

# The Salty Tribe – Terms and Conditions

## 1. Definitions

The following definitions apply to these Terms and Conditions:

- (a) **“Agreement”** means this Agreement and any variation in writing after the date of the agreement.
- (b) **“Client”** means the Party engaging The Salty Tribe to provide the Services and includes all individuals who attend a Program or use the Services under the Client’s booking.
- (c) **“Confidential Information”** means information or documents provided to, received by or produced by a Party in respect of the Services but excluding information that is generally available to the public or is known to a Party before the date of this Agreement.
- (d) **“Fees”** means the amount payable to The Salty Tribe for providing the Services.
- (e) **“Party”** means a Party to this Agreement and includes all assignees, employees, agents or sub-contractors.
- (f) **“Program”** means the program, event or session in which the Services are being provided by The Salty Tribe to the Client.
- (g) **“The Salty Tribe”** means The Salty Tribe Experience (ABN 37 335 421 990).
- (h) **“Services”** means the services described in the Statement of Works.
- (i) **“Statement of Works”** means the statement of works provided by The Salty Tribe to the Client describing the Services, Program and the associated Fees.
- (j) **“Terms”** means the terms and conditions of this Agreement.
- (k) **“Third Party”** means any other party who is not a party to this Agreement.

## 2. Interpretation

Interpretations in this Agreement, unless the context requires otherwise:

- (a) The singular includes the plural and vice versa.
- (b) The words “in writing” include any communication sent by letter or email.
- (c) These Terms are applicable to any provision of Services to the Client by The Salty Tribe except where otherwise expressly provided.
- (d) Nothing in these Terms to be read or implied so as to exclude, restrict or modify any condition, warranty, guarantee, right or remedy implied by law and which by law cannot be excluded, restricted or modified.
- (e) The Client acknowledges that this Agreement consists of these Terms and the Statement of Works and any annexures or documentation expressly incorporated as part of the Agreement.

## 3. Client’s Obligations

- (a) The Client agrees that they have read and understood these Terms before booking a Program.
- (b) The Salty Tribe highly recommends that the Client takes out and maintain its own travel insurance policy for the duration of the Program covering all individuals participating in the Program or ensure all individuals hold such travel insurance. The Salty Tribe is not liable for any loss in relation to travel expenses incurred by the Client in the event that the Program is cancelled or rescheduled in accordance with Clause 7.
- (c) The Client will be responsible for the accuracy and completeness of the information and documents provided to The Salty Tribe by the Client, including but not limited to:

- (i) medical history;
- (ii) fitness and ability to partake in the Program and Services; and
- (iii) all other information reasonably required by The Salty Tribe to assess the suitability of the Program to the Client.

- (d) The Client must at all times follow any and all directions of The Salty Tribe, its employees, agents, contractors or Third Parties engaged by The Salty Tribe for the provision of Services and any failure to do so will constitute a breach of the Agreement.
- (e) The Client will, as soon as practicable, or as required by this Agreement, advise The Salty Tribe of any new information or changes to the information provided which may be relevant to the provision of the Services.
- (f) If the Client’s fitness and ability to partake in the Program and Services cannot be demonstrated, The Salty Tribe reserves the right to refuse to allow the Client to participate.

## 4. Performance of the Services

- (a) In providing the Services, The Salty Tribe will:
  - (i) provide the Services with the appropriate professional skill and expertise;
  - (ii) maintain the necessary licences and permits required for the provision of Services and the Program;
  - (iii) act at all times in the best interest of the Client;
- (b) The Salty Tribe will not be liable for any failure or delay in performing the Services if that failure arises from anything beyond The Salty Tribe’s reasonable control or the failure of the Client to comply with this Agreement.

## 5. Fees and Payment

- (a) The Fees for the Services are set out in the Statement of Works or as otherwise provided to the client in writing.
- (b) To secure a Program, payment of the Fees in full is required at the time of booking, unless otherwise agreed between the Parties.

## 6. GST

The Salty Tribe’s Fees are exclusive of GST, unless stated otherwise. Any applicable GST will be added to the Fee in a tax invoice and will be paid by the Client.

## 7. Rescheduling and Cancellations

- (a) If the Client cancels a Program at least eight (8) weeks before the scheduled Program, the Fees minus a \$200 administration fee will be returned to the Client, unless the Parties have otherwise agreed in Salty Tribe’s absolute discretion to apply the Fees to a different Program offered by The Salty Tribe.
- (b) No refund will be given for cancellations by the Client less than eight (8) week before the scheduled Program, or for a ‘no show’ on the scheduled Program day, but the Parties may otherwise agree in Salty Tribe’s absolute discretion to apply the Fees to a different Program offered by The Salty Tribe.
- (c) The Salty Tribe reserves the right to cancel a Program:
  - (i) no less than eight (8) weeks before the day the scheduled Program is due to commence; or
  - (ii) at any time where the cancellation is due to reasons beyond The Salty Tribe’s reasonable control.
- (d) Where The Salty Tribe cancels a Program:

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- (iii) it will use all reasonable endeavours to reschedule a Program to an alternative date to be agreed by the Client (acting reasonably); and
- (iv) if a rescheduled date cannot be agreed (both Parties acting reasonably), the Client will be entitled to a refund of the Fees minus a \$200.00 administration fee.
- (e) The Salty Tribe will not be liable for any failure or delay in performing the Services and will not reimburse any travelling, accommodation or other expenses incurred by the Client or any other person if that failure arises from anything beyond The Salty Tribe's reasonable control or the failure of the Client to comply with this Agreement.

### 8. Confidentiality

The Parties, and any employees, agents or sub-contractors of the Parties, must not disclose Confidential Information belonging to the other Party without the other's prior written consent unless the disclosure is to:

- (a) a Third Party in relation to the provision of the Services;
- (b) the insurers or legal advisors of a Party; or
- (c) required by law or a regulatory authority.

This clause shall survive termination of the Agreement.

### 9. Privacy

- (a) The Client acknowledges that The Salty Tribe are required and permitted to collect personal information from the Client in order to provide the Services.
- (b) If applicable, the Salty Tribe will comply with the legal requirements of the *Privacy Act 1988* (Cth).
- (c) The Client acknowledges that The Salty Tribe may take photographs and/or capture video footage during the course of the Program and the Client grants The Salty Tribe permission to publish or otherwise use any photographs and videos for any commercial use.

### 10. Waiver

- (a) The Client acknowledges and agrees that activities including but not limited to swimming, snorkelling, scuba diving, walking and other related activities (**Activities**) are inherently dangerous and may lead to death or injury.
- (b) By participating in the Activities, the Client will be exposed to certain risks that include, but are not limited to, physical exertion and exhaustion, dangerous surf and weather conditions, reduced water quality, being in broken or moving water with waves, collision with other people or objects (including submerged objects), acts or omissions of Third Parties in the water and attacks by marine life.
- (c) The Client warrants that the Client is a capable swimmer and fit enough to undertake the Activities.
- (d) The Client authorises The Salty Tribe, its employees, agents, contractors or Third Parties engaged by The Salty Tribe for the provision of Services to administer first aid or obtain medical assistance if reasonably required and the Client will accept full responsibility for medical or other expenses incurred.
- (e) The Client has made inquiries about the risks referred to in clauses 10(a) and 10(b), and to the maximum extent permitted by law, voluntarily accepts, and assumes full responsibility for, all risks and dangers associated with the Activities, including without limitation any risk of injury or death arising out of or in connection with the Activities.

- (f) To the maximum extent permitted by law, the Client hereby forever waives all of its rights of action against, covenants not to sue, and releases The Salty Tribe and its employees, contractors and sub-contractors from all claims, actions, proceedings, liabilities, losses, and damages in relation to death or any injury (including, without limitation, mental harm) arising out of or in connection with the Client's participation in the Activities.

### 11. Limitation of Liability and Indemnity

- (a) To the extent permitted by law, The Salty Tribe, its employees, agents, contractors or Third Parties engaged by The Salty Tribe for the provision of Services will not be liable for and the Client will indemnify and hold harmless against any claims, actions, expenses (including all reasonable legal expenses) loss or damages resulting from or arising out of the provision of Services during a Program.
- (b) The Salty Tribe will not be liable for and the Client will indemnify and hold harmless against any claims, actions, expenses (including all reasonable legal expenses) loss or damages resulting from or arising out of additional activities not included in the Program that the Client chooses to participate in during the period of the Program.
- (c) The indemnity in Clause 11(a) does not apply if the claims, actions, expenses, loss or damages are determined to have resulted from the negligence of The Salty Tribe, its employees, agents, contractors or Third Parties engaged by The Salty Tribe for the provision of Services.

### 12. General

- (a) Variation  
This Agreement may only be varied by written agreement, as mutually agreed by the Parties.
- (b) Assignment  
Unless The Salty Tribe expressly consents, the Client must not assign any obligation, entitlement, charge or otherwise deal with The Salty Tribe's rights or obligations under this Agreement.
- (c) Dispute resolution  
The Client must notify The Salty Tribe of any complaint or claim it has against The Salty Tribe and must take reasonable steps to resolve these matters with The Salty Tribe before making a complaint to a regulatory authority, or issuing proceedings in a court or tribunal.
- (d) Severability  
If any provision of these Terms offends any law applicable to it and is as a consequence illegal, invalid or unenforceable then:
  - (i) Where the offending provision can be read down so as to give it a valid and enforceable operation of a partial nature it must be read down to the extent necessary to achieve that result; and
  - (ii) in any other case the offending provision must be severed from these Terms, in which event the remaining provisions of the Terms operate as if the severed provision had not been included.
- (e) Governing Law and Jurisdiction  
This Agreement is governed by the law in force in the State of Victoria and the Parties submit to the non-exclusive jurisdiction of the courts of that State in respect of any proceedings in connection with these Terms.

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### Acceptance

I acknowledge that I have received, read and understood the Statement of Works and Terms and Conditions and agree to be bound by them:

**Name:**

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**Signature:**

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**Date:**

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