

## **Terms and Conditions for Yacht Charter Agreements (VOEV - Template - T&Cs for charter agreements 2015)**

### **Contracting party**

Definition of terms:

Charter company: Owner of the chartered (leased) yacht or its authorised representative  
Charterer: Customer and lessee of the yacht  
Agency: The contractor mediating the contract with the Charter Company

Contracting parties are the charter companies indicated in this Agreement and the Charterer.

Company XX (agency name) (hereinafter referred to as 'Agency') is the mediator of this Agreement.

### **2. Recognition of this Agreement and its provisions**

- a) The agency is authorised to enter into and sign this Agreement as a representative of the Charter Company.
- b) The Charterer hereby declares that they have read this Agreement, understood the nautical terminology used herein as well as its significance or had it explained, and agrees with the terms and conditions tailored to the specifics of the yacht charter and yacht sport.

### **3. Charter price**

The charter rate includes the use of the yacht and its equipment.

Extras and associated costs are to be billed separately and are not included in any possible refund of any charter costs.

Not included in the price are port and other fees, fuel, gas, water, and all expenses or actions that are necessary for the proper operation of the yacht during the charter period. Obvious errors in the calculation of the charter or other contract information do not lead to an entitlement to cancel the Agreement, but to a correction according to the current price list and the applicable terms and conditions of the Charter Company. Deviations of the yacht's facilities from equipment or inventory lists do not entitle the Charterer to price deductions if all equipment essential for safety and sailing are available on the yacht.

A termination of the Agreement is justified by a smaller cabin and berth number excluding the salons and the reefing of the sail, when these conditions are given in the Charter Agreement as booking essentials.

### **4. Arrival**

Travelling to the start of the charter journey is not part of this Agreement. If the charter start date is delayed due to the late arrival of the Charterer or a crew member, this does not entitle a reimbursement or price reduction. The Charterer and its crew hereby declare that they are aware that they are leasing a vessel for boat sports and not for travel within the meaning of the laws and regulations of the travel agency industry.

### **5. Agreement rescission by the Charterer**

- a) The length of time for which the Agreement was concluded can only be changed with the approval of the Charter Company and according to the possibilities.
- b) In the case of cancellation by the Charterer up to 8 weeks before departure, the cancellation fee is equivalent to the amount of the due payments, after that it is equivalent to the full charter price. We recommend obtaining the appropriate insurance corresponding to the cancellation conditions.
- c) If a further chartering of all or only part of the agreed charter period is possible after cancellation, 10 % of the price of the re-chartering are to be retained as a service charge. The remaining amount is to be refunded to the Charterer from the Charter Company.
- d) Any failure or incorrect readings of measuring instruments and other equipment will not entitle to a non-commencement or termination of the charter or financial claims if correct navigation using classical navigation methods (such as location determination by cross bearing, dead reckoning, etc.) and good seamanship is possible and the safety of ship and crew is not endangered.

## **6. Handover and acceptance of the yacht**

- a) The Charter Company is obligated to instruct the Charterer AND its ship's captain about the yacht while checking all technical functions and the presence of all the equipment in the yacht with a detailed check-list or inventory. The check of the yacht can be complemented by a test sail. By signing this list, the Charterer/the ship's captain confirms that the yacht is in good, seaworthy condition, that it is clean, has a full tank (fuel, oil, water), and is properly equipped. Identified defects, damage or missing equipment are to be recorded in writing.
- b) The Charterer may refuse to take on the yacht when its safety equipment and safety standards do not comply with the national laws, or if the hull, deck or hull/deck joints, rigging, sails, or rudder system are damaged to the extent that the safety of ship and crew is no longer guaranteed. In this case, the further procedure corresponds with point 6a.
- c) The Charter Company may refuse to hand over the yacht, if
  - the charter fee is not paid in full, or
  - the deposit is not provided or not replaced by insurance,
  - required documents are missing or inadequate (no or insufficient certificate of competence as a ship's captain for the chartered yacht, missing and/or inappropriate radio communication certificate, etc.),
  - if it is found following the takeover and upon instruction in the boat or on a test sail that the ship's captain does not have the necessary knowledge to ensure the safety of the yacht
- d) In the latter case, or if certificates of competency are missing or insufficient, the trip can be led by a qualified ship's captain chosen by the Charterer, who is entitled to sail the yacht and put at the Charterer's expenses.

## **7. Delayed handover**

- a) If the Charter Company can not offer the yacht or a suitable replacement – a yacht of similar size and equipment as the yacht originally chartered (see point 3) – at the latest after one quarter (1/4) of the agreed charter time – but at most after 3 days –, the Charterer has the right to terminate this Agreement. In this case, the already made payments are to be refunded by the Charter Company.  
Further claims by the Charterer shall only exist if intent or gross negligence on the part of the Charter Company cause the delay or the impossibility of the presentation of the yacht.
- b) If it is determined before the charter begins, that the yacht or a suitable replacement is not available on the contractually agreed date, the Agency is obligated to inform the Charterer about this as soon as they are aware of this situation. In this case, both sides can withdraw from the Agreement before the charter. The Charterer will be refunded by the Charter Company for the payments made until that point. Additional compensation payments are excluded.
- d) If the Charterer has a delay in the acceptance of the chartered yacht for reasons that the Charter Company is responsible for, he then receives the proportionate charter costs refunded by the Charter Company, if
  - either the acceptance of the ship has been agreed for a time in the second half of the day, and an overnight stay on the chartered yacht or a replacement and/or the actual transfer is not made before 12 o'clock noon the next day at the latest,
  - or if the ship handover was agreed for the first half of the day, but actually takes place more than 12 hours after the agreed time.

## **8. Insurance and deposit**

The chartered yacht has liability and comprehensive insurance. The Charterer's (the ship's captain's) liability for damages caused by them or their crew is limited to the Charter Company (not to third parties) by the amount of the security deposit. Exceptions are listed in the Agreement.

In terms of insufficient amounts of coverage (e.g. liability/environmental damage) the conclusion of an appropriate insurance package is recommended.

- a) The insurance premium for the chartered yacht is included in the charter price, or separately reported as extra costs.
- b) The insurance does not cover persons effected by accidents nor the loss of, or damage to, their personal belongings. We recommend that you take appropriate supplementary insurance.

- c) A prerequisite for the performance of insurance in the case of damage is that the damage was not caused intentionally nor by gross negligence, or if the Charterer/ship's captain has used behaviour that relieves the insurer from liability. (Breach of obligation of duty) It must be stressed, that the liability of the Charterer is not limited to the amount of the security deposit or the insurance deductible in these cases, instead, the Charterer is liable for full compensation to an unlimited amount.

#### **9. Use of the yacht, obligations, damages**

- a) The Charterer/ship's captain agrees to use the yacht with special consideration of good seamanship and in compliance with the laws and regulations of all countries visited.

- b) The Charterer or the designated captain further confirms

- not to carry more than the maximum number of persons and to report any changes to the crew to the Charter Company and the relevant authorities,
- to neither use the yacht for business nor for the transport of goods, nor to receive payment for the transport of passengers, nor for professional fishing,
- not to participate in races nor to further rent out the yacht without the express consent of the Charter Company,
- not to use the yacht to tow or to tow or recover other vehicles, nor to have it towed or be rescued, except in emergencies; in the case that it has to be towed or rescued, instructions must be obtained from the Charter Company (or its representative). If this is not possible, he has to come to an agreement with the captain of the other ship on the towing costs or salvage before aid is accepted,
- to keep a log (nautical diary), in which the courses, manoeuvres, logs, use of sails, engine operation, continuously detected ship locations, inspections conducted, maintenance or repair work, important events or observations (accidents, etc.) are chronologically recorded. If the Charterer uses an existing log on the yacht (or must use this due to instructions by the Charter Company) the logbook is to remain on board. In this case, additional private logging functions or the making of a copy is recommended.
- only to run one of the rigs and sails adapted to the wind conditions on a sailing yacht, not to let the engine run when stationary, and to only drive with the engine for as long as it is necessary,
- only to sail out from a protected port, if the principles of good seamanship permit it,
- to leave an unsafe anchorage when the weather forecast, current weather conditions, or identifiable weather developments suggest the need for such actions,
- to ensure whenever stationary that the ship can be detected in time and action can be taken to avoid it.

- c) In the case of damage to the yacht by material wear, the Charterer shall arrange for the repair or replacement in accordance with the instructions of the Charter Company or its authorised representative. If the latter are not reachable, the Charterer is entitled to arrange for the repair or replacement, if the amount of € 150.00 is not exceeded. This expense will be refunded upon return with the submission of the invoice, if the damages were not due to operational errors, incorrect or negligent behaviour on the part of the Charterer/the ship's captain or their crew. Replaced parts are to be kept. Idle times due to necessary repairs during the charter do not entitle the Charterer to any claims for compensation. If the idle time exceeds 1/4 (one quarter) of the total charter period, the Charterer is entitled to a reimbursement of the proportionate charter costs. Any further claims do not exist.

- d) The Charter Company must be informed immediately of damages exceeding € 150.00, accidents, possible delays, loss or lack of manoeuvrability of the yacht. The Charterer/the ship's captain is to do everything possible to reduce damage and consequential damages (loss of charter, etc.), as well as to arrange repairs in consultation with the Charter Company, to document, monitor and present them in the case of payment. The Charterer/the ship's captain is to also prepare a damage report which – if third parties' claims are to be expected – is to be confirmed by the competent authorities. The Charterer/the ship's captain can be called upon for the payment of all costs arising from a failure to comply with the

aforementioned formality. The Charterer/the ship's captain shall also be liable in full for all direct and consequential costs such as loss of business, etc., resulting from a seizure of the yacht due to his negligence or that of a crew member.

- e) If there is reason to suspect damage to the yacht under the surface of the water, it is to be driven to the nearest port and an examination by a diver, cranes, or docking is to be arranged at the expense of the Charterer.
- f) The theft of the yacht or parts of its equipment is to be reported to the nearest police station.
- g) Taking animals is only permitted with the approval of the Charter Company.

#### **10. Return of the yacht**

- a) The Charterer must return at the time/date and agreed port specified in this Agreement, or an amendment has to be agreed in writing with the Charter Company. Periods of bad weather or other adverse circumstances must be taken into account in the planning of times. If the Charterer does not return the yacht himself, he must notify the Charter Company, and have the yacht returned by a named person at their own cost and risk. Up until acceptance, the Charterer is required to have a duly qualified person on the ship. He shall be liable for all costs and claims arising out of any breach of this supervision duty regardless of the amount of the security deposit. The Charter Agreement is only terminated after proper return of the yacht.
- b) Upon each day of delay, a compensation payment in the amount of double the daily tariff of the charter fee is due. The basis of calculation is the Charter Company's price list valid at the time of delay. Any price benefits of lower prices or special conditions (e.g., early booking discounts or a regular customer discount), which the Charterer received when concluding the Agreement shall be excluded from the calculation of the compensation payment.
- c) The Charterer must return the yacht to the Charter Company on the agreed date at the latest. At this point, the entire crew, including luggage, must have left the yacht. The time needed for cleaning and return including checks by the Charter Company or its authorised representative is part of the rental period specified in the Agreement.
- d) Upon return of the yacht, lost equipment and all damages are to be declared and paid for. The deposit paid will be used for this. In addition, the Charter Company is to be informed of groundings and identified deficiencies.
- e) If the yacht and its equipment are in good condition, cleaned, returned completely and fully fuelled, the Charterer is to have their deposit refunded. A log (checklist) is also written for the correct return, which is binding upon signing by the Charterer and the Charter Company or their authorised representative.
- f) If the yacht has not been cleaned inside and outside upon return, the Charter Company is entitled to have the yacht cleaned at the expense of the Charterer. If final cleaning is included in the charter price, that also means that the Charterer is to return the yacht with the decks swept, cleaned up and with clean dishes. If this is not the case, the Charter Company may charge additional cleaning costs.
- g) If repairs are required, the Charterer must return early enough, after agreeing with the Charter Company, that the repair can be carried out before the beginning of the next charter. If damage occurs at the fault of the Charter Company, the charter fees for the downtime are to be refunded. The Charterer's other claims for compensation (e.g. accommodation costs, etc.) are excluded. (See also Section 8). If damage occurs at the fault of the Charterer, the reimbursement of downtime is eliminated.
- h) If the damage or loss is covered by insurance, the return of the deposit or parts thereof is postponed until the compensation is received from the insurance. The refund of the deposit will be made after deduction of the excess plus all costs caused by the incident which were not covered by insurance. The deposit paid can also be returned later, when the amount of repair services or costs covered by the deposit can not be accurately determined at the time of the return of the yacht.
- i) Claims by the Charterer to the Charter Company must be made in writing and justified immediately upon return of the yacht. Later claims can not be accepted.

#### **11. The Charter Company's caveats**

The Charter Company reserves the right to limit the navigation area corresponding to the category of the vessel, unsafe conditions or unusual navigation conditions, or to pronounce a ban on night sailing. The responsibility for the consequences of failure to comply with these restrictions is solely borne by the Charterer/the ship's captain.

## **12. Liability and jurisdiction**

All disputes between the Charterer and the Charter Company are to be settled directly between them. If Austrian or community law does not state otherwise (e.g. consumer protection), existing arbitration boards and courts are valid in accordance with the Terms and Conditions or the Charter Agreement of the Charter Company.

The Allgemeine Bedingungen österreichischer Yacht-Charteragenturen (general conditions for the Austrian yacht charter agencies) apply for any dispute between the Charterer and the Agency.

## **13. Liability of the Agency**

The Agency is the mediator of the Agreement between the Charterer and the Charter Company, and is solely responsible for the tasks and responsibilities of an agent if the damages are caused by intent or gross negligence. Damage from other causes is excluded.

## **14. Final provisions**

If some parts of this Agreement are invalid or unenforceable, the remaining parts of the Agreement shall remain valid.

If the customer is to sign an additional contract in addition to this, it is to agree with the content of the terms of this Agreement.

Disadvantages arising from divergent content are to be borne by the Charter Company.

The right to the correction of errors, as well as printing or calculation errors, is reserved.

Additional agreements, oral commitments or changes must be confirmed in writing.

The Charterer declares with his signature that he has read and agree with the Terms and Conditions.

In the name and on behalf of the Charter Company

.....  
Date / Signature / Charterer

.....  
Date / Signature / Agency