

PASSENGER AGREEMENT TERMS AND CONDITIONS

This "Passenger Agreement" is a legally binding agreement between you and us (Hornblower Cruises and Events, LLC) and governs all dealings between you and us.

- 1) **Defined Terms:** Here is what the terms in this Passenger Agreement mean: "Cruise" means the specific cruise indicated in your ticket. "Us", "We" or "Our" means or refers to Hornblower Cruises and Events, LLC and for the purposes of the defenses, limitations of liability and rights in this Passenger Agreement only, it also includes the ship on which you have or will travel (the "Ship"), and the Ship's tenders, operators, managers, charterers, officers, staff, crewmembers, and manufacturers. "Passenger" refers to any and all persons traveling under the Passenger Agreement, including all of Your guests. "Purchaser" refers to the Purchaser of the ticket which constitutes the Passenger Agreement. "Refund Amount" refers to the total payments we have received from You for the Cruise. "You" or "Your" refers to the Passenger and/or the Purchaser, including all of Your guests.
- 2) **Change in Itinerary/Cancellation:** Water travel involves uncertainties not present in land facilities. We may, in our discretion, remain dockside, substitute vessels, change the course or schedule of the Cruise, discontinue the Cruise, or cancel the Cruise for any reason. We shall have no liability arising from any such change of course or schedule, discontinuance, cancellation or other failure to depart from or arrive at any port at the scheduled or announced time. If a Cruise is cancelled before commencement, you will be entitled, as your exclusive remedy, to receive the applicable Refund Amount.
- 3) **Passenger Condition / Guests with Disabilities:** We welcome the opportunity to host and assist guests with disabilities and comply with the requirements of the American Disabilities Act as it pertains to vessel operators. Please help us by telling us at the time you book your Cruise or as soon as possible, of any guest needing special assistance or accommodation during the Cruise. Please also let us know if a service animal is contemplated so we can be helpful. We may limit the availability of passage if unable to accomplish an accommodation consistent with passenger safety.
- 4) **Authority to Refuse Transport and Remove Passengers:** We have the right to refuse to transport any Passenger, and to eject any Passenger at any port of call at the Passenger's expense. If any Passenger shall be ill, injured, act in a disorderly manner, or fail to comply with the Laws and Regulations (as defined in Section 5 below) or any directive established during the Cruise for the general safety and comfort of others aboard the Ship, one of our employees (most likely the Captain or his/her designee) will be the sole reasonable judge of the condition of the Passenger and the appropriate measures to be taken.
- 5) **Compliance with Laws and Regulations:** You and your Passengers agree to observe and obey all Laws and Regulations. "Laws and Regulations" means all requirements of all laws, orders, ordinances and regulations of the federal, state, county, and municipal authorities, the terms of this Passenger Agreement, and reasonable directives and orders from us and our employees, including the Captain and personnel of the Ship.
- 6) **Food and Beverages:** No food or beverage may be brought onto the Ship without our prior authorization, granted in our sole discretion. No food or beverage may be removed from the Ship.
- 7) **Alcoholic Beverages:** We reserve the right to deny or restrict the service of alcohol to any Passengers. You may not attempt to have us serve alcohol, or yourself serve alcohol or misrepresent the age of a Passenger, with the intention of causing consumption of alcohol on our ship by a minor.
- 8) **Illegal and Controlled Substances:** The use of illegal or controlled substances on the Ship is prohibited. We reserve

the right to discontinue the Cruise if illegal or controlled substances are being consumed. No refunds or exchanges will be given.

9) Passenger Liability and Responsibility for your Guests: Please help us assure a safe and enjoyable time for all. (a) You are responsible for the conduct and supervision of the Passengers on the Ship who are members of your group, attending your function or party, including compliance with Sections 5 (Compliance with Laws and Regulations), 6 (Food and Beverage), 7 (Alcohol) and 8 (Illegal Substances). (b) You agree to promptly pay us for any and all loss of or damage to the Ship, any equipment, decoration or fixtures caused by you or any Passenger attending your event, including any damage or loss caused by the failure to act in accordance with the terms of this Passenger Agreement, or a directive of the Ship's crew. (c) You will be required to reimburse us for the full replacement cost and/or any and all loss or damage to us or the Ship as a result of any material misrepresentation made by you, including but not limited to, any false statements concerning the intended activity of your group, and the falsely claimed need to provide you with medical services, or the unfounded claim of injury. (d) You will be required to reimburse us for the full replacement cost and/or any and all loss or damage to us as a result of any personal injury or damage caused by your negligent or wrongful acts or omissions or the negligent or wrongful acts or omissions of any Passenger in your group, including any minor traveling with you. Notwithstanding the foregoing, nothing herein shall be construed as requiring you or Passengers to be responsible for any loss or damage to the Ship, equipment, decoration or fixtures that result from any Passenger complying with any instruction or directive of the Ship's crew or in accordance with the terms of this Passenger Agreement.

10) Indemnification: You agree to indemnify and hold us, our crew master, employees, owners and agents harmless for (a) any damages, liabilities, losses, penalties, fines, charges or other expense incurred by or imposed upon us, our crew master, employees, owners or agents as a result of any negligent or wrongful act, omission or violation of Laws or Regulations by you or any minor Passenger for whom you are responsible; and (b) any liability, cost or expense (including all legal expenses) incurred by or imposed upon us, our crew master, employees, owners or agents associated with the defense or settlement of any claim, directly or indirectly related to personal injury, death or property damage relating to any negligent or wrongful act of you, or any Passengers traveling with you.

Further we agree to indemnify and hold you harmless, including all Directors, Officers, agents, owners, affiliates and independent contractors, from any liability or costs (including reasonable legal fees) incurred in defense of any claim made by any person (including members of your party) arising from injuries or death to persons or damage to property caused by the negligent acts or omissions of our Company and/or its employees.

11) Limitation on Liability: (a) IN THE EVENT YOU ARE INJURED, BECOME ILL, OR DIE, OR YOUR PROPERTY IS LOST OR DAMAGED, WE WILL NOT BE LIABLE TO YOU FOR ANY DAMAGES UNLESS THE OCCURRENCE WAS DUE TO OUR NEGLIGENCE OR WILLFUL FAULT. WE DISCLAIM LIABILITY TO YOU UNDER ANY CIRCUMSTANCES FOR INFLICTION OF EMOTIONAL DISTRESS, MENTAL SUFFERING OR PSYCHOLOGICAL INJURY WHICH WAS NOT: (i) THE RESULT OF PHYSICAL INJURY TO YOU CAUSED BY THE NEGLIGENCE OR FAULT OF A CREWMEMBER OR THE MANAGER, AGENT, MASTER, OWNER OR OPERATOR OF THE SHIP; (ii) THE RESULT OF YOU HAVING BEEN AT ACTUAL RISK OF PHYSICAL INJURY, AND SUCH RISK WAS CAUSED BY THE NEGLIGENCE OR FAULT OF A CREWMEMBER OR THE MANAGER, AGENT, MASTER, OWNER OR OPERATOR OF THE SHIP; OR (iii) INTENTIONALLY INFLICTED BY A CREWMEMBER OR THE MANAGER, AGENT, MASTER, OWNER OR OPERATOR OF THE SHIP. IN NO EVENT WILL WE BE LIABLE TO YOU FOR CONSEQUENTIAL, INCIDENTAL, EXEMPLARY OR PUNITIVE DAMAGES. (b) WE ASSUME NO LIABILITY IN RESPECT OF THE ACTS OR OMISSIONS OF ANY THIRD PARTY. IN ADDITION TO THE LIMITATIONS OF, AND EXEMPTIONS FROM, LIABILITY GRANTED UNDER THE PASSENGER AGREEMENT, WE ALSO RETAIN ANY AND ALL LIMITATIONS OF, AND EXEMPTIONS FROM, LIABILITY ACCORDED TO SHIP-OWNERS AND TOUR OPERATORS BY STATUTE OR RULE OF LAW INCLUDING, WITHOUT LIMITATION, THOSE PROVIDED FOR IN 46 UNITED STATES CODE APP. SECTIONS 30501-30511, WHICH ARE UNITED STATES STATUTES LIMITING THE LIABILITY OF VESSEL OWNERS.

- 12) Time Limits for Noticing Claims and Filing and Service of Lawsuits:** (a) IN ANY CASE GOVERNED BY 46 UNITED STATES CODE SECTION 30508, WHICH IS A UNITED STATES STATUE THAT PERMITS ANY SHIP-OWNER TO LIMIT THE TIME DURING WHICH A PASSENGER MAY FILE A CLAIM OR COMMENCE SUIT AGAINST A SHIP-OWNER, YOU MAY NOT MAINTAIN A LAWSUIT AGAINST US OR THE SHIP FOR LOSS OF LIFE OR BODILY INJURY UNLESS WRITTEN NOTICE OF THE CLAIM IS DELIVERED TO US NOT LATER THAN SIX (6) MONTHS AFTER THE DAY OF DEATH OR INJURY, THE LAWSUIT IS COMMENCED NOT LATER THAN ONE (1) YEAR AFTER THE DAY OF DEATH OR INJURY, AND VALID SERVICE OF THE LAWSUIT ON US IS MADE WITHIN THIRTY (30) DAYS FOLLOWING THE EXPIRATION OF THAT ONE (1) YEAR PERIOD. (b) FOR ALL OTHER CLAIMS, INCLUDING BUT NOT LIMITED TO CLAIMS FOR LOSS OR DAMAGE TO PROPERTY, BREACH OF AGREEMENT, ILLNESS OR DEATH OR INJURY, NOT GOVERNED BY 46 UNITED STATES CODE SECTION 183b, YOU MAY NOT MAINTAIN A LAWSUIT AGAINST US OR THE SHIP, NOR WILL WE OR THE SHIP BE LIABLE THEREFORE, UNLESS WE ARE PROVIDED WITH WRITTEN NOTICE OF CLAIM WITHIN THIRTY (30) DAYS AFTER CONCLUSION OF THE CRUISE, THE LAWSUIT FOR SUCH CLAIM IS COMMENCED NOT LATER THAN ONE (1) YEAR AFTER CONCLUSION OF THE CRUISE, AND VALID SERVICE OF THE LAWSUIT ON US IS MADE WITHIN THIRTY (30) DAYS FOLLOWING THE EXPIRATION OF THAT ONE (1) YEAR PERIOD. IN THE CASE OF A CLAIM BY OR ON BEHALF OF A MINOR OR LEGALLY INCOMPETENT PERSON, THE TIME PERIODS DESCRIBED ABOVE SHALL BEGIN TO RUN ON THE EARLIER OF: (i) DATE OF APPOINTMENT OF A LEGAL REPRESENTATIVE FOR THE MINOR OR LEGALLY INCOMPETENT PERSON, OR THEIR ESTATE (AS THE CASE MAY BE); OR (ii) THREE (3) YEARS AFTER THE DAY OF DEATH, INJURY OR DAMAGE, AS APPLICABLE.
- 13) Governing Law:** The Passenger Agreement and its interpretation shall, to the maximum extent allowed under the general maritime law of the United States, be governed by and construed in accordance with the general maritime law of the United States; to the extent such maritime law is not applicable, it shall be governed by and construed in accordance with the laws of the state in which the cruise departs from.
- 14) Choice of Forum/Venue:** The parties expressly agree that any and all disputes and matters arising under or in connection with the Passenger Agreement or the Cruise shall be litigated in and before the United States District Court located in the county in which the cruise departs from, or as to those lawsuits as to which the Federal Courts of the United States lack subject matter jurisdiction, in the state courts of the county in which the cruise departs from, to the exclusion of all other courts.
- 15) Arbitration:** You and we agree to submit any dispute that does not arise out of our negligence or willful fault or that is not otherwise governed by 46 United States Code Section 30509 to binding arbitration. The arbitration shall be conducted by the American Arbitration Association in the venue specified in Section 14 above. The decision of the arbitrator shall be final and binding. The arbitrator shall have no authority to award damages exceeding those set forth in this Passenger Agreement.
- 16) Transferability; Separability; Miscellaneous:** Nothing contained in this Passenger Agreement shall limit or deprive us of the benefit of the applicable statutes or laws of the State in which the cruise departs or United States of America. This Passenger Agreement constitutes the entire understanding and agreement between you and us and supersedes any prior oral, or implied or other agreements between you and us and this Passenger Agreement can only be modified by a writing signed by you and us. The Passenger Agreement cannot be transferred by you. Any additions, deletions or other alterations to, or waivers of any term of, the Passenger Agreement which are purported to have been made by us and which have not been agreed to in writing by us will not be legally binding upon us. Any provision of the Passenger Agreement which is prohibited or unenforceable in any jurisdiction will, as to such jurisdiction, be ineffective to the extent of such prohibition or unenforceability and the validity and enforceability of the remaining terms and conditions of the Passenger Agreement will not otherwise be affected, nor will the validity and enforceability of such provision be affected in any other jurisdiction.
- 17) Force Majeure:** Neither you nor us shall be responsible for any loss, damage, delay or failure of performance hereunder arising or resulting from: war; riot, terrorism or threats of terrorism, natural disaster, perils of the sea; acts of

pirates, strike or lockouts, or circumstances beyond the control of you or us. Should either party be unable to perform due to the above, all your deposits and payments will be refunded to you.