

# General Conditions

## 1. General

General conditions are to be used in the business cooperation between Nike - Split d.o.o. (further referred to as the "Company") and the Client.

*Booking Confirmation* together with *General Conditions* is integral part of *Charter Agreement* between Company and the Client. The Charter Agreement shall enter into effect when reservation payment is made.

## 2. Charter price

The charter price includes use of the yacht by the Client in the period defined in Booking Confirmation document, natural wear and tear, liability insurance, hull insurance and insurance of crew in case of injury or loss of life.

## 3. Company's duties

The Company undertakes towards the Client:

- 1) that it shall provide yacht to be chartered on the agreed date, in an adequate condition
- 2) the Company assumes the obligation to introduce to the Client the positive regulations of the Republic of Croatia, their obligation to follow such regulations, as well as the rule which applies to the Company's yachts without a ship commander (skipper) and requires at least one of the crew members to have a valid sailing license adequate for the requested yacht and in accordance with the regulations of the Republic of Croatia, and which the Client is required to present to the Company's employees upon their request
- 3) that it shall be available for the Client during the charter period by telephone at least during the usual office time

## 4. Client's duties

The Client shall have the following obligations towards the Company:

- 1) all crew members will be reported in written to the responsible person in Company no later than **1 week** prior to commencement of the charter period (preparation of a crew list)

## DELAY

- 2) the agreed charter period shall not be unilaterally extended without previous consultation with the Company
- 3) the yacht shall be kept in sufficient proximity to the return port prior to end of the charter in order to ensure timely arrival in the event of adverse conditions (bad weather, strong winds etc.). Storms shall not affect the duty to return the yacht punctually. **The Company must be informed immediately in the event of foreseeable late return**
- 4) the Company must be notified without undue delay if Client wants to return the yacht at a location other than the agreed return port. In this event, the Client shall be fully responsible for the yacht. Under no circumstances is Client to deliver the yacht for care to the third parties without written consent of the Company. The charter shall end only upon taking of possession, and the Client shall bear any resultant costs

## SAFETY

- 5) to comply with the relevant local and state regulations at all times and to comply with instructions from the Company's support personnel regarding all matters of safety, International Regulations for Preventing Collisions at Sea, 1972 (COLREG), sailing and sailing regulations (yacht usage, sailing route, weather and sea conditions, berthing, mooring, anchoring)
- 6) in case of accident the Client **shall immediately notify the Company** and record in writing the course of events and seek verification from the port captain, doctor, or other relevant services
- 7) to monitor weather and sea conditions given by the state Meteorological and Hydrological Service (DHMZ) or reading the data from the DHMZ web page [http://www.meteo.hr/index\\_en.php](http://www.meteo.hr/index_en.php)
- 8) to remain berthed or moored at the safe port or to immediately proceed to the safest port by shortest possible route in case that the yacht is found in bad weather or bad weather is predicted by the state Meteorological and Hydrological Service. Upon arrival at the port or anchorage the Client must secure the yacht in due and proper seamanship manner and must not leave the boat at the mooring unattended during the bad weather
- 9) in winds with forecast peak gusts exceeding **25 knots** or if thunderstorms are predicted in weather forecast the Client is obliged to contact Company's support person and to follow all Company instructions including instructions as to whether the yacht may be put to sea or must remain in dock. If these instructions are not complied with, no claims against the Company or the insurance company arising from damage incurred will be admitted. All damages sustained by the third parties that resulted from non-compliance with the Company's instructions as defined in this paragraph are to be covered by the client.
- 10) to enter and leave port **ONLY** under motor propulsion

## TECHNICAL

- 11) the chartered yacht and her equipment shall be treated with care and in accordance with the rules of due and proper seamanship
- 12) the Client shall familiarise themselves with the technical and all other systems of the yacht prior to commencement of the charter, comply with the instructions located on board and inform themselves on the particularities of the shipping route
- 13) perform rotational control and maintenance measures, particularly verifying the oil level and cooling status of the motor on a daily basis, check bilge on a daily basis and immediately notify the Company about any irregularity
- 14) **damage caused by lack of oil in the fuel is going at the expense of the Client (THIS RULE IS VALID ONLY FOR 2-stroke engines)**
- 15) the battery must be charged daily, either by means of shore-side power or by starting the engine
- 16) **the Client must report any touching of the bottom immediately to the Company** and, in the event of

suspected damage to the chartered yacht, immediately head towards the next port and, **only following consultation with the Company and at its instruction**, arrange for an examination by a diver or craning or dry dock

- 17) the Client shall immediately notify the Company even in the event of suspicion of damage to the yacht and shall immediately report any lost, damaged or no longer functional equipment

**18) not to make any modifications to the yacht and equipment**

- 19) to give towing assistance only in an emergency, to have the chartered yacht towed only in an emergency, and not to make any agreements concerning towing and recovery costs without consultation with the Company
- 20) the costs for lost or damaged yacht parts or equipment shall be borne by the Client alone, so the Company will retain appropriate amount of deposit
- 21) if damage to the hull requires underwater inspection of the yacht, the costs shall be borne by the Client

**LAWS AND REGULATIONS**

- 22) **the Client claims that they possess all valid certificates needed to operate the yacht, and that yacht will be under control solely by a crew member(s) who possesses such certificate**
- 23) to comply with the statutory regulations of countries in which the Client stays, passes through or is a guest, and to enquire in advance concerning any necessary licenses or travel permits
- 24) the Client also agrees to comply with customs and other regulations, not to bring along any undeclared goods subject to custom duties or dangerous goods or substances
- 25) always to duly and properly pass the yacht through port authorities and duly pay any port charges incurred
- 26) to notify the nearest police station without undue delay of any theft of the yacht or its accessories
- 27) the number of persons taken on board must not exceed the admissible number indicated in the charter contract and/or the maximum number for the chartered yacht and not to allow any animals on board
- 28) not to exit designated sailing area for the chartered yacht as stipulated by the state regulations. Exiting the area is punishable by law and in such case any fines imposed by the government agency will be borne by the Client
- 29) in case of leaving territorial waters of the Republic of Croatia during the pre-agreed/arranged trip and after prior written consent by the Company, all additional costs related to the additional equipment and permits are borne exclusively by the Client
- 30) the Client agrees that the yacht will not be subchartered or borrowed to third party, that it will not participate in regattas and races or to be used for commercial purposes, for professional fishing, sailing school, etc. without written consent of Company
- 31) for the actions and omissions of the Client that causes liability of the Company to a third party, and the same causes material and criminal liability of the Company, the

Client is required to reimburse all expenses incurred due to their own negligence.

- 32) the Client is specifically legally responsible in the case of seizure of the yacht by state authorities because of Client's illicit activities
- 33) the Client is obliged to immediately notify the Company in case of disappearance of the yacht, inability to operate the yacht, in case of seizure, or when yacht's navigation was prohibited by state authorities or third parties

The Company may restrict the shipping route in the event of unsafe/uncertain navigation conditions or prohibit night travel. The Client and the skipper and crew shall be responsible for sailing the yacht and shall be liable to the Company or insurer for any damage resulting from non-compliance to the Company's instructions. In the context of this Agreement, the crew members shall be deemed vicarious agents of the Client/skipper.

**5. Sailing licences, certificates of qualification**

The Client warrants that the person responsible for handling the yacht has a valid licence as required by the State or that they will be accompanied by a crew member (skipper) with a valid licence as required by the State, and, moreover, that they or their skipper has all necessary navigational and nautical knowledge and experience in order to safely skipper the chartered yacht for the planned journey (route) in open waters under sail and/or motor taking responsibility for crew and materials into account. Moreover, the Client agrees to treat the chartered yacht in accordance with the rules of good seamanship and to use it in compliance with the relevant statutory provisions and regulations of the regions in which the yacht is used.

Prior to handover of the chartered yacht, the Company may verify the ability of the responsible skipper to skipper the yacht. The Company may demand proof of previous sailing experience prior to conclusion of the Agreement and request that it be presented with the sailing licences or certificates of qualification necessary for skippering the yacht in the agreed yacht class and sailing area.

In the event of doubts concerning the qualification for safe skippering of the chartered yacht and crew, the Company may appoint or arrange for a skipper for the Client at the Client's expense. Should this be impossible or should the Client not agree thereto, the Company may refuse to hand over the yacht; in this event, the charter price paid shall be reimbursed at the originally agreed charter price **only in the event of a successful alternative charter**. If an alternative charter is only possible at a lower price, the Company shall be entitled to the relevant difference.

Important: The Client/skipper shall bear full responsibility as well as for the crew, ship, equipment and inventory as against the Company and insurer.

**The Client shall be fully liable for damage that has a causal connection with misrepresentations concerning his ability to sail the yacht.**

**6. Payment method**

The Company shall, immediately upon prior spoken or written agreement between the Company and the Client on each individual arrangement, e-mail to the Client completed Booking Confirmation concerning the reservation. The Charter

Agreement shall enter into effect when reservation payment is made and the Company shall issue completed Reservation Confirmation and send it via e-mail to the Client.

All payments based on the General Conditions will be made in the Croatian currency (kuna), or in euros when the Client is a foreign legal entity. The Client agrees that all costs (**AUR code payment**) related to transferring money to the Company's account are borne by the Client.

The Client agrees that if the agreed payments (*the reservation and the final payment*) are not made in time and in accordance with the terms specified in the Booking Confirmation document, the Company is entitled to cancel the Charter Agreement and charter the yacht otherwise. The Company shall deliver the cancellation of individual arrangements in writing via e-mail to the Client. In such case there is no refund for the Client.

## 7. Performance disruptions

### Client's rights

Should the Company fail to provide the chartered yacht no later than **4 hours** following the contractually agreed time, the Client may reduce the charter price on a **pro rata basis** for the down time per day commenced. The same shall also apply for necessary repairs, irrespective of the Company's fault. The Client may also, at his choice, terminate the Agreement against full reimbursement of payments made if more than **24 hours** have elapsed since the agreed handover time; in the event of a charter period of at least 10 days, this deadline shall extend to **48 hours**. The Company may provide a reasonable substitute yacht that is objectively of the same level and that also meets the Client's needs. Any other compensation is excluded (e.g. travel and accommodation costs).

### BREAKDOWN

The Company undertakes towards the Client:

- 1) that it shall reimburse down time if the Client is no longer able to use the yacht due to a defect (in whole or in part). There shall be no reimbursement if the Client is himself responsible for the down time (e.g. due to damage caused by him, damaged caused by gross negligence or damage caused by failure to prevent damage knowing that the damage will probably occur)
- 2) in case of a breakdown which is not caused by the Client as described in paragraph 1, that would prevent the yacht from being capable of further normal sailing, the Company shall, in no more than 24 hours from being notified of the breakdown, eliminate the breakdown, or when this is not possible, provide a replacement yacht and transport it to the place of the breakdown at its own expense
- 3) if the Company is not able to resolve the situation as described in paragraph 2, the charter price shall be reimbursed on a pro-rata basis for each day commenced
- 4) the Client agrees that if the breakdown is eliminated in due time and in the manner as specified in the paragraph 2 of this article, shall not be entitled to any refund of the amount paid for the yacht, or to any subsequent claims regarding the breakdown. Any additional compensatory damages claims on the part of the Client shall be excluded
- 5) the Company will not be held liable for injuries sustained by the Client and/or crew members or for any damages to

the yacht and/or any damages or injuries to third parties that occurred during the trip by fault of the Client and/or other crew members. The Client agrees that liability for said occurrences remains only and exclusively with the Client.

## CANCELLATION

Should the Client be unable to take-over the yacht on agreed time, they shall notify the Company without delay in writing. In such case the Client may provide a **suitable substitute Client** only with the prior written consent of the Company. The substitute Client completely assumes the Charter Agreement **at the same conditions and at the same price**. In the event of an alternative charter **at a reduced price or for a shorter period**, the relevant difference shall be due and payable by the Client.

For costs which are not incurred as a result of cancellation of the charter, no cancellation fee will be charged as for example for: cleaning, tourist tax, deposit fee, extras, special equipment etc.

In all other cases, the Company shall be entitled to the contractually agreed charter price.

## COMPANY'S RIGHTS

Should the yacht not be returned after the time contractually agreed, the Company may demand from the Client to pay the amount of the daily rent for delay up to 3 hours, and in case of delay over 3 hours to pay double daily rent with the addition of expenses incurred for the Company due to the delayed return of the yacht. The Client shall warrant for punctual return. In this respect, they shall take into account local wind and weather conditions, include weather-related problems, in his plans and keep the yacht in sufficient proximity to the place of return. In the event of fault or unilateral actions, the Company may demand compensatory damages. Should the Client leave the chartered yacht at a location other than the agreed place of return, they shall bear the costs of return of the yacht. The Company shall be notified immediately in all cases.

**It is strongly advised to monitor weather forecast in advance in order to timely return yacht to marina.**

The Company reserves the right to cancel the Agreement at latest **15 days** before the commencement of the charter with the obligation to return the Client the entire amount paid. The Company shall deliver the cancellation of individual arrangements in writing via e-mail to the Client.

## 8. Crew-list

By no later than **1 week** prior to commencement of the charter, the Client shall notify the Company of all travelling persons (crew) based on the foregoing list for all crew members:

- first and last name
- date of birth
- country of birth
- nationality
- number of personal ID card or passport number
- skipper's license and mobile phone number (only for skipper).

## 9. Deposit (provisions, particularities)

The yacht is handed over to the Client in good condition, and it should be returned in the same condition.

Unless agreed otherwise, the Client shall pay the deposit before embarkation. The deposit shall be paid in cash. The Client shall be liable for damages up to a maximum equivalent to this amount for: property damage to the chartered yacht and its accessories, lost equipment, delay of hand-over, delay of beginning of next charter caused by repairs, lost earnings in case of cancellation of the next charter caused by repairs, and theft. The deposit shall be payable in cash before embarkation and shall be due for reimbursement upon hand-over of the yacht if the charter has taken place timely and without any damage. If repairs may or should be performed only at a later time and if it is foreseeable based on the assessment of the level of the damage that the expense will be less than half of the amount deposited, then at least half shall be immediately due for reimbursement. Otherwise, complete deposit would be retained until final cost of repair is known.

#### 10. Take-over of the chartered yacht

The Company shall, in accordance with the provisions of the General Conditions and the prior arrangement made with the Client, at the agreed time and place, provide a specific yacht to the Client.

The Client shall take over the yacht at his own responsibility. The Company or its appointed representative shall provide the Client chartered yacht ready for sailing, cleaned internally and externally. The yacht's condition, all technical functions (in particular, sail, lights and motor) and the completeness of accessory and inventory shall be thoroughly inspected using a check list by both contracting parties during the familiarisation procedure. The seaworthiness of the chartered yacht and the equipment shall then be confirmed by the parties in a binding manner by way of signature.

#### 11. Hand-over of the chartered yacht

The Client shall hand over the chartered yacht to the Company or its appointed representatives at agreed time and place as defined in Booking Confirmation, **unless otherwise agreed**, ready for sailing in a stowed condition according to the checklist. Both parties shall jointly inspect the yacht's condition and the completeness of the equipment. The Client and Company shall prepare a list of defects and losses, if any.

#### 12. Damage to the chartered yacht

The Client shall immediately notify the Company of any consequential damage, conduct obligations, liability damage, collisions, accidents, disabling, operating breakdowns, seizure of the yacht or other events. The Client and the Company must always be available for instructions and questions. The Client shall undertake all actions that reduce the damage and its consequences. **Should damage be unable to be rectified onsite, the Client may be obliged – following request by the Company – to return early.**

The Client/Skipper/Crew shall bear the costs up to an amount equivalent to their deposit for correction of defects or repair of damage on the chartered yacht or equipment. Damage exceeding this amount shall be covered by the hull underwriter, unless the skipper and/or crew act wilfully or in gross negligence or breach the provisions of the Charter Agreement, and these actions have a causal connection with the damage event that occurred. This shall not apply to damage for which the skipper and his crew was not at fault.

If any damage is incurred or if problems arise, the Client must immediately inform the Company and follow its instructions. Failure to do so will invalidate any claims by the Client against the Company and insurance companies.

#### 13. Other liability of the Client

The Client shall be liable for any and all damage caused by them or their crew to third parties or the chartered yacht, its equipment or accessories, in particular, for damage attributable to incorrect use or defective maintenance (if this is a duty of the Client). In the event of wilful or grossly negligent actions, the Client shall also be liable for claims asserted by the hull underwriter. If they are at fault, the Client shall also be liable for any and all consequential and economic loss according to the legal regulations of the country concerned. Should the Company provide a professional skipper, the skipper shall be responsible for sailing the yacht and shall be liable for damage caused by them, but not for damage caused by the guests. In the event of wilful or grossly negligent actions on the part of the Client or their crew, for which the Company is made liable by a third party without being at fault in any manner, the Client shall indemnify the Company against any and all consequences under private and criminal law, any and all costs and any legal prosecution, domestically and abroad. Where there is more than one Client, these shall be jointly and severally liable.

#### 14. Insurance

Yacht has: liability insurance, hull insurance and insurance of crew in case of injury or loss of life.

Personal injury as a result of accidents on board, damage to items brought onto the yacht by the skipper and crew and damage caused by wilful or grossly negligent actions shall not be covered by such insurance, meaning that, generally speaking, the Client rather than the Company shall be liable therefor in the event of fault.

Taking out of hull insurance shall not result in any liability indemnity of the Client by the Company for damage that the insurer does not assume due to wilful actions, gross negligence or abuse of the provisions of the Charter Agreement.

#### 15. Other agreements, miscellaneous, notices

**Loss of personal belongings:** the Company cannot be held liable for any personal belongings of the Client which have been lost or forgotten after the trip.

#### 16. Final provisions (applicable law, severability etc.)

Oral commitments or ancillary agreements shall be applicable for both parties only following written confirmation. Should individual provisions of this Agreement be void, invalid or of no legal effect, the validity of the remainder of the Agreement shall remain unaffected thereby.

The Company and the Client shall attempt to resolve any dispute arising out of this General Conditions in good faith by negotiations, however, should such attempts fail, they hereby agree to the jurisdiction of the Commercial Court in Split, Croatia.

#### 17. General Conditions validity

General Conditions are valid from 1.1.2016. for the season 2016. and after.