



## Terms and Conditions

Please read, check for correct charter details, sign and email or post back to us.

This agreement is for the charter of a vessel by the Charterer, operated by the Operator (MG TOURS PTY LTD Trading as Sydney Boat Adventures and Sydney Whale Adventures) and covers the rights and obligations of the parties.

### 1. Definitions:

**Charter:** The cruise for which the Charterer is paying and the Operator is providing.

**Charterer:** The client of the Operator, who is paying for the Charter.

**Charterer's Group:** All the passengers who will take part in the Charter.

**Master:** The qualified person in charge of the vessel.

**Operator:** The person or organisation providing the vessel for the Charter and to whom the money is being paid by the Charterer.

### 2. Parties.

(i) MG TOURS PTY LTD Trading as Sydney Boat Adventures and Sydney Whale Adventures. Ph +61 413 607 114 email – [info@sydneyboatadventures.com](mailto:info@sydneyboatadventures.com) the operator, and

<b>(ii) Name of Charterer:</b>	
<b>Title/ Position:</b>	
<b>Company:</b>	
<b>Phone:</b>	
<b>Mobile:</b>	
<b>Email:</b>	

### 3. Charter Details:

<b>(i) Name of Vessel:</b>	
<b>(ii) Date of Charter:</b>	
<b>(iii) No of Passengers:</b>	
<b>(iv) Pick up location:</b>	
<b>(v) Drop off location:</b>	
<b>(vi) Start and Finish Times:</b>	
<b>(vii) Additional Notes: E.g. Additional pickups or variation of bond amount.</b>	

### 4. Terms:

- (i) A deposit of fifty percent of the agreed vessel charge of the Charter is to be paid on booking.
- (ii) Methods of payment may be by cash, credit card or electronic funds transfer.

(iii) The balance of the Charter fee is to be received seven days prior to the start of the Charter. Payments may be made by any of the methods listed in (ii).

(iv) The balance of any catering fee is to be received seven days prior to the start of the Charter.

### 5. Bond:

A Bond must be paid or pre authorised credit card amount held, before the commencement of the voyage. This bond will be refunded within seven days of the charter, unless any of the following have occurred. The amount of the bond will be AU \$2000.00 unless stated otherwise in C3 (vii). The occurrences, which will affect repayment of the bond, in part or in full, are but not limited to:

- (i) Loss or damage to the vessel, its equipment or fittings, caused by members of the Charterer's Group, including blocking of toilets which will result in a \$100 fee per blocked toilet for unblocking;
- (ii) An amount of uncleanliness in excess of what is reasonable, caused by the members of the Charterer's Group, which, at the sole discretion of the Operator, therefore requires an excessive amount of cleaning to make good, including the cleaning of any vomit;
- (iii) Unruly, dangerous or aggressive behaviour, by members of the Charterer's Group, to the extent that the Master, at His/Her sole discretion, in the interests of the safety of the vessel, other passengers and its crew, decides that the Charter must be terminated early or cancelled;
- (iv) Failure to wear non marking footwear may result in a \$100 cleaning charge.

### 6. Limit of Liability:

(i) It is a condition of the Charter that the liability of the Operator, its servants, agents, vessel owners and sub-contractors is agreed to be limited in accordance with the Limitation of Liabilities and Marine Claims Act 1989 (Cth).

(ii) To the extent permitted by law, any liability of the Operator for a breach of any provisions of this agreement or related obligations shall not exceed re-supply or the payment of the cost of re-supply of the vessel charter fee.

(iii) The services provided by the Operator are vessel charter services and as such the Operator is not liable for any third party services engaged by the charterer, representative of the charterer or member of the charterers group that may rely on the vessel charter. This includes but is not limited to supply of catering, drinks, wait staff or entertainment.

**7. Damage to the Vessel:** The Charterer shall indemnify the operator in respect of any loss or damage to the vessel or its equipment or fittings howsoever caused by members of the Charterer's Group, fair wear and tear excepted.

### 8. Indemnity:

i) The Charterer agrees to indemnify and hold harmless the Operator, its agents and employees, from and against any and all losses, claims, actions, costs expenses, fees, damages, fines and liabilities (Including

reasonable legal fees) caused by any negligent act or omission by the Charterer, Charterer's representative or members of the Charterer's Group.

ii) If the Charterer fails to disclose the exact type of function to be held during the Charter to the Operator, or misleads the Operator in respect to the type of function to be held on the vessel listed in 3. (i), the Operator reserves the right to refuse boarding to the Charterer's group, depart the wharf without passengers and cancel the charter. If this occurs, no money paid for the charter will be refunded to the Charterer.

**9. Force Majeure:** The Operator will be free from liability for failing to perform hereunder due to industrial action, unsuitable weather conditions, technical problems or other events beyond the operator's reasonable control.

**10. Cancellation:**

(i) If the Charterer cancels the Charter within 30 days of the date of the Charter, the deposit will be forfeited. If Charter is cancelled inside 7 days and full payment has been made the whole Charter fee which may include catering and wait staff will be forfeited. If notice of cancellation is 30 days or greater the deposit will be refunded less a 15% booking and administration fee on the condition that the vessel can be chartered for that same date and time period by another group. If the vessel is not chartered for the same date and time period, the deposit paid by the Charterer will be forfeited.

(ii) If the Operator cancels the Charter prior to the vessel departing its base, the deposit or vessel charter fee will be refunded.

(iii) If the Operator cancels the Charter after the vessel has departed its base, for reason/s in accordance with the terms of this agreement, no money paid by the Charterer is refundable.

(iv) **WEATHER** If the Charter is postponed by the Operator due to **unsafe** weather conditions, then it will be rescheduled for the next available date suitable to both the Operator and the Charterer. The decision to postpone will be at the sole discretion of the Operator. (Rain or wind conditions are not causes for postponement).

**11. Duration of Charter, Embarking and Disembarking:**

(i) The Duration of the Charter includes the time taken to embark and disembark passengers; this is limited to one point of embarkation and one point of disembarkation unless otherwise stated in C3 (vii).

(ii) The Operator is not responsible for any delays caused by the late arrival of passengers or delays at the wharf caused by crowds, the arrival of other vessels, vessels overstaying their wharf booking, ferry's or any other item beyond its control. It is similarly not responsible for delays at the point of disembarkation for reasons outside its control.

(iii) The operator reserves the right to pull the vessel into the point of disembarkation 15 minutes prior to the scheduled time for disembarkation, on approach to berthing the music will be switched off for safety reasons.

(iv) If the time taken for disembarking passengers takes longer than 15 minutes beyond the scheduled end of the charter, the Charterer will be charged for this time and for every fifteen minute period thereafter pro rata of the vessel charge. This fee may be recoverable from any bond held. If the Master is required to vacate the disembarkation point in order to let other vessels berth, this time will also be charged at the same rate. Any

additional wharf fees incurred as a result of passengers not disembarking in a timely manner may be recoverable from the bond held.

(v) If the Charterer seeks to extend the duration of the charter, during the charter, this extension will be at the sole discretion of the Master. Further payment will be required at this time pro rata of the vessel charge.

(vi) The passenger pickup is a period of 15 minutes beginning from the time specified in 3. (vi) Start Time. If the Charterer's Group is not present or not ready for boarding at the location specified in 3 (iv) during the 15 minute boarding period, the Master will remove the vessel from the wharf. If another wharf booking is not obtainable within the first hour of the charter, the charter will be cancelled and the vessel returned to base. If this occurs, the operator will be deemed to have provided the service in full and no money paid by the charterer is refundable.

(vii) If any member of the Charter's Group is not ready for boarding during the 15 minute boarding period, the vessel will depart the wharf and it will be up to late members of the charterers group to organise their own water taxi to the vessels location at their own expense. The vessel is not required to return to the pickup wharf or any other wharf to collect late passengers.

**12. Suitability of the vessel:**

(i) It is the responsibility of the Charterer to inspect the nominated vessel at some time prior to the Charter, to determine its suitability.

(ii) It is the responsibility of the Operator to present the nominated or substitute vessel to the Charterer, at the time of Charter, in the condition agreed to at the time of this inspection.

**13. Garbage:**

Bins and bin liners are provided for the disposal of Garbage. Failure to use them for the disposal of all garbage may result in the operator exercising their rights under C5 (ii).

**14. Decorations:**

(i) If the Charterer wishes to decorate the vessel, this must be done without the use of pins, adhesive tape, tacks, blue tack on painted surfaces or anything which will leave a mark on the vessel; string is suggested as an alternative. Decorations must take place during the scheduled charter time unless previous arrangements were made at time of booking.

(ii) Access to the vessel prior to the scheduled charter time will be charged pro rata of the vessel charge.

**15. Charter Course and swimming:**

(i) The course to be undertaken during the Charter may be agreed in advance with the Operator or with the Master on the occasion of the Charter; however, the Operator reserves the right, at its sole discretion or that of the Master, to vary the agreed course because of weather, wave height, traffic, vessel survey restrictions, or any other cause which the Master believes is justified in the interests of the safety of passengers, crew, the vessel and other vessels.

(ii) Permission to swim from the vessel is not guaranteed and is at the sole discretion of the Master. Swimming may only be permitted when the vessel is at anchor or moored with the engines switched off.

**16. Substitution of Vessel:**

The Operator may substitute another vessel for the one originally contracted for and shall incur no penalty

provided that the substituted vessel satisfactorily provides the services originally contracted for.

#### **17. Behaviour:**

Any rowdy, unruly, dangerous or aggressive behaviour by the charterer or any member of the charterer's group will not be tolerated. This includes but is not limited to; threatening, swearing, yelling, intimidating or any physical act towards any member of the vessels crew or sub contractors. This also includes jumping overboard without the express permission of the Master. If such behaviour occurs, the Master at his/her sole discretion may

(i) Terminate the charter immediately and berth the vessel at the nearest wharf and ask all passengers to disembark

(ii) Summon the water police to assist.

If the charter is terminated early as a result of rowdy, unruly, dangerous or aggressive behaviour, no money will be refunded and the Charterer agrees to indemnify and hold harmless the Operator, its agents and employees, from and against any and all losses, claims, actions, costs, expenses, fees, damages, fines and liabilities (Including reasonable legal fees).

#### **18. Alcohol (Unlicensed Vessels):**

Given that the vessel does not hold a liquor licence, it is the responsibility of the Charterer to ensure that the law is complied with. In particular, it is the Charterer's responsibility to ensure that alcohol is not served to those in the Charterer's group who have already had a sufficient amount or who are under the age of 18 years. If any of the Charterer's group displays the following symptoms, they will be deemed to have had a sufficient amount:

Aggressive or anti-social behaviour, inability to walk unaided, vomiting, slurring their words or continuous spilling of drinks. If the Charterer or any members of the Charter's Group exhibit any of these symptoms, or fail to comply with directions given to them by the vessels crew, whether the result of alcohol consumption or otherwise, the Master may, at his/her sole discretion,

(i) Terminate the Charter by berthing the vessel at the nearest safe location and discharging all passengers or at least the offending ones;

(ii) Summon the Water police to assist or remove the offending Passengers;

(iii) Negotiate with the charterer to agree on some other course of action to resolve the problem, such course of action must be satisfactory to the Master.

If the Charter is terminated early, as in (i) or (ii) of this clause, no money will be refunded to the charterer.

Note: It is an offence for individuals to carry open liquor from the vessel on disembarkation. Therefore, 15 minutes before the end of the Charter, alcohol service will cease so that all bottles and containers can be repacked into the containers in which they were brought aboard, for removal by the Charterer.

(iv) Any unruly, rowdy or other illegal behaviour on disembarkation will result in the charterer's bond being forfeited.

(v) Illicit Drugs are illegal and therefore not permitted on board the vessel. If illicit drugs are found aboard or passengers are suspected of using such substances, then the water police will be summoned to the vessel to investigate and remove any offending passengers from the vessel.

(vi) The Operator reserves the right to refuse entry of a passenger onto the vessel at the sole discretion of the Master or any employee of the Operator if they believe

this person to be already affected by alcohol or another substance.

(vii) If a number of members of the Charterer's Group are believed to be affected by alcohol or another substance, then the Master may refuse boarding to all members of the charterer's group and cancel the charter

(viii) Shots of alcoholic drinks or drinking directly from alcoholic spirit bottles is prohibited aboard the vessel. If members of the Charterer's Group engage in this behaviour after being directed to stop by a member of the vessels crew, the Master may terminate the charter at the nearest wharf and ask all passengers to disembark.

(ix) If the Master terminates the charter, disembarks passengers or refuses boarding as a result of any of the conditions under clause 18, no money paid by the charterer will be refunded and the Charterer agrees to indemnify and hold harmless the Operator, its agents and employees, from and against any and all losses, claims, actions, costs, expenses, fees, damages, fines and liabilities (Including reasonable legal fees).

#### **19. Food:**

It is a condition of this Charter that substantial food be served and consumed throughout the duration of the charter. Failure of the Charterer to provide food will result in

(i) The vessel not departing the wharf until substantial food is obtained.

(ii) Negotiate with the charterer to agree on some other course of action to resolve the problem, such course of action must be satisfactory to the Master.

(iii) If no food is able to be obtained, the Master or Operator may cancel the charter and ask all passengers to disembark. No money paid by the Charterer will be refundable if the charter is cancelled due to the failure of the Charterer to provide food.

#### **20. Jurisdictions and choice of Law:**

The law of New South Wales governs this agreement and the parties agree to submit to the jurisdiction of the courts of New South Wales in respect of any dispute arising between them.

**21. Other Parties:**

(i) The Charterer may not, without the express written permission of the Operator, on sell or sub contract the services or vessels of the Operator.

(ii) If the charterer wishes to engage the services of third parties to deliver products or services in connection with the Operators service, they must obtain written permission from the Operator to do so. The Operator reserves the right to refuse boarding or delivery of third party goods and services if written permission has not been obtained and / or cancel the charter without notice. If this occurs, the Charterer agrees to indemnify and hold harmless the Operator, its agents and employees, from and against any and all losses, claims, actions, costs, expenses, fees, damages, fines and liabilities (Including reasonable legal fees).

**22. Acceptance by the Charterer:**

(iii) The Charterer agrees that they are the person chartering the vessel and they will be aboard the vessel as specified in C3 and responsible for the Charterer's Group.

(iv) The Charterer acknowledges that he or she has read and understands the terms and conditions set out in this agreement and has conveyed these terms and conditions to members of the Charterer's Group.

Signed\* .....

Name\* .....

Date\* .....

**23. Acceptance by the Operator:**

Signed\* .....

Name\* .....

Position\* .....

Date\* .....