place:	

**PARTIES**

Owner (the "OWNER"):	Address:
Charterer (the "CHARTERER"):	Address:
Broker (the "Broker"):	Address:
Escrow Agent (the "Escrow Agent"):	Address:

**CHARTER PARTICULARS**

Charter Period: From:	Hrs on the:
To:	Hrs on the:
Place of Delivery:	Place of Re-delivery:
Cruising Area:	
Maximum Number of Guests Sleeping ( ) and Cruising ( ) on board	
Crew Consisting of:	

**FEES**

Charter Fee:  
 Advanced Provisioning Allowance (the "APA"):  
 Delivery/Re-Delivery Fees:  
 Additional Payments:  
 Security Deposit:

**TO BE PAID AS FOLLOWS**

First installment:  
 Second installment:  
 To the following Broker's account and deemed paid only when cleared:

**SIGNATURES**

The OWNER and CHARTERER agree that the terms above; **Clauses 1 – 30 below**, inclusive; and any Additional Conditions or addenda attached form part of this Agreement. This Agreement will be binding upon signature by both Parties or transmission by both Parties of signed copies by facsimile or other electronic means, including, without limitation, transmission of signed copies in Portable Document Format (PDF).

_____	_____	_____	_____
OWNER	Date	CHARTERER	Date
_____	_____	_____	_____
Escrow Agent	Date	Broker	Date

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**CLAUSE 1. Agreement to Let and Hire.**

- A. The OWNER agrees to charter the Vessel to the CHARTERER and shall 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, in cleared funds, the Charter Fee, the APA, the Delivery/Re-Delivery Fee, the Security Deposit, and any other agreed charges on or before the due dates in this Agreement and to the account specified in this Agreement.

**CLAUSE 2. Delivery.**

At the beginning of the Charter Period, the OWNER shall deliver the Vessel at 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, and with all equipment required by the U.S. Coast Guard (including up-to-date safety and life-saving equipment and life-jackets for children in case any guests of the CHARTERER are children). The Vessel will be fitted out as appropriate for a vessel of her size and type and as to enable the CHARTERER to use the Vessel as provided in Clause 13. The OWNER does not warrant the Vessel's use and comfort in bad weather conditions for all cruises or passages within the Cruising Area. The CHARTERER shall inspect the Vessel before beginning the charter and shall immediately notify the captain and subsequently the Escrow Agent or the 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 as provided in Clause 28 below and in as good a condition as when Delivery was taken except for normal wear and tear arising from ordinary use. If the CHARTERER wishes, and with the OWNER's consent, which will not be unreasonably withheld, the CHARTERER may Re-Deliver the Vessel at the Place of Re-Delivery and disembark before the end of the Charter Period, but such early Re-Delivery will not entitle the CHARTERER to any refund of any part of the Charter Fee.

**CLAUSE 4. Cruising Area and Use.**

- A. The CHARTERER shall restrict the cruising of the Vessel to the Cruising Area and to regions within the Cruising Area in which the Vessel is legally permitted to cruise. The Vessel will not navigate in any area where it is not legally permissible under applicable laws and regulations. The Vessel will not navigate beyond the navigational limits set forth in the Vessel's insurance policy without prior written approval by the OWNER and the Vessel's insurer, with any additional insurance premiums agreed to be paid by the CHARTERER. Operation of the Vessel beyond the approved area or in violation of law constitutes a breach of this Agreement and cause for immediate termination of this Agreement without refund of the Charter Fee.
- B. The CHARTERER shall restrict time under way to an average of six (6) hours per day, unless the captain, in his sole discretion, agrees to exceed this time. The CHARTERER agrees that the Vessel will be used exclusively as an Uninspected Passenger Vessel under the maritime laws and regulations of the United States and shall not use the Vessel to transport cargo, engage in trade, or violate any laws or regulations of the United States or any jurisdiction in which the Vessel may travel. The Vessel will comply with all laws, rules, and regulations of government agencies of the United States, individual states, and any other jurisdictions where the Vessel travel, including any federal and state marine parks, sanctuaries, and protected areas. The captain will be responsible for such compliance and the CHARTERER shall abide by the captain's decisions in this regard.

**CLAUSE 5. CHARTERER and CHARTERER's Guests and Invitees.**

- 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 the Vessel.
- B. The CHARTERER shall be fully responsible for the conduct and entertainment of children taken on board the Vessel and the CHARTERER agrees that no member of the crew will be held responsible for the children's conduct, entertainment, or safety.
- C. The nature of a charter may render it unsuitable for anyone with physical disability or undergoing medical treatment. By signing this Agreement the CHARTERER warrants the medical fitness of the CHARTERER and the CHARTERER's guests and invitees for the voyage contemplated by this Agreement. The CHARTERER and his party undertake to have all necessary visas and vaccinations for the countries to be visited.

**CLAUSE 6. Captain and Crew.**

- A. The OWNER shall provide a professional captain and crew for the Vessel. The captain and crew will be appropriately licensed and qualified, knowledgeable and familiar with the Vessel and waters of the Cruising Area, and approved by the Vessel's insurer. The OWNER shall maintain insurance throughout the Charter Period against any liability for personal injury or death of the captain or crew, including, without limitation, any liability under the Jones Act or the general maritime law of the United States. The OWNER shall indemnify and hold the CHARTERER and the CHARTERER's guests harmless against and from any liability for any loss, damage, or expense arising from or in connection with any personal injury or death of the captain or any member of the crew unless caused by the gross negligence or willful misconduct of the CHARTERER or the CHARTERER's guests or invitees.
- B. The captain and the crew will have sufficient expertise and experience to manage and handle the Vessel safely and competently at all times. The captain will operate the Vessel only for lawful purposes and will abide by all applicable rules, regulations, and laws of the United States and any other jurisdiction in which the Vessel may travel.
- C. The captain will keep a complete log of the voyage as to names of persons aboard and records of monies spent or debts incurred. The captain will also keep a complete log of communications made from the Vessel by the Vessel's ship radio or

telephone, fax, or other method, and state the name of the caller, the number called, the location of the number called, and the length of time of communication unless paid with the CHARTERER's credit card or from the CHARTERER's own telephone or communication system.

- D. The OWNER shall ensure that no member of the crew will carry or use any illegal drugs on board the Vessel or keep any firearms on board (other than those declared on the manifest).
- E. The captain and crew are bound at all times to keep all information related to this Charter, the OWNER, the CHARTERER and all guests as confidential and no information is to be disclosed to any third party without prior permission in writing.

**CLAUSE 7. Captain's Authority.**

- A. The captain, together with the CHARTERER, will direct the course of the voyage and mutually agree regarding the management, operation, and movement of the Vessel, wind, weather, and other circumstances permitting.
- B. However, the captain will not be bound to comply with any order or request by the CHARTERER which, in the reasonable opinion of the captain, might result in (i) the Vessel's moving to any port or place that is not safe and proper for it to be in; (ii) the CHARTERER's failing to Re-Deliver the Vessel upon the expiration of the Charter Period; or (iii) the breach of Clause 13 or any other clause of this Agreement. If the CHARTERER or any of the CHARTERER's guests or invitees fails to observe any of the provisions of Clause 13 below, and such failure continues after the captain gives written notice to the CHARTERER thereof, then the captain will immediately inform the OWNER, the Broker, and the Escrow Agent of such breach. Upon receiving such notice, in addition to any other remedies the OWNER may have, the OWNER may terminate the Charter immediately and instruct the captain to return the Vessel to the Port of Re-Delivery. In that case, the CHARTERER and his guests shall immediately disembark the Vessel; this Agreement and the Charter Period will be terminated upon the Vessel's return to the Port of Re-Delivery; and the CHARTERER shall settle all outstanding expenses with the captain beforehand and the CHARTERER will not be entitled to any refund of the Charter Fee.
- C. The captain will immediately notify the OWNER, the Broker, and Escrow Agent of any Vessel breakdowns, disablements, crew changes, accidents, or other significant incidents that occur during the Charter Period.
- D. The captain may prohibit the CHARTERER or any or all of the CHARTERER's guests or invitees from using any particular water sports equipment if, in the captain's reasonable opinion, the person is not competent, is unsafe, is behaving in an irresponsible manner, or is failing to show due concern for other persons when operating this equipment. The CHARTERER shall comply and shall ensure that its guests and invitees comply with the captain's directions regarding use of water sports equipment.

**CLAUSE 8. Expenses and Operating Costs.**

- A. The Charter Fee includes the charter of the Vessel with all its equipment in working order; tools, stores, cleaning materials, and basic consumable stores for the engine room, deck, galley, and cabins; laundry of ship's linen; the crew's wages, uniforms, and crew food; and the insurance of the Vessel and crew as provided in Clause 16. The OWNER will be responsible for ordinary maintenance expenses for the Vessel, including normal wear and tear. The CHARTERER will be responsible for the operating costs, including, without limitation, all fuel costs for the Vessel, its tenders, and all watersports equipment; berthing dues and harbor charges, including customs formalities and harbor, pilot, and divers' fees; charges for water and electricity taken from shore and any charges for waste disposal; ships' agents' fees, where applicable; national and local taxes, as applicable; food, beverages, personal laundry, and communications costs; hire or purchase costs of any special equipment placed on board at the CHARTERER's request; and any Additional Payments or any other payments as provided in Clause 30 (collectively, the "Operating Costs"). If the OWNER requires the CHARTERER to pay an APA into the Escrow Agent's account, the Escrow Agent shall disburse the APA, as instructed by the OWNER, to the captain for payment of the Operating Costs. The captain will periodically advise the CHARTERER as to the expenditure of the APA. The captain will notify the CHARTERER if the balance remaining becomes insufficient in light of current and anticipated expenses and the CHARTERER shall pay directly to the captain a sum sufficient to maintain an adequate balance. The captain will exercise due diligence in the expenditure of the APA..
- B. Before the CHARTERER disembarks at the end of the Charter Period, the captain will present to the CHARTERER a detailed account of monies spent under the APA, if any, with as many supporting receipts as possible. Upon the receipt of such account, the CHARTERER shall pay to the captain the balance of the expenses, or the captain will repay to the CHARTERER any balance overpaid, whichever the case may be.
- C. Payment for special requirements, special equipment, shore transport, shore excursions, or any other expenses not customarily considered as part of the Vessel's operating costs may be required to be paid via the Escrow Agent's account in advance or to the captain upon boarding and in addition to the APA. Unless specific alternative arrangements have been made in writing and in advance, all payments for operating costs or any other additional costs will be payable in the same currency as the Charter Fee. The CHARTERER acknowledges that payment by check, credit card, or other negotiable instrument is not normally acceptable due to the itinerant nature of the Vessel's seasonal schedule and the CHARTERER shall therefore use reasonable efforts to ensure that he has sufficient funds available to cover all reasonably foreseeable expenses or arrange to deposit additional funds with the Escrow Agent.

**CLAUSE 9. Delay in Delivery.**

- A. 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, then the OWNER will not be in default of this Agreement provided the Delivery is made within twenty-four (24) hours of the scheduled commencement date, or within one-tenth (1/10th) of the Charter Period, whichever is shorter. In that case, the OWNER shall pay to the CHARTERER a refund of the Charter Fee at a pro rata daily rate, or if the Parties mutually agree in writing, the OWNER shall allow an extension of the Charter Period for a time equal to the delay.

**Failure to Delivery.**

- B. If by reason of Force Majeure the OWNER fails to deliver the Vessel within twenty-four (24) hours, or a period equivalent to one-tenth (1/10th) of the Charter Period, whichever is shorter, of the commencement of the Charter Period, then the OWNER will be considered in default and the CHARTERER may treat this Agreement as terminated. The CHARTERER's exclusive remedy for the OWNER's failure to deliver the Vessel as aforesaid will be to receive repayment without interest of the full amount of all payments made by the CHARTERER to the OWNER or the Escrow Agent and the OWNER shall also pay the Broker's commission as if the Charter had been completed. Alternatively, if the Parties mutually agree in writing, then the Charter Period will be extended by a time equal to the delay.
- C. If the OWNER fails to deliver the Vessel at the Port of Delivery at the commencement of the Charter Period for any reason other than Force Majeure, then the CHARTERER may treat this Agreement as repudiated by the OWNER. The CHARTERER will be entitled to repayment without interest of the full amount of all payments made by him to the OWNER or the Escrow Agent. In addition and as liquidated damages, the OWNER shall pay to the CHARTERER an amount equivalent to fifty percent (50%) of the Charter Fee.

**Cancellation by OWNER.**

- D. If prior to the commencement of the Charter Period the OWNER gives notice of cancellation via the Escrow Agent and, if the cancellation is by reason of Force Majeure, the remedy in (b) above will apply.
- E. If the cancellation is for any reason other than Force Majeure, the CHARTERER will be entitled to repayment without interest of the full amount of all payments made by him to the OWNER or the Escrow Agent. In addition, the CHARTERER will be entitled to liquidated damages to be calculated and paid immediately as follows:
- (1) if the OWNER gives notice of cancellation thirty (30) days or more before commencement of the Charter Period, an amount equivalent to twenty-five percent (25%) of the Charter Fee;
  - (2) if the OWNER gives notice of cancellation 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 Charter Fee; or
  - (3) if the OWNER gives notice of cancellation fourteen (14) days or less before commencement of the Charter Period, an amount equivalent to fifty percent (50%) of the Charter Fee.

In any case, the OWNER shall also pay to Broker the full commission due as if the Charter had been completed.

**Payments as Liquidated Damages.**

- F. The parties agree that the CHARTERER's damages as a result of the OWNER's cancellation or failure to deliver the Vessel are difficult to estimate as of the date of this Agreement and would be difficult for the CHARTERER to prove. Therefore, the Parties intend for payment of amounts under this Clause 9 to compensate the CHARTERER and not to punish the OWNER.

**CLAUSE 10. Delay In Re-Delivery.**

- A. If Re-Delivery of the Vessel is delayed by reason of Force Majeure, then Re-Delivery will be effected as soon as possible thereafter. In the meantime, the conditions of this Agreement will remain in force, but without penalty or additional charges 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 against the captain's advice, then the CHARTERER shall immediately pay to the OWNER, by direct wire transfer to the Escrow Agent's account, the daily charter rate plus forty percent (40%) for each calendar day until the CHARTERER Re-Delivers the Vessel at the Port of Re-Delivery. The Charterer shall also pay any additional expenses reasonably incurred by Owner in effecting such re-delivery. If delay in Re-Delivery exceeds twenty-four (24) hours, then the Charterer shall also be liable to indemnify the Owner for any loss or damage which the Owner suffers by reason of deprivation of use of the Vessel, delay in delivery under any subsequent charter of the Vessel, or cancellation of any subsequent charter of the Vessel.
- C. The parties agree that the OWNER's damages as a result of the CHARTERER's failure to Re-Deliver the Vessel are difficult to estimate as of the date of this Agreement and would be difficult for the OWNER to prove. Therefore, the Parties intend for payment of amounts under this Clause 10 to compensate the OWNER and not to punish the CHARTERER.

**CLAUSE 11. Cancellation by CHARTERER and Consequences of Non-Payment.**

- A. If the CHARTERER gives notice of cancellation before the commencement of the Charter Period, the OWNER may retain part or all of the Charter Fee as follows: (i) if the CHARTERER gives notice of cancellation after this Agreement is signed but before the First Installment is due, the CHARTERER shall pay, and the OWNER may retain, the First Installment; and (ii) if the CHARTERER gives notice of cancellation after the First Installment is due, the OWNER may retain the First Installment and any other amounts due and payable as of the date of cancellation. If any amounts due and payable as of the date of cancellation have not been paid, the CHARTERER shall pay such amounts to the OWNER immediately upon cancellation.
- B. If the CHARTERER gives notice of cancellation or, after receiving notice from the OWNER of nonpayment, fails to pay any amount due under this Agreement, then the OWNER may treat this Agreement as repudiated and retain the full amount of any payments made by the CHARTERER.
- C. Notwithstanding the OWNER's right to receive or retain all payments as aforesaid, the OWNER will be under a duty to mitigate its loss. In the event that the OWNER is able to re-charter the Vessel for all or part of the Charter Period, the OWNER shall give credit for the net amount of all payments made to the OWNER or the Escrow Agent arising from the re-chartering of the Vessel during all or part of the Charter Period, after deduction of all commissions and other consequential expenses arising from such re-chartering. The intention is that the OWNER will receive the same in net proceeds from any re-

chartering as would have been received under this Agreement. The OWNER shall reasonable commercial efforts to re-charter the Vessel and shall not unreasonably withhold the OWNER's agreement to re-charter, provided that the OWNER may refuse any charter that the OWNER reasonably determines would be detrimental to the Vessel, its reputation, or its schedule.

- D. If the Vessel has taken on any provisions before the date of cancellation and those provisions cannot be returned or used on the Vessel's next charter, then the OWNER shall deduct the cost of such provisions from any sums advanced by the CHARTERER for such expenses and credit the balance of such sums to the CHARTERER or, if such sums are insufficient to cover the cost of those provisions, the CHARTERER shall pay the difference to the OWNER. The OWNER shall retain any part of the Deliver/Re-Delivery Fee earned (including for any return voyage) as of the date of cancellation and credit the balance of the Delivery/Re-Delivery Fee to the CHARTERER. The OWNER shall use reasonable efforts, and shall instruct the captain to use reasonable efforts, to mitigate these expenses.
- E. After signature of this Agreement, if the OWNER suffers financial failure, is adjudicated bankrupt, or becomes subject to a liquidator or receiver, or an administrator is appointed over all or part of the OWNER's assets, then the CHARTERER may cancel the Charter and all monies paid to the OWNER, his agent, or the Escrow Agent pursuant to this Agreement will be refunded without deduction. In such event, the OWNER will remain liable for payment to the Escrow Agent of 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. In the event of significant delay, breakdown, or disablement during the Charter Period, the captain will notify both the CHARTERER and the OWNER and the OWNER shall undertake to resolve the problem. Such circumstances include, without limitation, mechanical failure, fire, grounding, collision, system failures, or any other cause that disables the Vessel so that it cannot safely be used in navigation or is not habitable.
- B. After Delivery, if the Vessel shall at any time be disabled by breakdown of machinery, grounding, collision, or other cause so as to prevent the reasonable use of the Vessel by the CHARTERER for a period between twelve (12) and twenty-four (24) consecutive hours or one-tenth (1/10th) of the Charter Period, whichever is shorter, and the disablement has not been brought about by any act or default of the CHARTERER or the CHARTERER's guests or invitees, the OWNER shall make a pro rata refund of the Charter Fee for the period of the disablement or, if the Parties mutually agree in writing, allow an extension of the Charter Period for a time equal to the period of disablement. If the CHARTERER wishes to invoke this Clause 12, the CHARTERER shall give immediate written notice to the captain. The CHARTERER shall pay normal expenses during the period of disablement.
- C. 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 twenty-four (24) hours or one-tenth (1/10th) of the Charter Period, whichever is shorter, and such circumstances have not been brought about by any act or default of the CHARTERER or the CHARTERER's guests or invitees, the CHARTERER may terminate this Agreement by notice in writing to the OWNER, the Escrow Agent, or, if no means of communication are available, to the captain. As soon as practicable after such termination, the OWNER shall repay the CHARTERER pro rata, but without interest, for that portion of the Charter Period outstanding after the date and time on which the loss occurred or the disablement began. In the event of such termination, the CHARTERER may effect Re-Delivery by giving up possession of the Vessel where she lies. The OWNER shall be responsible for the reasonable cost of returning the CHARTERER and the CHARTERER's guests to the Port of Re-Delivery together with any reasonable accommodation expenses incurred.
- D. Alternatively, after a consecutive period of disablement of more than twenty-four (24) hours or one-tenth (1/10th) of the Charter Period, whichever is shorter, and depending on the nature and seriousness of the disablement, if the Parties mutually agree in writing, then 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.
- E. In the event that the delay and/or disabling circumstances are due to the acts of the CHARTERER or CHARTERER's guests or invitees, then the OWNER shall attempt to remedy the situation so that the Charter may be completed. However, no Charter Fee or other payments previously made by the CHARTERER will be refunded and the CHARTERER shall pay any costs to resolve the problem and/or to Re-Deliver the Vessel. If Re-Delivery is not possible at that time, then the CHARTERER shall pay the cost of returning the CHARTERER's and the CHARTERER's guests to the original point of Vessel departure or embarkation.

**CLAUSE 13. Use of Vessel.**

- A. The CHARTERER shall comply and shall ensure that the CHARTERER's guests and invitees comply with the laws and regulations of any jurisdiction where the Vessel may travel during the Charter Period, including, without limitation, any marine parks, sanctuaries, and protected areas.
- B. The CHARTERER shall ensure that no pets or other animals are brought on board the Vessel without the OWNER's prior written consent. The CHARTERER shall ensure that the behavior of the CHARTERER's guests and invitees does not cause a nuisance to any person or bring the Vessel into disrepute. The CHARTERER and the CHARTERER's guests and invitees will afford the crew due respect at all times.
- C. The captain will promptly draw the CHARTERER's attention to any infringement of these terms by the CHARTERER or the CHARTERER's guests or invitees. If such behavior continues after this warning, then the captain will inform the OWNER or the Escrow Agent. By written notice served on the CHARTERER, the OWNER may terminate this Agreement in accordance with Clause 7 of this Agreement.
- D. If the CHARTERER or any of the CHARTERER's guests or invitees commits any offense contrary to the laws and regulations of any country which results in any member of the crew's being detained, fined, or imprisoned, or the Vessel's being detained, arrested, seized, or fined, then the CHARTERER shall indemnify the OWNER against all loss, damage, and expenses

incurred by the OWNER as a result. Thereafter and by written notice served on the CHARTERER, the OWNER may terminate this Agreement immediately. The CHARTERER shall pay the OWNER for any fines, penalties, damages, or forfeitures incurred by the OWNER as a result of the negligence or intentional acts of the CHARTERER or the CHARTERER's guests or invitees. The CHARTERER shall indemnify and hold the OWNER, the Broker, and the Escrow Agent harmless against and from any claims arising from or in connection with such negligence or intentional acts.

- E. The use, transport, or possession of illegal drugs, narcotics, or of any other contraband, or the participation in any other unlawful activity, such as the transport of illegal aliens is strictly prohibited. The participation in any of these activities by the CHARTERER or the CHARTERER's guests or invitees constitutes a breach of this Agreement and cause for immediate termination of the Charter without refund of the Charter Fee or any other payments made by Charterer.

**CLAUSE 14. Non-Assignment.**

The CHARTERER may not assign this Agreement, subcharter the Vessel or any part thereof, or part with control of the Vessel without the OWNER's prior written consent, which the OWNER may withhold in its sole discretion, and which the OWNER may grant subject to any conditions the OWNER deems appropriate in its sole discretion.

**CLAUSE 15. Sale of the Vessel.**

- A. The OWNER shall not enter into an agreement to sell the Vessel during the Charter Period without the CHARTERER's prior written consent, which the CHARTERER may withhold in its sole discretion.
- B. If the OWNER enters into an agreement to sell the Vessel at any time after the signing of this Agreement, but before Delivery of the Vessel to the CHARTERER, then the OWNER shall immediately upon entering into such agreement give written notice thereof to the CHARTERER via the Broker. This information will be kept in strict confidence by all Parties to the Agreement. Should the Vessel be sold, then one of the following provisions will apply:
  - (1) The OWNER shall arrange for the buyer of the Vessel (the "Buyer") to take over this Charter Agreement and perform the Charter on the same terms and conditions as hereunder, either by assignment of this Agreement, or by way of a new Agreement between the CHARTERER and the Buyer having substantially the same terms and provisions without material deviation together with written cancellation of this original Agreement. Where the Charter is taken over by the Buyer on the same terms and conditions, there will be no penalty against the OWNER and no additional commission due to the Broker.
  - (2) If the Buyer is unwilling or unable to assume the obligations of the OWNER under this Agreement will be considered as having been cancelled by the OWNER in accordance with Clause 9. All payments made by the CHARTERER will be promptly repaid in full to him without deduction and liquidated damages calculated in accordance with Clause 9.E.1, 2, or 3, as appropriate, will be paid. The OWNER shall pay the Broker the full commission due on this original Agreement no later than thirty-six (36) Working Hours after formal cancellation.

**CLAUSE 16. Insurance.**

- A. The OWNER shall insure the Vessel throughout the Charter with first-class insurers against all risks, on such terms, and subject to such deductible, as are customary for a vessel of the Vessel's size, type, and value, on cover no less than is provided under the Institute Yacht Clauses 1/11/85, or other recognized terms, extended to provide permission to charter as under the terms of this Agreement and to cover third-party liability. The OWNER shall make available for inspection, upon reasonable notice by the CHARTERER, copies of all relevant insurance documentation, which will also be carried on board the Vessel. The OWNER shall pay the premium for such insurance.
- B. The CHARTERER acknowledges that it is the CHARTERER's responsibility to determine, in its sole discretion, whether such insurance coverage, terms, and applicable deductibles are adequate and appropriate for the CHARTERER's purposes. If the CHARTERER deems any additional coverage necessary, then the CHARTERER shall arrange with an insurance broker before the commencement of the Charter for separate or supplemental insurance at the CHARTERER's cost.
- C. The OWNER shall ensure that the CHARTERER is covered throughout the Charter as an "additional assured" or "covered person" under the OWNER's insurance policy. Except to the extent that either the CHARTERER or any of the CHARTERER's guests has acted in any way as to void or limit coverage under the OWNER's insurance policy, the CHARTERER will not be liable, with respect to any one accident or occurrence, for an amount greater than the deductible of the OWNER's insurance policy for any cost or expense incurred as a result of any damage to the Vessel or to any third party caused by the negligence or willful act of the CHARTERER or the CHARTERER's guests.
- D. If the CHARTERER or any of the CHARTERER's guests acts in such a way, whether by negligence or willful act, as to void or limit coverage under the OWNER's insurance policy, then the CHARTERER shall indemnify and hold the OWNER harmless against and from any claim for loss, damage, or expense attributable to such negligence or willful act, to the extent that such loss, damage, or expense would otherwise be covered by the OWNER's insurance policy.
- E. The CHARTERER acknowledges that the CHARTERER is responsible for insuring the CHARTERER's personal effects on board the Vessel and ashore, and for insuring against any cost or expense incurred as a result of any accident or emergency during the Charter, including, without limitation, emergency medical evacuation or other emergency transport for the CHARTERER or the CHARTERER's guests, to the extent the same are not covered by the OWNER's insurance policy.
- F. The CHARTERER acknowledges that neither cancellation and curtailment insurance, nor CHARTERER's liability insurance, as such, is included in this Agreement.

**CLAUSE 17. Security Deposit.**

Unless otherwise provided on Page 1 of this Agreement, any required Security Deposit will be held by the Escrow Agent in the Escrow Agent's account on the OWNER's behalf and may be used in or toward discharging any liability that the CHARTERER

may incur under any of the provisions of this Agreement. The Escrow Agent shall refund the Security Deposit, to the extent it is not so used, to the CHARTERER, without interest, within twenty-four (24) Working Hours of the end of the Charter Period or the settlement of all outstanding questions, whichever is 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, without limitation, strikes, lock-outs, or other labor disputes, civil commotion, riots, blockade, invasion, war, fire, explosion, sabotage, storm, collision, grounding, fog, governmental act, or regulation, major mechanical, or electrical breakdown beyond the OWNER's control and not caused by the OWNER's negligence. When Force Majeure is invoked due to the above aforementioned breakdowns, the OWNER agrees to allow a surveyor, as appointed by the CHARTERER, unhindered and immediate access to the Vessel and the Vessel's maintenance logs. If it is determined by the CHARTERER's surveyor that the aforementioned breakdown was not beyond the crew's control or caused by the OWNER's negligence or lack of maintenance, then the Parties agree to work out the disagreement or may elect to arbitrate under Clause 20. Shipyard delays not attributable to the aforementioned conditions do not constitute Force Majeure. Crew changes do not constitute Force Majeure. Force Majeure does not excuse the OWNER from payment of Broker's commissions.
- B. **OWNER, CHARTERER, Broker, and Escrow Agent.** Throughout the Agreement, the terms "OWNER," "CHARTERER," "Broker," and "Escrow Agent" and corresponding pronouns shall be construed to apply whether the OWNER, the CHARTERER, the Broker, or the Escrow Agent is male, female, or corporate, singular or plural, as the case may be.
- C. **Escrow Agent.** The OWNER, the CHARTERER, and the Broker acknowledge that the Escrow Agent will receive and hold all funds paid by the CHARTERER in connection with this Agreement except for any fees, such as any APA or Delivery/Re-Delivery Fees, that may, by agreement between the OWNER and the CHARTERER, be paid directly to the OWNER. The Escrow Agent shall hold all funds paid by the CHARTERER in connection with this Agreement in a separate account not accessible to either the OWNER or the CHARTERER and shall disburse such funds to the appropriate parties only as provided in Clause 23 below.
- D. **Working Days and Hours.** A "Working Day" is a day on which the bank of the Escrow Agent named on Page 1 of this Agreement is open for business. A "Working Hour" is an hour between 9 a.m. and 5 p.m., in the time zone where such bank is located, on a Working Day.

**CLAUSE 19. Salvage.**

During the period of the Charter, the benefits, if any, from all derelicts, salvages, and towages, after paying the salvage crew's proportion, and any Charter Fee for the relevant period and expenses, will be shared equally between the OWNER and the CHARTERER.

**CLAUSE 20. Law and Arbitration.**

- A. This Agreement will be governed by and construed in accordance with the maritime law of the United States and, to the extent such law fails to supply a rule of decision, the law of the State of Florida regardless of any conflicts-of-law principles that would require the application of any other law. Any dispute arising out of or in connection with this Agreement or any alleged breach hereof will be resolved by binding and confidential arbitration in Fort Lauderdale, Florida, or such other place as the Parties may agree in writing, in accordance with the Rules of the Miami Maritime Arbitration Council (the "MMAC") current when the arbitration proceedings are commenced.
- B. A party wishing to refer a dispute to arbitration shall send notice in writing to the other party appointing its arbitrator and requiring the other party to appoint its arbitrator within seven (7) calendar days of such notice. If the other party fails to appoint an arbitrator within seven (7) calendar days of such notice, then the first party's arbitrator will act as sole arbitrator. Otherwise, upon the other party's appointment of the second arbitrator, the two arbitrators so appointed will appoint jointly, within seven (7) calendar days, the third arbitrator, who will serve as chairperson of the panel with respect to administrative matters. If the two arbitrators fail to appoint a third arbitrator within seven (7) calendar days, then either party may apply to the MMAC to appoint the third arbitrator. The sole arbitrator or the three arbitrators, as the case may be, will resolve the dispute as soon as practicable, but in any case no more than ninety (90) calendar days after the date on which the first arbitrator was appointed.
- C. The decision of the arbitrator, if a sole arbitrator, or the arbitrators or any two of them, if a panel of three arbitrators, will be final and binding on the Parties and may be enforced by any court of competent jurisdiction. The arbitrator or arbitrators will award costs and expenses of arbitration, including, without limitation, costs of expert witnesses and attorneys' fees, to the prevailing party as provided in Clause 25.
- D. In cases in which the total amount of all claims, including any counterclaims, does not exceed fifty thousand dollars (\$50,000) or an equivalent sum in another currency, or if the Parties agree in writing, the arbitration will be conducted in accordance with the Simplified Claims Procedure of the MMAC current when the arbitration proceedings are commenced.
- E. Notwithstanding the above, the Parties may agree in writing at any time to refer any dispute arising out of or in connection with this Agreement to mediation before such person and according to such rules as the Parties may agree.
- F. The Parties shall not bring any proceedings in any other forum or jurisdiction based on any claim arising out of or in connection with this Agreement, except that either party may bring (i) proceedings in any jurisdiction to arrest or attach the property of the other party as security for an arbitration award or (ii) such other proceedings as may be necessary to ratify, enforce, or confirm an arbitration award.
- G. If notice of arbitration proceedings is given by either party, the Escrow Agent, after receiving notification of such proceedings, shall not deal with those monies held by them without the written agreement of both Parties or in accordance with the order of the Arbitrators or their final award. The monies should be held in a designated client account. This account should be interest

bearing where banking rules permit. With the written agreement of both Parties, the Escrow Agent may 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 the CHARTERER acknowledge that the Broker represents the CHARTERER and the Escrow Agent represents the OWNER. The OWNER and the CHARTERER also acknowledge and agree that in case the Escrow Agent is also the Broker, the Escrow Agent represents the interests of both the OWNER and of the CHARTERER; that the OWNER and the CHARTERER hereby waive any conflict of interest in connection with such joint representation; and that such representation will not render this Agreement voidable. The OWNER agrees to pay the Broker the customary and usual brokerage fees in connection with the charter, any extensions, renewals, or subsequent charters, and/or in connection with the subsequent purchase of the Vessel by the CHARTERER within a period of two (2) years from the end of the Charter Period, as provided below. The Broker shall sign this Agreement for the purposes of this Clause 21 only and the Escrow Agent shall sign this Agreement for purposes of this Clause 21 and Clause 22 below. By signing this Agreement, the OWNER and the CHARTERER both confirm and agree to the following:

- A. The Broker's commission will be deemed to be earned by the Broker upon the OWNER and the CHARTERER signing this Agreement and the Broker's receipt of CHARTERER's initial Deposit in cleared funds. The commission will be payable by the OWNER on the full Charter Fee plus the Delivery/Re-Delivery Fee, if applicable, but excluding running expenses, according to Clause 22 below, whether or not the OWNER defaults for any reason including Force Majeure. In the event of cancellation by the CHARTERER, the commission will be deducted as an expense from the Deposit. If the CHARTERER's Deposit is refunded, the OWNER shall pay the commission.
- B. If the CHARTERER should extend this Agreement, the OWNER shall pay to the Broker the customary and usual brokerage fees on the gross Charter Fee for the extension, on the same basis as provided herein.
- C. If the CHARTERER re-charters the Vessel from the OWNER within two (2) years from the end of the Charter Period, whether or not on the same terms, then the OWNER shall pay to the Broker the customary and usual brokerage fees on the Charter Fee paid for that further charter upon the same basis as provided herein. However, if the CHARTERER re-charters the Vessel within that same two-year period via another bona fide broker, to whom the customary and usual brokerage fees are being paid, the OWNER shall pay a commission of one-third (1/3rd) of the full rate to the Broker and two-thirds (2/3rds) to the new broker. This applies only following the free choice of the CHARTERER and is not relevant if the change of broker is suggested or solicited by the OWNER, his agent, the captain, or the OWNER's representative.
- D. If any agreement is reached directly between the CHARTERER and the OWNER for the purchase of the Vessel within two (2) years from the end of the Charter Period, then the OWNER shall pay to the Broker the sales commission. However, if the CHARTERER purchases the Vessel from the OWNER via a bona fide sales broker to whom the customary and usual brokerage fees are being paid, then the OWNER shall pay, or shall ensure that the new broker pays, 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 applies only following the free choice of the CHARTERER and is not relevant if the change of broker is suggested or solicited by the OWNER, his agent, or the OWNER's representative.
- E. The Broker and the Escrow Agent will have no responsibility for any loss, damage, or injury to the person or property of the OWNER or of the CHARTERER or any of their guests, servants, or agents, and further the Broker and the Escrow Agent will be under no liability for any errors of judgment or description or otherwise of whatsoever nature and howsoever arising and will be under no further obligation, duty, or responsibility to the OWNER or the CHARTERER save as provided herein. The OWNER and the CHARTERER shall jointly and severally indemnify and hold harmless the Broker and the Escrow Agent for any loss or damage sustained by them as a result of any liability to any third party (person, firm, company, or authority), whether as a result of the Broker or Escrow Agent's negligence or otherwise, arising from promoting or introducing this Charter, assisting in the performance of this Agreement, or performing the duty of Escrow Agent.
- F. The OWNER and the CHARTERER understand and agree that the Broker and the Escrow Agent do not guarantee the performance of the OWNER and the CHARTERER under this Agreement. All information and data regarding the Vessel has been provided and represented to the Broker and the Escrow Agent by the OWNER, and while the Broker and the Escrow Agent stand ready to provide the CHARTERER with such information as is believed to be reliable, the Broker and the Escrow Agent do not act as guarantor of such information, and the OWNER and the CHARTERER agree to indemnify and hold the Broker and the Escrow Agent harmless if such information is not reliable, whether as a result of the Broker or Escrow Agent's negligence or otherwise.
- G. It is understood that the function of the Broker and the Escrow Agent is solely that of arranging the Charter, and the Broker and the Escrow Agent are in no way responsible for the actions of the CHARTERER or the OWNER under this Agreement. It is further understood that once this Agreement has been signed by both Parties and a deposit of the Charter Fee has been paid, the Broker will 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 OWNER and the CHARTERER shall indemnify, hold harmless, and defend the Broker and the Escrow Agent 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, whether as a result of the Broker or Escrow Agent's negligence or otherwise.
- H. The Broker and the Escrow Agent will 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 and the Escrow Agent also will 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 this Agreement, or for any changes in the itinerary deemed necessary or appropriate for the safety or convenience of the CHARTERER, the CHARTERER's guests, the captain, the crew, or any other passengers.



- I. Representations made by the Broker and Escrow Agent concerning the Cruising Area and the Vessel, the captain, and the crew are made in good faith but without warranty. It is understood and agreed by the OWNER and the CHARTERER that the Broker and the Escrow Agent have made no representations or warranties, either actual, expressed, or implied, as to the condition or operation of the Vessel, nor has the OWNER or the CHARTERER been influenced to enter into this Agreement in reliance upon any representation or warranty made by the Broker or the Escrow Agent.
- J. Any dispute under this Clause 21 may be separately arbitrated under Clause 20.

**CLAUSE 22. Payment of Charter Fees and Other Monies to the OWNER.**

- A. The Broker shall transfer all funds received pursuant to this Agreement, less the Broker's commission, to the Escrow Agent. The Escrow Agent shall hold all funds received pursuant to this Agreement in a designated account in the currency of this Agreement. The Escrow Agent shall pay 50% (fifty percent) of the Charter Fee to the OWNER by bank transfer on the first day of the Charter Period or the first Working Day thereafter. At the same time, the Escrow Agent shall pay the Delivery/Re-Delivery Fees and any Additional Payments to the OWNER or otherwise as the OWNER may direct. If the Escrow Agent does not receive written notice of a complaint as provided in Clause 24 before the end of the Charter Period, the Escrow Agent shall pay the balance of the Charter Fee to the OWNER on the first Working Day after the end of the Charter Period.
- B. If the Escrow Agent receives notice of a complaint as aforesaid, the Escrow Agent shall retain the balance of the Charter Fee for fourteen (14) calendar days after the end of the Charter Period. If the OWNER and the CHARTERER agree to resolve the complaint within that period, the Escrow Agent shall disburse the balance of the Charter Fee as directed in a writing signed by both the OWNER and the CHARTERER. If the Escrow Agent receives notice of arbitration from the OWNER or the CHARTERER as provided in Clause 20 within that period, the Escrow Agent shall hold the balance of the Charter Fee until the arbitration results in an award or the OWNER and the CHARTERER resolve the matter by agreement, whichever happens first. The Escrow Agent shall immediately thereafter disburse the balance of the Charter Fee as provided in a final arbitration award or an agreement signed by both the OWNER and the CHARTERER. If the complaint has not been resolved by agreement and neither the OWNER nor the CHARTERER has given notice of arbitration as provided in Clause 20 within fourteen (14) calendar days of the end of the Charter Period, the Escrow Agent shall pay the balance of the Charter Fee to the OWNER.

**CLAUSE 23. Complaints.**

The CHARTERER shall notify the captain in writing of any complaint and the captain will log the date, time, and nature of the CHARTERER's complaint in the Vessel's log book. The captain will inform the OWNER and the Escrow Agent as soon as practicable. If the CHARTERER's complaint cannot be resolved on board the Vessel, then the CHARTERER shall give notice to the OWNER, or the Escrow Agent on the OWNER's behalf, as soon as practicable after the event or occurrence giving rise to a 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 orally in the first instance, but must be confirmed as soon as possible in writing (by fax, mail, or email) specifying the precise nature of the complaint.

**CLAUSE 24. Notices.**

Any notice given or required to be given by the CHARTERER or the OWNER under this Agreement will be communicated in any form of writing and will be deemed to have been properly given as follows: (i) if by mail, when and if dispatched pre-paid and properly addressed by mail or bona fide courier service; (ii) if by fax, when and if transmitted with confirmation; and (iii) if by email, when and if transmitted without any error or nondelivery message. Notice must be given, in the case of the OWNER, to him or to the Escrow Agent at their respective addresses set forth on Page 1 of this Agreement or, in the case of the CHARTERER, to the CHARTERER's address set forth on Page 1 of this Agreement, to the Broker, or, where appropriate, to the CHARTERER on board the Vessel.

**CLAUSE 25. Attorneys' Fees.**

In any arbitration or litigation arising out of or in connection with this Agreement, the prevailing party will be entitled to recover from the non-prevailing party or parties, in addition to any other relief to which the prevailing party may be entitled, reasonable attorneys' fees (including paralegal fees), court costs, and all other expenses incurred in such arbitration or litigation by the prevailing party, even if not taxable as court costs, including, without limitation, all fees, costs, and expenses incident to appeals. For purposes of this Clause 25, a party will be considered the "prevailing party" to the extent that (i) such party initiated the proceedings and substantially obtained the relief it sought, whether by award, judgment, or voluntary agreement; (ii) such party did not initiate the proceedings and did not obtain award or judgment in its favor, but the other party did not substantially obtain the relief it sought; or (iii) such party did not initiate the proceedings and the other party to the proceedings withdrew its claim or action without having substantially obtained the relief it sought. Nothing in this Clause 25 will be construed to affect the mandatory arbitration provisions of Clause 20 of this Agreement.

**CLAUSE 26. Indemnification, Hold Harmless, Defend.**

The CHARTERER shall indemnify and hold the OWNER harmless against and from any liability for loss, damage, or expense incurred by the CHARTERER or the CHARTERER's guests or invitees as a result of the negligence or willful act of the CHARTERER or the CHARTERER's guests or invitees, to the extent such loss, damage, or expense is not covered by the OWNER's insurance policy.

**CLAUSE 27. OWNER's Assurances.**

The OWNER represents, warrants, and covenants that, at Delivery, the Vessel will comply with all applicable laws and regulations of the Vessel's flag state and any country within the Cruising Area, including, without limitation, any laws and regulations governing charters and any documentation, registration, or customs laws or regulations, such that the Vessel may lawfully be used by the CHARTERER as provided hereunder.

**CLAUSE 28. Maritime Liens.**

The CHARTERER shall not incur or allow any maritime lien, salvage, or debt on the Vessel or on the OWNER's credit. The CHARTERER shall not abandon the Vessel or enter into any salvage agreement without the OWNER's prior written consent. The CHARTERER shall indemnify and hold the OWNER harmless against and from any liability for any maritime lien, salvage, or debt that arises on the Vessel or the OWNER's credit as a result of any act or omission of the CHARTERER or any of the CHARTERER's guests.

**CLAUSE 29. Waiver or Modification.**

This Agreement is the entire agreement of the Parties. No waiver or modification of this Agreement shall be effective unless in writing and signed by the Parties.

**CLAUSE 30. Additional Conditions.**