

## S/Y TARONGA CHARTER AGREEMENT

NAME OF YACHT: **S/Y TARONGA** Type: **CIM MAXI 88 SLOOP** Length: **97.5'**

Port of Registry: **ROAD HARBOUR** Flag: **B.V.I** Registration: **740128**

This Date ..... and Place .....

Between the Undersigned Parties it has been Agreed as Follows:

OWNER: **TARONGA GROUP LTD – 15/F Supreme Com Bldg – 368 King’s road – North Point - HK**

CHARTERER: .....

BOOKING AGENT: **LARKINCIL INTERNATIONAL LIMITED – HONG KONG**

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

Arrival date ..... (11:00am) Departure date ..... (11.00am)

Place of departure: **PHUKET or LANGKAWI** Place of arrival: **PHUKET or LANGKAWI**

Cruising Area: **the Andaman Sea**

N° guests on Board (.....) (Max pax 8) Crew: **Captain, Mechanical Engineer, Chef, Hostess**

----- **PRICE FOR ONE WEEK (7 NIGHTS)** -----

Charter fee: **€26,850** Deposit: **50% upon signature** - Balance: **50% due on or before .....**

Security Deposit: €5,000 to be deposited with the BOOKING AGENT and refunded as per clause 18

Cancellation fee: 50% of the charter fee (see clause 12)

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

**Charter fee includes:** The yacht with all its equipment in working order manned by a crew of four, their services, the insurance of the yacht, the fuel up to 4 hours cruising per day, the transit log and harbor fees in Malaysian and Thai waters, cooking gas, the ship's laundry, water and electricity, full board (alcoholic beverages excluded), water sport equipments such as water ski, canoe, snorkelling equipments. The charter fee excludes excessive use of motor operated water sports, which remain at the discretion of the Captain at all time. Crew gratuity is at the CHARTERER’s discretion.

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

The OWNER, its BOOKING AGENT and CHARTERER accept that clauses 1-22 form part of this agreement. Signed scanned copies of this Agreement shall be binding.

FOR THE OWNER

FOR THE BOOKING AGENT

FOR THE CHARTERER

Date .....

Date .....

Date .....

**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 BOOKING AGENT the Charter Fee, the Security Deposit, and any other agreed charges, as defined in the Price here above. The BOOKING AGENT shall pay the OWNER as per the agreement signed between the two parties and in any case prior to the start of the Charter. Failure to do so would result in the immediate cancellation of the Charter without compensation from the OWNER.

**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 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 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 (14). 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 at the Place of arrival free of any debts incurred for the CHARTERER's account (if any) 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 arrival, or port of departure, 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 four (4) 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 CHARTERERS PARTY**

- a) The CHARTERER shall not at any time during the Charter Period permit more than 8 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 a marina.
- b) 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.
- c) 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 qualified Captain acceptable to the insurers of the Yacht and a suitably experienced Crew. The OWNER shall ensure that no member of the Crew shall carry or use any illegal drugs on board the Yacht 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 (14). Furthermore, 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 (14) 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 BOOKING AGENT and the OWNER may terminate the Charter forthwith or instruct the Captain to return the Yacht to the Port of arrival or departure, whichever the case, 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, 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 fit or competent, inebriated, or 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 specifically defined under "CONDITIONS" on Page One of this Agreement for the entire Charter Period for himself and his Guests. 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 BOOKING AGENT'S account in advance or to the Captain on boarding. 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 or in THB or Ringgit. Payment by cheque, credit card or other negotiable instrument is not acceptable. 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 BOOKING AGENT, including the Security Deposit as per clause 18.

#### **CLAUSE 9. FOOD AND BEVERAGES**

Wines and spirits (the bar) are not included in the "CONDITIONS" while full board is provided (Breakfast, Lunch and Dinner). If the CHARTERER and his party decide to have lunch or dinner outside the Yacht, the Chef must be forewarned one day in advance. In any case, the CHARTERER is not entitled to any refund because some meals were taken outside the Yacht. Furthermore the Captain has the authority to refuse to provide, or is entitled to charge for, meals provided to visitors. Wines and spirits are at the costs of the CHARTERER, who can either stock his wines and spirits upon embarking or purchase out of the Yacht wine and bar list. Payment should be made cash in the same currency as the Charter Fee or in THB or Ringgit. No credit is allowed. In any case, the stocking or wine and spirits as well as their consumption remains at the discretion of the Captain who may refuse to stock or serve excessive quantities to the CHARTERER. Alternatively, to stock the Yacht for the Charter, the CHARTERER can provide a list of wines and spirits he wants to purchase to the BOOKING AGENT and pay directly the BOOKING AGENT for such stock. The wines and spirits will then be brought on the Yacht for the use of the CHARTERER prior to his arrival.

#### **CLAUSE 10. DELAY IN DELIVERY**

- a) If, for any reason, the OWNER is unable to deliver the Yacht to the CHARTERER at the Place of departure 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.
- b) If, however, by reason of Force Majeure, delivery has not been made by the OWNER within forty-eight (48) hours, 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 BOOKING AGENT, or, if it be mutually agreed, the OWNER may allow a pro-rata extension of the Charter Period, subject to subsequent bookings or an alternative period for the Charter.

#### **CLAUSE 11. DELAY IN RE-DELIVERY**

- a) 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 this Agreement shall remain in force but without penalty or additional charge against the CHARTERER.
- b) If the CHARTERER fails to re-deliver the Yacht to the OWNER at the Place of arrival 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 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 12. CANCELLATION**

If the OWNER or the BOOKING AGENT 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 and/or the BOOKING AGENT 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 BOOKING AGENT before repudiation.

**CLAUSE 13. BREAKDOWN OR DISABLEMENT**

a) If, 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 eighteen (18) consecutive hours and not more than forty-eight (48) consecutive hours of the Charter Period (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.

b) 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, the CHARTERER may terminate this Agreement by notice in writing to the OWNER or the BOOKING AGENT 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 Place of arrival by scheduled services, together with any accommodation expenses reasonably necessary for this purpose.

**CLAUSE 14. 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 is not entitled to bring pets or other animals on board the Yacht. 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.

The CHARTERER shall comply, and shall ensure that his Guests comply, with local sensitivities as well as 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 merchandise which he may bring aboard the Yacht, or may be brought aboard the Yacht during the Charter, have been cleared by the Customs of the relevant countries before being taken ashore later. In any case, the OWNER does not bear any responsibility for such goods and merchandise if the CHARTERER has to pay custom duties on any of his and his guests' merchandise and goods at any point during the Charter.

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 BOOKING AGENT, 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 and reserve the rights to seek compensatory damages from the CHARTERER.

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 15. 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 16. 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 BOOKING AGENT and 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. Only if the Charter is not to be on precisely the same terms and conditions then the CHARTERER has a right to decline to sign the Tripartite Agreement.

#### **CLAUSE 17. INSURANCE**

The OWNER shall insure the Yacht with first class insurers against all customary risks for a Yacht of her size and type, against Fire, Marine and Collision Risks. The OWNER and the BOOKING AGENT agent accept no responsibility for accidents, injury or death due to careless attitude under sail, swimming, the use of snorkels, water-skis, windsurfer or other available equipment whether or not it is supplied by the OWNER or CHARTERER. The OWNER's insurance policy does not include Protection and Indemnity coverage for the CHARTERER and his guests. Copies of the relevant insurance of the Yacht are available on board and can be provided upon request.

The BOOKING AGENT shall advise the CHARTERER to make sure that he and his guests have proper insurance for Third Party liability responsibilities as well as Medical assistance while travelling overseas.

#### **CLAUSE 18. SECURITY DEPOSITS AND CHARTERERS LIABILITY**

a) A Security Deposit whose amount is set at per page one shall be held by the BOOKING AGENT on the OWNERS'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 said Security Deposit shall, within twenty-four (24) hours of the end of the Charter Period, or the settlement of all outstanding questions, whichever is the later, be refunded to the CHARTERER without interest.

b) Under normal circumstances the CHARTERER is always liable for full sum of the repairs of losses and damages caused by the CHARTERER or his guests (intentionally or otherwise) to the Yacht or any third party for each separate accident or occurrence, to the exception of total loss of the Yacht.

#### **CLAUSE 19. 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) OWNER, BOOKING AGENT AND CHARTERER

Throughout the Agreement, the term "OWNER" shall be construed to apply to the OWNER or the Operator of the Yacht under a bareboat charter, whichever is the case. The term "BOOKING AGENT" shall be construed at the agent booking the Charter and to whom the CHARTERER has paid the Charter fees and other fees. The term "CHARTERER" shall be construed to apply to whoever, male, female, corporation, as the case maybe, as sign and pay the Charter fee.

#### **CLAUSE 20. SALVAGE**

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

#### **CLAUSE 21. ARBITRATION**

Any dispute in connection with the interpretation and fulfillment of this Agreement shall be decided by arbitration in Hong Kong. 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 Hong Kong.

#### **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 BOOKING AGENT on the OWNER behalf 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 email or fax) 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 by SMS, email, fax, and/or pre-paid and properly addressed by mail or bona fide courier service or communicated to the Captain during the Charter.

**READ AND APPROVED BY THE CHARTERER**

**Date:** .....