

Cape Cuvier Ltd

RUM JUNGLE Charter Agreement

Issue #7 May 2011

CLAUSE 1 - AGREEMENT TO LET AND HIRE

The OWNER agrees to let the Yacht to the CHARTERER and not to enter into any other Agreement for the Charter of the Yacht for the same period.

The CHARTERER agrees to hire the Yacht and shall pay the Charter Fee, the Security Deposit, the Advance Provisioning Allowance and any other agreed charges, in cleared funds on or before the dates and to the Account specified in this Agreement.

CLAUSE 2 - DELIVERY

The OWNER shall at the beginning of the Charter deliver the Yacht to the Port of Delivery and the CHARTERER shall take delivery in full commission and working order, seaworthy, clean, in good condition throughout and ready for service, with all equipment, including up to date safety and life-saving equipment (including life-jackets for children if any, are included in the Charterer's Party), as required by the Yacht's registration authority and fitted out as appropriate for a Yacht of her size and type and enabling the Charterer to use the yacht as set out in Clause (13). The OWNER does not warrant her comfort in bad weather conditions for all cruises or passages within the Charter Area.

CLAUSE 3 - RE-DELIVERY

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

CLAUSE 4 - CRUISING AREA

The CHARTERER shall restrict the cruising of the Yacht to within the Cruising Area and shall also 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.

CLAUSE 5 - MAXIMUM NUMBER OF PERSONS, RESPONSIBILITY FOR CHILDREN, HEALTH OF THE CHARTERER'S PARTY

- The CHARTERER shall not at any time during the Charter period permit more than the Maximum Number of Guests Sleeping or Cruising on Board plus at the sole discretion of the Captain, a reasonable number of visitors whilst the Yacht is securely moored in port.
- If children are taken on board, the CHARTERER shall be fully responsible for their safety, conduct and entertainment and no member of the crew shall be held responsible for their safety or entertainment.
- The nature of a yacht charter may render it unsuitable for anybody with physical disability or undergoing medical treatment. By signature of this Agreement the CHARTERER warrants the medical fitness of all members of the CHARTERER's party for the voyage contemplated by this Agreement. The CHARTERER and his party undertake to have all necessary visas and vaccinations for the countries to be visited.

CLAUSE 6 - CREW

The OWNER shall provide a suitably qualified Captain acceptable to the insurers of the Yacht and a suitably experienced Crew, properly uniformed, fed and insured. The OWNER shall ensure that no member of the Crew shall carry or use any illegal drugs on board the Yacht or keep any firearms on board (other than those declared on the manifest) and shall ensure that the Captain and Crew comply with the laws and regulations of any country into whose waters the Yacht shall enter during the course of this Agreement.

CLAUSE 7 - CAPTAIN'S AUTHORITY

The OWNER shall ensure that the Captain shows the CHARTERER the same attention as if the CHARTERER were the OWNER and the Captain shall comply with all reasonable orders given to him by the CHARTERER regarding the management operation and movement of the Yacht, wind, weather and other circumstances permitting. The Captain shall not, however, be bound to comply with any order which, in the reasonable opinion of the Captain, might result in the Yacht moving to any port or place that is not safe and proper for her to be in, or might result in the CHARTERER failing to re-deliver the Yacht upon the expiration of the Charter Period, or would, in the reasonable opinion of the Captain, cause a breach of Clause 13. Further, without prejudice to any other remedy of the OWNER, if in the reasonable opinion of the Captain, the CHARTERER or any of his Guests fail to observe any of the provisions in Clause 13 the Captain shall inform the OWNER and the Broker(s) and the OWNER may terminate the Charter forthwith or Instruct the Captain to return the Yacht to the Port of Re-Delivery and upon such return the Charter Period shall be terminated, the CHARTERER and his guests shall disembark, the CHARTERER having settled all outstanding expenses with the Captain beforehand and the CHARTERER shall not be entitled to be refunded any of the Charter Fee.

With particular regard to the use of watersports equipment, as defined in Clause 16, the Captain shall have the authority to exclude the CHARTERER or any or all of his Guests from use of any particular watersports equipment if, in his reasonable opinion, they are not competent, are unsafe, are behaving in an irresponsible manner, or are failing to show due concern for other persons when operating this equipment.

CLAUSE 8 - OPERATING COSTS

The CHARTERER shall be responsible for the operating costs as set out on the signed 'Confirmed Charter Agreement' for the entire Charter Period for himself and his Guests. Having paid the Advance Provisioning Allowance (A.P.A.) via the Broker's Account, as required by this Agreement, the CHARTERER shall be advised by the Captain, at intervals as to the disbursement of the A-P-A, and shall, if the balance remaining becomes insufficient, in the light of current expenditure pay to the Captain, in cash, a sufficient sum to maintain an adequate credit balance.

CLAUSE 8 - OPERATING COSTS (cont.)

Prior to disembarkation at the end of the Charter Period, the Captain shall present to the CHARTERER a detailed account of expenditure with as many supporting receipts as possible, and the CHARTERER shall pay to the Captain, in cash, the balance of the expenses, or the Captain shall repay to the CHARTERER, in cash, any balance overpaid, as the case may be.

Payment for special requirements or equipment, shore transport or excursions or any other expenses not customarily considered part of the Yacht's operating costs may be required to be paid via the Broker's account in advance or to the Captain on boarding in addition to the A-P-A- unless specific alternative arrangements have been made in writing, in advance, all payments for operating costs etc., shall be payable in cash in the same currency as the Charter Fee. Payment by cheque, credit card, or other negotiable instrument is not normally acceptable due to the itinerant nature of the Yacht and the CHARTERER should therefore ensure that he is carrying sufficient cash to cover all reasonably foreseeable expenses or arrange to deposit additional funds with the Broker.

CLAUSE 9 - DELAY IN DELIVERY

- If, for any reason, the OWNER is unable to deliver the Yacht to the CHARTERER at the Port of Delivery at the commencement of the Charter Period, the OWNER shall pay or allow to the Charterer demurrage at pro-rata daily rate or, if it be mutually so agreed, the OWNER shall allow a pro-rata extension of the Charter Period.
- If, however, by reason of Force Majeure, delivery has not been made by the OWNER within forty-eight (48) hours, or after a period equivalent in time to one-tenth (1/10) of the Charter Period, whichever period is the shorter, after the due time of delivery, the CHARTERER shall be entitled to treat this Agreement as terminated and, as an exclusive remedy, to receive repayment, without interest, of the full amount of payments made by the CHARTERER, to the OWNER or the Stakeholder, or, if it be mutually agreed, the Owner may allow a pro-rata extension of the Charter Period, subject to subsequent bookings.

CLAUSE 10 - DELAY IN RE-DELIVERY

- If re-delivery of the Yacht is delayed by reason of Force Majeure then re-delivery shall be effected as soon as possible thereafter and in the meantime the conditions of the Agreement shall remain in force but without penalty or additional charge against the CHARTERER.
- If the CHARTERER fails to re-deliver the Yacht 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 to the OWNER demurrage at the daily rate plus forty percent (40%) of the daily rate and if delay in re-delivery exceeds twenty-four (24) hours, the CHARTERER shall be liable to indemnify the OWNER for any loss or damage which the OWNER shall suffer by reason of deprivation of use of the Yacht or cancellation of, or delay in delivery under any subsequent charter of the Yacht.

CLAUSE 11 - CANCELLATION

If the OWNER or the Brokers shall be given by the CHARTERER notice of cancellation of this Agreement on or at any time before commencement of the Charter Period, or if the CHARTERER shall fail, after notice, to pay any amount payable under this Agreement, the OWNER shall be entitled to treat this Agreement as having been repudiated by the CHARTERER and to retain the full amounts of all payments made to the OWNER, or the Broker(s), before repudiation. If, however, the Owner is able to re-let the Yacht to another charterer for all or part of the charter period, upon similar or discounted terms, then the OWNER, or the Broker on his behalf, shall refund to the Charterer such net balance as shall remain from the re-letting fee after deduction of all expenses and commissions incurred on the original charter and the re-letting.

The owner shall use his best endeavours to re-let the Yacht and shall not unreasonably withhold his agreement to re-let. However, he shall not be obliged to accept any charter if he considers in his sole discretion that this may be detrimental to the Yacht, its reputation, its crew- or its schedule.

CLAUSE 12 - BREAKDOWN OR DISABLEMENT

- After delivery, the Yacht at any time is disabled by breakdown of machinery, grounding, collision, or other cause so as to prevent reasonable use of the Yacht by the CHARTERER for a period of not less than twelve (12) consecutive hours or one-tenth (1/10) of the Charter Period, whichever is the shorter, and not more than forty-eight (48) consecutive hours or one-tenth (1/10) of the Charter Period, whichever is the shorter, (and the disablement has not been brought about by any act or default of the CHARTERER), the owner shall make a pro-rata return of the Charter Fee from the date and time when the Yacht was disabled or became unfit for use. The CHARTERER shall remain liable for normal expenses during this period. If it be mutually so agreed, the owner shall allow a pro-rata extension of the Charter Period. If the CHARTERER considers the circumstances justify the invoking of this Clause, he shall give immediate notice in writing to the Captain that he wishes to do so.
- If, however, the Yacht is lost, or is so extensively disabled as aforesaid that the Yacht cannot be repaired within a period of forty-eight (48) hours or one-tenth (1/10) of the Charter Period, whichever is the shorter, the CHARTERER may terminate this Agreement by notice in writing to the owner or the Broker(s) or, if no means of communication is possible, to the Captain on the OWNER'S behalf, and as soon as practicable after such termination the Charter Fee shall be repaid by the OWNER pro-rata without interest for that part of the Charter Period that commenced at the time of loss or disablement. In these circumstances the CHARTERER may effect Re-Delivery by giving up possession of the yacht where she lies. The CHARTERER shall be entitled to recover from the Owner the reasonable cost of returning himself and his passengers to the Port of Re-Delivery by scheduled services, together with any accommodation expenses reasonably necessary for this purpose.

CLAUSE 13 - USE OF THE YACHT

The CHARTERER shall use the Yacht exclusively as a pleasure vessel for the use of himself and his Guests. The CHARTERER shall ensure that no pets or other animals are brought on board the Yacht without the consent in writing of the owner. The CHARTERER shall ensure that the behaviour of himself and his Guests shall not cause a nuisance to any person or bring the Yacht into disrepute.

CLAUSE 13 - USE OF THE YACHT (cont.)

The CHARTERER shall comply, and shall ensure that his Guests comply, with the laws and regulations of any country into whose waters the Yacht shall enter during the course of this Agreement.

The CHARTERER shall ensure that any bonded stores or other merchandise which may already be aboard the Yacht, or may be brought aboard the Yacht during the Charter, are cleared through Customs before being taken ashore.

The Captain shall promptly draw the CHARTERER's attention to any infringement of these terms by himself or his Guests, and if such behaviour continues after this warning, the Captain shall inform the owner or his Broker, and the owner may, by notice in Writing given to the CHARTERER, terminate this Agreement in accordance with clause 7 of this Agreement.

If the CHARTERER or any of his Guests shall commit any offence contrary to the laws and regulations of any country which results in any member of the crew of the Yacht being detained, fined, or imprisoned, or the Yacht being detained, arrested, seized or fined, the CHARTERER shall indemnify the owner against all loss, damage and expense incurred by the owner as a result, and the owner may, by notice to the CHARTERER terminate this Agreement forthwith.

It is also specifically understood that the possession or use of any illegal drugs or any weapons (including particularly firearms) 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, sub-let the Yacht or part with control of the Yacht without the consent in writing of the owner, which consent may be on such terms as the owner thinks fit.

CLAUSE 15 - SALE OF THE YACHT

The owner shall not sell the Yacht during the Charter Period. However, if the owner shall sell the Yacht after signature of the Charter Agreement but before delivery to the CHARTERER the owner shall immediately give notice of such sale to the CHARTERER and to the Broker(s), and:

- a) The owner shall procure that the new owner shall undertake to perform this Charter on the same conditions and shall enter into a Tripartite Agreement to this effect. If the Charter is not to be on precisely the same terms and conditions with the same crew or one of equal standard then the CHARTERER may decline to sign the Tripartite Agreement.
- b) If the new owner is unwilling or unable to perform this Charter then the OWNER shall procure the Charter of another similar or superior Yacht to the CHARTERER at the same Charter Fee. The replacement Yacht must be genuinely of similar or superior style, quality and condition with an equivalent crew and closely comparable expenses otherwise the CHARTERER may refuse the replacement Yacht.
- c) If the CHARTERER does not agree to enter into the Tripartite Agreement, or to accept a replacement Yacht under the terms of this Clause, then the owner shall procure the return of all moneys paid by the CHARTERER plus by way of liquidated damages on the following scale if Notice of Cancellation is given by the owner:

- i) three months or more before Commencement of the Charter Period, an amount equivalent to fifteen percent (15%) of the Charter Fee.
- ii) more than fourteen days but less than three months before Commencement of the Charter Period, an amount equivalent to thirty percent (30%) of the Charter Fee.
- iii) less than fourteen days before Commencement of the Charter Period, an amount equivalent to fifty percent (50%) of the Charter Fee.

CLAUSE 16 - INSURANCE

The owner shall insure the Yacht with first class insurers against all customary risks for a Yacht of her size and type including Permission to Charter and to cover Third Party liability together with liabilities arising from the use by the CHARTERER and other competent person(s) authorised by him of powered dinghies or other water- sports equipment carried by the Yacht. 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.

All such insurance's shall be on such terms and subject to such deductibles as are customary for a vessel of the Yacht's 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 Yacht.

The CHARTERER shall carry independent insurance for Personal Effects whilst on board or ashore and for any Medical or Accident expenses incurred other than as covered under the Yacht's Insurance.

Cancellation and Curtailment insurance is not included in this Agreement.

CLAUSE 17 - SECURITY DEPOSIT AND CHARTERER'S LIABILITY

- a) Unless otherwise provided on the signed 'Confirmed Charter Agreement' the Security Deposit shall be held by the Broker, on his 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, but to the extent that it is not so used, the Security Deposit shall, within fourteen days of the end of the Charter Period or the settlement of outstanding questions, whichever is the later, be refunded to the CHARTERER without interest.
- b) 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 Yacht or any third party up to the level of the Excess (Deductible) on the OWNER'S insurance policy for each separate accident or occurrence. 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.
- c) In the event of a claim on the yachts insurance as a result of the actions of the CHARTERER or his guests (intentionally or otherwise), then the Security Deposit will be forfeit in lieu of the Excess (Deductible) on the OWNER'S insurance policy.

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 labour 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 crew's control and not caused by OWNER'S negligence, to be proven by the OWNER.

b) OWNERS AND CHARTERER'S

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.

CLAUSE 19 - SALVAGE

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

CLAUSE 20 - ARBITRATION

Any dispute in connection with the interpretation and fulfillment of the Agreement shall be decided by arbitration in England. Each Party shall appoint their own arbitrator and if necessary, the two arbitrators shall appoint a third arbitrator whose decision will be final and binding. This Agreement shall be construed in accordance with the laws of England.

CLAUSE 21 - BROKERS

If the CHARTERER should extend this Charter or re-charter the Yacht from the OWNER within two years from the date of completion of this Charter, whether or not on the same terms, then 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 Broker's commission shall be deemed to be earned by the Broker(s) upon the signing of this Agreement and be payable by the OWNER on the full Charter Fee according to this Clause (e) but otherwise, in the event of Cancellation or Curtailment, shall be deducted from the deposit if the CHARTERER defaults or shall be paid by the OWNER, if he defaults.

b) If the CHARTERER should extend this charter or re-charter within two years from the date of completion of this Charter the Yacht from the OWNER, whether or not on the same terms, then the Brokers shall be entitled to, and shall be paid by the OWNER, a commission on the gross Charter Fee payable for that further charter upon the same basis as provided herein.

c) If any agreement for the purchase of the Yacht should be made within two years from the date of completion of this Charter between the OWNER and the CHARTERER, they the Brokers shall be entitled to and be paid by the OWNER the customary or normal brokerage commissions.

d) The Brokers in this Agreement shall have no responsibility for any loss, damage or injury to the person or property of the OWNER or CHARTERER or any of their Guests, servants or agents, and further the Brokers shall be under no liability for any errors of judgement 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 their duties as Stakeholders.

e) All funds received by the Broker(s) against this Agreement shall be held by the Stakeholder in a designated Client's Account as defined on Page One of this Agreement and in the currency of this Agreement. Fifty percent (50%) of the Charter Fee and Delivery and/or Re-Delivery Fees (if applicable) shall be paid to the OWNER after deduction of the full commission by Bank Transfer on the date of commencement of the Charter Period. The Advance Provisioning Allowance (A.P.A.) together with any Delivery costs shall also be paid by the Broker, by Bank Transfer, just prior to embarkation although payment may be made somewhat earlier, depending upon the schedule of the yacht and local banking arrangements. Payment of the A-P- A. and Delivery and Re-Delivery costs shall be to the Captain or to the OWNER for onward transmission to the Captain. The balance of the Charter Fee shall be paid promptly to the OWNER on completion of the charter.

f) For the purposes of this Clause, 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.

CLAUSE 22 - COMPLAINTS

The CHARTERER shall give notice of any complaint in the first instance to the Captain on board and note shall be taken of the time, date and nature of the complaint.

If, however, this complaint cannot be resolved on board the Yacht 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 anyway within 24 hours of the event or occurrence unless it is impracticable due to failure or non- availability of communications equipment. The complaint may be made verbally in the first instance but shall be confirmed as soon as possible in writing (by fax or mail) specifying the precise nature of the complaint.

CLAUSE 23 - NOTICES

Any notice given or required to be given by either Party to this Agreement shall be communicated in any form of writing and shall be deemed to have been properly given if proved to have been dispatched pre-paid and properly addressed by mail or bona fide courier service or by fax or telex, in the case of the OWNER, to him 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 on board the Yacht.