

NJI GENERAL CONDITIONS OF HIRE PLEASURE CRAFT



General conditions of hire for pleasure craft of the Nederlandse Jachtbouw Industrie (NJI), a member association of the Koninklijke Metaalunie in Nieuwegein. Lodged with the Utrecht Court registry on 22-06-06 under number 165/2006. Published by the NJI, Post box 2600, 3430 GA Nieuwegein.

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Article 1 Definitions and scope

- 1.1 In the present conditions, the following definitions shall apply:
 - a. owner: the member of the Metaalunie association Nederlandse Jachtbouw Industrie (NJI) regularly hiring out pleasure craft to third parties by way of business;
 - b. hirer: the natural person who, other than by way of business whether on his own behalf or that of a company (a consumer), hires pleasure craft from a third party;
 - c. the rental agreement: the contract under which the owner undertakes against payment of a sum of money to provide the hirer with an unmanned pleasure craft for his own use.
- 1.2 These conditions shall be applicable to all rental agreements concluded between owner and hirer concerning pleasure craft.

Article 2 Offers

All offers made by the owner shall be without obligation.

Artikel 3 Tot stand komen van de overeenkomst

- 3.1 Ter bevestiging van de tussen huurder en verhuurder bereikte overeenstemming over de inhoud van de huurovereenkomst, zal verhuurder aan huurder een contract toesturen.
- 3.2 De huurovereenkomst wordt aangegaan onder de ontbindende voorwaarde dat binnen 14 dagen na dattekening:
 - het conform lid 1 van dit artikel aan huurder toegestuurde huurcontract voorzien van een handtekening van huurder door verhuurder retour wordt ontvangen en;
 - een bedrag gelijk aan 50% van de huurprijs op de rekening van verhuurder is bijgeschreven.
- 3.3 Komt huurder de in lid 2 van dit artikel hiervoor genoemde verplichtingen niet na, dan is de overeenkomst van rechtswege ontbonden. Het staat verhuurder in dat geval vrij om het vaartuig aan een derde te verhuren.

Article 4 Rental / Rental price

- 4.1 The rental agreement is concluded for the duration and at the rental price stated in the rental contract.
- 4.2 In addition to the rental price stated in the rental contract the hirer shall also be required to pay the deposit stated therein to the owner, with a minimum amount of €500.
- 4.3 The rights granted under this rental agreement are personal and are therefore not transferable without prior written consent from the owner.

Article 5 Payment

- 5.1 Unless otherwise agreed the rental shall be by payment in advance and payment shall be made as follows:
 - 50% of the rental price within 14 days of signature of the rental contract;
 - 50% of the rental price no later than 30 days before the start of the rental period;
 - 100% of the rental price if the rental agreement is concluded less than 30 days before the start of the rental period.
- 5.2 If payment is not made by the times specified in paragraph 1 of this article, the hirer shall be liable to pay interest to the owner. The interest rate shall be 10% per year or equal to the statutory interest rate if that is higher. For interest calculation purposes, an incomplete month shall be treated as a full month.
- 5.3 The deposit specified in the rental contract must be paid in cash by the start of the rental period. At the end of the agreed rental period the deposit shall be repayable to the hirer, on condition that the craft is returned to the owner in the same state as that in which it was made available to the hirer.
- 5.4 The owner shall have the right to deduct all sums still owed by the hirer at the end of the rental period from the deposit paid by the hirer.
- 5.5 In the event of legal proceedings between the hirer and the owner, if the owner is found to be in the right the hirer shall be liable for the costs of these proceedings.

Article 6 Delivery

- 6.1 The craft shall be delivered to the hirer at the place indicated in the rental contract. From the moment of delivery the hirer shall be liable for the craft and for the use of the craft at his or her own risk.
- 6.2 The owner shall ensure that on delivery as specified in paragraph 1 of this article the craft is in good condition, that it can be used for the purposes set out in the rental contract and that it is fitted with suitable safety equipment for the agreed navigable area.
- 6.3 The hirer shall check the inventory listed on the list provided by the owner to the hirer and the presence of the appropriate safety equipment on the craft for the relevant navigable area.
- 6.4 If the inventory on board does not reflect the inventory listed on the inventory list or if the safety equipment is incomplete or unsound, the hirer shall notify the owner of this before departure.
- 6.5 Before departure the parties should sign the condition list for agreement if this is available. The owner shall provide the hirer with a signed copy of the condition list.

Article 7 Use

- 7.1 The hirer shall have no authority to assign ownership of the craft to a third party, to hire it out or allow use of it by third parties, to pledge it as security or otherwise encumber it, without the written permission of the owner.
- 7.2 The hirer shall use the craft with due care as both hirer and mariner, taking proper account of the operating, handling and safety instructions provided and in accordance with the purpose specified in the rental contract. The hirer shall protect the craft suitably and make no alterations to it.
- 7.3 The hirer declares himself competent to sail the craft and is capable of controlling the craft for all purposes and in navigable areas for which the craft is designed.
- 7.4 The hirer shall use the craft exclusively on a personal basis, remaining always on board when the craft is underway and to take full responsibility for the craft when it is steered by a different crew member.
- 7.5 The hirer who sails or steers the craft shall not be permitted to do this while under the influence of any substance which he knows or would reasonably be expected to know (whether or not in combination with another substance) would diminish his ability to sail or steer the vessel such that he would not be in a fit state to sail or steer the vessel. All this in accordance with the provisions of article 26 of the Navigation Act (Scheepvaartwet).
- 7.6 The hirer shall not use the craft to accommodate more people than the number for which the owner states the craft is suitable.
- 7.7 The hirer shall be required to notify the owner without delay of any defect in or damage to the craft observed. Should the hirer fail to make such a required notification then he shall be fully liable for any damage thus incurred by the owner.
- 7.8 Costs relating directly to the use of the craft, such as harbour, bridge, quay, lock and mooring charges and costs for fuel and/or other consumables, shall be at the expense of the hirer.

Article 8 Maintenance / Inspection

- 8.1 The maintenance of the craft, except for day to day maintenance, shall be at the expense of the owner.
- 8.2 The hirer undertakes to make the craft available at the owner's request in a clean condition and without delay for inspection and/or the execution by the owner of any repair and/or necessary maintenance.
- 8.3 The hirer expressly gives the owner permission to board the craft for inspection, repair and/or the execution of necessary maintenance or to take back the craft.
- 8.4 Any required repair to the craft may only be carried out by the hirer himself or a third party if the express permission of owner is obtained beforehand.
- 8.5 If the owner gives the hirer permission to carry out such works himself or to have them carried out by a third party, the owner shall repay the hirer the agreed repair costs, on the understanding that itemized invoices must be presented.
- 8.6 Should the hirer carry out the repair or have it carried out by a third party despite permission having been withheld by the owner, then the hirer shall be liable for the costs incurred. If the work carried out results in damage for the owner, then he shall have the right to claim full damages.

Article 9 Rental agreement cannot be executed

- 9.1 The owner shall have the right to suspend fulfilment of his obligations should he be temporarily prevented from meeting those obligations by circumstances which could not be anticipated when the contract was concluded and which fall outside his sphere of influence.
- 9.2 Circumstances which could not be anticipated and which fall outside the owner's sphere of influence shall inter alia include the event that suppliers to the owner fail to or are delayed in meeting their obligations, the weather, earthquake, fire, loss or theft of the items for hire, blockaded roads, strikes or stoppages.

Article 10 Insurance of the craft / Hirer's liability

- 10.1 The owner shall, in view of the risks relating to travel in the navigable area agreed between owner and hirer, insure the craft on behalf of the hirer against statutory liability, hull damage and theft.
- 10.2 The hirer shall be liable to the owner for all damage caused or inflicted by the (use of the) craft. The hirer shall also be liable for damage to the craft, including damage by omission, misappropriation of funds, theft, alienation and total loss of the craft.
- 10.3 The liability of the hirer is limited to the amount of the damages which is not reimbursed by the insurance taken out by the owner. Should the owner be required to claim on the for insurance policy taken out for the craft, the hirer shall be required to pay the excess applicable under the policy conditions to the owner.
- 10.4 The hirer indemnifies the owner completely against claims by third parties for damages relating to (the use of) the craft.
- 10.5 In the event of damage caused to or inflicted by the craft the hirer shall notify the owner thereof without delay. The hirer is fully liable for any damage incurred by the owner as the consequence of non-compliance with the hirer's obligation to make such notification.
- 10.6 The hirer shall be required to take all possible measures to prevent or limit damage.

Article 11 Owner's liability

- 11.1 The owner shall be liable for damage incurred by the hirer which is directly and exclusively the consequence of a fault on the part of the owner. However, compensation will only be considered for damage against which the owner is or would reasonably be expected to be insured.
- 11.2 If the craft cannot be made available to the hirer on the agreed date or during the entire rental period the owner shall take all possible steps to provide a substitute craft for the hirer. Should the owner be unable to do so or should the hirer not accept the alternative offered by the owner, the owner's liability shall be limited to the reimbursement to the hirer of any rental charges paid.
- 11.3 No compensation shall be payable for:
 - a. consequential loss;
 - b. damage caused intentionally or recklessly by agents.

Article 12 End of rental period

- 12.1 At the end of the rental period hirer shall return the craft to the owner at the agreed time and place and in the same condition as that which he received it.
- 12.2 Should the craft not be returned at the agreed time and place at the end of the rental period, the owner shall have the right to a proportional increase in the rental charge and to the payment for further losses including consequential losses, unless the failure to return the craft cannot be attributed to the hirer.
- 12.3 Should the owner, as a result of a failure to return the craft at the agreed time and place, be unable to make the craft available to a subsequent hirer, the hirer who returned the craft too late shall be liable to recompense the owner for the damages that the owner has to pay the subsequent hirer.
- 12.4 If in the judgement of the owner the craft is not clean on return, the owner shall have the right at the hirer's expense to clean the craft or have it cleaned. The costs incurred for cleaning may be deducted by the owner from the deposit paid by the hirer.

Article 13 Cancellation

- 13.1 Should the hirer wish to cancel the concluded rental agreement, he must inform the owner of this in writing at the earliest opportunity. In the event of cancellation the hirer shall be liable to pay the owner a fixed indemnity of:
 - 20% of the agreed rental charge in the event of cancellation up to 90 days before the start of the rental period;
 - 50% of the agreed rental charge in the event of cancellation up to 60 days before the start of the rental period;
 - 75% of the agreed rental charge in the event of cancellation up to 30 days before the start of the rental period;
 - 100% of the agreed rental charge in the event of cancellation less than 30 days before the start of the rental period or on the start date of the rental period.
- 13.2 In the event of cancellation by the hirer he may ask the owner to accept "replacement" by a third party. If this third party is acceptable to the owner, the hirer shall be liable to pay a surcharge of 10% of the agreed rental charge with a minimum of € 50 and a maximum of €125.

Article 14 Penalty and dissolution

- 14.1 The hirer shall be liable to pay the owner a immediately payable penalty of €5000 if the hirer fails to comply with any requirement or neglects any procedure set out in the articles above and thereafter a penalty of €1000 for each day that the non-compliance or neglect continues after the hirer is notified of this in writing by registered mail. This shall all be without prejudice to the right of the owner to seek recompense from the hirer for any damage incurred or to be incurred.
- 14.2 In the event of a breach on the part of the hirer of the provisions of articles 7 or 8, the owner shall have the right, in addition to the imposition of the penalty set out in paragraph 1 of this article, to terminate the contract without notice and without judicial intervention. In this event the hirer shall be required to quit the craft with immediate effect.
- 14.3 In the event that a situation arises as described in paragraph 2 of this article the owner shall have the right to seek compensation from the hirer for all damages incurred by him.

Article 15 - Disputes

- 15.1 Dutch law shall be applicable.
- 15.2 In the event of a dispute the parties shall seek to reach an amicable settlement. Where required and deemed desirable by both parties a third party may mediate.
- 15.3 Only the civil court which is competent in the domicile of the owner shall be competent to adjudge disputes, unless legal provisions to the contrary exist. The owner shall have the right to deviate from this jurisdiction rule and to employ the statutory rules on jurisdiction.