

**US FLAG - UNINSPECTED PASSENGER VESSEL
CHARTER AGREEMENT -PAGE 1 OF 9**

| | | |
|---|-------------------------|-------------|
| 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/Redelivery Fees:
APA:
Security Deposit (See Clauses 16 & 17):

To be paid as follows:
FIRST INSTALLMENT:
SECOND INSTALLMENT

All payments shall be made to the Broker's Client's Account and shall only be deemed paid when cleared:

SIGNATURES

The Owner and Charterer expressly agree that **Clauses 1-32**, inclusive, form part of this Agreement, which consists of **nine (9)** pages plus any Additional Conditions or Addenda attached. Signed facsimile copies of this Agreement shall be binding. **SEE ADDITIONAL CONDITIONS – CLAUSE 32**

OWNER _____ Date _____

CHARTERER _____ Date _____

WITNESS _____

WITNESS _____

BROKER (Escrow Agent) _____

BROKER _____

WITNESS _____

WITNESS _____

CLAUSE 1 AGREEMENT TO LET AND HIRE

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.

The Charterer agrees to hire the Vessel and shall pay, in cleared funds, the Charter Fee, the Advance Provisioning Allowance, the Delivery/Re-delivery Fee, the Security Deposit and/or 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 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 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 the Charterer's Party). The Vessel shall be fitted out as appropriate for a Vessel of her size and type and enabling the Charterer to use the Vessel as set out in Clause 13. The Owner does not warrant her 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 must immediately notify the Captain and subsequently 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 Redelivery free of any debts incurred for by the Charterer's account during the Charter Period and in as good a condition as when delivery was taken, except for normal wear and tear arising from ordinary use. If he wishes, the Charterer may re-deliver the Vessel to the Port of Redelivery 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 Charter Fee.

CLAUSE 4 CRUISING AREA AND USE

The Charterer shall restrict the cruising of the Vessel to the Cruising Area set out on Page One of this Agreement and to regions within the Cruising Area in which the Vessel is legally permitted to cruise. The Vessel shall not navigate where it is not legally permissible due to the flag of the Vessel or restrictions on the Vessel. The Vessel shall not navigate beyond the navigational limits set forth in the Vessel's insurance policy without prior approval by the Owner and Vessel's Insurer, with any additional insurance premiums agreed to be paid by Charterer. Operation of the Vessel beyond the approved area or in violation of law is a breach of this Agreement and cause for immediate termination of this Agreement without refund of charter fee.

The Charterer shall also restrict time under way to an average of six (6) hours per day, unless the Captain, at his sole discretion, agrees to exceed this time. Charter agrees that the Vessel shall be used exclusively as an Uninspected Passenger Vessel and shall not transport cargo, nor engage in trade, nor violate any laws of the United States or any jurisdiction in which the Vessel may be traveling. The Vessel shall comply with all laws, rules and regulations of government agencies of the United States, individual states, and other jurisdictions where the Vessel may travel, including federal and state parks, sanctuaries and protected areas. Captain shall be responsible for compliance and Charterer shall abide by Captain's decisions in this regard.

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 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 shall 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 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 his party undertake to have all necessary visas and vaccinations for the countries to be visited.

CLAUSE 6 CAPTAIN AND CREW

Owner agrees to provide a professional Captain and Crew for the Vessel. The Captain and Crew shall be appropriately licensed, qualified, knowledgeable and familiar with the Vessel and waters of the Charter Area and approved by the Vessel's insurer. Owner shall provide insurance coverage for the Captain and Crew, including that which is required by the Jones Act. The Captain and Crew shall have sufficient expertise and experience to manage and handle the Vessel safely and competently at all times. The Captain shall operate the Vessel only for lawful purposes and shall abide by all applicable rules, regulations and laws of the United States and any other jurisdiction in which the Vessel may travel.

The Captain shall keep a complete log of the voyage as to names of persons aboard, records of monies spent or debts incurred. The Captain shall 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 Charterer's credit card or from Charterer's own telephone or communication system.

The Owner shall ensure that no member of the Crew shall carry or use any illegal drugs on board the Vessel or keep any firearms on board (other than those declared on the manifest).

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.

Please Initial: Owner: _____ Charterer: _____

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CLAUSE 7 CAPTAIN'S AUTHORITY

The Captain, together with the Charterer, shall direct the course of the voyage and mutually reach agreements regarding the management, operation and movement of the Vessel, wind, weather and/or 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, might result in: 1) the Vessel moving to any port or place that is not safe and proper for it to be in, 2) might result in the Charterer failing to re-deliver the Vessel upon the expiration of the Charter Period, 3) the breach of Clause 13 and/or any other clause in this Agreement. Without prejudice to any other remedy of the Owner and based on the reasonable opinion of the Captain, if the Charterer or any of his Guests fail to observe any of the provisions in Clause 13 and if such failure continues after the Captain has given immediate and specific warning in writing to the Charterer in respect of the same, then the Captain shall forthwith inform the Owner and the Broker(s) of the breach, and the Owner may terminate the Charter forthwith and/or instruct the Captain to return the Vessel to the Port of Re-delivery. The Charterer and his Guests shall immediately disembark the Vessel. This Agreement and the Charter Period shall be terminated upon the Vessel's return to the Port of Re-delivery. The Charterer shall settle all outstanding expenses with the Captain beforehand and the Charterer shall not be entitled to be refunded any of the Charter Fee.

The Captain shall immediately notify the Owner and Broker(s) of any Vessel breakdowns, disablements, crew changes, accidents and/or other significant incidents that occur during the Charter Period.

As referenced in Clause 16 and with particular regard to the use of water sports equipment, the Captain shall have the authority to prohibit the Charterer or any or all of his Guests from use of 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.

CLAUSE 8 EXPENSES AND OPERATING COSTS

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; the insurance of the Vessel and crew as per Clause 16. Owner shall be responsible for ordinary maintenance expenses for the Vessel, including normal wear and tear. The Charterer shall be responsible for the operating costs, as specifically defined under "CONDITIONS" on Page One of this Agreement, and for the entire Charter Period for himself and his Guests. If the Charterer is required to pay the Advance Provisioning Allowance ("A.P.A.") into the Broker's Account, then the Captain shall periodically advise the Charterer as to the disbursement of the A.P.A. The Captain shall notify the Charterer if the balance remaining becomes insufficient in the light of current and anticipated expenditures and the Charterer shall pay to the Captain a sufficient sum to maintain an adequate credit balance. The Owner shall ensure that the Captain will exercise due diligence in the expenditure of the A.P.A.

Prior to disembarkation at the end of the Charter Period and concerning the expenditure of any A.P.A., the Captain shall present to the Charterer a detailed account of expenditures with as many supporting receipts as possible. Thereafter, the Charterer shall pay to the Captain the balance of the expenses, or the Captain shall repay to the Charterer any balance overpaid, whichever the case may be.

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 Broker's Account in advance or to the Captain upon boarding and in addition to the A.P.A. Unless specific alternative arrangements have been made in writing and in advance, all payments for operating costs, etc., shall be payable in the same currency as the Charter Fee. 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 should therefore ensure that he has sufficient funds available to cover all reasonably foreseeable expenses or arrange to deposit additional funds with the Broker.

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 Owner shall not be in default of this Agreement so long as 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 period is the shorter. In such event, 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 a pro rata extension of the Charter Period.

FAILURE TO DELIVER

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 from the due time of delivery, whichever period is the shorter, then the Owner shall be considered in default and the Charterer shall be entitled to treat this Agreement as terminated. The Charterer's exclusive remedy will be to receive repayment without interest of the full amount of all payments made by him to the Owner or Broker and 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 shall be extended by a time equivalent to the delay.

c) 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*, then the Charterer shall be entitled to 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 Broker. In addition and as liquidated damages, the Charterer shall be paid by the Owner an amount equivalent to fifty percent (50%) of the Charter Fee. The parties hereto expressly stipulate, acknowledge and agree that the liquidated damage provision preceding herein as well as set forth below in subparagraphs (d) and (e) represent a reasonable and fair liquidated allocation of damages in circumstances where the same would otherwise be difficult, if not incapable, of ascertainment.

CANCELLATION BY OWNER

d) 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 (b) above shall apply.

Please Initial: Owner: _____ Charterer: _____
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e) 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 Broker. In addition, Charterer shall be entitled to liquidated damages to be calculated and paid forthwith as

follows:

- i) thirty (30) days or more before commencement of the Charter Period, an amount equivalent to twenty-five percent (25%) of the Charter Fee.
- ii) 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;
- iii) fourteen (14) days or less before commencement of the Charter Period, an amount equivalent to fifty percent (50%) of the Charter Fee. 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*, then Re-delivery shall be effective as soon as possible thereafter. In the meantime the conditions of this Agreement shall 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 pay forthwith to the Owner by direct wire transfer via the Broker'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. The 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, then 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, delay in delivery under any subsequent Charter of the Vessel or cancellation of any subsequent Charter of the Vessel.

CLAUSE 11 CANCELLATION BY CHARTERER & CONSEQUENCES FOR NON - PAYMENT

- (a) (i) Should the Charterer give notice of cancellation of this Agreement on or at any time before the commencement of the Charter Period, some or all of the Charter Fee may be retained by the Owner which will be determined as follows:
 - a. After this Agreement has been signed, but before the final installment payment is due to be paid, the Owner shall be entitled to retain the Charterer's first installment payment.
 - b. After any subsequent installment payments are due to be paid by the Charterer, the Owner shall be entitled to retain the Charterer's first installment payment and any subsequent installment payments due from the Charterer.
 - c. If any of the installments are due to be paid, but have not been paid, then the Owner shall have a claim against the Charterer for the amount so due.
- (ii) After having been given written notice by the Owner, should the Charterer fail 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 and to recover all funds unpaid and due up to the date of repudiation.
- (iii) Notwithstanding the Owner's right to receive or retain all payments referred to above, the Owner shall be under a duty to mitigate his loss and 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 Charter hire arising from the re-chartering after deduction of all commissions and other consequential expenses arising from such rechartering. 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 had the Agreement not been cancelled or repudiated. The Owner shall reimburse or forgive payments received or due from the Charterer only to the extent that the net proceeds from any re-chartering during part or all of the Charter Period exceeds the amount which would have been received under this Agreement. The Owner shall use his best endeavors to re-charter the Vessel and shall not unreasonably withhold his agreement to re-charter. However, the Owner may reasonably refuse to re-charter the Vessel if the re-charter would be considered detrimental to the Vessel, its reputation, its Crew or its schedule.
- (iv) If prior to the date of cancellation the Vessel has taken on provisions for the Charter, or has utilized the Delivery/Re-delivery Fee as set out on Page One of this Agreement, then the Charterer shall pay for these expenses unless all or part can either be refunded by the supplier or transferred to the next Charter, in which case they shall be adjusted accordingly. The Captain and Owner shall be under a duty to mitigate these expenses where possible.

- b) After signature of this Agreement, if the Owner suffers financial failure, is adjudged 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 shall be entitled to cancel the Charter and all monies paid to the Owner, his 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 the 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

In the event of significant delay, breakdown or disablement during the term of the Charter, the Captain shall notify both the Charterer and the Owner and the Owner shall undertake to resolve the problem. Such circumstances include, but are not limited to, mechanical failure, fire, grounding, collision, system failures or such other cause which disables the Vessel so that it cannot safely be used in navigation or is not habitable.

After delivery, if 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 twenty-four (24) consecutive hours or one-tenth (1/10th) of the

Please Initial: Owner: _____ Charterer: _____
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Charter Period, whichever is the shorter (and the disablement has not been brought about by any act or default of the Charterer or Charterer's guests), 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 a pro rata extension of the Charter Period corresponding with the period of disablement. If the Charterer wishes to invoke this clause he shall give immediate written notice to the Captain. 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 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 Charterer's guests) the Charterer may terminate this Agreement by notice in writing to the Owner, Broker(s) or to the Captain if no means of communication is available. As soon as practicable after such termination, the Charter Fee shall be repaid by the Owner pro rata, but 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. The Owner shall be responsible for the reasonable cost of returning the Charter Party to the Port of Re-delivery together with any reasonable accommodation expenses incurred.

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 dependent 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.

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 Owner shall attempt to remedy the situation so that the Charter may be completed. However, no Charter Fee or other payments previously made by Charterer shall be refunded and the costs to resolve the problem and/or to re-deliver the Vessel shall be charged to and paid by Charterer. In such case where re-delivery is not possible at that time, Charterer shall be responsible for the cost of returning the Charter Party to the original point of Vessel departure or embarkation.

CLAUSE 13 USE OF VESSEL

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.

The Charterer shall ensure that no pets or other animals are brought on board the Vessel without the written consent of the Owner. The Charterer shall ensure that the behavior of the Charter Party and Guests shall not cause a nuisance to any person or bring the Vessel into disrepute. The Charterer and Guests shall afford the Crew due respect at all times.

The Captain shall promptly draw the Charterer's attention to any infringement of these terms by himself or his Guests. If such behavior continues after this warning, then the Captain shall inform the Owner or his Broker. By written notice served on the Charterer, the Owner may terminate this Agreement in accordance with Clause 7 of this Agreement.

If the Charterer or any of his Guests shall commit any offense contrary to the laws and regulations of any country which results in any member of the Crew of the Vessel being detained, fined or imprisoned, or the Vessel being detained, arrested, seized or fined, then the Charterer shall indemnify the Owner against all loss, damage and/or expenses incurred by the Owner as a result. Thereafter and by written notice served on the Charterer, the Owner may terminate this Agreement forthwith. Charterer shall be liable for fines, penalties, damages and/or forfeitures as a result of negligence or intentional acts of Charterer, Guests or Invitees. In addition, the Charterer shall indemnify, hold harmless and defend Owner and Broker for such acts.

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 his Guests constitutes a breach of the Charter and shall be cause for immediate termination of the Charter without refund of Charter Fee and any additional payments made by Charterer. It is also specifically understood that the possession or use of any illegal drugs, narcotics or any weapons (including particularly firearms) is strictly prohibited on board the Vessel and failure to comply shall be sufficient reason for the Owner or Captain to terminate the Charter forthwith without refund to the Charterer or recourse against the Owner.

It is also specifically understood that the possession or use of any illegal drugs or 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.

CLAUSE 14 NON-ASSIGNMENT

The Charterer shall not assign this Agreement, sublet the Vessel or part with control of the Vessel without the Owner's written consent, which consent may be withheld for any reason or no reason or may be conditioned upon such terms as the Owner deems appropriate.

CLAUSE 15 SALE OF THE VESSEL

a) The Owner agrees not to sell the Vessel during the Charter Period as set out on Page One of this Agreement.

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 written notice of such sale to the Charterer via the Owner's Broker. This information shall be kept in strict confidence by all parties to the Agreement. Should the Vessel be sold, then one of the following provisions will apply:

Please Initial: Owner: _____ Charterer: _____
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i) The Owner shall arrange for the Buyer to take over the Charter Agreement and perform the Charter on the same terms and conditions by

assignment of this Charter Agreement to the Buyer. Alternatively, the Buyer and Charterer may enter into a new Charter Agreement which will have substantially the same terms and provisions without material deviations, and the Parties will sign written cancellation of this 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.

ii) If the Buyer is unwilling or unable to fulfill the Charter Agreement, 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 him without deduction and liquidated damages calculated in accordance with Clause 9 (e) i, ii or iii, as appropriate, shall be paid. The Owner shall pay the Broker(s) the full commission due on this original Agreement no later than seventy-two (72) hours after formal cancellation.

CLAUSE 16 INSURANCE

a) The Owner shall insure the Vessel 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 Yacht Clauses 1.11.85 or other recognized terms extended to provide Permission to Charter and to cover Third Party Liability. The insurance shall also cover War and Strikes and include insurance of Crew against injuries and/or Third Party Liabilities incurred during the course of their employment. The Charterer shall be entitled to the benefit of the Owner's insurances.

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. The Charterer should determine whether such insurance coverages and applicable deductibles are adequate and appropriate for Charterer's purposes and, if necessary, arrange for additional coverages prior to commencing the Charter. 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.

c) 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 his Guests (intentionally or otherwise) 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. However, in any event, the Charterer's liability shall not exceed in excess (deductible) the equivalent of one percent (1%) of the total sum insured.

d) The Charterer may be liable for a sum greater than the excess (deductible) on any one accident or occurrence if the Charterer or any of his Guests acted in such a manner (intentionally or otherwise) as to void or limit the cover under the Owner's insurance.

e) 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.

f) The Charterer should be aware that neither Cancellation and Curtailment Insurance, nor Charterer's Liability Insurance is included in this Agreement, but is available subject to acceptance by Underwriters.

CLAUSE 17 SECURITY DEPOSIT

Unless otherwise provided on Page One of this Agreement, any required Security Deposit shall be held by the Escrow Agent in his/her 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 it is not so used, the Security Deposit shall be refunded to the Charterer without interest, within twenty-four (24) business hours of the end of the Charter Period or the settlement of all outstanding questions, whichever is 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 be the holder of all Charter Funds except applicable A.P.A. or other fees, such as delivery fees, that might be paid directly to the Captain or the Vessel's Account. The 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 Disbursement of Funds.

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 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 One 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 and construed according to the maritime laws of the United States of America. In the event of any gap in the availability of such laws or where there is not applicable maritime law, then the laws of the state of residence or the principal place of business of the Owner shall apply. The Charterer and Owner expressly acknowledge that the sole and exclusive venue for any legal action pertaining to this Agreement and its enforcement or interpretation shall be in the State of the Owner's residence or principal place of business and Charterer hereby expressly agrees, consents and submits to the personal jurisdiction of the state or federal courts of that jurisdiction. 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 Mediterranean Yacht Brokers Association "MYBA" or the American Yacht Charter Association "AYCA".

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 President of the MYBA or AYCA appointing the third Arbitrator shall also appoint an Arbitrator on behalf of the party who fails to appoint one.

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.

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 Charterer each acknowledge that the Broker represents the Charterer and the Broker/Escrow Agent/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 yacht 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 Charter Fee plus the Delivery/Re-delivery Fee, if applicable, but excluding running expenses, according to Clause 22 below, whether or not he/she 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, the commission shall be paid by Owner.

b) If the Charterer should extend this Charter, the Broker(s) shall be entitled to, and shall be paid by the Owner, a commission on the gross Charter Fee for the extension, on the same basis as provided herein.

c) If the Charterer should re-charter the Vessel from the Owner, his 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 Broker(s) shall be entitled to, and shall be paid by the Owner, a commission on the gross Charter 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 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, Captain 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. Furthermore, 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.

Please Initial: Owner: _____ Charterer: _____

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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 of Captain/Crew 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 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 this Agreement, 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, including Captain and Crew, 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. Furthermore, the Broker 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 passengers.

i) Representations made by Broker concerning the cruising area, 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 relevant supporting documentation to the Charterer or Charterer's representative.

CLAUSE 23 PAYMENT OF CHARTER FEES AND OTHER MONIES TO THE OWNERS

All funds received by the Brokers(s) against this Agreement shall be transferred 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 Charter 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 Banking Day thereafter. The Advance Provisioning Allowance (A.P.A.) shall be paid by the Escrow Agent to the Captain, or to the Owner for onward transmission to the Captain in a timely manner prior to embarkation, by Bank Transfer or other acceptable means approved by the Owner. The Delivery/Re-delivery fees (if applicable) shall either be paid with the first payment to the Owner (or as agreed by the Owner) or directly to the Captain. The balance of the Charter Fee shall be paid to the Owner on the first Banking Day following completion of the Charter Period.

CLAUSE 24 COMPLAINTS

The Charterer shall give written notice of any complaint in the first instance to the Captain on board and the Captain shall log the time, date and nature of the Charterer's complaint in the Vessel's log book. The Captain shall inform the Owner and Broker(s) as soon as practical.

However, if such complaint cannot be resolved on board the Vessel, then the 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 in writing as soon as possible (by fax, mail or email) specifying the precise nature of the complaint.

CLAUSE 25 NOTICES

Any notice given or required to be given by either Party to this Agreement shall be communicated in any written form 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/her or to the Broker at their addresses as per this Agreement, or in the case of the Charterer, to his address as per this Agreement or, where appropriate, to him/her on board the Vessel.

CLAUSE 26 ATTORNEY FEES

The prevailing party shall be entitled to costs, expenses and attorney's 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's 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's 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's 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 and crew are in compliance with all charter laws of the United States to which the Vessel is flagged, including vessel documentation, registration, and captain/vessel licensing, as are necessary to support the nature of this agreement, or accepts all responsibilities as if the vessel and crew were 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 a salvage agreement without prior consent of Owner. Charterer agrees to indemnify, hold harmless and defend Owner from any and all maritime liens, salvage or debts to be incurred against the Vessel or the credit of Owner, except to the extent such claims are covered by insurance.

CLAUSE 30 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 31 FACSIMILE

Both parties acknowledge that this Agreement may be transmitted between them by facsimile machine and all parties intend that the faxed Agreement containing either original and/or copies of the parties' signature shall constitute a binding contract.

CLAUSE 32 ADDITIONAL CONDITIONS