



## General passenger terms Anne-Margaretha Charters

### Article 1. Introduction

These Passenger Terms as well as the accompanying contract maintain the following definitions: .

- a. **Offerer:** the owner of the boat, **Anne-Margaretha Charters**.
- b. **Contract:** any agreement concluded between Offerer and Passenger, as well as any revision or supplement thereof by which Offerer undertakes with respect to the Passenger to provide a sailing trip aboard his boat and to which these Passenger Terms apply.
- c. **Passenger:** any (legal) person who concludes a contract with Offerer as described in Article 1b.
- d. **Co-passenger:** any person who is specified by the Passenger as making use of the services of Offerer.
- e. **Sailing trip:** the totality of travelling with, and the stay aboard the boat during the period stipulated in the contract. This includes the days of embarkation and disembarkation, which are counted as whole days, regardless of the time taken embarking and disembarking. The trip to the place of embarkation and disembarkation is not included in the duration of the trip.
- f. **Luggage:** the luggage, easy to carry, portable or manually wheeled goods, which (co-)Passenger has with him during the sailing trip.
- g. **Boat:** the boat on which the sailing trip stipulated in the contract, takes place.
- h. **Passenger fee:** the price of the sailing trip and other services as stipulated in the contract.

### Article 2. Conclusion and Contents of Contract

- 2.1 The contract shall be concluded through the acceptance by the Passenger of the offer of Offerer, whether directly or through a broker.
- 2.2 A Passenger who concludes a contract on behalf of co-passengers is liable for all obligations under the contract.
- 2.3 Passenger is obliged to make known before booking, any personal circumstances which can affect the trip (illness/handicap, etc.). This obligation also applies to co-passengers, should Passenger conclude a contract on behalf of one or more co-passengers.
- 2.4 The publication giving notice of the sailing trip is part of the contract. Apparent errors and mistakes in a publication shall not bind Offerer.
- 2.5 Offerer shall bear no responsibility for folders and other advertising materials which were published under the authority of third parties.
- 2.6 Deviating Passenger Terms apply exclusively to the extent they are accepted explicitly in writing by Offerer and shall apply only to the contract(s) concerned.
- 2.7 Changes in, and supplements to any provisions of the contract and these terms shall apply only when in writing and approved by both parties.
- 2.8 The contract and these Passenger Terms state the full rights and obligations of Offerer and Passenger.
- 2.9 In the event of conflict between this text and a text of these terms written in another language, the Dutch text shall prevail.
- 2.10 Should any stipulation of these terms fail to apply for whatever reason, the remaining terms shall be valid. Then non-valid stipulation shall be replaced by a stipulation which approaches the content of the non-valid stipulation as closely as possible.
- 2.11 These terms shall cover all (legal) persons of whom Offerer employs or has employed in the broadest sense of the word in the conclusion and/ or execution of the contract or in the operation of his business.
- 2.12 In the event of disputes between the contract and these Passenger Terms, the provisions of the contract shall be decisive.
- 2.13 Should Passenger specify certain preferences, these shall be taken as much as possible into account. A preference, however, cannot be guaranteed and shall therefore not be binding for Offerer.
- 2.14 The necessary travel documents and the latest travel information shall be sent to Passenger no later than ten days before embarkation, unless this period must be exceeded for justifiable reasons.

### Article 3. Payment Conditions

- 3.1 Passenger shall pay the amounts charge to him in the currency stipulated, within the periods stipulated in the contract. ( 50% of the amount has to be paid right after the booking and 50% at last 6 weeks before the start of the trip). Passenger shall under no circumstances be entitled to suspend his payment obligation. The date on the bank or giro statements of Offerer shall apply as date of payment.
- 3.3 Offerer shall be entitled to increase the passenger fee upto 20 days prior to the start of the sailing trip in connection with drastic increases in the costs of executing the contract. Passenger shall in that case be entitled to cancel the trip without charge, providing he does so within ten days after notification to this effect.
- 3.4 Should Passenger fail within the agreed payment period to meet his obligations toward Offerer, Passenger shall be legally in default without the necessity of notice of default. From the time Passenger is in default to the day of full payment, Passenger shall owe interest for overdue payment of 2% over the amount owed per month or part thereof, without prejudice to the right of Offerer to full damage compensation. At the same time, Offerer shall be entitled to suspend his obligation under the contract until all payment obligations have been met. Offerer accepts no liability whatever for damage suffered by Passenger on this account. This right to suspension includes the right of Offerer to refuse (co-)Passengers admission to the boat.
- 3.5 Should at the time of payment a dispute arise about the amount due, or a calculation be required for its determination which cannot be carried out quickly, Passenger shall be obliged to pay immediately that portion of the fee about which both parties agree, and to furnish security for the portion disputed by Passenger, or the part of the sum which has not yet been determined.
- 3.6 All expenses incurred in collecting costs owed by Passenger, whether legal or extralegal, are for account of Passenger.

### Article 4 Cancellation

- 4.1 If the passenger cancels the trip after initial payment, certain conditions apply to reimbursements:

after booking, non-refundable:	30 % (of the total cost of the trip)
6 months-5 months before departure	35 % non-refundable
5 months-4 months before departure	40 % non-refundable
4 months-3 months before departure	50 % non-refundable
3 months- 2 months before departure	60 % non-refundable
2 months- 1 month before departure	75 % non-refundable
1 month- 7 days before departure	90 % non-refundable
7 days- on departure	100% non-refundable

- 4.2 Notice of cancellation shall in all cases be given by fax, or email- the reception of which shall be confirmed by Offerer, or by registered letter. The date of receipt by Offerer shall count as the date of cancellation.

### Article 5. Termination/ Changes by Offerer

- 5.1 Offerer shall be entitled to cancel the sailing trip should the number of applications be less than the minimum number required as announced in the publication on the sailing trip concerned. Offerer shall inform Passenger to this effect no later than four weeks before the time of departure, unless another time is stipulated in the publication ( see 5.5)
- 5.2 Offerer and/or captain is entitled at all times to determine that the weather conditions, high or low tide, the obstruction of sailing routes and comparable circumstances, including those affecting the boat, prevent departure or necessitate a change of the trip, in the broadest sense of the word, or to cancel or change the place of departure or arrival..
- 5.3 In the case stipulated in Article 5.2 Offerer shall attempt to help find an alternative or solution, subject to payment by Passenger of all extra expenses incurred by Offerer in doing so. It is the prerogative of Offerer to decide whether an alternative/solution is feasible and can be reasonably implemented by Offerer.
- 5.4 The provision of this article shall also apply in the case Offerer and/or the captain involved is obliged to take one of the foregoing decisions as a result of the actions or failure to act by (co-)Passengers (or one of the (co-)Passengers), should transport be delayed by whatever cause, or should Offerer be unable to reach the agreed place of departure or arrival.
- 5.5 Should the boat unfortunately be unavailable, Offerer shall attempt to replace it with a comparable boat. Should this be impossible, Offerer shall be entitled to terminate the contract. Should Offerer terminate the contract owing to a circumstance that cannot be attributed to Passenger, he shall offer him a trip of comparable quality. Should Passenger refuse this offer, he shall be entitled to restitution of the passenger fee or remittance, or should this trip already have been enjoyed partially, a proportional part of it. Any liability on the part of Offerer shall remain limited to the amount paid by Passenger under the contract.
- 5.6 Access to the boat as well as the sailing trip and the catering services may be refused by Offerer should this prove necessary for reasons of capacity, safety, public order, threatened damage or nuisance, or in the case of outstanding claims from the past, without prejudice to the further provisions of these terms and subject to his remaining rights with respect to Passenger, including the

exclusion of damage liability on the part of Offerer.

## **Article 6. Liability of Offerer**

**6.1** The boat and its crew shall meet legal regulations.

**6.2** Offerer accepts no liability for damage which are covered by the customary insurance. The obligation of Offerer to provide assistance in emergencies to (co-)Passengers is seriously hampered should the opportunity be absent to fall back on the help of an assistance service included under travel insurance.

**6.3** Offerer is not liable for damage caused by delays ( of whatever cause, which occurred before, or occurs during or after transport) or for changes in agreed departure and arrival times.

**6.4** Offerer shall owe no damage compensation whatever for goods which (co-)Passengers take aboard which, should he (they) have known their nature or state, would not have been permitted aboard, if ( co- )Passenger knew or could have known that Offerer would not have permitted said goods aboard; ( co- )Passenger is in that case liable for all costs and damage suffered by Offerer as a result of taking or having said goods aboard.

**6.5** Without prejudice to Article 6:107 of the Civil Code, in the case of injury suffered by ( co- )Passengers, only the ( co- ) Passenger concerned shall be entitled to claim damage compensation. Without prejudice to Article 6:108 of the Civil Code, only the surviving spouse, the children or the parents of the ( co- )Passenger who is/ are maintained by his labour, shall be entitled to a claim for damage compensation. The claims stipulated in this clause shall be evaluated according to the mutual state and fortune of the persons concerned.

**6.6** Should Offerer prove that the fault or negligence of the ( co- ) Passenger has caused or contributed to the damage, the liability of Offerer to this effect be entirely or partially cancelled.

**6.7** Should persons, whose assistance Offerer employs in the execution of his obligations, provide services at the request of ( co- ) Passenger(s), which Offerer is not obliged to provide, said persons shall be considered to act at the order of the (co-)Passenger(s) who request(s) said services.

**6.8** Any damage compensation for which Offerer may be liable in the event of the loss or damage of luggage, shall be limited to € 1000. Damage to luggage is limited to the current market value of this luggage. Offerer shall under no circumstances be liable for immaterial damage which results directly or indirectly from the loss or the damage of luggage.

**6.9** Any damage compensation which Offerer may owe in the case of the death or injury of persons, pursuant to Section 3 of Title 10 of Book 8 of the Civil Code, shall be limited to the sum of € 140.000 per ( co- )Passenger. Should the damage compensation be determined in the form of interest payments, the capitalised sum shall not exceed € 140.000 per (co-)Passenger.

**6.10** Passenger hereby relinquishes his right to set-off.

## **Article 7. Obligations/Liability of (co.)Passenger(s)**

**7.1** Should ( co- )Passenger(s) or his/their luggage cause damage to Offerer, ( co- ) Passenger( s) shall be held jointly and severally liable to compensate Offerer. This applies to damage to the boat as well as damage to goods and/or persons on it, which (co-)Passenger(s) or his/their luggage inflict(s) on said goods and/or persons, who are not in, or on the boat, should Offerer be held liable for compensating this damage..

**7.2** Passenger cannot hold (co-)Passenger liable.

**7.3** The boat shall be made available at the start of the trip clean and with a complete inventory. No later than the day of disembarkation the (co-)Passenger shall leave the boat in the same condition in which he found it upon embarkation, that is, clean and with a complete inventory unless agreed otherwise.

**7.4** (Co-) Passengers shall comply strictly with regulations and directions prescribed by law and given by Offerer and/or the captain, particularly, but not limited to, those which are in the interests of the trip and order and safety. Should said regulations and directions not be complied with, Offerer shall be entitled to suspend meeting his obligations or dissolve the contract.

**7.5** (Co-) Passenger shall take no other goods than luggage aboard.

**7.6** The luggage of (co-) Passenger shall cause no nuisance. Under no circumstances shall he carry with him dangerous substances in the broadest sense of the word, nor to take aboard drugs or contraband. No animals or pets are furthermore permitted aboard the boat without prior permission.

**7.7** (Co-)Passenger shall have with him upon departure and during the trip any

travel papers required in the various countries concerned.

#### **Article 8. Complaints**

8.1 Complaints about bills shall be submitted within 14 days after the billing date.

8.2 (Co-)Passenger shall inform Offerer and/or the authorised personnel on the spot immediately of any complaints about the execution of the contract so that Offerer still has the opportunity to take measures to correct any justified complaints.

8.3 Should the complaint fail to be resolved satisfactorily, (co-)Passenger shall submit it in writing no later than 14 days after the last day of the sailing trip at the office of Anne-Margaretha Charters.

#### **Article 9. Dissolution**

##### **9.1 Should Passenger**

- a. request bankruptcy, be declared bankrupt, assign his estate, submit a request for suspension of payments, or suffer the attachment of all or part of his assets and should this attachment not be raised within ten days, or be placed under guardianship, or
- b. take a decision to halt or transfer his business or significant part thereof, including the contribution of his business in a company which is to be established or already exists, or alter the purpose of his business, or
- c. fail to meet or meet entirely any obligations to Offerer under the law or a contract after being held liable in writing, or
- d. fail to pay a bill or part thereof within the time limit set, Passenger shall be considered legally in default and the remaining debt shall be immediately claimable.

9.2 In the cases stipulated in the previous section, Offerer shall be entitled, without obligation to pay damage compensation and without prejudice to his remaining rights, such as rights with respect to penalties already lapsed, interest and the right to damage compensation, and without the necessity of notice of default or legal intervention:

- a. to declare the contract entirely or partially dissolved by written notification to this effect sent to Passenger, and/or
- b. to demand the immediate payment of any outstanding amount owed by Passenger to Offerer, and/ or
- c. to receive security from Passenger before complying further with the contract, for compliance (on time) with his payment obligations.

9.3 Should Offerer resort to dissolution, Passenger shall owe as fixed damage compensation the passenger fee or the amount of the actual damage should this be greater.

#### **Article 10. Force Majeure**

Should Offerer be prevented through force majeure of a permanent or temporary nature from executing the contract (further), Offerer shall be entitled without the obligation to pay damage compensation to dissolve by notification to this effect, the contract entirely or partially without legal intervention. This right is subject to the right of Offerer to payment by Passenger for services already provided by Offerer, prior to the situation of force majeure, or to suspend entirely or partially the (further) execution of the contract. Offerer shall notify Passenger as soon as possible of any situation of force majeure. In the case of suspension Offerer shall retain the right to declare the contract entirely or partially dissolved.

#### **Article 11. Applicable Law**

11.1 Dutch law shall apply to this contract.

11.2 All disputes shall be brought before the District Court exercising jurisdiction in the district where the office of the Offerer is located.

**Anne-Margaretha Charters 2015-2016**





