



GRAY'S MARINE BOAT HIRE TERMS AND CONDITIONS

Address: 4 Uki Street
Yamba, NSW, 2464
Ph: 0455 364 342
Email: accounts@graysmarineandwelding.com.au
ABN: 81 659 559 305

1. DEFINITIONS

Hire Fee means the sum set out in Item 5 of these Terms.

Hire Period means the period of time set out in Item 4 of these Terms.

Chart means the chart provided by the Owner setting out the permitted area of operation of the Vessel (Attachment 2).

Vessel means the vessel described in Item 2 of these Terms.

Safety Equipment means all safety equipment in line with the Vessel's Safety Management System.

Tow & Go Hire means the boat hirer takes possession of the vessel [and trailer] from the Owner when the Hire Period begins, conveys the vessel to their chosen area of operation for the Hire Period, and returns the Vessel [and trailer] to the Owner at the Owner's address at the end of the Hire Period, subject to clause 4 of these terms.

Safety Management System means the Vessel's safety management system for compliance with the *Marine Safety (Domestic Commercial Vessel) National Law Act 2012* (Cth).

Terms means these terms and conditions.

2. TERM OF HIRE

- 2.1 The Vessel may be hired on a half, 2/3rds or full day basis, that is, for a period of 4, 6 or 8 hours. A full weekend rate is available on request, commencing from 8 AM Friday to 4 PM Sunday.
- 2.2 The Hirer shall return the Vessel to the Owner at the end of the Hire Period.

3. CONDITIONS OF HIRE

- 3.1 The Hirer in hiring the Vessel from the Owner, acknowledges:
 - 3.1.1 that prior to the Hire Period the Owner provided the Hirer with a written copy of the Vessel's Safety Management System, including action that must be taken in the event of an emergency;
 - 3.1.2 it is fully responsible for the Vessel once the Hire Period commences;
 - 3.1.3 it shall operate the Vessel in accordance with the instructions of the Owner;
 - 3.1.4 it shall not sublet the Vessel to any other person during the Hire Period;
 - 3.1.5 it shall not exceed the maximum number of persons or weight to be carried on the Vessel as per Item 2 of these Terms;
 - 3.1.6 it shall not allow the Vessel to be driven by a person who is not named in these Terms as a person permitted to drive the Vessel;
 - 3.1.7 it shall not smoke or allow any other person on the Vessel to smoke while operating the Vessel or as a passenger;
 - 3.1.8 it shall not operate the Vessel or allow the Vessel to be operated by persons with a blood alcohol level of .05 or more or under the influence of any illicit drugs;
 - 3.1.9 it shall not use the Vessel to tow or transport any other vessel, object, persons or animals;
 - 3.1.10 it shall not operate or allow the Vessel to be operated for involvement in any illegal activity or for any purpose other than recreational use;
 - 3.1.11 it shall not operate the Vessel above the permitted maximum speed as set out in Item 2 of these Terms;
 - 3.1.12 that it is permitted to bring alcohol and food on board the Vessel.

4. TOW & GO HIRE

- 4.1 The Hirer and any other person/s that tows the vessel and trailer must hold a current, valid Australian driver's licence.
 - 4.1.1 The hirer and other person that the hirer intends to tow the vessel must produce their current, valid Australian Driver's licence upon request of the owner.
- 4.2 The Hirer and any other vehicle that tows the vessel and trailer must hold suitable comprehensive car insurance that insures the activity of towing a vessel and trailer.
 - 4.2.1 The hirer must produce proof of insurance upon request of the owner.
 - 4.2.2 The owner may, in its absolute discretion, decline to hire the vessel and trailer if they determine that the Hirer's insurance is not sufficient for this purpose.
- 4.3 In consideration of the Owner agreeing to Tow & Go Hire terms, the Hirer warrants

- 4.3.1 That the vehicle to be used to convey the vessel is suitable and/or has a rated towing capacity for the weight of the intended Vessel.
- 4.3.2 That the towing vehicles registration and insurance is current.
- 4.3.3 That the Vessel is properly secured to the trailer and that the trailer is properly secured to the vehicle, at all times, while being conveyed.
- 4.3.4 That while the Vessel and trailer is being conveyed, the indicator, break lights and electrical system of the trailer are connected to the vehicle's power and is functioning.
- 4.3.5 That if at any time the trailer is disconnected from the towing vehicle; the trailer will be positioned on a flat surface, the trailer brake will be fully engaged and that both tyres will be secured with suitable wheel immobilisers to prevent the trailer from moving forward or backwards.
- 4.3.6 That the hirer will tow the trailer on sealed roads only.
- 4.3.7 That the hirer will, at all times, while towing the trailer operate the towing vehicle with the necessary due care and attention as a reasonable road user would.

- 4.4 The Hirer acknowledges and agrees that its usage of the Vessel and/or trailer is at its own risk.
- 4.5 The Owner gives no warranty, express or implied, that the trailer and Vessel are suitable for the Hirer's intended purposes. The Hirer must exercise due diligence in relation to the roads to be used and the launch, operation and recovery of the Vessel.
- 4.6 The Hirer releases, indemnifies and keeps indemnified, and discharges the Owner from all claims, actions, including negligence, suits, or demands brought by the Hirer, any person for whom the Hirer is responsible and/or any third party, in respect of the Hirer's operation or unauthorised use of the Vessel and/or trailer.
- 4.7 The Hirer shall be responsible for all damage and any associated costs to the Vessel and/or trailer caused in connection Tow & Go Hire. The cost to repair the damage caused to the Vessel and/or trailer shall be charged in accordance with the Table of Charges at Attachment 1 or as otherwise determined by the Owner and shall be subject to an administration fee of \$110.00.

5. CONDITION OF VESSEL

- 5.1 The Hirer acknowledges that prior to commencement of the Hire Period:
 - 5.1.1 the Vessel was inspected and any existing damage was noted in these Terms;
 - 5.1.2 that all safety equipment on board the Vessel and required by law was in proper working order and condition.
- 5.2 On completion of the Hire Period, the Owner shall inspect the Vessel and within 24 hours notify the Hirer if it holds the Hirer responsible for any damage caused to the Vessel during the Hire Period.
- 5.3 The Hirer shall be responsible for all damage and any associated costs to the Vessel including its equipment as determined by the Owner. The cost to repair the damage caused to the Vessel shall be charged in accordance with the Table of Charges at Attachment 1 or as otherwise determined by the Owner and shall be subject to an administration fee of \$110.00.

6. HIRER'S OBLIGATIONS AND WARRANTIES

- 6.1 The Hirer shall:
 - 6.1.1 be over the age of 18;
 - 6.1.2 if required for the Vessel, be appropriately licensed to operate a recreational Vessel;
 - 6.1.3 provide the Owner with evidence of its identification prior to commencement of the Hire Period;
 - 6.1.4 declare to the Owner that it has no medical conditions that it is currently aware of that will affect its ability to operate the Vessel;
 - 6.1.5 complete and pass a competency assessment prior to commencement of the Hire Period;
 - 6.1.6 obey all relevant laws, including the *Marine Safety (Domestic Commercial Vessel) National Law Act 2012* (Cth) and the *Marine Safety Act (NSW) 1998*;

- 6.1.7 at all times wear the safety lanyard that operates the kill switch on the outboard motor;
- 6.1.8 not leave the Vessel unattended at any time during the Hire Period; and
- 6.1.9 notify the Owner immediately by telephone in the event of any accident, damage, break down or any other emergency regardless of the cause.

7. OPERATIONAL LIMITS AND TIDAL CONDITIONS FOR LOCAL AREA

- 7.1 The Hirer shall only operate the Vessel within the smooth and partially smooth limits as gazetted by State and Territory governments and as set out in the Chart at Attachment 2.
- 7.2 If the Hirer operates the Vessel outside of the limits set out in the Chart at Attachment 2, the Owner may terminate these Terms with immediate effect and take possession of the Vessel.
- 7.3 The Hirer acknowledges that the Owner has prior to the Hire Period, advised the Hirer of the current and anticipated tidal conditions.

8. OPERATIONAL LIMITS FOR VESSEL AND TRAILER HIRE

- 8.1 The Hirer shall not operate the vessel outside of partial smooth or smooth waters as gazetted by State and Territory governments.
- 8.2 It is the responsibility of the Hirer to ascertain the smooth and partially smooth water limits as gazetted by State and Territory governments in the location they intend to use the Vessel.
If the Hirer operates the Vessel outside of partial smooth or smooth waters as gazetted by State and Territory governments, the Owner may terminate these Terms with immediate effect and take possession of the Vessel.

9. PAYMENT AND DEPOSIT

- 9.1 The Hirer shall pay a deposit to the Owner at the time of booking.
- 9.2 The Hirer shall pay the agreed Hire Fee to the Owner prior to launch of the Vessel and commencement of the Hire Period.
- 9.3 The Hirer shall prior to the Owner prior to the commencement of the Hire Period pay a bond as per Item 5 of these Terms on account of any loss or damage caused to the Vessel during the Hire Period.
- 9.4 The Hirer shall be liable to make payment to the Owner for any additional charges incurred by the Hirer during the Hire Period, whatever these additional charges may be.
- 9.5 The Hirer shall be liable to pay in full for any and all costs to recover the Vessel at the rates set out in Attachment 1.
- 9.6 The Hirer shall make all payments (including but not limited to the deposit, Hire Fee and bond) to the Owner by credit card unless otherwise agreed with the Owner.
- 9.7 The Hirer authorises and gives permission for the Owner to debit the Hirer's credit card provided for all payments (including but not limited to the deposit, Hire Fee and bond) due and payable to the Owner.
- 9.8 Within 48 hours of the end of the Hire Period, the Owner shall provide a receipt to the Hirer upon reimbursement of the bond less any additional charges payable by the Hirer in accordance with Attachment 1.

10. LATE RETURN

- 10.1 If the Hirer does not return the Vessel by the time set out in Item 4 of these Terms, the Owner may levy a further charge of **\$100.00 per hour** payable by the Hirer and authorised by the Hirer to be deducted from the bond.
- 10.2 If the Hirer does not return the Vessel by the time set out in Item 4 of these Terms, the Owner shall report any late report to the appropriate authorities and mount a search where no prior contact with the Hirer has been made.

11. FUEL

- 11.1 The Owner shall hire the Vessel to the Hirer with 1 fuel tank to the volume of 12 litres.
- 11.2 The Hirer shall notify the Owner prior to the Hire Period if it anticipates additional fuel is required for the Hire Period.
- 11.3 If the Vessel runs out of fuel or additional fuel is required during the Hire Period the Hirer shall immediately notify the Owner.

- 11.4 Any additional fuel required will be payable by the Hirer in accordance with clause 7 of these Terms, Payment and Deposit.

12. HIRER'S LIABILITY AND INDEMNITY

- 12.1 The Hirer shall be liable for and indemnifies the Owner for any and all costs incurred and associated with these Terms, including:
 - 12.1.1 any non-compliance with the Vessel's Safety Management System;
 - 12.1.2 the Hirer's negligent or reckless or intentional acts or omissions;
 - 12.1.3 any loss, damage, personal injury or loss of life that occurs during the operation of the Vessel in the Hire Period;
 - 12.1.4 the Vessel running out of fuel during the Hire Period;
 - 12.1.5 the Vessel requiring towing by a marine rescue organisation;
 - 12.1.6 any insurance excess payments required;
 - 12.1.7 any breach of the Hirer's obligations under the terms and conditions of these Terms.
- 12.2 The Hirer acknowledges and understands that any personal items brought onboard the Vessel by the Hirer or any of the Vessel's passengers shall be the full and complete responsibility of the Hirer or the Vessel's passengers. The Owner shall in no circumstances be responsible for the loss of or damage to any personal items.

13. LIMITATION OF LIABILITY

- 13.1 The Owner's liability in relation to these Terms shall be limited to:
 - 13.1.1 the Hire Fee paid by the Hirer; or
 - 13.1.2 provision of the Vessel for Hire again.

14. AUSTRALIAN CONSUMER LAW

- 14.1 Nothing in these Terms excludes, restricts or modifies, or has the effect of excluding, restricting or modifying, any non-excludable warranty, condition or guarantee conferred on the Customer by the Australian Consumer Law in Schedule 2 of the *Competition and Consumer Act 2010* (Cth) or any other applicable law that cannot be excluded, restricted or modified by agreement.

15. RELEASE AND INDEMNITY

- 15.1 The Hirer acknowledges and agrees that it hires and uses the Vessel at its own risk.
- 15.2 The Hirer releases, indemnifies and keeps indemnified, and discharges the Owner from all claims, actions, including negligence, suits, or demands brought by the Hirer, any person for whom the Hirer is responsible and/or any third party, in respect of the Hirer's operation or unauthorised use of the Vessel.

16. INSURANCE

- 16.1 The Owner is under no obligation to effect and maintain appropriate insurance to be in place for the operation of the Vessel.
- 16.2 The Hirer acknowledges and accepts if it breaches any of the terms and conditions set out in these Terms, such that the Owner's insurance cover is invalidated, the Hirer shall be liable for any claim, loss or damage that arises.

17. TERMINATION AND CANCELLATION

- 17.1 The Owner may immediately cancel or terminate these Terms and the hire of the Vessel, without reimbursement of the Hire Fee, and take immediate possession of the Vessel at any time if:
 - 17.1.1 the Hirer breaches the terms and conditions of these Terms;
 - 17.1.2 the Vessel is damaged;
 - 17.1.3 the Hirer or any of the Vessel's passengers behaves inappropriately within the Owner's absolute discretion.
- 17.2 The Hirer may cancel or terminate these Terms by giving the Owner notice as below:

- 17.2.1 if the Hirer provides the Owner 14 calendar days or more notice to cancel or terminate these Terms, the Hirer shall be entitled to a full refund of the deposit or the opportunity to rearrange the Hire Period; or
- 17.2.2 if the Hirer fails to provide the Owner more than 14 calendar days notice to cancel or terminate the deposit paid will be non-refundable.

18. COVID-19

- 18.1 The Owner shall:
- 18.1.1 ensure that it maintains and effects a COVID safe plan for the duration of the Hire Period
- 18.1.2 where practicable practice social distancing with the Hirer, so to minimise the spread of COVID-19 between different parties hiring the Vessel;
- 18.1.3 ensure that the Vessel is thoroughly cleaned at the end of each Hire Period and prior to the next Hire Period;
- 18.1.4 ensure that cleaning products and facilities including handwashing facilities, soap, hand sanitiser and disinfectant are made available to the Hirer during the Hire Period.
- 18.2 The Hirer shall inform the Owner by whatever means necessary if at any time prior to the commencement of the Hire Period, during the Hire Period or within 14 days after the Hire Period if it develops symptoms concurrent with COVID-19 or a positive COVID-19 test result.
- 18.3 The Owner in its absolute discretion may refuse entry to the Vessel and terminate these Terms if the Hirer displays any symptoms of COVID-19 unless they have proof of a negative COVID-19 test result issued in the last 48 hours. In this event, the Owner shall not be required to reimburse to the Hirer the Hire Fee.

19. PRIVACY

- 19.1 The Owner is committed to ensuring that all personal information it holds about the Hirer is collected, used, stored and disclosed in accordance with its obligations under the *Privacy Act 1988* (Cth).
- 19.2 The Hirer acknowledges that the Owner shall collect, use and store the Hirer's personal information for purposes related to the hire of the Vessel only.
- 19.3 The Hirer acknowledges and agrees that the Owner may disclose its personal information to a third party in the following circumstances:
- 19.3.1 if required to do so by law;
- 19.3.2 to a debt collection agency if the Hirer defaults on any payments due to the Owner; or
- 19.3.3 to an organisation responsible for handling any infringements as a result of the hire of the Vessel.

20. GOVERNING LAW AND JURISDICTION

- 20.1 These Terms and any claim or dispute arising out of or in connection with the hire and operation of the Vessel will be governed by the laws of the New South Wales.
- 20.2 Any claim or dispute arising out of or in connection with the hire and operation of the Vessel will be determined by the courts of the State of New South Wales.

21. ENTIRE AGREEMENT

- 21.1 These Terms constitute the entire agreement between the parties and cannot be amended or altered unless agreed by both parties in writing.

ATTACHMENT 1 – Table of Charges

Item	Description	Charge
1	Administration fee	\$110.00
2	Safety equipment	Loss of bond (Note – if the value of the item of property lost or damaged is greater than \$50 an additional fee will be applied to the value of the item replacement)
3	Fishing rods	\$60.00 each
4	Seats (damage to leather and upholstery including but not limited to rips, tears, stains, broken frame work, hinges)	\$300.00 per piece damaged
5	Propellor / Skeg Strike	\$1,000.00 or the replacement value if the replace value, whichever is greater
6	Each item of property of the Owner removed from the Vessel	\$50.00 (Note – if the value of the item of property removed is greater than \$50 an additional fee will be applied to the value of the item replacement)
7	Leaving the areas of operation as set out in Attachment 2 or operating outside of areas of operations defined as smooth or partial smooth waters	\$250.00
8	Insurance excess (in the event of any incident or accident)	\$2,000.00
9	Grounding (outside the hire times plus retrieval of the Vessel once re-floated)	\$150.00 per hour
10	Salvage and Vessel retrieval	\$200.00 per hour
11	Major hull damage (including but not limited to puncture or tears, major dents)	\$2000.00 to rectify damage \$200.00 per hour salvage (Item 11 above) Loss of bond
12	Minor hull damage (including but not limited to minor dents, scrapes and scratches)	\$800.00
13	Damage to deck flooring	\$650.00
14	Passenger rescue due to any grounding, accident, incident or damage to the Vessel	Loss of bond
15	Damage to the helm (including but not limited to the GPS, throttle, stereo, gauges, switches, windscreen and chair)	\$650.00
16	Bimini cover damage (frame or canvas)	Loss of bond or the replacement value if the replace value, whichever is greater
17	Damage to paint and/or signwriting	Loss of bond or the replacement value if the replace value, whichever is greater
18	Excessive cleaning of the Vessel ad/or BBQ and removal of rubbish including food and bait	Loss of bond
19	Drunk and disorderly behaviour	Loss of bond
20	Engine overheating for whatever reason	Charge to be confirmed
21	Any fines incurred during the hire period	Charge to be confirmed
22	Loss of or Damage to Trailer	Loss of bond and cost of repair or replacement



**GRAY'S MARINE BOAT HIRE
TERMS AND CONDITIONS**

Address: 4 Uki Street
Yamba, NSW, 2464
Ph: 0455 364 342
Email: accounts@graysmarineandwelding.com.au
ABN: 81 659 559 305

ATTACHMENT 2 – Chart – Areas of operation