

# *DEBBIE'S DAY BOATS LIMITED.*

## *Booking Terms and Conditions*

**Please read these conditions carefully.**

**They are part of the agreement and contain legal obligations and liabilities of the Hirer.**

### **1. Definitions**

In these conditions and the agreement:-

"the Company" means DEBBIE'S DAY BOATS LIMITED.

"the Hirer" means the person or persons named in the booking confirmation - where there is more than one Hirer they shall be individually responsible and liable under the agreement

"the Conditions" means the conditions set out in this form

"the price" means the price for the booking set out in the booking confirmation

"the day, date and time" means the date when the booking starts as set out in the booking confirmation

### **2. Booking Agreement**

A booking is a legal agreement. Submission of a completed booking form is an offer made by the Hirer to hire and the booking agreement is made only if and when the Company confirms the booking by written booking confirmation. Telephone bookings do not create legal agreements and any offer by the company to hold a reservation is not legally binding. The agreement includes these conditions which the client accepts having read and agreed them.

The entire contract between the Company and the Hirer is contained in these Conditions and the booking term and no representations, terms warranty or condition expressed or implied shall be deemed to be or have been made or agreed or imported by reference to any other writing, advertisement or conversation. No agent, servant or representative of the Company has any right to alter or vary or waive any of these conditions, Nor is any such person authorised to undertake any liability whatsoever on behalf of the Company. These conditions can only be varied with written permission of the Company signed by a director of the Company. The Hirer acknowledges that no statement or representation which may have been made by or on behalf of the Company induced the Hirer to enter into the contract and that any such statements or representations do not form part of the contract. Any liability at the Company and any remedy of the Hirer in respect of any such statement or representation is excluded save in so far as liability in respect of any particular statement or representation may not be excluded by law. Extras, Bookings for optional extras are taken subject to availability on start date.

### **3. Group Bookings. Age Limits and Unsuitable Hirers**

The Company's prior written consent is required for bookings by persons under 18 years old. A Hirer who wants to make such a booking must provide full details with booking form and be prepared to give further information.

The Company may at its discretion cancel any booking made in contravention of this condition before or at the start date. In this event any money paid will be forfeit and any balance payment will remain due unless the Company is able to re-let. If the Company is able to re-let the Hirer will remain liable for 15% of the price to cover administration expenses.

The Company may at its discretion cancel the booking and refuse to hand over the boat to any person or group who in its opinion is not suitable to take charge on the grounds of age, ill health, disability, inexperience, suspected influence of alcohol or drugs or any other reason. In this event the Company will refund any monies paid and the contract shall be discharged without further liability on either party.

The Company may repossess the boat at any time if in the opinion of the Company the Hirer is unsuitable for the reasons given above or if the Hirer is not behaving responsibly or if the boat or any persons are at risk, In this event the Hirer shall remain liable to pay the hire price and no refund shall be due.

### **4. Cancellations and Changes**

The agreement (including payment terms) is a legally binding contract and may not be cancelled or amended except as provided in the Conditions.

A Hirer who wants to cancel or change a booking must notify the Company immediately by telephone and at the same time confirm in writing.

We strongly recommend you make your own arrangement for cancellation protection.

### **5. Hire Period, Cancellation and Return of Boat**

The hire period is as shown in the booking confirmation. The Hirer must notify the Company of any likely delay in arrival as soon as possible by letter or if this is not practicable by fax or telephone.

Before the Hirer takes the boat over the Company may give the Hirer such instructions, demonstrations and trials as it thinks fit and require the Hirer to check and sign the contents and hand over inventory.

Persons who fail to attend the boatyard prior to the hire period in order to receive said instruction and persons whose name is not recorded on the guest arrival form are not permitted to drive the boat without the express permission of the Company as these persons are NOT covered by the Company's insurance.

In the event that the boat is not available because of circumstances beyond the Company's control (for example damage, mechanical breakdown, late return) the Company may substitute a boat of similar

accommodation but if no such boat is available the Company shall refund any payments made but shall not otherwise be liable and the contract shall be discharged.

The boat must be returned to the base and vacated by the Hirer in good time on the end date and the Hirer is responsible to allow enough time to ensure prompt return. In the event of delay the Hirer shall be liable to pay the sum of £50.00 per hour or part hour of the delay in returning the boat or giving possession and to indemnify the Company in respect of all other expenses and losses it may sustain by reason of such delay. This condition is strictly enforced in the interests of subsequent hirers of the boat because the Company may not have time to fit out and deliver the boat to subsequent hirers. The Hirer is responsible to return the boat to the base. If the Hirer fails to do so except for unavoidable cause the Hirer will be liable to pay to the Company the cost of recovering the boat.

The Company reserves the right without liability to hand the boat over at and/or to require the boat to be returned to a site other than the designated boat yard if operational circumstances make this necessary.

## **6. Prices and Payment**

Prices are inclusive of VAT, subject to changes in VAT rate before you have paid the price in full. The booking confirmation and booking invoice are not VAT invoices.

Prices are in pound sterling. The Hirer shall reimburse the Company on demand for any expenses incurred in the conversion of foreign currencies, bank charges, special clearance, re-presenting cheques, processing payments or otherwise in obtaining cleared sterling funds of the amount due on the due date. Payment is not made until cash or cleared funds have been received by the Company.

The booking payment must be sent with the booking application. Time of payment shall be of the essence of the contract. Without prejudice to any other rights of the Company it may charge interest (both before and after any judgement) at the rate of 2% over the Company's bankers base lending rate on any monies due from the due payment date until the date of payment and interest shall accrue from day to day

## **7. Insurance and Damage Waiver**

The Company insures the boat and equipment and against public liability risks. The policy does not cover personal accident or the hirer's personal belongings and the Hirer is advised to make his own insurance arrangements.

The Company's policy excludes damage arising from speeding, rudder, stern gear, malicious or intentional damage, other vessels and their equipment. the waterway, late return of boat and return of boat in unclean condition. The Hirer will indemnify the Company from and against all costs, damage, expenses, liability and claims howsoever arising from the negligence, neglect or default of the Hirer to the extent that they are not covered by the Company's policy. The hirer will pay a damage waiver at the same time as payment of the balance of hire.

## **8. Safety and Other Rules**

The Hirer agrees to comply with the following rules at all times for the health and safety of the persons on the boat and other persons and for safeguarding the boat and other property: -

Not to tow other craft or allow the boat to be towed excepting only professional assistance in the event of breakdown or emergency. Not to cruise after sunset or before sunrise, The boat is equipped only for daytime use.

To observe all speed limits, not to race and not to cruise at a speed which creates a breaking wash or disturbs or inconveniences other waterway users.

Not to take or have on the boat any dinghies, canoes, inflatables, portable heaters, bicycles, vehicles, lighting equipment, TV sets. electrical appliances (other than electric razors), inflammable liquids or substances, gas cylinders, car batteries, fire arms or any other items which might create dangers or hazards without the Company's prior permission.

Not to use the boat for business purposes.

Not to allow on the boat at any time more than 8 persons.

To give way to laden or unladen cargo boats. sailing craft, rowing boats and other human propelled craft.

Not to take the boat on to sea or tidal waters.

Not to have or carry any live bait on the boat.

At all times to observe all Byelaws, navigational limits or instructions and advice of Canal and River Trust and other navigational authorities and the Company and their respective officers and employees. The Company reserves the right at its discretion without liability to restrict cruising areas or routes in the light of prevailing conditions.

## **9. Accidents**

The hirer is in charge of the boat and is responsible for its safe navigation. In the event of any accident or damage to the boat, other craft or the waterway the Hirer must:-

Obtain and record the name of any other boat and names and addresses of all parties involved including the other boat owners and other hirers.

Notify the Company by telephone immediately with full details of the accident including damage incurred.

NOT IN ANY CIRCUMSTANCES ADMIT OR ALLOW ANY OTHER PERSONS ON THE BOAT TO ADMIT LIABILITY TO ANY OTHER PERSON.

Not carry out or have carried out any repairs without the consent of the Company.

Proceed in accordance with and follow the Company's instructions. In the event of accident the Company may repossess the boat and the hiring contract shall then terminate without liability on the Company. In the event that the Company's insurance cover is prejudiced or invalidated by any failure on the part of the hirer to comply with the provisions of this condition the Hirer shall indemnify the Company in respect of all liability claims. loss, damage or expenses incurred. The hirer is liable for and shall indemnify the

Company against any claim or charge made by any Waterway Authority for damage to waterway property or loss of water.

#### **10. Maintenance, Repairs, Damage and Breakdown**

The hirer is responsible for and will keep and maintain the boat and its equipment and contents and shall return the same at the end of the hire term in accordance with the Company's instructions and in good clean and tidy order and condition.

The Hirer shall notify the Company immediately by telephone in the event of breakdown, damage, theft or loss and shall provide full details and comply with the Company's instructions. The hirer must not undertake or have undertaken repairs, adjustment or service without the Company's prior approval. Any repairs or replacements by the hirer without the Company's approval will not be accepted. The Hirer shall have no claim on the Company or the Boat Owner as a result of breakdown or failures of the boat and its equipment or for any delays caused by repairs to the boat. While the boat and the contents are insured the Hirer shall be primarily liable to indemnify the Company in respect of any damage or loss arising from any failure of the hirer to comply with his obligations under the conditions or from carelessness or negligence. The Hirer shall be responsible for getting the boat off mud banks or other grounding. The Hirer shall notify the company if any of these operations cannot or carried out without risk or accident or damage and shall comply with the Company's instructions, Otherwise the Hirer shall be liable for any loss or damage incurred.

#### **11. Hirer's Property**

Vehicles may be left entirely at owners risk in the Company's car park. The company will be under no liability for any loss of or damage to vehicles or contents of the Hirer's or other persons property on the boat or elsewhere or howsoever caused except by the Company's negligence. Hirers are particularly advised not to leave any valuable or portable items in the car.

The Company shall take such action as may be necessary to silence car alarms in the Company's car park and to recover the costs from the Hirer, The Company may return hirer's property left behind on the boat if claimed and following receipt of payment for postage and packing. Property not claimed within two months from the end date will be disposed of by the Company.

#### **12. Fuel**

The boat is handed over ready fuelled and the price includes the cost of fuel consumed.

The Company may make a fuel surcharge if there is a material increase in fuel costs or duty.

Refuelling may only take place at the premises of suppliers designated by the Company.

**13. Pets** if you do take a pet it is not allowed on the furniture. Do not leave pets unattended in the boat. Keep dogs under control at all times and they should be kept on a lead at all times when off the boat. Registered guide and support dogs are allowed. If you or any member of your party has an allergy, we cannot guarantee that a registered guide or support dog has not been on the boat. Nor can we accept any legal responsibility for any suffering as a result of animals having been on board.

#### **14. Complaints**

The Hirer must check the boat and its contents and equipment fully on arrival at the boat yard and notify the Company of any alleged deficiencies or shortcomings before the boat leaves the boat yard. Any shortcomings subsequently discovered must be notified to the Company by telephone immediately in order to give the Company the opportunity to take any necessary remedial action.

The Company shall not be liable in respect of any matter which is not so notified immediately and in any event shall not be liable in respect of any matter which is notified after the end of the hire period. The boat may then have been taken over by another hirer and may not be available for inspection. Letters should bear the Company's booking reference.

#### **15. Exemption**

The Company shall not be liable for any matters arising from any cause beyond the Company's reasonable control or not due to the Company's negligence or wilful default including (without limitation) death or personal injury of Hirers, their crew and passengers, loss of or damage to property, non-fulfilment or interruption of the booking or delays, breakdowns, mechanical problems, defects, damage, restrictions or cruising, obstructions, repairs or damage to waterways, non availability of routes, navigational works, storms, floods, droughts, ice, shortage or water or other weather conditions, rationing, shortage or non availability of fuel or in respect of any consequential loss, damage, expense, injury or claim. Hirers are recommended to take out personal holiday insurance cover.

#### **16. Web Site and Brochure**

The specifications of boat, facilities and equipment in the brochure are intended as a general guide but the Company shall not be liable in the event of any differences in the boats supplied and reserves the right to make modifications. In particular alterations may occur during rebuilding or refitting, boats within classes may differ, colours may vary. Layout plans are for guidance only and are not to scale and boats may have steps which are not shown. If the Hirer's party includes any infirm persons the Hirer should make relevant enquiries at the time of booking.

**17. Disputes**

Any dispute, difference or question which may at any time arise out of the booking contract may be referred at the Company's sole discretion to a single arbitrator to be agreed between the parties or, failing agreement, to be nominated upon the application of either party by the President of the Birmingham Law Society. The decision of such arbitrator (acting as an expert and not as an arbitrator) including direction as to payment of fees and costs in the arbitration shall be binding on both parties.

**18. Jurisdiction**

The contract between the Company and the Hirer shall be deemed to have been made in England and shall be governed in all respects by English Law. The Hirer shall submit to the Jurisdiction of the English courts provided that the Company at its option may bring any legal proceedings against the Hirer from the courts in any other country.

**19. Waiver**

No indulgence, forbearance or delay by the Company or delay permitted by the Company shall constitute any bar to its enforcement of its rights at any time and no waiver in respect of any breach shall operate as a waiver in respect of any other subsequent breach.

**20. Severance**

The Conditions are considered reasonable by the parties. Any avoidance, restriction or limitation upon them or their effect by statute shall be limited to the Condition or part of the Condition and the issue to which it specifically relates. If any condition is found to be invalid and would be valid if modified by extension of time or otherwise it shall at the option of the Company take effect with such modification or amendment as may be necessary to make it valid and effective.