

# Brokerage Terms and Conditions of Astra Mare Yachtbrokers CV

## Section 1 – Applicability

### ARTICLE 1

Astra Mare expressly waives any terms and conditions that Client may wish to declare applicable. Astra Mare acts as a broker only and is in no way a party to the agreement described below.

## Section 2 – The brokerage agreement

### ARTICLE 2

A brokerage agreement is an agreement whereby the yachtbroker undertakes to Client to act as a sworn broker, against payment of a commission, and mediate in the conclusion and closure of a sales contract with a third party. The brokerage agreement shall not deviate from these Terms and Conditions to the disadvantage of Client, who shall not act in the course of a trade or business.

### ARTICLE 3

Under the brokerage agreement the yachtbroker provides the following services:

- discussion of and advice on the conclusion of the proposed contract;
- assessment of the market value of the property concerned;
- assessment of and advice regarding the legal, financial, fiscal, technical and other relevant aspects relating to the proposed contract for the property;
- advice on and discussions with third parties on behalf of Client;
- active promotion of the conclusion of an agreement between Client and a third party;
- assistance during the completion of the contract.

### ARTICLE 4

Should the assistance required from the yachtbroker for closing the contract involve the provision of services in addition to those provided under the brokerage agreement, the yachtbroker shall notify Client thereof in advance. Client is obliged to pay for any additional services agreed on by the parties in advance.

### ARTICLE 5

1. The brokerage agreement shall end if any of the following events occurs:
  - a. Termination;
  - b. Client and a third party;
  - c. The property becoming unmarketable because of the condition it falls into, severe damage, total loss or if Client demands a different price for the property.
2. The brokerage agreement may be cancelled only upon written notice by registered letter, by fax or via e-mail.

### ARTICLE 6

1. If the brokerage agreement concerns the sale and purchase of a vessel, the yachtbroker cannot act for both the seller and the purchaser as clients if negotiations concern one and the same property.
2. If the yachtbroker has been instructed to sell or purchase a vessel, the contract cannot be made conditional on an expert report prepared by the same broker.
3. The yachtbroker must advise Client in writing of the name and address of the purchaser as soon as the parties have agreed on the price of the property and on the conditions of its sale.

## Section 3 – Liability

### ARTICLE 7

If the yachtbroker has a vessel in his possession and control, he shall be liable only for any such damage caused to or by the property, or its parts or accessories, as may arise from a circumstance that cannot be attributed to him or any of his staff.

### ARTICLE 8

The yachtbroker is not responsible for the condition, equipment or description (specification) of the property unless he knew or, given his expertise, should have known that Client provided incorrect information regarding the property, or unless he, given his expertise, withheld or misrepresented any such information about the property's characteristics as is of material significance to the purchaser in relation to the closure of the contract.

#### ARTICLE 9

Client warrants the accuracy of his description of the property and the information provided by him regarding the property and – where he has instructed the yachtbroker to sell the property - he warrants that he is authorised to sell the property. Client shall indemnify the yachtbroker from and against any third party claims.

#### ARTICLE 10

The yachtbroker's obligation to ascertain the accuracy of the information provided by Client is confined to making inquiries into any mortgages or other third party rights attached to the property, in as far as these are disclosed in the public registers of vessels registered in The Netherlands.

### Section 4 – Obligations of Client

#### ARTICLE 11

Client must ensure, at his own expense, that the vessel is ready and available for surveys and /or trials. Unless otherwise agreed, any slipway and survey fees shall be payable by the party who instructed the relevant activities to be performed.

#### ARTICLE 12

Client must take out and maintain proper hull and third-party insurance for the property.

### Section 5 – Complaints

#### ARTICLE 13

1. Any complaint about the performance of the brokerage agreement should preferably be sent in the form of a clear and detailed written statement to the yachtbroker within a reasonable period following the date when Client becomes aware of, or may reasonably be expected to have become aware of, the matter in question. Client shall bear the consequences of any failure on his part to lodge a complaint in good time.

### Section 6 – Conditions of payment

#### ARTICLE 14

1. The commission that the yachtbroker is entitled to shall be due as soon as Client and a third party reach agreement on the sale, unless any condition subsequent included in the proposed agreement materializes. Any subsequent varying agreements between Client and a third party, or the cancellation of (part of) the agreement, shall not affect the yachtbroker's entitlement to commission.
2. The agreed purchase price can, at the option of the purchaser and seller, be remitted to the bank account of either the seller or a civil-law notary engaged by the yachtbroker or a firm of civil-law notaries designated by the purchaser and seller themselves. The yachtbroker / seller / civil-law notary shall keep custody of such money for Client in a separate account. The yachtbroker shall be entitled to deduct any amount he is entitled to under the brokerage agreement from the amount he has in his custody. If payment goes through the civil-law notary, the yachtbroker shall send him his invoice for his brokerage services, and the civil-law notary shall pay this invoice to Astra Mare immediately. If payment goes through the seller's bank account, the yachtbroker shall send the seller an invoice, and the invoice amount shall be remitted to Astra Mare within 8 days.
3. The commission that the yachtbroker is entitled to shall be equal to the commission agreed in the brokerage agreement.

#### ARTICLE 15

1. If the proposed contract is concluded within the term of the brokerage agreement, the contract will be deemed to have come about through the mediation of the yachtbroker (subject to the provisions of the brokerage agreement) unless Client can demonstrate that the proposed contract came about without the yachtbroker's mediation. Unless there is sufficient evidence to the contrary, Client shall pay the yachtbroker the full commission on the asking price.

#### ARTICLE 16

1. If the brokerage agreement comes to an end for any of the reasons stated in Article 5 Paragraph 1c, Client must compensate the yachtbroker for any reasonable expenses incurred by the latter.
2. As our brokerage costs for the vessel do not depend on the vessel's selling price, we pursue a fair trade policy, charging for each vessel, irrespective of its selling price, a fixed low commission of **€2,750.00** (plus VAT at 19%) or **€5,500.00** (plus VAT at 19%) if the selling price exceeds €150,000.00. These costs shall only be payable by Client upon signature and effectuation of the sale contract whereby the sale of the vessel must have come about through Astra Mare's mediation, subject to all articles referred to in the Terms and Conditions.

### Section 7 - Default, right of retention and pledge

#### ARTICLE 17

1. In the event of late payment of the commission or of any costs due pursuant to any of these provisions, the yachtbroker shall be entitled to charge Client with statutory interest, plus 5%, per annum on the due and payable amount. This interest rate shall be payable by Client from the due date.
2. If one of the parties is forced to seek legal advice concerning a dispute arising from the brokerage agreement, the defaulting party or the party who is ruled against shall (also) be liable for the costs relating to such legal assistance. Such extrajudicial costs shall amount to 20% of the due and payable amount, with a minimum of €200.00, plus disbursements actually made, unless the other party can demonstrate that a lower minimum amount could have sufficed with.

ARTICLE 18

1. The yachtbroker shall be entitled to retain the subject of the brokerage agreement in his possession until Client has settled the total amount due, including any costs arising from this right of retention.
2. The yachtbroker shall at all times hold a possessory pledge on the property, wherever located or moored, for any unpaid part of that which is owed to him by Client.

**Section 8 – Disputes: Disputes committee and competent court**

ARTICLE 19

1. All disputes relating to the brokerage agreement are subject to Dutch law. Only Dutch courts of law or the disputes committee are competent to hear such disputes.
2. An independent expert to be appointed by both parties may be engaged to hear a dispute. The decision of such independent expert shall be binding on both parties.

**Section 9 - Deviations and alterations**

ARTICLE 20 – Deviations

Any individual deviations from these Terms and Conditions, including any additions or extensions to them, must be laid down in writing.

ARTICLE 21 – Alterations

Astra Mare shall not make any alteration to these Terms and Conditions until Astra Mare's head office has been consulted on the matter. Any such alterations will come into effect two months after the alterations have been published by the appropriate organisations that undertake to publish alterations in their journals as soon these have been adopted.