

## Term & Conditions

### 1 Goods and/or Services

- (a) We will provide the Services to You.
- (b) The Services will be provided in accordance with a Quote and these terms and conditions.
- (c) We will use reasonable endeavours to complete the provision of the Services by the dates specified in a Quote or otherwise agreed by the Parties in writing.

### 2 Fees

- (a) In exchange for the Services, you will pay us the Fees.
- (b) With respect to any services provided by us, we may vary any fees quoted and/or revise any fee estimates in the event that unforeseen matters arise.
- (c) We are permitted to charge for all disbursements incurred in performing any services. This will include the 1.75% surcharge for domestic credit cards and 2.9% for international credit cards.
- (e) We will provide you with a valid tax invoice in accordance with the GST Law.
- (f) You must make payment of any Fees Payment within 14 days from the issue date of a valid tax invoice without set-off, deduction or counterclaim unless your booking is made during a promotional period and the terms state it is a Book Now Pay Now promotion.
- (g) All pricing is in AUD. Whitsundays Yacht Charters endeavours to ensure all prices listed on the website or other marketing material are true and correct.
- (h) Whitsundays Yacht Charters reserves the right to correct any fee errors or prices quoted in existing promotions agreed upon by boat owners.
- (i) All bookings have a 7-day ***Change of mind and Cooling Off period.***  
  
You can cancel your booking without penalty at any time within 7 days of your original booking and receive a full refund, less any fees that may be charged including administrative and advertising fees.
- (j) If you do not make a payment by the date stated in an invoice or as otherwise provided for under these terms and conditions, we are entitled to open up the dates for rebooking purposes.
- (k) Our pricing is determined as a percentage off the recommended retail price of the charters. We are a third party booking agency. We offer deals and run promotions at the express agreement of the boat owners and their managers. Any exclusions dates or high season pricing is determined by them. We act upon their direction only.

### **3 Your obligations**

(a) During provision of Services, you will:

(i) cooperate with us as we may reasonably require

(ii) provide the information and documentation that we reasonably require in the timeframe required as documentation requested is in accordance with Maritime law and must be submitted to the relevant agencies prior to your journey

(b) If you do not comply with 3(a), then any additional costs and expenses which are reasonably incurred by Whitsundays Yacht Charters or boat owners will be paid by you and we will not be responsible for any delay in provision of Services resulting from a breach of 3(a) by you.

(c) We strongly suggest, as per your Handover Letter that you purchase personal travel insurance. The insurance offered by the boat owners applies only to events which may occur during your charter and are boat related.

### **4 Intellectual property**

(a) We will own all intellectual property arising from or in connection with any services as part of the Services provided to you.

### **5 Use of Goods**

You will forfeit any rights you may have against us if:

(a) You acknowledge that you are solely responsible for any damage to property or injury to any person caused by using the Goods in any way and you will indemnify us, our agents and/or servants in relation to any claims.

### **6 Warranties, liability and indemnities**

#### **6.1 Warranties**

(a) We warrant that we will use reasonable care and skill in providing any Goods or performing any Services.

(b) We will comply with all laws applicable to the provision of any Goods and/or Services and laws applicable to our employees and agents.

(c) You warrant that you have fully disclosed all information relevant to the provision of any Goods and/or Services.

(d) We provide no warranty that any result or objective can or will be achieved or attained at all, by a given completion date or any other date, whether stated in this agreement, a Quote or elsewhere.

Whitsundays Yacht Charters sells charters for independent boat owners. Whitsundays Yacht Charters

has no common interest in the vessels nor accepts any liability associated with travel leading up to or including the date of travel. Upon booking and payment you will be subject to the terms and conditions of the hire agreement of the boat owners in addition to Whitsundays Yacht Charters terms and conditions.

## **6.2 Limitation on liability**

(a) To the extent permitted by law, our liability under or in connection with this agreement whether arising in contract, tort, negligence, breach of statutory duty or otherwise must will be limited to, at our option:

(i) the re-supply of any Goods and/or Services;

(ii) the payment of the costs of having any Goods and/or Services provided again;

(iii) the payment of an amount not exceeding the Fees paid by you for any Services.

(b) To the fullest extent permitted by law, we will not be liable to you in contract, tort, negligence, breach of statutory duty or otherwise for any loss, damage, costs or expenses of any nature whatsoever incurred or suffered by you of an indirect or consequential nature including any economic loss or other loss of turnover, profits, business or goodwill.

(c) We will not be liable to the extent that you or your guests have caused or contributed to any Losses.

## **6.3 Indemnity**

You will indemnify and hold us harmless from and against all Claims and Losses arising from loss, damage, liability, injury to you, our employees and third parties, infringement of third party intellectual property, or third party losses by reason of or arising out of any information supplied to you by us.

Whitsunday Yacht Charters does not accept any liability or responsibility of any nature including but not limited to contract, in tort or under any other law for any loss, damage, delay, injury, additional expenses or inconvenience caused by your or your guests own acts or omissions or other events which are beyond their control. This includes force majeure or other events including but not limited to fire, civil disturbance, war, floods, acts of God, severe weather, acts of government or any other authorities, failure of equipment or machinery.

## **7 General**

Whitsundays Yacht Charters will make every effort to ensure the website and it's content is accurate at all times, however the company cannot be held responsible for printing or typographical errors or errors arising from unforeseen circumstances.

Whitsundays Yacht Charters is a booking agency only. We bear no responsibility as an intermediary and cannot be held responsible in the case of damage caused by you to our suppliers or equipment.

We endeavour to ensure that the booking we have made on your behalf is implemented as arranged. If a problem occurs the most practical way to deal with this is to attempt resolution with the boat manager. We are not liable for any act, omission or default whether negligent or otherwise or any boat owner.

Subject to relevant laws, should we merge, sell or otherwise change control or ownership of our business or website, we reserve the right without giving notice or seeking consent, to transfer or assign your personal information, content and rights that we have collected from you and any agreements we have made with you.

(i) To the extent that there is any inconsistency between these terms and a Quote, the Quote shall prevail.

## **11 Definitions**

### **11.1 Definitions**

**Claims** means all demands, claims, proceedings, penalties, fines and liability (whether criminal or civil, in contract, tort or otherwise).

**Collateral** means your present and after-acquired property. It includes anything in respect of which you have at any time a sufficient right, interest or power to grant a security interest.

**Effective Date** means the date upon which we provide the relevant Goods and Services to you.

**Fees** means the amount(s) (including estimates) or rates set out in the Quote.

**GST Law** means the same as in the A New Tax System (Goods and Services Tax) Act 1999 (Cth).

**Intellectual Property** includes trademarks, patents, copyrights, processes know-how, registered and/or unregistered designs or other like rights or any right to apply for registration of any of the former.

**Losses** means all losses including financial losses, damages, legal costs and other expenses of any nature whatsoever.

**Quote** means a quote provided by us to you in relation to Services or any order made by you for Goods Services through our website which incorporates these terms and conditions

**Services** means the services to be provided by us  
50 of the Corporations Act 2001  
(Cth).