



## General Terms and Conditions of LAVA CHARTER S.L.U.

Av. Olof Palme s/n \* Marina Lanzarote – Local B0 \* E-35500 Arrecife/Lanzarote

### § 1 General - scope of application

1. The following Terms and Conditions supplement our **BAREBOAT YACHT RENTAL AGREEMENT** for all our charter services, as well as all other goods and services in legal transactions.
2. **We shall only accept differing or contradictory conditions from the contractual partner if we expressly agree to their validity in writing. Otherwise these shall be deemed to be expressly rejected.**
3. Ancillary agreements or amendments to the contents of the Agreement shall only be valid if they have been confirmed by us in writing.
4. These Terms and Conditions shall also apply to all future transactions with a commercial contractual partner, provided that the matter in question is a legal transaction of a related nature.

### § 2 Return

1. Meteorological events must be taken into account by planning the trip flexibly. The Charteree shall be liable for damage or cost incurred by the Charterer or third parties, e.g., subsequent crews, as a result of non-compliance with the Agreement. The Charterer is entitled to assert such third-party claims against the Charteree in its own name.
2. If the Charteree leaves the yacht at a location other than that agreed, it shall be invoiced for the costs incurred for returning the yacht to water or land, provided that these costs are not covered by the insurance company within the context of an insured event.
3. Return shall only be deemed to have been effected if the yacht has been returned to its home port, i.e. the agreed return port.
4. The final cleaning for all yachts (prices detailed on the price list) will only be carried out by a company commissioned by the Charterer, and must always be booked by the Charteree.
5. The yacht must be left clean (i.e. well-swept, washing-up clean, no more rubbish left on board). Otherwise, a supplementary fee shall be charged in line with the additional cost actually incurred. Fixing a blocked toilet is billed at EUR 150; if this exceeds one hour of work an additional EUR 100 shall be due.
6. The Charteree shall release the Charterer from acts and omissions on the part of the Charteree regarding which the Charterer is the subject of claims by third parties.

### § 3 Qualifications and evidence

1. The Charterer may ask the Charteree to prove his/her skills as part of a test trip. If the proof is not furnished, the Charterer may request a skipper, at the cost of the Charteree. If this is not possible at short notice, the Charterer may withdraw from the Agreement and request compensation for damages from the Charteree as it is a foundation of the transaction of this Agreement that the Charteree provides a qualified skipper.
2. The Charteree is advised that employees of the insurance company are authorised to check the above information in the event of a loss event. Incorrect information can lead to the loss of insurance coverage; in this instance the Charteree shall be fully liable.
3. The Charteree expressly states that he/she has the seamanship required to steer a boat and possesses sufficient experience in running a sailing yacht. Furthermore, he/she must take all security measures necessary to protect the crew.
4. It is necessary that the Charteree sends the Charterer copies of licenses and passports, crew lists etc. in good time prior to the commencement of the charter. The Charterer shall not be responsible if these documents are not received in a timely manner and the Charteree cannot depart on time, or at all. The Charteree must ensure that he/she possesses the necessary knowledge of the area prior to the commencement of the trip by studying nautical charts, manuals, etc. He/she shall be liable for navigation errors.
5. The Charteree is advised that, in line with statutory provisions, the usage of the radio equipment on board is only permitted if the Charteree or another individual on board has the necessary official radio certificate.
6. The Charteree undertakes that he/she and the crew shall comply with the above statutory requirements, and shall personally accept liability in the event of offences against the regulatory authority for telecommunications and post. The Charteree shall expressly exempt the Charterer from liability in this respect. The usage of the radio in the event of an emergency at sea shall remain unaffected.

### § 4 Use

1. After handover by the Charterer, the yacht may be used in the usual way. All consumable supplies, such as diesel, oil and dry batteries, shall be charged to the Charteree and shall be invoiced separately after the conclusion of the trip. The Charter Agreement regulates exceptions and special offers.
2. The engine shall only be used as an auxiliary engine. The engine's oil level and coolant level shall be checked daily. The engine's temperature must be constantly monitored during operation. Damages caused by the dry running or overheating of the engine are not insured, and shall be billed to the Charteree. The engine may not be used in the event of a list of more than 10 degrees incline.
3. Sails are to be checked upon handover. Damage determined subsequently shall be reimbursed by the Charteree; it shall be assumed that the sails were handed over in perfect condition as it is otherwise impossible to ascertain damage. However, damage obviously due to wear and tear, such as torn seams, shall be borne by the Charterer.
4. The Charteree undertakes to exercise the diligence of a "proper seaman" at all points during the execution of this Agreement. In particular, the Charteree and his/her crew undertake to behave carefully on board the yacht, and to handle all the equipment with care. Furthermore, they may not behave inappropriately on board and at sea. The Charteree must comply with all applicable rules, regulations and laws, regardless of whether they are imposed by the customs authorities, port authorities or other authorities. The Charteree shall be liable vis-a-vis the Charterer for any damage caused by neglect of this obligation.

These obligations are as follows in particular, but not exhaustive:

- To check the yacht's fitness to sail prior to the commencement of every trip
- Only to enter and exit ports using the engine
- Only to cast off and moor with the tailgate closed



- Only to use the bow thruster continuously for a maximum of 10 seconds
- To properly lock the storage room at the bow of the yacht at all times
- To perform a daily check of the oil level, engine and sail drive
- To keep all windows and roof hatches closed at sea
- Not to undertake night trips, or only to undertake them with particular care, and only if the Charteree or a crew member has sufficient experience
- Not to leave the port/seek out the port in the event of the announcement of dangerous weather and sea conditions (winds of 7 Bft and above)
- Not to make changes to the ship or equipment
- Not to carry more people than permitted and stated upon registration (also applies to children)
- To plan the trip so that a timely return can be effected even in the event of challenging weather and sea conditions
- Not to pass the yacht on, or charter it, to third parties
- Not to carry undeclared dutiable goods, or dangerous goods, on board
- Not to undertake the transport of passengers and goods for a fee
- Not to participate in races or regattas
- Not to tow other vehicles if there is no emergency at sea, or if there are other rescue options, and only to tow the yacht with its own hawser in an emergency; the use of steel hawsers is strictly prohibited.
- Not to make an agreement on towing or recovery costs
- To perform registration and deregistration with the port captain immediately upon arrival
- If necessary, to pay port fees and observe the legal provisions of the host country
- To keep the log book and radio log book in an orderly manner and leave them on board
- Only to enter the yacht with boat shoes
- Not to bring animals on board
- To refrain from smoking under deck, and to only smoke downwind on deck
- Not to use abrasive, corrosive or chlorinated cleaning agents when cleaning the yacht
- To keep the yacht clean (swept clean, dishes washed, rubbish removed) and seaworthy

#### § 5 Damage/accidents

1. The Charteree is obliged to report damage to the yacht or equipment, collisions, accidents or other extraordinary occurrences to the Charterer without delay.
2. If damage occurs during the charter period once the yacht has been accepted by the Charteree, and this damage may make the trip impossible either in whole or in part, the Charteree shall have no claim against the Charterer if this is an instance of force majeure (weather conditions, in particular) or if the fault lies with a third party. If there is damage due to wear and tear, or other unnoticed damage to the hull, rigging or engine upon acceptance by the Charteree, the Charteree shall be entitled to reimbursement of the pro-rata charter fee for the days on which the yacht was unable to be used. Further claims (in particular, travel costs, accommodation costs, compensation for personal suffering, compensation for lost holiday days etc.) are excluded.
3. For all other instances of damage, the Charteree can arrange to repair damage of up to EUR 200 following consultation with the Charterer. Provided that the issue is merely normal wear and tear, the expenses shall be reimbursed by the Charterer upon submission of a receipted invoice. The document must list the Charterer as the invoice recipient, CIF/NIF as the invoicing and receiving company (LAVACHARTER SLU B76216753), the name of the ship, the type of work, the material, the final invoice amount and the net price and sales tax at the country-specific rate (IGIC). In principle, all repairs require the express consent of the Charterer. Damaged parts which have been replaced are to be set aside and handed over to the Charterer. In the event of damage to the ship or personal injury, the Charteree shall draw up a comprehensive record of this damage and seek out written confirmation from the port captain, a doctor, expert or other witness. The Charteree shall be responsible for the corresponding entries in the log book.
4. In the event of a disaster, foreseeable delay, loss, inability to manoeuvre the ship, requisition or obstruction of the yacht by authorities or outsiders, the Charterer must be informed of this without delay. In the event that the yacht or a piece of equipment is stolen, the Charteree must report this to the police. The Charteree must ensure that messages containing repair instructions can reach him/her. If the Charteree does not provide immediate notification of damage to the yacht, and the damage requires notification to be given, any claim on the part of the Charteree to the repayment of the deposit paid shall lapse, along with the repayment of any pro-rata charter fees. Any recourse claims arising from the yacht charter must be asserted against the Charterer via registered letter within a maximum of 14 days from the end of the charter. Claims asserted belatedly are excluded.
5. The damage and the damage event must be indicated to the Charterer or its representatives upon handover of the yacht. Claims for damages on the part of the Charteree shall be limited to the maximum amount of the charter fee agreed. All further claims are excluded unless the Charterer or its vicarious agent acted in a grossly negligent or intentional manner. The above liability limitations and exclusions shall not apply to damages resulting from injury to life, limb or health.

#### § 6 Insurance and liabilities

The Charteree must release the Charterer from liability relating to any loss or damage to the yacht or its equipment or for any other expenses or liabilities arising as a result of the actions or omissions of the Charteree, its employees, representatives or members of its crew.

The Charterer shall not be liable for death or personal injury suffered by the Charteree or members of its crew unless this was caused by negligence or intentional omission on the part of the Charterer.

The Charterer shall not be liable if this failure is caused by events, circumstances or causes (referred to as a "significant event") which are beyond its reasonable control, such as weather and sea conditions, sailing restrictions, war, strikes, unrest, natural disasters, force majeure, blocking of sailing waters etc., for which the Charterer is not responsible. If the Charterer declares that a significant event has prevented him/her from fulfilling its duties, he/she must inform the Charteree of this as soon as reasonably possible, and take appropriate steps to minimise the impact of the significant event.

The Charterer shall not be liable for all acts and omissions of the Charteree for which the Charterer is held liable by third parties; the Charteree shall release the Charterer from all consequences under civil and criminal law, as well as all costs arising from legal consequences, both domestically and abroad.

In the event of substantial damage to the yacht during the rental period, causing downtime of at least 12 hours, as well as an insurance claim covering the yacht, or in the event of the failure of devices or machines that renders the yacht unseaworthy and/or unusable, credit shall be issued for the period during which the yacht was unseaworthy or unusable. This shall only apply if neither the Charteree nor a member of his/her crew caused the damage or the downtime, or contributed to this. In the event of this, it shall also apply that the Charterer shall not be liable to the Charteree for further compensation relating to damage or downtime, neither with regard to consequential damage nor financial damage nor otherwise, except if the damage or downtime is caused by negligence on the part of the Charterer and leads to death or bodily injury.

There is marine hull insurance for the yacht (with a deductible), as well as for the charter equipment. Liability insurance covers personal injury (accidental death EUR 50,000, disability EUR 100,000, cosmetic surgery EUR 10,000, recovery costs EUR 25,000) and property damage of up to EUR 5 million. The insurance policies have a deductible amounting to the deposit paid, which the Charteree shall bear for every loss event. Personal property belonging to the Charteree and the crew is not covered by the insurance policy. The insurance policy does not cover damage caused intentionally or through gross negligence. Furthermore, it does not provide cover in the event of accidents by people on board. Claims arising from damages that are caused by the Charteree or crew during the usage of the boat or equipment, or which are connected to this usage, are excluded. The Charteree shall be liable for all claims not compensated for by the insurance policy if he/she or a member of his/her crew is at fault. The liability shall also extend to cover slight negligence.



#### § 8 Notice of withdrawal

All notifications or messages must be made in written form or text form, such as email, fax, post or courier.

If the *Charteree* is not an EU *consumer*, the *Charteree* shall be liable for all payments due to the *Charterer* prior to the date of withdrawal and which are outstanding as at the date of the withdrawal, provided that the *Charteree* acknowledges notice of withdrawal from this *Agreement* at any time, or gives notice of withdrawal prior to the commencement of the *rental period*. If the *Charteree* gives notice of withdrawal, or if the *Charteree* does not make a payment due under this *Agreement* after having given notice of withdrawal, the *Charterer* shall be obliged to treat this *Agreement* as if the *Charteree* had rejected it, and the *Charterer* shall be entitled to retain all sums received in full.

The following shall apply if the *Charteree* is an EU *consumer* subject to EU consumer law:

If the *Charteree* issues the *Charterer* with written notification pertaining to its withdrawal from the *charter* more than twelve weeks prior to the commencement of the *rental period*, he/she shall not be liable for any outstanding portions of the *rental price* (and if this and/or the *ancillary costs pre-payment* for ongoing costs and/or the *security deposit* have already been paid, this amount and/or these amounts will be reimbursed). However, in this case the *pre-payment of the rental price* shall lapse, while it is the case that half of the *pre-payment of the rental price* shall be reimbursed if the *Charterer* is able to re-charter the *yacht* for the *rental period* for a sum at least equal to the *rental price*. In this case, the *Charterer* must make all reasonable efforts to re-charter the *yacht*.

If the *Charteree* provides the *Charterer* with notice of withdrawal from the *charter* within twelve weeks of the commencement of the *rental period*, the *Charteree* shall be liable for all payments due to the *Charterer* prior to the date of withdrawal and which remain outstanding as at the date of withdrawal, except in the cases provided for under *clause 6.3*.

If the *Charterer* issues the *Charteree* with notice of termination prior to the commencement of the *rental period*, the *Charteree* shall be entitled to a repayment of all sums paid to the *Charterer*, excluding interest.

Notwithstanding the right of the *Charterer* to receive or withhold any payments referred to in the above *clauses*, the *Charterer* is obliged to minimise its losses, and if the *Charterer* is able to re-charter the *yacht* for the entire *rental period* or a part thereof, the *Charterer* shall refund the net sum of the rental price arising from the new rental, after deduction of all commission fees and other consequential costs arising from the new rental. The intention is that the *Charterer* shall keep the same sum of net profit from the new rental that it would have received under this *Agreement*. The *Charterer* must make all reasonable efforts to re-charter the *yacht*, and it may not refuse to consent to the new rental without reasonable cause. However, it shall be the case that the *Charterer* may refuse a rental which could reasonably be viewed as detrimental to the *yacht*, its good reputation or schedule.

If the *yacht* has taken on stocks for the *charter* prior to the date of termination, the *Charteree* must reimburse these costs, unless they can be wholly or partially reimbursed by the supplier or transferred to the next rental. In this case these costs must be adjusted accordingly. The *Charterer* undertakes to reduce these costs as far as possible.

#### § 9 Obligation for agents and resellers

**Insofar as the Charter Agreement is concluded with agents or resellers, i.e. commercial contractual partners who resell or broker charter services to third parties, these agents or resellers shall undertake to agree with the third parties rights and obligations analogous to those of the BAREBOAT YACHT RENTAL AGREEMENT as well as to the provisions agreed under these Terms and Conditions.**

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