



LOVE BOATS TERMS AND CONDITIONS

By booking a Boat via the Website, you agree to the terms and conditions set out in this Agreement.

Love Boats may vary the terms and conditions of this Agreement without notice. Any such variations will apply to bookings made after the variation has been published on the Website.

1 Definitions

In this agreement:

Additional Hire Fee means additional fee of AUD \$200.00 per hour (charged in 15 minute increments and rounded up to the nearest increment) payable by the Customer where it exceeds the Booking Period without prior written agreement from Love Boats.

Affiliates means employees, officers, agents and related entities of Love Boats.

Australian Consumer Law means the Australian Consumer Law contained in Schedule 2 of the *Competition Consumer Act 1010 (Cth)*.

Boat means a watercraft that is operated by electric motor and hired by the Customer in accordance with this Agreement and includes any other equipment supplied by Love Boats.

Booking Confirmation means a written notice provided by Love Boats to the Customer confirming that it has accepted the booking made by the Customer.

Booking Period means the period beginning and ending on the dates and times selected by the Customer and confirmed by Love Boats in a Booking Confirmation.

Claim includes liability, loss, damages, claim, suit, action, demand, expense (including legal fees on an indemnity basis) or proceedings of any nature.

Commencement means the date and time on which the Booking Period commences.

Confirmed Booking means a booking made by the Customer to hire a Boat, which has been accepted by Love Boats in writing through the provision of a Booking Confirmation.

Customer means the individual or legal entity that agrees to hire a Boat under the terms of this Agreement.

Deposit means a deposit that the Customer is required to pay to Love Boats as security for any potential damages, losses, or breaches of this Agreement.

GST has the same meaning as in the *A New Tax System (Goods and Services Tax) Act 1999 (Cth)*.

Hire Fee means the amount notified to the Customer during when making a booking.

Location means Jetty 5, 8 Trevillian Quay, Kingston 2604.

Love Boats means *Chicago Charles Pty Ltd (ABN 84 660 377 391)*.

Operator means an individual over the age of 18 who is capable of operating and navigating a Boat and is authorised by Love Boats to operate and navigate the Boat hired by the Customer under this Agreement.

Passenger means any person who boards, uses, or participates in activities involving, a Boat hired by the Customer under this Agreement, including the Customer and the Operator.

Prohibited Activities means:

- (i) **damaging, altering or trying to repair the Boat;**
- (ii) **exceed the legal speed limit for the Boat, any other speed limit advised by Love Boats from time-to-time;**
- (iii) **allowing any person other than the Operator to operate the Boat;**
- (iv) **using the Boat for, or in connection with, any illegal purpose;**
- (v) **using the Boat for any commercial purpose without the prior written permission of Love Boats;**
- (vi) **jumping, diving, swimming, disembarking, or separating any Passenger from, the Boat other than in accordance with Love Boats' instructions, policies and procedures;**
- (vii) **using the Boat in connection with any hunting or fishing activities;**
- (viii) **using the Boat outside the permitted area advised by Love Boats; and**
- (ix) **littering, or damaging or otherwise interfering with flora or fauna.**

Safety Briefing means a mandatory briefing provided by Love Boats to all Passengers before boarding and / or operating a Boat. This may be conducted in any format determined by Love Boats, including electronically or orally.

Website means Love Boats online website from which Passengers can view information about Love Boats services and making bookings, located at www.loveboats.com.au.

2 Boat Hire

- 2.1 The Customer agrees to pay the Hire Fee, and, subject to clause 2.6, Love Boats agrees to hire the Boat to the Customer for Booking Period.
- 2.2 The Customer must pay a Deposit of AUD \$250.00 for each Boat hired under this Agreement.
- 2.3 The Deposit may be paid via a credit card hold, debit card pre-authorisation or any other means determined by Love Boats at its sole discretion.
- 2.4 Love Boats will return the Deposit to the Customer once the Booking Period has ended.
- 2.5 The return of the Deposit to the Customer does not waive or limit any liability owed by the Customer under this Agreement and shall not be taken as a representation that the Booking Period has ended.
- 2.6 All bookings are subject to the availability of a Boat, and the provision of a Booking Confirmation by Love Boats in writing at its sole discretion. Where the Customer fails to produce a booking confirmation, Love Boats may refuse the hire of a Boat.
- 2.7 If the Customer has paid the Hire Fee and / or Deposit and Love Boats does not provide a Booking Confirmation, Love Boats will refund the amounts paid.
- 2.8 The Customer and Operator must both provide a valid form of identification, to the reasonable satisfaction of Love Boats, when presenting at the Location for a Confirmed Booking.
- 2.9 The Customer must pay the Hire Fee and Deposit, together with any applicable GST, prior to Commencement.
- 2.10 All Passengers must sign a liability waiver, in a form required by Love Boats at its sole discretion, prior to the Booking Period.
- 2.11 The Customer agrees to return the Boat to the Location before or at the end of the Booking Period. If the Customer fails to return the Boat in accordance with this clause 2.11:
 - (a) the Customer must pay an Additional Hire Fee for the period commencing from the conclusion of the Booking Period until the Boat is returned to the Location; and
 - (b) Love Boats will retain the Deposit until the Boat is returned to the Location.

2.12 If the Boat is damaged, for any reason other than as a result of fair wear and tear or the act or omission of Love Boats, at any time from Commencement until the Boat is returned to the Location, the Customer is liable for:

- (a) all costs and expenses incurred by Love Boats to repair or replace the Boat (whichever is less); and
- (b) the payment of an Additional Hire Fee for the period in which the Boat is not available for use due to the damage,

and Love Boats will retain the Deposit until the Boat is repaired or replaced and the Customer has paid to Love Boats any amounts for which it is liable under this Agreement.

2.13 If the Boat is lost, stolen, or otherwise not returned to the Location, the Customer is liable for:

- (a) all costs and expenses that are incurred by Love Boats to recover the Boat;
- (b) the current retail price of a replacement Boat; and
- (c) the payment of an Additional Hire Fee for the period in which the Boat is not available for use due to being lost, stolen or otherwise not returned to the Location,

and Love Boats will retain the Deposit until the Boat is recovered or replaced and the Customer has paid to Love Boats any amounts for which it is liable under this Agreement.

2.14 Any Additional Hire Fee payable under this Agreement will be limited to a maximum of eight hours on each calendar day on which the Customer is liable to pay an Additional Hire Fee.

2.15 The Customer acknowledges that the Additional Hire Fee is calculated by reference to a higher hourly rate than the Hire Fee.

2.16 Love Boats will ensure that the Boat is provided to the Customer in a clean and tidy condition.

2.17 The Customer must return the Boat in a clean and tidy condition. The Customer will be liable for any costs and expenses incurred by Love Boats for cleaning the Boat.

3 Nomination of an Operator

3.1 The Customer must nominate an Operator. The Operator must not be under the influence of alcohol (a blood alcohol content of 0.00%) at any time during the Booking Period.

3.2 Love Boats reserves the right to refuse the hire of a Boat where the nominated Operator is not present at Commencement, or the nominated Operator appears to be under the influence of alcohol or any other substance, and there is no other suitable Passenger to be nominated.

4 Safety and Operation

4.1 All Passengers must attend a Safety Briefing prior to the Booking Period, and comply with all instructions, policies and procedures provided by Love Boats.

4.2 Passengers must use floatation devices and safety equipment as required by law, and in accordance with Love Boats' policies, procedures and instructions.

4.3 Passengers must not be under the influence of any illegal substances. Passengers must not be under the influence of alcohol to an extent that exceeds any applicable legal limit, exceeds any limit advised by Love

Boats, or is otherwise unsafe. Passengers may only bring on board the amount of alcohol permitted by Love Boats at its sole discretion.

- 4.4 The Customer must ensure that the Boat is used safely in accordance with the laws of the state or territory in which the Boat is hired.
- 4.5 Any personal items brought onto a Boat by Passengers must be appropriately secured and are the sole responsibility of the Customer. The Customer agrees to hold harmless and indemnify Love Boats in relation to any Claim concerning Passenger's personal items.
- 4.6 Love Boats reserves the right to cancel or terminate the hire of a Boat to the Customer if any Passenger fails to strictly follow all policies, procedures or instructions given by Love Boats, or otherwise engages in behaviour that Love Boats considers is unsafe.
- 4.7 All Passengers must possess the capability to embark on the boat and engage in all activities for which the Passenger intends to use the Boat. All Passengers must have adequate swimming skills to ensure their survival in the event of capsizing or an accidental fall overboard.
- 4.8 The Customer must ensure that the total number and weight of all Passengers and items brought onto the Boat remains under the limits advised by Love Boats. Love Boats may cancel or terminate a Confirmed Booking if it anticipates that the Boat capacity may be exceeded.
- 4.9 The Customer must consent to any emergency medical treatment and transportation that any medical professional and / emergency services personnel consider appropriate in the event of illness or injury.

5 Customer's Obligations

- 5.1 The Customer must, and must ensure that all Passengers:
 - (a) be at the Location at least 15 minutes prior to the Confirmed Booking, to ensure that all pre-departure procedures can be completed prior to Commencement. Arriving late does not extend the Booking Period and the Customer must still return the Boat at the end of the Booking Period in accordance with this Agreement;
 - (b) comply with the safety and operation obligations contained in clauses 4.1 to 4.9 inclusive as if they were parties to this Agreement.
 - (c) take reasonable steps to ensure that the Boat is fit for the Customer's intended purpose;
 - (d) correctly complete all forms and accurately provide all information that is required by Love Boats in order to secure a Confirmed Booking;
 - (e) take reasonable care when using the Boat and not cause any loss or damage to the boat, injury to any Passenger or other person, or loss or damage to property;
 - (f) not rely upon any representation relating to a boat or its operation except as explicitly outlined in this Agreement or communicated by Love Boats in written form; and
 - (g) take all reasonable precautions to ensure that the Boat is not lost or damaged.
 - (h) behave in a manner that is safe, is not unreasonably disruptive, loud or offensive, or likely to bring Love Boats or its Affiliates into disrepute;
 - (i) act in accordance with the instructions, policies and procedures of Love Boats and any applicable laws of the state or territory in which the Boat is hired;
 - (j) immediately notify Love Boats if the Customer identifies, or has reason to believe that it may have identified, any apparent damage, defects, hazards or risks with respect to the Boat; and
 - (k) not engage in any Prohibited Activities.

6 Payments and Fees

The Customer:

- 6.1 grants Love Boats the authority to debit any outstanding amounts owed by the Customer under this Agreement (including the Deposit and Hire Fee) from the credit card or bank account information provided by the Customer.
- 6.2 grants Love Boats permission to charge the Customer's designated credit card or bank account any Additional Hire Fee payable in accordance with this Agreement.
- 6.3 agrees to pay all amounts owing under this Agreement immediately on demand from Love Boats.
- 6.4 agrees to pay interest on any outstanding amounts payable under this Agreement, calculated in accordance with Table 2.1 of Schedule 2 of the *Court Procedures Rules 2006* (ACT) and accruing monthly.

7 Cancellation

- 7.1 The Customer may cancel a Confirmed Booking by providing notice in writing to Love Boats using the email address info@loveboats.com.au.
- 7.2 If the Customer cancels a Confirmed Booking at least 72 hours prior to Commencement, the Customer will be entitled to a full refund of the Hire Fee and Deposit, excluding any transaction processing fees incurred by Love Boats in accepting and refunding the Hire Fee and Deposit.
- 7.3 If the Customer cancels a Confirmed Booking between 24 and 72 hours prior to Commencement, the Hire Fee is payable by the Customer. Love Boats will retain the Hire Fee where it has been pre-paid by the Customer, and will refund the Deposit. The Customer will be granted a credit equal to the amount of the Hire Fee which may be applied to future bookings.
- 7.4 If the Customer cancels a Confirmed Booking less than 24 hours prior to Commencement, the Hire Fee becomes payable by the Customer. Love Boats will retain the Hire Fee where it has been pre-paid by the Customer, and refund the Deposit to the Customer.
- 7.5 Love Boats may cancel a Confirmed Booking or modify the Booking Period in situations of severe weather conditions, other circumstances which present a risk to safety, or that are otherwise beyond Love Boats' control and prevent Love Boats from proceeding with the Confirmed Booking either at all or in accordance with the terms of this Agreement or any applicable laws.
- 7.6 If Love Boats cancels a Confirmed Booking in accordance with clause 7.5, the Customer will be entitled to a refund of the Hire Fee and Deposit. If Love Boats modifies a Booking Period such that the duration of the Booking Period is reduced, the Customer will be entitled to a pro rata refund of the Hire Fee.

8 Default and Termination

- 8.1 In the event that the Customer commits a breach of this Agreement, or any other Passengers fail to comply with the terms of this Agreement insofar as they are applicable, Love Boats reserves the right, in addition to other rights under this Agreement or as permitted by law, to cancel or terminate a Confirmed Booking and require the immediate return of a Boat if the Booking Period has commenced.
- 8.2 Love Boat reserves the right to pursue appropriate legal action through court proceedings, whether in law or equity, to enforce compliance with the relevant terms of this Agreement or claim damages for the involved breach.

9 Warranties, Liability and Indemnity

- 9.1 Nothing in this clause will, or is intended to, disclaim, exclude, prevent or limit the application of the Australian Consumer Law, including any applicable statutory consumer guarantees, contained in the Australian Consumer Law. Any disclaimer of representations or warranties, release or limitation of liability to you shall only apply to and be enforceable under this Agreement to the extent permitted by law, including the Australian Consumer Law, if applicable.
- 9.2 To the extent permitted by law (including the Australian Consumer Law if applicable) in no event will Love Boats' aggregate liability for any Claim, loss, damage, liability, cost, charge or expense (including expenses on a full indemnity basis), whether present or future, fixed or ascertained, actual or contingent,

in connection with this Agreement, exceed an amount equivalent to the lesser of the Hire Fees paid by you to us, or \$100, regardless of the cause or form of action.

- 9.3 Love Boats' liability for any Claim, loss, damage, liability, cost, charge or expense (including expenses on a full indemnity basis), whether present or future, fixed or ascertained, actual or contingent, in connection with this Agreement will be reduced to the extent that the acts or omissions of the Customer, or any other Passenger, contribute to or cause any loss or liability.
- 9.4 To the extent permitted by law, the Customer indemnifies Love Boats and its Affiliates against any Claim arising directly or indirectly out of or in connection with:
- (a) the performance of this Agreement;
 - (b) any act, omission or negligence of the Customer or any other Passengers; or
 - (c) any breach of this Agreement by the Customer.

10 Title to goods

The Customer acknowledges that Love Boats retains title to the Boat and that the Passenger has rights to possess the Boat as a mere bailee only.

11 Governing law

This Agreement is governed by the laws of the Australian Capital Territory.

12 Severability

If any clause of this Agreement is found to be illegal or unenforceable under any relevant jurisdiction, it will be enforced to the fullest extent possible. If deemed unenforceable, such clause will be removed for that jurisdiction without affecting the validity in other jurisdictions or the remaining provisions of the Agreement.

13 Assignment

This Agreement may be assigned or novated by us to a third party without your consent. In the event of an assignment or novation you will remain bound by this Agreement.

14 Amendment

An amendment or variation to this Agreement is not effective unless it is in writing and signed by the parties.

15 Entire Agreement

This Agreement supersedes all previous agreements, letters, offers, quotations and negotiations sent or received on the subject matter of this Agreement and contains the entire agreement between the parties.

16 Waiver

Except as provided at law, or in equity, or elsewhere in this Agreement, none of the provisions of this Agreement may be waived, discharged or released, unless it is in writing and signed by the party granting the waiver, discharge or release.

CUSTOMER NAME:

CUSTOMER SIGNATURE:

DATE: