

# Elodie Bike & Barge Tours

## **GENERAL CONDITIONS BBZ/TCN (Version 2010)**

### **Article 1. Definitions**

In these General Conditions the following definitions will be used:

- a. The carrier: natural or legal person whom is entitled to sign one or more of the agreements mentioned in these conditions with the customer.
- b. The customer: natural or legal person whom is entitled to sign one or more of the agreements mentioned in these conditions with the carrier.
- c. The agreement: every agreement that is arranged between carrier and customer in these conditions.
- d. The guest: every third party whom the carrier permits to enter the ship based on the agreement signed by the customer.
- e. The boat trip: the total of the cruise with and the stay on board of the ship during the period mentioned in the agreement.
- f. The luggage: luggage that the customer and/or a guest can comfortably carry in one time; existing of suitcases, bags, kit bags and/or backpacks.
- g. The ship: the ship as mentioned as such in the agreement.
- h. The price: the price that is mentioned as such in the agreement.
- i. The captain: the person who is in charge of the ship.

### **Article 2. Applicability**

2.1 The conditions apply to all agreements, including offers relating to the establishment of this agreement, which the carrier signs with the customer in relation to the transport and/or catering services and everything that is related to this in the widest sense, unless otherwise is agreed.

2.2 These conditions also apply to the carrier and the guest. The customer is responsible for this and indemnifies the carrier for all claims that the host and/or any other carrier make on the carrier's liability, as far as the carrier's liability would be exempted if the customer would make this claim against the carrier.

2.3 These conditions also apply on the behalf of all natural and legal persons who are hired by the carrier in the broadest sense, or has hired when concluding and/or executing the contract.

2.4 These terms are valid, excluding and expressly rejecting all other terms of use, which are applicable except if otherwise expressly is agreed in writing.

2.5 Individual changes or additions should be recorded in writing.

2.6 These conditions can have been translated from Dutch into another language. In the case of possible differences in the texts that result from this translation, the Dutch text will prevail.

### **Article 3. The offer/Tender**

3.1. A general offer by the carrier, including by means of brochures, advertisements and websites are optional and may be revoked by the carrier. Withdrawal must take place as soon as possible, but in any case within two working days after acceptance by the customer.

3.2 An individual offer will be made by the carrier in writing or electronically, with a date. This provision clearly indicates whether it concerns a binding or irrevocable offer, and includes the deadline.

The offer states:

- a. the total traveling amount and the percentage that must be pre-paid;
- b. the method of payment;
- c. the maximum number of guests per ship;
- d. the place, date and time of embarkation and disembarkation;

The first offer will be accompanied by a copy of these general conditions.

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## **Article 4. The agreement**

4.1 The agreement is established, except in the case of withdrawal referred to in Article 3.1, by the client's acceptance of the offer. The carrier will send written or electronic confirmation to the customer, after the conclusion of the agreement.

4.2 The customer will provide the carrier before or, at the latest, prior to departure all information about him- or herself and the guests that he or she has registered.

## **Article 5 Cancellation**

5.1 If the customer wishes to cancel the contract, he or she must inform the carrier as soon as possible in writing, by means of a letter. The date of receipt by the carrier will be valid as the date of dissolution.

5.2 In case of cancellation the customer needs to reimburse the carrier a fixed compensation.

Compensation for the ship:

15% in case of cancellation up to 6 months before departure;  
20% in case of cancellation up to 5 months before departure;  
30% in case of cancellation up to 4 months before departure;  
40% in case of cancellation up to 3 months before departure;  
50% in case of cancellation up to 2 months before departure;  
75% in case of cancellation up to 1 month before departure;  
90% in case of cancellation up to 1 day before departure;  
100% in case of cancellation on the day of departure.

Compensation catering and other services:

15% in case of cancellation up to 2 months before departure;  
25% in case of cancellation up to 1 month before departure;  
50% in case of cancellation up to 2 weeks before departure;  
75% in case of cancellation up to 1 week before departure;  
95% in case of cancellation up to 1 day before departure;  
100% in case of cancellation on the day of departure.

If the damage that the carrier suffers as a result of the cancellation exceeds the aforementioned fixed amounts with more than 15%, the carrier shall be entitled to charge the additional costs to the customer.

5.3 In case of cancellation, the customer can request the carrier for a substitution by a third party. In the event the carrier agrees to a substitution, the customer is only indebted an amount of € 150.00.

## **Article 6 Suspension and cancellation**

6.1 Should either party's fail to adhere to the obligations under the agreement, the other party is entitled to suspend the relating commitment, unless the failure does not justify the suspension due to its special nature or minor importance.

6.2 Should either party's fail to adhere to the obligations under the agreement, the other party is entitled to cancel the relating commitment, unless the failure does not justify the suspension due to its special nature or minor importance.

6.3 The carrier has the right at all times to cancel or terminate the agreement with immediate effect in the event of:

- Bankruptcy of the customer, or if moratorium is granted to the customer, if there is debt sanitation, or if the customer is placed under guardianship;
- The customer not fulfilling his obligations within 5 working days after having been notified in written with regards to his failure to comply to the agreement.
- A situation as mentioned in Article 11 paragraph 2, 3 and 4.
- The ship not being available due to unforeseen circumstances and despite the provision of sufficient effort by the carrier it is not possible to offer any other comparable ship.

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6.4 The termination or dissolution should occur in writing, stating the reasons. The agreement is considered to be dissolved extrajudicial after the customer has received the termination letter, but at least 5 days after sending the termination letter.

6.5 If the cause of the cancellation or termination can be attributed to the customer, the damage resulting from it will be paid by the customer.

## **Article 7 The price and price changes**

7.1 Unless otherwise agreed, the price is exclusive port, bridge, lock and shed expenses as well as local taxes and other levies, such as tax and fuel costs. These costs should be paid by the customer on board.

7.2 Changes in taxes, duties and similar governmental taxes will always be charged through.

7.3 An increase in the prices will be charged through by the carrier, as far as it affects the agreed price, if they occur after the contract has been signed.

7.4 If, due to price increases as referred to in the preceding paragraph, the price increases with more than 15%, the customer has the right to cancel or to waive the contract.

## **Article 8 Payment**

8.1 Payment will be made in cash at the time of the booking, unless otherwise agreed. Cash payment also means payment of the amount owed on a bank account specified by the carrier or through an electronic payment that is recognized by banks. The date that is mentioned on the bank statements of the carrier are regarded as the date of payment.

8.2 If payment in installments has been agreed, the customer must pay according to the terms and rates as per the agreement.

## **Article 9 Failure to pay timely**

9.1 The customer is in default after expiry of the payment date. The carrier will send a payment reminder after the expiry of this date, and gives the customer the opportunity to pay within five working days of receiving this reminder.

9.2 If the outstanding amount is still not paid after the expiry of the payment reminder, the carrier is entitled to charge interest from the expiry of the payment date. This rate equals the statutory rate plus 3% per annum on the amount owed.

9.3 If the customer fails to pay the amount due after the summons, the carrier is entitled to increase this amount with the collection costs. These collection costs include both judicial and extrajudicial costs. Extrajudicial costs shall be:

15% over the first € 2,500.00 of the claim with a minimum of € 40.00;

10% on the next € 2,500.00 of the claim;

5% on next € 5,000.00 of the claim;

1% over the next € 15,000.00 of the claim,

unless the customer demonstrates that the carrier suffers less damage.

9.4 Complaints about billing need to be, preferably in writing and clearly defined and documented, sent in promptly to the carrier, after receipt of the invoice.

## **Article 10. Carrier obligations**

10.1 The carrier will execute the cruise to the best of its ability and in accordance with the rules of good craftsmanship.

10.2 The carrier shall see to it that the ship and the crew meet the legal requirements of the country where the ship is registered.

10.3 The route will be agreed in consultation with the client, unless otherwise agreed, in advance by the carrier and/or captain.

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10.4 At all times the carrier and/or captain are entitled to change the cruise due to nautical reasons. The below also includes changing the place of departure and/or place of arrival and/or not setting sail. Nautical reasons are understood to include the weather, tide, blockage of waterways and the condition of the vessel.

10.5 In the cases mentioned in the preceding paragraph, the carrier and/or captain will try to find another solution in consultation with the client. Any additional costs, if reasonable, shall be borne by the customer. The carrier and/or captain will decide whether the chosen solution is reasonably practicable.

## **Article 11 Obligations customers (and guests)**

11.1 The customer needs to turn in the ship at the end of the cruise clean and with a complete inventory in the same condition as he found the ship upon embarkation, unless otherwise agreed.

11.2 The client and guests must respect the legal and decent standards of living during the cruise.

11.3 The instructions given by the carrier and/or the captain and/or other crew must be strictly followed for order and security.

11.4 If in the opinion of the carrier and/or captain, the customer and/or fail to comply to paragraph 2 and 3, the carrier and/or the captain is/are entitled to terminate the contract immediately and/or deny access to the ship to the customer and/or guest, unless the failure does not justify the dissolution because of its special nature or minor importance

11.5 The client and guests are not allowed to carry other goods on board other than baggage, unless prior permission is explicitly granted by the carrier and/or captain.

11.6 The client and guests are not allowed to carry (domestic) animals on board, unless prior permission is explicitly granted by the carrier and/or captain.

11.7 The client and guests are not allowed to bring on board or to possess materials or objects that can jeopardize the health, well being and/or safety of themselves or others. Included are, in any case: hazardous substances, explosives, radioactive and/or toxic substances, contraband, weapons, ammunition and drugs.

11.8 The customer needs to hand a list containing the names of the guests to the captain on the day of arrival.

## **Article 12 Force Majeure**

12.1 Force majeure means any unforeseeable circumstances due to which the implementation of the agreement is delayed or prevented, if this circumstance cannot be avoided by the carrier and according to the law, contract or social views should be accounted to the carrier.

12.2 Force majeure includes any damage to the ship that causes that the ship to be no longer fit for the agreed purpose and the damage is not attributable to circumstances which the carrier could have anticipated or prevented.

12.3 After termination of the contract due to force majeure, the carrier is entitled to reimbursement of his expenses to the extent they are made before it could be expected that the force majeure would terminate the agreement and as far as the customer benefits from the work.

## **Article 13 Liability carrier**

13.1 The carrier is not liable for damages arising from death or injury and/or to goods as far as it is caused by circumstances which a diligent carrier could not have avoided and the carrier could not prevent the consequences. The carrier is responsible for the reliability and the proper functioning of the ship as a means of transport.

It is suspected that a careful carrier could not avoid the following circumstances: fire, explosion, heat, cold, occurrence of rodents or vermin, deterioration, leakage, fusion, flammability and corrosion.

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13.2 The liability of the carrier is, except in cases of own intent or recklessness, limited to Article 8: Dutch Civil Law (Dutch: BW) 518 and Dutch Civil Law (Dutch: BW) 8:983, amount further specified as per Dutch Order in Council (Dutch: AMvB).

13.3 The compensation that the carrier possibly owes to him due to the failure to comply with Article 10 obligation is limited to the agreed price for the rent of the ship.

13.4 If the carrier proves that fault or negligence of the customer and/or guest caused or contributed to the damage, the liability of the carrier will be either completely or partially removed.

13.5 The carrier is not liable for damage caused by delay, deviation from the agreed starting and/or end times or the making available of a replacing ship because the agreed ship was not available due to unforeseen circumstances.

## **Article 14 Liability customer (and guests)**

The customer is liable for damage caused by him or by the guests who were invited by him to stay on board, unless the damage is attributable to the act or omission of the carrier.

## **Article 15 Complaints**

15.1 Complaints about the performance of the contract must be fully defined and submitted clearly described to the carrier and/or captain after the customer has discovered or could have discovered the defects.

15.2 Complaints about invoices should be submitted, if possible, within 10 working days of receiving the relevant invoice, in writing and clearly explained to the carrier and/or captain.

15.3 The consequences of not timely filing of a complaint shall be borne by the customer.

## **Article 16 Disputes**

All disputes relating to this agreement are governed by Dutch law. Only the court within the district where the carrier has an office shall have jurisdiction to hear such disputes. The customer is entitled to oppose this choice and choose to settle the dispute by a legally competent judge within one month after the carrier upon the choice has been made.