



These General Terms and Conditions for Sailings Schools of HISWA Association (Dutch Association of Proprietors in the Water Sports Industry) have been drawn up in consultation with the Consumers' Association and the ANWB under the Self-Regulation Coordination Group of the Sociaal-Economische Raad (Social Economic Council). Deposited at the Court Registry in Amsterdam on 15 November 2012 under number 98/2012.

HISWA Association shall take action against any misuse, so it can also genuinely achieve the required exclusivity. Members are therefore requested to inform the HISWA office if misuse is noticed. To enforce this, copyright has been established on the various texts.

ARTICLE 1 - DEFINITIONS

The prices stated in these General Terms and Conditions are inclusive of purchase tax (BTW) and in these conditions the following words mean:

- a. *Proprietor*: natural or legal person who, as a member of the HISWA Association and in a commercial capacity, concludes agreements regarding sailing instruction either on board a vessel or ashore.
- b. *Consumer*: natural person who is not acting in a professional or commercial capacity and who concludes an agreement regarding sailing instruction either on board a vessel or ashore.
- c. *Course participant*: natural person who is not acting in a professional or commercial capacity and who receives sailing instruction on board a vessel or ashore.
- d. *Group*: a group consists of natural persons who are represented by a consumer that is not acting in a professional or commercial capacity, and who receive sailing instruction, for which payment is made, either on board a vessel or ashore.
- e. *Vessel*: an object that is constructed to remain in water and to move in it, including the pieces of equipment that form part of it and the contents.
- f. *Agreement*: any agreement between proprietor and consumer where the proprietor gives an undertaking to the consumer, to give sailing instruction, in return for payment, either on board a vessel or ashore, to the consumer or an agreed-on third party.
- g. *Electronic*: per e-mail or website.
- h. *Disputes Committee*: Water Recreation Disputes Settlement Committee in The Hague.

ARTICLE 2 - APPLICABILITY

1. These terms and conditions apply to agreements for the provision of services concluded between consumer and proprietor, a member of HISWA Association.
2. These Terms and Conditions can be translated from Dutch into a foreign language. Should there be any differences in the texts as a result of the translation, the Dutch text prevails.

ARTICLE 3 - THE OFFER/THE QUOTATION

1. The proprietor makes the offer orally, in writing or in an electronic form.
2. An oral offer must be accepted immediately, otherwise it will lapse, unless a period has been defined for acceptance.
3. The written or electronic offer is dated and is irrevocable during the acceptance period or, if a period has not been defined, for ten working days after the offer date.
The offer includes the following:
 - the nature, content and extent of the services to be supplied by the proprietor;
 - the course fees and any other additional costs;
 - date and time of commencement and completion of the sailing instruction.
4. A copy of these General Terms and Conditions accompanies the offer.

ARTICLE 4 - THE AGREEMENT

1. The agreement is finalised when the consumer accepts the offer. If the assignment is granted electronically, the proprietor sends an electronic confirmation to the consumer.
2. The agreement are preferably recorded either in writing or electronically.
3. If the agreement is in writing, a copy should be sent to the consumer.

ARTICLE 5 - THE PRICE AND PRICE ALTERATIONS

1. Course fees and any additional costs which the consumer has to pay will be agreed beforehand, as will any rights to make interim price adjustments.
2. If there are price changes within three months of concluding the agreement, this shall not affect the price already agreed.
3. The consumer is entitled to terminate the agreement if the price is raised three or more months after concluding the agreement, unless the agreement states that the work will be carried out more than three months after concluding the agreement.
4. Alterations in taxes, excise duties and other such government levies can be passed on by the proprietor at any time.

ARTICLE 6 - CONDITIONS OF PAYMENT

1. The course fees should be paid within ten working days of receiving the invoice, but in any case on the date on which the course begins, either at the proprietor's office or by transferring the money to a bank account designated by the proprietor.
2. The consumer is in default once the payment date has passed. The proprietor sends a payment reminder once the date has passed and gives the consumer the chance to pay within fourteen days of receiving this payment re-minder. If, after the date stated in the payment reminder, there is still no payment and the consumer is not able to plead circumstances beyond his control, the proprietor has the right to charge interest, once the payment date has passed. This interest is equal to the statutory interest plus 3% on an annual basis over the amount due.
3. If the consumer remains in default of paying the amount owing after the payment reminder has been sent, the proprietor also has the right to increase the amount referred to in paragraph 2 by adding the collection charges. Extrajudicial costs include all costs the proprietor has to charge for the services of lawyers, enforcement agents and anyone else he requires for the recovery of the amount due. The extrajudicial costs are determined as follows:
 - 15% over the first € 2500 of the amount due;
 - 10% over the next € 2500 of the amount due;
 - 5% over the following € 5000 of the amount due;
 - 1% over the following € 15,000 of the amount due.
4. Any complaints about invoices should be submitted by the proprietor, preferably in writing and adequately described and explained, within a reasonable period after the receipt of the invoice in question.

ARTICLE 7 - CANCELLATION

1. If the consumer wishes to cancel the agreement, he must inform the proprietor as soon as possible in writing or electronically.
2. If the consumer wishes to cancel the agreement, he must inform the proprietor as soon as possible in writing or electronically.

In the event of cancellation, the consumer is obliged to pay the proprietor a fixed compensation amounting to:

- 15% of the agreed course fees in the event of cancellation at least three months before the commencement of the course period;
 - 50% of the agreed course fees in the event of cancellation up to two months before the commencement of the course period;
 - 75% of the agreed course fees in the event of cancellation up to one month before the commencement of the course period;
 - 100% of the agreed course fees in the event of cancellation within one month of the commencement of the course period or, cancellation on the date of commencement of the course period, all aforementioned compensation amounts with a minimum of € 75.
3. An exception to the previous paragraph is when a group consisting of ten or more course participants cancels, in which case the proprietor is entitled to claim a fixed compensation from the consumer amounting to:
 - 25% of the agreed course fees if cancellation takes place any time up to six months before commencement of the course period.
 - 50% of the agreed course fees if cancellation takes place up to four months before commencement of the course period.
 - 75% of the agreed course fees if cancellation takes place up to two months before commencement of the course period.
 - 100% of the agreed course fees if cancellation takes place within one month before commencement of the course period.
 4. If the consumer cancels, he can ask the proprietor to accept substitution by a third party.
If above-mentioned third party is acceptable to the proprietor, the proprietor is entitled to charge administrative costs.

ARTICLE 8 - RIGHTS AND DUTIES OF THE PROPRIETOR

1. The proprietor shall give instruction (or arrange it to be given) to the course participant in a professional manner.
2. The proprietor guarantees that the accommodation he offers is reliable and safe.
3. The proprietor guarantees that all vessels belonging to the sailing school and used during the course are in good condition, and that they can be used in the manner intended, and are fitted out with safety equipment well-suited to the agreed sailing area.
4. If the proprietor uses a vessel belonging to the sailing school, the proprietor is then required to insure the vessel against third-party liability, hull damage and theft, for sailing in the agreed sailing area.
5. If the agreement states that accommodation is to be made available, then the proprietor makes the accommodation available for the agreed period.
6. The costs directly linked to the normal use of the vessel, including harbor, bridge, quay, lock, mooring and fuel costs are accounted for the proprietor.
7. The proprietor shall strongly advise the consumer not to take any valuable goods with him and shall indicate to the consumer the relevant limitations in liability as stated in Article 10 paragraph 2 of these terms and conditions.

8. The proprietor is entitled to change the place of instruction from on board the vessel to ashore if a combination of weather circumstances and the level of expertise of the course participants renders this necessary.
9. The proprietor points the consumer to the liabilities of article 9 – condition 5

ARTICLE 9 - RIGHTS AND DUTIES OF THE CONSUMER

1. If a vessel belonging to the consumer is used for instructing him, the consumer is required to ensure that the vessel is insured for third-party liability, hull damage and theft for sailing in the agreed sailing area, unless explicitly otherwise agreed.
2. If there is a group of course participants, the consumer is obliged to submit a list of all participants in the group to the proprietor not later than on the day of arrival.
3. If at the consumer's request the vessel is to be used for purposes not agreed upon, the related additional costs are payable by the consumer provided the proprietor has informed the consumer of this condition in time.
4. The consumer is required to ensure that the course participants have taken out sufficient third-party liability insurance cover.
5. The consumer points, where appropriate, the group members to the provisions of these terms and conditions that apply to them.

ARTICLE 10 - LIABILITY

1. The proprietor is liable for claims that are a direct result of a shortcoming that can be ascribed to him or to persons in his employ and/or persons he has taken into service in order to carry out the work which the consumer requires him to do and which he, the proprietor, has accepted.
2. The liability of the proprietor for damage and/or loss of luggage is limited to an amount of € 1,000 per course participant. The proprietor is not liable for subsequent damage arising from loss of or damage to luggage.
3. The consumer has full liability for damage caused by a shortcoming ascribable to himself or to his children if they are minors.

ARTICLE 11 - COMPLAINTS

1. Complaints regarding the implementation of the agreement should be made known to the proprietor in written or electronic form and should be described and explained adequately, within a reasonable period, once the consumer has noticed or should have noticed the defects.
2. Not submitting the complaint on time can lead to the consumer losing his right regarding the matter, unless it is unreasonable to blame this lateness on the consumer.
3. If it becomes clear that the complaint cannot be resolved by mutual consultation, a dispute situation has arisen.

ARTICLE 12 – TERMINATION OF THE AGREEMENT

1. Without prejudicing the right to claim performance, an attributable shortcoming in complying with one of their obligations gives each of the parties the right to terminate the agreement without judicial intervention.
2. In case of termination of the agreement due to an fundamental breach of contract or attributable shortcoming there can be claimed a compensation of possible damage and payment of all claims, also those not immediately due.

ARTICLE 13 - APPLICABLE LAW

Dutch law is applicable in all disputes relating to this agreement, unless another national law is applicable on grounds of mandatory rules.

ARTICLE 14 - DISPUTE SETTLEMENT RULES

1. Disputes between consumer and proprietor regarding the preparation or execution of agreement regarding services and items delivered or to be delivered by this proprietor, and to which these Terms and Conditions apply, can be brought by either the consumer or the proprietor before the Water Recreation Disputes Settlement Committee, Bordewijklaan 46, PO Box 90600, 2509 LP The Hague (www.sgc.nl).
2. The Disputes Settlement Committee mediates in a dispute only if the consumer has first submitted his complaint to the proprietor.
3. The Disputes Settlement Committee mediates in a dispute only if the dispute involves a sum of not more than € 14,000.
4. Disputes involving financial interests greater than € 14,000 may only be handled by the Committee if both parties explicitly agree to do so.
5. Once the complaint has been submitted to the proprietor, the dispute should be submitted to the Disputes Settlement Committee no more than three months later.
6. If a consumer brings a dispute before the Disputes Settlement Committee, the proprietor is bound to this decision. If the proprietor brings a dispute before the Disputes Settlement Committee, he is required to ask the consumer to declare within five weeks whether he agrees to this. The proprietor is also required to announce that he will deem himself free to bring the dispute before the court, once the aforementioned period has ended.
7. The Disputes Settlement Committee pronounces its judgment with due regard for the terms of the regulation that apply to the Committee. The decision of the Disputes Settlement Committee is made in accordance with that regulation by way of a binding decision. The regulation is sent if required. A fee is payable for hearing a dispute.
8. Only a court or the above-mentioned Disputes Settlement Committee is authorised to take cognisance of disputes.

ARTICLE 15 - GUARANTEE OF COMPLIANCE/ PERFORMANCE BOND

1. HISWA Association guarantees that its members will comply with binding decisions, unless a member decides to submit the binding decision to the court for review within two months of the decision being issued. This guarantee is restored if the binding decision is upheld after review by the court and the ruling that demonstrates this has become definitive and is not open to appeal. An amount of up to €10,000 maximum for each binding decision is paid to the consumer by the HISWA Association. In the case of amounts greater than € 10,000 for each binding decision, the consumer receives an amount of € 10,000. For larger

sums, the HISWA Association is obliged to make strenuous efforts to ensure that the member complies with the binding decision.

2. Application of this guarantee demands that the consumer makes a claim to that effect in writing to HISWA Association and that the amount he claims from the proprietor is transferred to HISWA Association. If the amount claimed from the proprietor is more than € 10,000, the consumer is invited to transfer his payment claim, where this totals more than € 10,000, to HISWA Association, whereupon HISWA Association will request this to be paid under its own name and at its own cost in settlement to the consumer.
3. HISWA Association does not supply a performance bond if, before the consumer complies with the specific intake requirements relating to the handling of the dispute (payment of complaint-filing fees, return of completed and signed questionnaire, and a deposit of an amount of money where applicable), one of the following situations holds:
 - the member has been granted a moratorium;
 - the member has been declared bankrupt;
 - the company activities have effectively been terminated.The date on which cessation of company operations is entered into the Trade Register is the determining factor, or an earlier date for which HISWA Association can make a plausible case for demonstrating that company activities were effectively terminated.

ARTICLE 16 - DEVIATION FROM THE CONDITIONS

Individual deviations from these General Terms and Conditions, including supplements or additions, are required to be recorded in writing or in electronic form after agreement by both proprietor and consumer.

ARTICLE 17 - AMENDMENTS

HISWA Association shall amend these General Terms and Conditions only in consultation with the ANWB and the Consumers' Association.