

FOXHANGERS LIMITED trading as FOXHANGERS CANAL HOLIDAYS TERMS & CONDITIONS

Please read these conditions carefully. They are part of the hire agreement and contain rights and duties of both the Hirer and the Company.

1. Definitions

In these conditions and agreement: 'the Company' means Foxhangers Limited. 'the Hirer' means the person or persons named on the booking confirmation. 'the Group' means the skipper and other persons named on the Customer Log Sheet completed prior to the period of hire and any other persons invited onto the boat during the period of hire. 'the Conditions' mean the terms and conditions set out in this form. 'Agreement' means the hire agreement between the Hirer and the Company which is evidenced by the Hirer's booking request and the booking confirmation and is made on the basis of and includes these Conditions, the Company's privacy policy and all policies set out on the Company's website <http://www.foxhangers.co.uk/>. 'the price' means the price for the booking set out in the booking confirmation. 'the start date' means the date when the booking starts as set out in the booking confirmation. 'the end date' means the date when the booking ends as set out in the booking confirmation. 'the period of hire' means the period between the start date and the end date.

2. Booking Agreement

When the Hirer requests a booking, the Hirer is making an offer to hire a boat on these Conditions. The Agreement itself only comes into existence when the Company sends out the booking confirmation. A provisional or conditional booking is not binding and the Hirer may cancel it at any time before the booking confirmation is sent out to the Hirer by the Company. Similarly, the Company may hire the boat to another party in place of the Hirer at any time before a booking confirmation has been sent to the Hirer. The entire agreement between the Hirer and the Company is contained in these Conditions and any documents and policies referred to in these Conditions, the booking request and the booking confirmation. These Conditions do not affect the Hirer's statutory rights. Any Company policies referred to in these Conditions will be made available to the Hirer on request to the Company.

3. Group Bookings, Age Limits, Hirer's Responsibilities and Unsuitable Hirers

The Hirer must be aged 21 years or over. Although there is no age limit for driving the boat, the Hirer warrants that whenever the boat is driven by a person aged under eighteen years that person will always be under the close supervision of a competent adult. Where a boat is occupied by a Group comprising mainly young persons, the Hirer warrants that at all times, a responsible person aged more than 21 years will be in charge of the Group. At the request of the Company the Hirer must provide full details of all persons in their proposed Group. Bookings from 'Stag' or 'Hen' or same sex or other groups that the Company deems in its sole discretion to be 'high risk' will be accepted subject to such groups agreeing to the Company's Party Groups policy, Pre-Authorisation policy and the payment of additional security bonds. 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 forfeited 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, inexperience, suspected influence of alcohol or drugs or any reason that may adversely affect the safety of any person, or the commercial interests of the Company. In this event the Company will be under no obligation to refund, compensate or indemnify the Hirer. 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.

The Hirer shall be responsible and liable for each member of the Group and the terms of the Agreement shall apply to each member of the Group. The Hirer shall be responsible for any breach of the Agreement by any of the Group.

4. Cancellations and Changes

The Agreement including the payment terms is a legally binding contract and may not be cancelled or amended except as provided in the Conditions. Should the Hirer wish to cancel or amend the booking they must advise the Company immediately by telephone and at the same time send written confirmation with proof of sending. The Company reserves the right to levy an administration charge of £50, for any amendment to a booking made by the Hirer (including any request to apply a discount not claimed at the time of booking), after it has issued a booking confirmation. The Company also reserves the right to charge a cancellation fee in accordance with the terms below for any changes to the dates of the period of hire requested by the Hirer. In the event of a cancellation, the deposit will be forfeited and, except in relation to discounted prices which are non-refundable in accordance with section 8, the following charges shall apply: cancellations prior to: 56 days of hire date: 25% (deposit amount); 56-43 days 50%; 42-29 days 75%; 28-0 days 100%, such percentages relating to the total booking price. Any credit owed back from the Company to the Hirer will be made by way of a voucher redeemable against any future bookings with the Company. It is strongly recommended that the Hirers protect themselves against cancellation liability by taking out cancellation protection. In the event of any claim being disallowed for any reason, the Hirer remains liable for the full hire charges.

5. Cancellations by the Company

The Company may cancel the Agreement by written notice in the following circumstances: a) for any of the reasons described in section 3; b) in the event of an incident affecting safety, or navigability of the hire boat; c) for breach of any of the rules set out in section 12; d) for non-payment of any sum due under the booking e) if a pricing error is discovered by the Company within 48 hours of the booking confirmation being sent to the Hirer and the Hirer declines to accept the corrected price. The Company is entitled to recover from the Hirer any loss which it suffers as a result of cancellation under any of the provisions of section 3 or for breach of section 12 and it may retain all or part of any payments which the Hirer has made as security for such claims.

6. Hire Period, Collection and Return of Boat

The hire period and times will be confirmed in the booking confirmation. The Hirer must notify the Company of any faults on the boat, its content and the equipment in accordance with section 18 in order to give the Company the opportunity to rectify such faults. Claims will not be considered for faults unless they are notified to the Company immediately upon their discovery. The Company reserves the right to make a charge if the boat is not returned in a clean and tidy condition and/or for any loss or damage. The Hirer must notify the Company of any likely delay in arrival as soon as possible by email or telephone. Before the Hirer departs with the boat, the Company will give the Hirer such instructions, demonstrations and trials as it thinks fit and reserves the right to make the Hirer check and sign for the contents, inventory and boat acceptance. In the event that the boat is not available on the start date because of circumstances beyond the Company's control, the Company may substitute a boat of similar accommodation. The boat shall be returned to the Company's hire base (or such other location as the Company may direct) and be vacated in a clean and tidy condition no later than the time confirmed in the booking confirmation. Hirers are responsible for ensuring that their cruising schedule allows time for unforeseen contingencies so as to permit their return and vacation of the boat by the scheduled time. Breach of this condition will incur an additional charge of up to £100 per hour or part thereof. In addition, the Hirer will be liable for any extra costs and/or damages incurred by the Company as a result of the boat not being available on time for the next Hirer. Where the Company has to recover a boat and return it to the base, the Hirer shall be liable for all the costs involved. Where operational circumstances make it necessary, the Company reserves the right to require the boat to start from, or return to, a place other than its normal base of operation. In such circumstances the Company will where necessary assist with transport from the original base. If the period of hire is not during British Summer Time the Company reserves the right to adjust the arrival time for collection of the boat in advance of the period of hire to allow for a safe handover in day light hours.

7. Prices and Payment

Prices are inclusive of V.A.T. and are subject to any change in the V.A.T. rate. The booking confirmation and booking statement are not V.A.T. invoices. Prices are in pounds 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 deposit must be sent with the booking application and unless otherwise stated is 25% the total price. The balance of the price is due not less than 8 weeks before the hire start date. Company may take any balance payments due from any VISA/MasterCard credit/debit card previously used for a deposit payment where Hirer has consented to this as part of the bookings process. Company reserves the right to take a pre-authorisation from a VISA/MasterCard credit/debit card in accordance with its Pre-Authorisation Policy if payment is made by BACS, cheque or cash. Time of payment shall be of the essence of the contract. For bookings made within 8 weeks before the hire start date payment in full must accompany the booking form. Without prejudice to any other rights of the Company it may charge interest (both before and after any judgment) at the rate of 3% 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.

8. Discounts

Discounts must be claimed at the time of booking and cannot be claimed retrospectively. Legitimate discounts claimed will be deducted from the final balance due and cannot be deducted from an initial deposit. Discounted prices will be non-refundable and the cancellation provisions set out in clause 4 will not apply to discounted prices.

9. Compulsory Damage Waiver and Fuel Waiver

There is a compulsory, non-refundable damage waiver fee of £70 payable with the final balance due in accordance with section 7 above. This is instead of a damage deposit and affords the Hirer protection against the cost of damage, loss or accident to the hire boat or its inventory during the period of hire up to certain specified limits. There are certain exclusions for which additional charges will apply that are not covered by the damage waiver fee and these are set out in section 10 below. There is a compulsory, non-refundable fuel waiver fee of £120 per week or £80 per short-break payable with the final balance due in accordance with section 7 above. The fuel waiver covers the cost of fuel that is used by the boat for heating and propulsion that is considered by the Company to be a reasonable level of use for hire boating activities during the period of hire.

10. Additional Charges

The Company reserves the right in its sole discretion to make the following charges (plus VAT) to the Hirer in the following circumstances and may request the Hirer to provide a pre- authorisation for payment using a VISA/MasterCard credit/debit card in accordance with Company's Pre-Authorisation Policy:

(a) **Late Arrival for handover.** If the Group's arrival for the handover is recorded as being 30 minutes or more later than your handover start time as stated in the booking confirmation correspondence, the Company reserves the right to make a charge of £50 hour or part thereof.

(b) **Late Return and or Recovery Charge.** If the boat is returned and vacated to Foxhangers Wharf (or such other designated point of return) later than the time quoted in the booking confirmation correspondence, the Company reserves the right to make a charge of £100 per hour or part thereof. In the event that the boat is vacated in a location unauthorised by the Company, the Company reserves the right to make a charge of £200 per hour to cover the costs of returning the boat back to the Company's premises. Additionally, the Hirer will be responsible for any compensation claims for non-availability of the boat at the correct time from subsequent hirers of the boat in question.

(c) **Cleaning Charge.** Cleaning charges of £60 per hour will be payable if the boat is not returned in a condition that is reasonably comparable with the cleanliness of the boat at the start of the period of hire and further charges will apply to correct damage caused by spillages, stains or other negligence. All kitchen crockery and equipment must be clean, washed, dried and stored away. Where dog(s) or other pets were permitted, any pet hairs or marks are found on beds or seating areas will incur an extra cleaning charge at the above rate. Any sign of damage from a cigarette burns to soft furnishing or smell of cigarette smoke on board will incur a charge of £100.

(d) **Skeg and Other Damage.** The Company reserves the right in its sole discretion to apply a charge to cover the Company's insurance excess up to the value of £500 for damage arising from speeding, contact with a lock cill or negligence causing damage to the rudder, skeg or stern gear, or other negligent, malicious or intentional damage to the boat.

(e) **Negligent or Rowdy Behaviour.** In the event of any complaints of rowdy or inappropriate behaviour regarding any person aboard the boat, the Company reserves the right to apply a charge to the Hirer of £250 for compensation for damage to the Company's reputation. The Hirer is also liable in addition to pay for negligent, malicious or intentional damage to other boats and property.

(f) **Call-Outs.** The Company reserves the right in its sole discretion to charge for calling out Company engineers to rectify issues caused by Hirer error, including but not limited to ropes caught around the propeller, damage to windows, delivering replacement keys. Charges shall be at the Company's then-current mechanical engineering hourly rate plus travel costs.

(g) **Pump-Outs.** Where pump-outs are required to toilet tanks, the cost is the responsibility of the Hirer.

The Hirer agrees that the Company may collect any additional payments or charges due from VISA/MasterCard credit/debit card details previously used for part or full payment of the booking in the first instance and / or from any pre-authorised VISA/MasterCard credit/debit card in accordance with Company's Pre-Authorisation Policy. If the Company is unable to recover payment in this way, it will contact the Hirer in order to effect payment of the due amounts which must be paid within 7 days of such contact.

11. Insurance. The Company insures the boat and its equipment and inventory against public liability risks. The Company's insurance does not cover personal accidents or loss or damage to personal effects. Hirers and their Group are advised to take out their own personal insurance cover.

12. 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: a) to ensure that at all times while the boat is being navigated or is transiting locks the minimum age of the operator onboard and in charge is 18 years; b) to moor the boat securely; c) to allow the boat to be occupied only by the persons named in the booking confirmation; d) not to tow other craft or allow the boat to be towed except under professional assistance in the event of breakdown or emergency; e) not to cruise between sunset and sunrise (the boat is only equipped for cruising during daylight hours); f) to observe all speed limits, not to race and not to cruise at a speed that creates a breaking wash or disturbs or inconveniences other waterway users; g) not to take or have on the boat without the Company's prior written permission, any dinghies, canoes, inflatables, portable heaters, bicycles, vehicles, lighting equipment, TV sets, electrical appliances (other than razors), inflammable liquids or substances, gas cylinders, barbecues, car batteries, firearms or any other items which might create dangers or hazards; h) not to use the boat for business purposes; i) not to allow on the boat at any time, more persons than the maximum number of berths and under no circumstances more than 9 persons; j) to give way to laden or unladen cargo boats, sailing craft, rowing boats and other human propelled craft; k) at all

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times to observe all by-laws, navigational limits, or instructions and advice of Canal and River Trust, other navigational authorities, the Company and their respective officers and employees; l) not to have or carry any live fishing bait on the boat. The boat may only be taken on canals. Experienced hirers should seek the agreement of the Company at the start of the hire period if they wish to cruise on rivers or into Bristol Floating Harbour. The Company reserves the right at its discretion, without liability, to restrict cruising areas or routes in the light of prevailing conditions.

If the Hirer is reported for improper navigation during the hire period or is in breach of this section 12 and if the Company has good reason to believe that it will be involved in any expense or penalty as a consequence then the Company in its sole discretion may recover any costs from the Hirer and the Hirer agrees that the Company may collect payment from VISA/MasterCard credit/debit card details previously used for part or full payment of the booking in the first instance and/or provided in accordance with the Company's Pre-Authorisation Policy. If the Company is unable to recover payment in this way, it will contact the Hirer in order to effect payment of the due amounts which must be paid within 7 days of such contact.

13. Accidents

The Hirer is in charge of the boat and is responsible for its safe navigation and return. In the event of any accident or damage to the boat, other craft or the waterway the Hirer must: a) obtain and record the name and registration number of the other boat, and names and addresses of all parties involved including the other boat owners and other hirers; b) notify the Company by telephone immediately with full details of the accident including damage incurred; c) where possible provide photographic evidence of any damage caused by the accident; d) NOT IN ANY CIRCUMSTANCES ADMIT OR ALLOW OTHER PERSONS ON THE BOAT TO ADMIT LIABILITY TO ANY OTHER PERSON; e) not to carry out or have carried out repairs without the consent of the Company; f) obtain and follow the Company's instructions. In the event of an accident, the Company may repossess the boat without liability of the Company to provide any substitute boat. 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 Navigation Authority for damage to waterway property or loss of water.

14. Maintenance, Repairs, Damage and Breakdown

The Hirer shall take reasonable care of the boat, its equipment and contents and shall return them at the end of the hire period in accordance with the Company's instructions and in good clean and tidy order and condition. The Hirer shall notify the Company by telephone immediately 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 any 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 be responsible for getting the boat off mud banks or other grounding and for removal of weeds, rope and other matter from propellers. The Hirer shall notify the Company if any of these operations cannot be carried out without risk of accident or damage. If the Hirer requires assistance from the Company in such circumstances, the Company will charge the Hirer for such assistance. The Hirer shall have no claim on the Company as a result of breakdown or failures of the boat and its equipment or for any delays caused by any required repairs to the boat. The Hirer shall comply with the Company's instructions and the Hirer remains responsible to the Company for any damage or loss arising from any breach of the Agreement, deliberate acts or negligence.

15. Hirer's Property

Vehicles may be left in the Company's car parks at the owner's risk. The Company will be under no liability for any loss of, or damage to vehicles or contents of the Hirer's, the Group's or other people's property, on the boat or elsewhere, howsoever caused, except by the Company's negligence. Hirers and Groups 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 parks and to recover the costs from the Hirer. The Company may return Hirer's or the Group's property left behind if claimed and following the receipt of payment for postage and packing (minimum charge £15). The Company will dispose of property not claimed within two months from the end date.

16. Fuel, Gas, Water etc.

The boat will be provided filled with an amount of fuel that is usually sufficient for a booking period of up to two weeks. If refuelling becomes necessary, it may only take place at the premises of suppliers designated by the Company. The Company will only reimburse the cost to the Hirer for fuel purchases that are authorised, and in the case of gas on a like for like exchange, and on presentation of a V.A.T. receipt. The Company may make an additional fuel surcharge if there is any material increase of diesel or gas prices or duty. Whilst water supply and moorings on the canals are normally free of charge, any costs incurred are the responsibility of the Hirer.

17. Pets

Pets are only allowed on the boat if it has been requested on the booking form and written confirmation has been received from the Company. Hirers must provide their own pet baskets or blankets. All pets must be properly house trained or caged as

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appropriate, must not be left unattended, and must not be allowed on bedding or chairs. Pets are not covered under the Company's insurance policy and the Hirer shall be liable for the cost of any damage or extra cleaning required. A charge of £30 is made for each pet.

18. Complaints

The Hirer and/or the Group shall check the boat, its contents and equipment fully, immediately after taking possession of the boat. In the unlikely event of any alleged deficiencies or shortcomings the Hirer and/or the Group must notify the Company before the boat leaves the departure point. Once the Hirer and/or the Group has left the departure point the Hirer and/or the Group are completely responsible for the boat, its equipment and its operation, until it is handed back to the Company at the end of the period of hire. Any deficiencies or shortcomings subsequently discovered shall immediately be notified to the Company by telephone, 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 and in any event shall not be liable in respect of any matter which is notified after the end of the period of hire, as the boat may then have been taken over by another hirer and may not be available for inspection. Any compensation agreed by the Company shall be at its sole discretion and at an amount commensurate with any deficiency or shortcoming.

The Hirer will be responsible for the cost of replacing or repairing any items which are missing from the boat or damaged at the end date.

19. Exemption

The Company shall not be liable to pay any compensation, damages, losses, costs or expenses for any claim arising from any cause beyond the Company's reasonable control which could not have been mitigated or avoided by the Company including but not limited to: a) loss of or damage to any person's property (including the boat); b) non-fulfilment, interruption or delay to the booking; c) breakdowns, mechanical problems, latent defects, damage to the boat; d) restrictions on cruising, obstructions, repairs, damage or closure of waterways, non availability of routes, navigational works, storms, floods, droughts, ice, shortage of water or other weather or climatic conditions; e) rationing, shortage or non-availability of fuel; f) consequential loss, damage or expense which the Hirer and/or the Group incurs including the cost of alternative transport, accommodation or other holiday provision.

The Company's total liability to the Hirer, the Group and any person claiming through the Hirer in respect of all claims which may arise under the Agreement (other than in respect of claims for personal injury or death due to negligence on the part of the Company or other liabilities that cannot legally be excluded or limited) shall be limited in aggregate to the total price actually paid by the Hirer to the Company in respect of the Agreement.

20. Brochure and Website

The specification of boats, including their accommodation, facilities and equipment in the brochure is intended as a general guide, but the Company shall not be liable in the event of any differences in the boat supplied and reserves the right to make modifications. Layout plans are for guidance only and are not to scale and may have steps which are not shown. If the Hirer's Group includes any infirm persons, the Hirer should make relevant enquiries at the time of booking. The Company reserves the right to change boat specifications without prior notice.

21. Assignment

The Company may assign the benefit and burden of this Agreement to any purchaser or subsequent owner of the Company or its assets or in the event of a change of ownership or control of the Company.

22. Third Parties

Only the named parties to the Agreement may enforce the terms of the Agreement. The parties agree that the Contracts (Rights of third Parties) Act 1999 shall not apply to this Agreement.

23. Waiver

No indulgence, forbearance or delay 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 to any other subsequent breach.

24. Dispute Resolution

The British Marine Federation and the Royal Yachting Association recommend that disputes arising under this form of Agreement which cannot be resolved by negotiation, should, with the written agreement of the Parties, be submitted to mediation or failing that to arbitration under the British Marine Federation's Dispute Resolution Scheme, which is approved by the Royal Yachting Association. Details of the mediation scheme operated by the British Marine Federation are available at www.britishmarine.co.uk/mediation. Matters suitable for arbitration shall be submitted to a single Arbitrator in accordance with the British Marine Federation's Dispute Resolution Scheme. The provisions of the Arbitration Act 1996 shall apply.

25. Law and Jurisdiction

This Agreement shall be governed by the law of England and Wales. Any dispute arising under this Agreement shall be submitted to the exclusive jurisdiction of the Courts of England and Wales.