

# Jacaranda Narrowboat Holidays



## CONDITIONS OF HIRE

### PLEASE READ CAREFULLY

#### 1. Definitions

In these conditions and agreement: "The Owner" means Jacaranda Narrowboat Holidays. "The Hirer" means the person or persons named on the booking confirmation. Where there is more than one Hirer they shall be individually responsible and liable under this 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 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

A booking is a legally binding contract. Submission of a completed booking form is an offer by the Hirer and the booking agreement is made only; if and when, the Owner gives a written boat hire confirmation. The contract includes these conditions which the Hirer accepts having read and agreed them. The entire contract between the Owner and the Hirer is contained in these Conditions and the booking form 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 Owner has any right to alter or vary or waive any of these conditions. Nor is any such person authorized to undertake any liability whatsoever on behalf of the Owner. These conditions can only be varied with the written permission signed by the proprietors of Jacaranda Narrowboat Holidays as Owner of the boat. The Hirer acknowledges that no statement or representation which may have been made by or on behalf of the Owner induced the Hirer to enter into the contract and that any such statements or representations do not form part of the contract. Any liability of the Owner 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. In accepting a booking, the Owner's responsibility does not extend beyond the provision of the boat and, in particular, there is no warranty that any particular route will be available for navigation during the period of hire. If the Hirer's party includes any infirm person the Hirer should make relevant enquiries at the time of booking. Bookings for optional extras are taken subject to availability on the start date.

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

The Hirer must be aged 21 years or over. Though there is no age limit for driving the boat, the Hirer warrants that whenever the boat is driven by a person under the age of eighteen years they will always be under the close supervision of a competent and responsible 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. The Owner 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 Owner is able to re-let. If the Owner is able to re-let the Hirer will remain liable for 15% of the price to cover administration expenses. The Owner 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 commercial interests of the Owner. In this event (and provided that the Hirer is not in breach of other parts of the agreement) the Owner will refund any monies paid and the contract shall be discharged without further liability on either party. The Owner may repossess the boat at any time if, in the opinion of the Owner, 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 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 Owner immediately by telephone and at the same time send written confirmation by Recorded Delivery post. The Owner reserves the right to levy an administration charge of £35 for any alteration to a booking made by the Hirer after it has issued a booking confirmation. In the event of a cancellation, the deposit will be forfeited and the Hirer will pay the balance price on the due date. The Owner may at its discretion waive the balance price if it is successful in re-letting the boat for the whole of the hire period. The Hirer is advised to make their own cancellation insurance arrangements.

#### 5. Hire Period, Collection and Return of Boat

The hire period is as shown in the booking confirmation. The Owner will endeavor to have the boat ready for the Hirer at approximately 3.00pm on the start date. The Hirer must notify the Owner of any likely delay in arrival as soon as possible by telephone. Before the Hirer departs with the boat the Owner will give the Hirer such instructions, demonstrations, trials and tuition as it thinks fit and will require the Hirer to check and sign for the contents, inventory, Boat Acceptance and for confirmation as to instructions provided by the Owner. The boat shall be returned to the Owner's hire base and be vacated in a clean and tidy condition no later than 10.00am on the end date. 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 £30 per hour or part thereof. In addition, the Hirer will be liable for any extra costs and/or damages incurred by the Owner as a result of the boat not being available on time for the next Hirer. Where the Owner has to recover a boat and return it to the base, the Hirer shall be liable for all the costs involved.

#### 6. Prices and Payment

Prices are in pounds sterling. The Hirer shall reimburse the Owner 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 Owner. The booking deposit must be sent with the booking application form and unless otherwise stated is 25% of the total price. The balance of the price is due not less than 4 weeks before the hire start date. Time of payment shall be of the essence of the contract. For bookings made within 2 weeks before the hire start date payment in full must accompany the booking form. A security deposit of £250 will be required to be paid by the Hirer to the Owner **IN CASH** at the time of collection of the boat at the beginning of the period of hire. This will be returned by the Owner to the Hirer upon satisfactory return of the boat and contents in good and undamaged condition at the end of the period of hire,

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subject to any deduction for any, loss, damage, late return or unclean condition of boat etc. Without prejudice to any other rights of the Owner it may charge interest (both before and after any judgment) at the rate of 3% over the Owner'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

The Owner insures the boat and its equipment and inventory against public liability risks. The Hirer will be required to provide evidence of identity and bank details as a requirement of the Owner's insurance.

Evidence of identity **must** be:-

- An **ORIGINAL** current passport or **ORIGINAL** driving license (both parts are required) **AND**
- An **ORIGINAL** bank statement in the name of the Hirer (not more than 3 months old)

The Hirer agrees that the Owner will be able to make photocopies of the above documents which will be retained by the Owner for the duration of the hire period, after which the copies will be returned to the Hirer, provided no claim is to be made under the terms of the Owner's insurance policy. The Owner's insurance does not cover personal accidents or loss or damage to personal effects. **HIRERS AND THEIR CREWS ARE ADVISED TO TAKE OUT THEIR OWN PERSONAL INSURANCE COVER.** The price does not include a compulsory accidental damage waiver per booking. Accidental damage waiver excludes damage arising from speeding, contact with a lock sill causing damage to the rudder, skeg or stern gear, TV aerials, chimneys, malicious or intentional damage to the boat. Also excluded is malicious or intentional damage to other boats and property and the late return of the boat and return of the boat in an unclean condition. The Hirer will indemnify the Owner 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 Owner's policy.

## 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 except under professional assistance in the event of breakdown or emergency.
- Not to cruise between sunset and sunrise. The boat is only equipped for cruising during daylight hours.
- 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 without the Owner's prior written permission any dinghies, canoes, inflatable, portable heaters, bicycles, vehicles, lighting equipment, TV sets, electrical appliances, (other than razors) inflammable liquids or substances, gas cylinders, barbecues, car batteries, fire arms or any other items which might create dangers or hazards.
- Not to use the boat for business purposes.
- Not to allow on the boat at any time more persons than the maximum number of berths and under no circumstances more than 12 persons.
- To give way to laden or unladen cargo boats, sailing craft, rowing boats and other human propelled craft.
- Not to take the boat to sea or on tidal waters.
- Not to smoke on board the boat.
- Not to have or store any live fishing bait inside the boat, its fridge or storage cupboards. Fishing may be carried out from the foredeck of the boat with normal licensing applying. The Hirer is requested to provide evidence of licenses at the commencement of the hire period.
- At all times to observe all byelaws, navigational limits or instructions and advice of British Waterways and other navigational authorities and the Owner, which include leaving lock paddles in the correct position; being considerate to other waterways users and property.
- **Please be aware that it is illegal to be drunk in charge of any vessel on British Waterways.**

The Owner 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 and return. In the event of any accident or damage to the boat other craft or the waterway the Hirer must:-

- 1) 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.
- 2) Notify the Owner by telephone immediately with full details of the accident including damage incurred.
- 3) **UNDER NO CIRCUMSTANCES ADMIT OR ALLOW OTHER PERSONS ON THE BOAT TO ADMIT LIABILITY TO ANY OTHER PERSON.**
- 4) Not to carry out or have carried out repairs without the consent of the Owner.
- 5) Obtain and follow the Owner's instructions.

In the event of an accident the Owner may repossess the boat and the hiring contract shall then terminate without liability on the Owner. In the event that the Owner'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 Owner in respect of all liability claims, loss, damage or expenses incurred. The Hirer is liable for and shall indemnify the Owner against any claim or charge made by any Navigation Authority for damage to waterway property or loss of water.

## 10. 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 Owner's instructions and in good clean and tidy order and condition. The Hirer shall notify the Owner in the event of breakdown, damage, theft or loss and shall provide full details and comply with the Owner's instructions. The Hirer must not undertake or have undertaken any repairs, adjustment or service without the Owner's prior approval.

Any repairs or replacements by the Hirer without the Owner'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 Owner if any of these operations cannot be carried out without risk of accident or damage. The Hirer shall have no claim on the Owner as a result of breakdown or failures of the boat and its equipment or for any delays caused by repairs to the boat. The Hirer shall comply with the Owner's instructions; otherwise the Hirer shall be liable for any loss or damage incurred.

## 11. Hirer's Property

Vehicles may be left in the marina car park at the Hirer's or vehicle owner's own risk. The Owner will be under no liability for any loss of or damage to vehicles or contents of the Hirer or other persons or to the Hirer's or other persons' property on the boat or elsewhere or

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howsoever caused except by the Owner's negligence or that of those for whom the Owner is responsible. Hirers are particularly advised not to leave any valuable or portable items in the car. The Owner shall take such action as may be necessary to silence car alarms in the marina car park and to recover the costs from the Hirer. The Owner may return any Hirer's property left behind if claimed and following the receipt of payment for postage and packing (minimum charge £10). Property not claimed within two months from the end date will be disposed of by the Owner.

## 12. Fuel, Gas, Water etc.

The boat will be handed over ready fuelled with a full tank of diesel fuel and the price includes the first £100 of this fuel consumed per week of hire. Please refer to clause 13. **Fair Fuel Used Policy** In the event that the Hirer requires any additional fuel (e.g. on a 2 week cruise hire) this will be at the Hirer's own expense. Please note that as a result of an EU ruling the tax on diesel fuel will be similar to normal road diesel, and the price charged is likely to be 10p to 15p per litre above average supermarket prices. The boat will typically use between 1.2 litres and 1.7 litres per hour depending on driving style. In addition the central heating system is oil fired, which will use diesel during colder periods. The Owner will only reimburse the cost to the Hirer, in the event of the Hirer having to purchase a replacement gas cylinder, on the basis of a like for like exchange, and on the presentation of a receipt. Whilst water supply and moorings on the canals are normally free of charge, any costs incurred are the responsibility of the Hirer. Where pump-outs are required to toilet tanks, the cost is the responsibility of the Hirer.

## 13. Fair Fuel Used Policy

On refueling the boat on return the hirer will be responsible for any diesel used in excess of the first £100. Any such excess will be deducted from the hires security deposit of £250 in the first instance or if this is insufficient to cover the excess such payment will be made by the hirer to the owner at the end date. As a guide the average cost of diesel for one weeks boating is £80 although this may vary subject to route chosen, length of daily cruising undertaken and driving style.

## 14. Pets

Pets are allowed on the boat, but must be put on the booking form. Hirers must provide their own pet baskets or blankets. All pets must be properly house trained or caged as appropriate, must not be left unattended, and must not be allowed on bedding or chairs. Pets are not covered under the Owner's insurance policy and the Hirer shall be liable for the cost of any damage or extra cleaning required. A maximum of two pets are allowed per boat. There is a charge of £25.00 per pet.

## 15. Complaints

The Hirer 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 must notify the Owner before the boat leaves the marina. The Hirer shall sign the Boat Acceptance form before departure and thereafter the Hirer is completely responsible for the boat, its equipment and its operation until it is handed back to the Owner at the end of the period of hire. Any shortcomings subsequently discovered shall immediately be notified to the Owner by telephone in order to give the Owner the opportunity to take any necessary remedial action. The Owner 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, as the boat may then have been taken over by another hirer and may not be available for inspection.

## 16. Exemption

The Owner shall not be liable for any matters arising from any cause beyond the Owner's reasonable control or not due to the Owner's negligence or willful default including (without limitation) death or personal injury of Hirers, their crew and passengers, loss or damage to property, nonfulfilment or interruption of the booking or delays, breakdowns, mechanical problems, defects, damage, restrictions or obstructions, repairs or damage to waterways, non availability of routes, navigational works, storms, floods, droughts, ice, shortage of 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.**

## 17. Disputes

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

## 18. Jurisdiction

The contract between the Owner 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 Owner at its option may bring any legal proceedings against the Hirer from courts in any other country.

## 19. Waiver

No indulgence, forbearance or delay by the Owner 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. Third Parties

No person who is not a party to this Agreement may enforce any term of this Agreement. The parties agree that the Contracts (Rights of Third Parties) Act 1999 shall not apply to this Agreement or to any agreement or document entered into pursuant to this Agreement.