

**M.Y.B.A CHARTER AGREEMENT – PAGE ONE  
OF SIX**



**NAME OF VESSEL :** KEMANA IV      **Type :**  
**Port of Registry :** Port Klang      **Flag :** Malaysian      **Length :** 20 metres

This Date \_\_\_\_\_ and Place \_\_\_\_\_  
 Between the Undersigned Parties it has been Agreed as Follows:

**OWNERS :** Kemana IV  
**ADDRESS :** c/o Sea Consortium Pte Ltd [as Agents], No. 11, Duxton Hill, Singapore 089595

**CHARTERER :**  
**ADDRESS :**

-----**CHARTER PARTICULARS**-----

**CHARTER PERIOD :** From \_\_\_\_\_ Hrs on the \_\_\_\_\_  
 To \_\_\_\_\_ Hrs on the \_\_\_\_\_  
**PORT OF DELIVERY :** \_\_\_\_\_ **PORT OF RE-DELIVERY :** \_\_\_\_\_  
**Cruising Area :**  
 Maximum Number of Guests Sleeping ( \_\_\_\_\_ ) and Cruising ( \_\_\_\_\_ ) on Board  
**Crew Consisting of :** 1 captain & 1 cook/deckhand

**CHARTER FEE :**  
 Positioning/Repositioning Fee:  
 Deposit for Fuel :  
 Advanced Payment for special requests

**TOTAL**

-----**CONDITIONS**-----

The CHARTERER shall pay in addition to the Charter Fee and at cost: all fuel costs for the Vessel, its tenders and all watersports equipment; any special requests and all communications costs for the CHARTERER's party.

-----**SIGNATURES**-----

The OWNER and CHARTERER accept that Clauses 1-24, inclusive, from part of this Agreement which consists of five pages plus any Conditions shown above or Addenda attached. Signed facsimile copies of this Agreement shall be binding.

OWNERS.....	DATE.....	CHARTERER.....	DATE.....
.....	.....	.....	.....
WITNESS .....	.....	WITNESS .....	.....
PRINT NAME & ADDRESS OF WITNESS.....	.....	PRINT NAME & ADDRESS OF WITNESS.....	.....
.....	.....	.....	.....

**PLEASE INITIAL :      OWNER :      CHARTERER :**

# M.Y.B.A CHARTER AGREEMENT – PAGE TWO OF SIX



## **CLAUSE 1 AGREEMENT TO LET AND HIRE**

The OWNER agrees to let 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 the Charter Fee, the Fuel Deposit 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 Vessel 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 full equipment, including up-to-date safety and life-saving equipment (including life-jackets for children if any are carried in the Charterer's party), as required by the Vessel's registration authority and 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.

## **CLAUSE 3 RE-DELIVERY**

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

## **CLAUSE 4 CRUISING AREA**

The CHARTERER shall restrict the cruising of the Vessel to the area stated in the itinerary.

## **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 plus, at the sole discretion of the Captain, a reasonable number of visitors whilst the Vessel is securely moored in port.

b) If children are taken on board, the CHARTERER shall be fully responsible for their conduct and entertainment and no member of the crew shall be held responsible for their conduct or entertainment.

c) The nature of a charter may render it unsuitable for anybody with physical disability or undergoing medical treatment. By signature of this Agreement the CHARTERER warrants the medical fitness of all members of the CHARTERER's party for the voyage contemplated by this Agreement. The CHARTERER and 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 Vessel 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 Vessel 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 Vessel 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. The Captain shall comply with all reasonable orders given to him by the CHARTERER regarding the management, operation and movement of the Vessel, 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 Vessel 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 Vessel upon the expiration of the Charter Period, or would, in the reasonable opinion of the Captain, cause a breach of clause 13 and/or any other clause of this Agreement. 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 of clause 13 and if such failure continues after the Captain has given due and specific warning to the CHARTERER in writing in respect of the same, the Captain shall inform the OWNER and the OWNER may terminate the Charter forthwith or instruct the Captain to return the Vessel 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.

PLEASE INITIAL :    OWNER :                      CHARTERER :



**CLAUSE 8 OPERATING COSTS**

The CHARTERER shall be responsible for the operating costs, as specifically defined under "CONDITIONS" on Page One of this Agreement, for the entire Charter Period for himself and his Guests.

The CHARTERER shall pay for any additional expenses not included in the fully crewed package.

Prior to disembarkation at the end of the Charter Period, the Captain shall present to the CHARTERER a detailed account of expenditure and the CHARTERER shall pay the Captain in cash, the balance of the expenses over and above "advanced payment for special requests", or the Captain shall repay to the CHARTERER 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 Vessel's operating costs may be required to be paid in advance to the Captain on boarding.

**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 and delivery is made within twelve (12) hours of the scheduled commencement date, the OWNER shall pay to the CHARTERER a refund of the Charter Fee at a pro rata daily rate or if it be mutually agreed 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 twelve (12) hours from the due time of delivery, 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 payments made by him to the OWNER. Alternatively, if the parties mutually agree, 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 within four (4) hours at the commencement of the Charter Period, other than by reason of force Majeure, the CHARTERER shall be entitled to treat this Agreement as repudiated by the OWNER. The CHARTERER will be entitled to repayment without interest of the full amount of all payments made by him to the OWNER.

**CANCELLATION BY OWNER**

d) If prior to the commencement of the Charter Period as set out on 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 will apply.

e) If the cancellation is for any other 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.

**CLAUSE 10 DELAY IN RE-DELIVERY**

a) If the Re-Delivery of the Vessel is delayed by reasons of force majeure, re-delivery shall be effected as soon as possible thereafter and in the meantime the conditions of this Agreement shall remain in force but without penalty or additional charge against the CHARTERER.

b) If the CHARTERER fails to re-deliver the Vessel to the OWNER at the port of Re-Delivery due to intentional delay or change of itinerary against the Captain's advice, then the CHARTERER shall pay forthwith to the OWNER by direct telegraphic transfer demurrage at the daily rate plus twenty percent (20%) 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 Vessel or cancellation of, or delay in delivery under any subsequent Charter of the Vessel.

**CLAUSE 11 CANCELLATION BY CHARTERER**

a) (i) Should the CHARTERER give notice of cancellation of this Agreement on or at any time before commencement of the Charter Period, the CHARTERER shall remain liable for all payments due to the OWNER prior to and unpaid at the date of cancellation. Should notice of cancellation be given by the CHARTERER or should the CHARTERER fail after having been given 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 amount of the charter hire payments.

(ii) If prior to the date of cancellation the Vessel has taken on provisions for the Charter, or has utilised the Delivery/Redelivery 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) If, after the signature of this Agreement, the OWNER is adjudged bankrupt or, in the case of a company, a liquidator, receiver or administrator is appointed over all or part of the OWNER's assets, the CHARTERER shall be entitled to cancel the Charter and all monies paid to the OWNER, or his agent, pursuant to this Agreement shall be refunded without deduction.



- c) The CHARTERER has the option to cancel the Charter with the following cancelling penalties :
- i) not less than 6 weeks prior to commencement of the Charter, an amount equivalent to 10% of the Charter Fee;
  - ii) not less than 4 weeks prior to commencement of the Charter, an amount equivalent to 50% of the Charter Fee;
  - iii) not less than 2 weeks prior to commencement of the Charter, an amount equivalent to 100% of the Charter Fee.
- The CHARTERER will be refunded the balance of any payments for hire as provided above and full reimbursement of the advanced deposit for fuel and for additional items, within ten (10) working days of serving notice of cancellation to the OWNER.

**CLAUSE 12 BREAKDOWN OR DISABLEMENT**

If after delivery the Vessel at any time is disabled by breakdown of machinery, grounding, collision or other cause so as to prevent reasonable use of the Vessel by the CHARTERER for a period between twelve (12) and forty-eight (48) consecutive hours or one-tenth of the Charter Period, whichever is the shorter (and the disablement has not be brought about by any act or default of the CHARTERER), the OWNER shall make a pro rata return of the Charter Fee for the period of the disablement or, if mutually agreed, allow a pro rata extension of the Charter Period corresponding with the period of disablement. If the CHARTERER wishes to invoke this clause, he shall give immediate notice in writing 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 forty-eight (48) hours or one-tenth (1/10th) of the Charter Period, whichever is shorter, the CHARTERER may terminate this Agreement by notice in writing to the OWNER or 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 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 redelivery by giving up possession of the Vessel where she lies. The CHARTERER shall be entitled to recover from the OWNER the reasonable cost of returning the charter party to the port of re-delivery by scheduled services.

**CLAUSE 13 USE OF THE VESSEL**

The CHARTERER shall comply, and shall ensure that his 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 consent in writing of the OWNER. The CHARTERER shall ensure that the behaviour of the charter party 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, and if such behaviour continues after this warning, the Captain shall inform the OWNER, 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 the Guests shall commit any offence 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, 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) 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, sub-let the Vessel or part with control of the Vessel 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 VESSEL**

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



**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 recognised terms extended to provide Permission to Charter and to cover Third Party liability, Water Skiers liabilities together with liabilities arising from the use by the CHARTERER and other competent person(s) authorised by him of personal water craft and other similar powered craft as well as windsurfers, dinghies, catamarans or other water-sports equipment carried by the Vessel. 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.
- b) All such insurance shall be on such terms and subject to such excess (deductible) as are customary for a Vessel of this size and type. Copies of all relevant insurance documentation shall be available for inspection by the CHARTERER prior to the Charter on reasonable notice to the OWNER, and shall be carried on board the Vessel.
- c) 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.
- 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 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 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.

**CLAUSE 17 SECURITY DEPOSIT**

Unless otherwise provided on Page One of this Agreement, the Security Deposit shall be held by the OWNER 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, shall, within 10 working days from the end of the Charter Period, or the settlement of all outstanding questions, whichever is the later, be refunded to the CHARTERER without interest.

**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, invasions, 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 the OWNER'S negligence). Crew changes do not constitute force majeure.

**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.

**CLAUSE 19 SALVAGE**

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

**CLAUSE 20 ARBITRATION & LAW**

Unless otherwise specified in the appropriate space on Page One of this Agreement, any dispute in connection with the interpretation and fulfilment of this Agreement shall be decided by arbitration in Singapore and in accordance with the laws of Singapore. 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 Arbitrators, each party appointing one Arbitrator, the third being appointed by the two arbitrators appointed. For claims below S\$15,000, both parties shall refer their disputes to the Singapore's Small Claims Tribunal.

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 Chairman of the Singapore International Arbitration Centre shall appoint an Arbitrator on behalf of the party who fails to appoint one.

The award rendered by the Arbitration shall be final and binding upon both parties and may if necessary be enforced by the Court or any other competent authority in the same manner as a judgement in High Court.

**CLAUSE 21 BROKERS – not applicable.**



**CLAUSE 22 PAYMENT OF CHARTER FEES AND OTHER MONIES TO THE OWNERS**

Full payment for the charter hire (S\$ ) for the advance deposit for fuel litres gas oil at S\$ per litre (S\$ ), 50 litres of gasline at S\$ per litre (S\$ ) and for additional items requested by the CHARTERER must be received in full by the OWNER not later than 28 day prior to commencement of the charter.

**CLAUSE 23 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 Vessel, then the CHARTERER shall give notice to the OWNER as soon as practicable after the event giving rise to the complaint has taken place and anyway within twenty-four (24) hours of the event or occurrence unless it is impracticable due to failure or non-availability of communications equipment. The complaint may be made verbally in the first instance but shall be confirmed as soon as possible in writing (by fax or mail) specifying the precise nature of the complaint.

**CLAUSE 24 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 in the case of the OWNER, to him 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 Vessel.

PLEASE INITIAL : OWNER : CHARTERER :