

## DEVON SAILING – STANDARD TERMS AND CONDITIONS OF BUSINESS

The following conditions form part of every contract for sail training courses provided by DEVON SAILING (DS).

### 1. Booking your course

1.1. To secure your booking, you should complete and sign DS's booking form and send it to the address indicated thereon, together with the required registration fee or as otherwise advised by DS. A separate booking form should be completed for each person or family group.

1.2. A Booking Confirmation will be issued following receipt of the booking form and the registration fee. No contract will exist between you and the Company until a Booking Confirmation is issued.

1.3. If for any reason DS does not accept your booking, any payment received will be returned.

### 2. Prices and payment terms

2.1. Prices for DS courses, and the related payment schedules, are shown on the DS website: [www.devonsailing.co.uk](http://www.devonsailing.co.uk) and are available from the Company during normal office hours. These prices are inclusive of VAT (unless otherwise stated), and subject to change at any time.

2.2. The price applicable to a booking is the price for the relevant course shown on the DS website on the date on which the booking form is received in the Company's office together with the registration fee. In the event that the price quoted on your booking form is out of date, we will not issue you with a Booking Confirmation until you have specifically agreed the new price.

2.3. For all courses booked more than four weeks prior to the commencement of a course, a non-refundable registration fee is payable at the time of booking. The amount of the registration fee at any time is shown on the DS website. In the event a course is booked within four weeks of the commencement of the said course, then the whole of the course fee is payable at the time of booking, of which a part, as shown on the DS website, represents the non-refundable registration fee.

2.4. The balance (if any) of any course fees due ("the Final Payment") is payable not later than four weeks prior to the commencement of the course. The date for payment of the balance due will be included on the Booking Confirmation.

2.5. In the event that any fees due remain unpaid within 7 days of the date by which the Final Payment is due, DS reserves the right to cancel your booking without any obligation to give you notice thereof. You will thereafter be liable for the appropriate cancellation charge in accordance with condition 4.3 below.

2.6. After a Booking Confirmation has been issued, unless you choose to pay in full at the time of booking, the price of your course remains subject to surcharge in certain limited circumstances, namely variations in the cost of fuel, increases in normal published airfares, taxes or fees chargeable for services such as landing taxes at airports, the exchange rates applicable to the particular course, or if the UK or overseas government or other regulatory body introduce new, or increased, taxes. Even then, DS will absorb an amount equal to 2% of the confirmed price of the course before passing on any surcharge to you. Only amounts in excess of this 2% will be surcharged. Surcharges will be notified to you by a Revised Booking Confirmation prior to the date on which the Final Payment is due. If a surcharge would increase the total price shown on your original Booking Confirmation by more than 10%, you may cancel your booking within 14 days of the date of issue of the Revised Booking Confirmation and obtain a full refund of all payments made to DS. For the purpose of this clause, the exchange rate relevant to your booking (if any) will be that which applies on the first day of the month of your booking. This rate will be stated on your original Booking Confirmation.

2.7. DS will not reduce its prices in the event of favourable exchange rate changes.

2.8. United Kingdom Value Added Tax has been included in the prices quoted to comply with HM Customs and Excise regulations currently in force.

### 3. Insurance

3.1. The Company carries insurance to cover tuition, public liability and employer's liability. A copy of the Company's policy is available for inspection at the Company's offices by any client. By accepting these Terms and Conditions, clients accept that the Company's insurance cover is adequate and acceptable.

3.2. It is a condition of participation on any DS course that you maintain full insurance cover throughout the period of the course. This cover must be at least as comprehensive as that obtainable under the Company's recommended insurance cover.

3.3. Prior to the commencement of the course, if personal insurance has been purchased, DS requires each client to provide it with full details of the insurance taken out. In the event of inadequate insurance cover, DS reserves the right to cancel your booking without any obligation to give you notice thereof. You will thereafter be liable for the appropriate cancellation charge in accordance with condition 4.3 below.

### 4. Amendment and cancellation by you

4.1. DS will make every effort to assist you if you wish to alter any previously agreed arrangements. Requests must be made in writing or by fax and signed by the signatory of the booking form, or by email. In the event of an alteration, DS reserves the right to make an administration charge of £50 (plus VAT) per amendment, together with all communication charges or other expenses incurred by DS. These charges will be payable whether or not DS succeeds in confirming your requested amendment.

4.2. All cancellations must be advised in writing or by fax and signed by the signatory of the booking form, or by email. Written cancellation notices should be sent to DS at 1A Lower Street, Dartmouth, Devon, TQ6 9AJ. Recorded delivery is strongly recommended. Cancellations are effective on the day they are received by DS.

4.3. In the event of a cancellation being notified to DS more than four weeks prior to the commencement of the course, all monies paid will be refunded with the exception of the non-refundable registration fee (clause 2.3). In the event that the cancellation is notified to DS later than four weeks prior to the commencement of the course, the client remains liable for the full amount of the fees, and therefore no sums paid over will be re-funded. However, DS will endeavour to sell the place and, if successful, will refund the amount of the Client's Final Payment (less an administration fee of £60 plus VAT) so long as this amount has been matched from the sale of the space to the replacement client.

### 5. Amendment and cancellation by DS

5.1. DS makes every effort to operate its courses as advertised but it may very occasionally be necessary to modify a course before its commencement. If the modification is significant in that it substantially undermines the course for which you have contracted, DS will notify you as soon as practicable and offer you three choices. You may (1) accept the modification, (2) change your booking to another available course or (3) cancel and receive a full and prompt refund. If you choose another available course which is more expensive, you must pay the difference, but, if it is cheaper, DS will make the appropriate refund. If there is a minor modification before you depart (that is a change not included in the definition of a significant modification set out above), DS will try to notify you, although it is not obliged to do so nor is it obliged to pay any compensation.

5.2. If DS becomes unable to provide a significant element of your course after it has commenced, suitable alternative arrangements will be made for you at no extra charge to you or, alternatively, you will be returned to your point of departure and given a refund which DS in its sole discretion considers appropriate to the circumstances.

5.3. In the event that the vessel on which the course booked was due to be conducted is not available, DS reserves the right to conduct the course on another vessel. In the unlikely event that a suitable vessel is not available for the course, DS will advise you immediately and the provisions of clause 5.1 will apply.

5.4. DS reserves the right to cancel your course. However, it guarantees that it will not do so for any reason other than force majeure after the date on which the final payment is due. "Force majeure" means unusual and unforeseeable circumstances beyond DS's control, the consequence of which neither DS nor its suppliers could avoid, including, but not limited to, war, threat of war, riot, civil strife, terrorist activity (actual or threatened), industrial dispute, technical problems with transport, machinery equipment, power failure, natural or nuclear disaster, fire, flood or other adverse weather conditions. In the event of a cancellation due to force majeure, DS will use reasonable endeavours to arrange an alternative course of a comparable standard. In the event that this does not prove possible or practicable, the Company undertakes to give an appropriate refund having regard to the circumstances.

### 6. Responsibilities of DS

6.1. Whilst DS takes all reasonable precautions to prevent accidents or injury, you acknowledge and agree that some of the activities you participate in on the course carry a risk of accident and injury. You undertake not to take any unreasonable risks, and you accept that if you do, then you are responsible for the consequences of your own actions.

6.2. DS will make all reasonable checks to ensure that those involved in the preparation and provision of its courses have the appropriate qualifications.

6.3. Descriptions, information and opinions given in the Company's brochure and on its website in respect of the yachts, accommodation and other suppliers whose services are used are given in good faith, based on the latest information available at the time.

6.4. DS will be under no liability whatsoever if you suffer loss, death or personal injury where there has been no fault on the part of DS or its employees, skippers, agents or suppliers and the loss, death or personal injury suffered is attributable to your own acts or omissions or to the acts or omissions of a third party not involved in providing the services which make up your course, or to unusual or unforeseeable circumstances or events which could not have been anticipated or avoided by DS or its



employees, skippers, agents or suppliers even with the exercise of all due care. DS's liability to compensate you and the amount of such compensation is subject to the following limitations:

6.4.1. In the case of damage other than death, illness or personal injury, compensation is restricted to a reasonable amount having regard to such factors as, inter alia, the course cost and the extent to which the enjoyment of your course can be said to have been affected.

6.4.2. In all cases, liability and compensation are limited in accordance with the provisions of all international conventions which concern transportation and accommodation.

6.5. DS undertakes to pay all running expenses of the course including scheduled harbour and port dues, pilotage fees, fuel and gas. DS also undertakes to use reasonable endeavours to fulfil the course within the planned time period and to return the vessel to the homeport on the date and by the time specified on the Booking Confirmation. However, DS is not liable for any loss incurred in the event that conditions beyond its control make these aims impossible to achieve.

6.6. Every attempt will be made to give clients maximum sea time. However, if in the opinion of the instructor, weather conditions, safety or any other consideration renders it imprudent, the instructor's decision is final.

## 7. Your responsibilities

7.1. You are responsible for advising DS of details of any medical condition or allergies that you have suffered prior to the commencement of the course and of any medication that you are on that may adversely impact you while on the course. In the event that DS in its sole discretion considers that these conditions are likely to create an unreasonable burden on the efficient conduct of the course, DS has an absolute right to cancel your booking, in which event the cancellation provisions of clause 4.3 above will apply.

7.2. In the event that you have a criminal record or have pending any criminal charges against you, you are responsible for advising DS of this fact. Should either of these circumstances apply, DS has an absolute right to cancel your booking, in which event the cancellation provisions of clause 4.3 above will apply.

7.3. General information concerning passport, visa and health requirements applicable to your course will be sought from you following receipt of your booking form. It is your responsibility to obtain all documents required for your course, to ensure that these are in proper order and to take them with you. DS will not be liable if you fail to do so and you will be responsible for meeting any additional costs incurred by reason of such failure.

7.4. When applicable, you are responsible for checking-in for flights at the correct time and for presenting yourself to take up all pre-booked components of your course. DS cannot accept responsibility for missed flights as a result of late check-ins and no credit or refunds will be given if you fail to take up any component of your course. No credit or refund will be given for lost, mislaid or destroyed travel documents.

7.5. You will be expected to comply with DS's code of behaviour, details of which are stated on the website and which will be provided to you upon booking. Refusal to adhere to the code can result in your being required to leave the course. In this event, you accept that you will not be entitled to any refund in respect of the cost of the course.

7.6. In the event that your standard of sailing skills proves to be substantially different to that indicated by you on your booking form, and it proves impractical to include you in the course on which you have booked, the Company undertakes to discuss the situation with you but reserves the right to exclude you forthwith from the course.

7.7. You are responsible for taking appropriate care of the yacht on which your course is conducted. In the event of damage being inflicted on the yacht, then you and the other course participants will be required to pay pro rata for the damage sustained.

7.8. Clients accept that they undertake the course at their own risk. DS is not responsible for any injury or damage that is caused to a client while on the Company's premises, on pontoons, ladders or vessels. All clients participate in courses at their own risk.

7.9. All clients accept that as an accredited RYA sailing school, certificates will only be issued at the end of a course if, in the opinion of the Company's instructors and principal, the client has reached the required standard. The Company's decision shall be final and accepted by the client.

7.10. All clients accept that a part of the course requires them to undertake cooking, cleaning and routine maintenance as required by the instructor. At the end of the course all students will be expected to assist in the cleaning of the vessel returning it in the same state of cleanliness as it was at the start of the course.

7.11. DS operates a strict policy of no smoking or use of illegal substances ("drugs") on all of its vessels. Clients agree to adhere to this policy.

7.12. The Railway and Safety Act 2003 makes it an offence for any professional staff on duty to be incapable of carrying out their duties if impaired because of drink or drugs. This includes being in charge of a vessel at anchor or in port. DS requires that all staff and clients adhere to this policy.

7.13. All clients must be able to swim unaided for at least 100 meters.

7.14. Clients accept that all personal effects and property brought on board a vessel of the Company is done so at their own risk. The Company does not accept any responsibility or liability for any loss or damage incurred while attending the course.

## 8. Excursions

During the period of your course with DS, you may book an excursion or undertake an activity other than one arranged by DS. In such an event, your contract for such excursion or activity is with the local company providing that excursion or activity and not with DS. DS has no legal liability for anything that goes wrong on such an excursion or activity and any claim which you might have arising out of the same will be against the local supplier and be subject to its terms and conditions.

## 9. If you have a problem

9.1. If you are unhappy with any aspect of DS's arrangements while on your course, in the first instance this should be addressed to the course instructor. If this is not acceptable or convenient please address your complaint to the school Principal at the following: Neil Penman, Devon Sailing, 1a Lower Street, Dartmouth, TQ6 9AJ Tel. 01803 833399 Email: neil@southwestmarinettraining.co.uk

If you are undertaking an RYA course and do not receive a satisfactory reply, please list all details including course type and date, include your full name and address and as much information as possible and write to: Mr Richard Falk, RYA Training Manager, RYA House, Ensign Way, Hamble, Southampton, SO31 4YA

9.2. In the rare event of a dispute which cannot be settled amicably, it may (if you wish) be referred to arbitration via the Marine Leisure Association of which DS is a member or under a scheme which, though devised by The Association of British Travel Agents, is independently administered by the Chartered Institute of Arbitrators. The scheme provides for a simple and inexpensive method of arbitration of small value disputes on documents alone, with restricted liability in respect of costs. Application for arbitration under this scheme must be made within nine months of the date of return from the course but, in special circumstances, it may be offered outside this period.

## 10. Description of services

10.1. The Company's brochures are produced many months in advance of courses taking place. Every effort is made to ensure that the details, description and prices contained in brochures are correct, based on inspection and information passed to DS by its suppliers. However, changes do occur, sometimes at short notice.

10.2. The Company maintains its latest and most detailed information relating to its services and courses on its website: [www.devonsailing.co.uk](http://www.devonsailing.co.uk) In the event of a client being provided with information which is in conflict with that stated on the Company's website, it is the website information that should be regarded as being correct, unless the contrary information is specifically confirmed to the client in writing.

## 11. General

11.1. The contract to which these conditions apply and any matter arising from it are governed exclusively by the laws of England and Wales.

11.2. Unless expressly provided otherwise, no person who is not a party to a contract to which these conditions apply shall acquire any rights thereunder by virtue of the Contracts (Rights of Third Parties) Act 1999.

## Devon Sailing

1A Lower Street, Dartmouth, Devon TQ6 9AJ  
Tel. 01803 833399

Devon Sailing is a division of South West Marine Training LLP

South West Marine Training LLP is a Limited Liability Partnership registered in England and Wales with number OC352875  
Registered office:  
5 Pullman Court Great Western Road Gloucester GL1 3ND  
Partners: Neil Penman & Keith W. Felton FCA