

# RUN AMUK CRUISES

## TERMS AND CONDITIONS

Unless otherwise agreed in writing by an authorised representative of Run Amuk Cruises, all Activities are sold based on the following terms and conditions of the purchaser and no agent or representative or any third party has the authority to vary or omit part or all of these Terms.

### 1. Definitions

- 1.1. "Activity" means any of the activities which the Provider provides.
- 1.2. "Associate(s)" means any associated or related entity of the Provider, or any employee, servant, agent, director, volunteer, or officer of the Provider or of an associated or related entity of the Provider.
- 1.3. "Exclusive Booking(s)" means an exclusive booking for an cruise charter package.
- 1.4. "Gift Voucher" means an authorised gift voucher or coupon provided by an authorised third party for the Activity to be provided by the Provider.
- 1.5. "Individual Booking(s)" means an individual booking for a cruise charter package.
- 1.6. "Event Booking(s)" means any Activity other than the Exclusive Booking and Individual Booking offered by the Provider.
- 1.7. "Provider, we, us, our" means Run Amuk Cruises
- 1.8. "Terms" means these Terms and Conditions.
- 1.9. "Website" means [www.runamukcruises.com.au](http://www.runamukcruises.com.au)

### 2. Competition and Consumer Act 2010 ("CCA") and Fair Trading Acts ("FTA")

2.1. Nothing in these Terms is intended to have the effect of contracting out of any applicable provisions of the CCA or the FTA in each State and Territory of Australia (or its equivalent), except to the extent permitted by those Acts where applicable.

### 3. Acceptance

- 3.1. By making a reservation with the Provider, you acknowledge that you have read, understood and agreed to be bound by these Terms.
- 3.2. A reservation for an Individual Booking is made when you request a booking from the Provider either through the Website or through any Third Party.
- 3.3. A reservation for an Exclusive Booking and Event Booking is made when you request a booking from the Provider, and you make payment of a deposit of an amount as requested by the Provider at the time the reservation is requested.
- 3.4. The reservation will be converted to a booking when payment is received in full no later than two (2) days prior to the scheduled departure for Individual Bookings, Exclusive Bookings and Event Bookings.

### 4. Payment Terms

- 4.1. Payment for Individual Bookings, Exclusive Bookings and Event Bookings must be made in full and in cleared funds no less than two (2) days prior to the scheduled departure.
- 4.2. Payment can be made by credit card or EFT or as directed by the Provider
- 4.3. Gift Vouchers and coupons must be presented at the time of booking. In the event you do not present any such Gift Voucher at the time of booking, you must pay to the Provider the advertised amount for the Activity as at the date of booking on the Website.
- 4.3. Any passengers whom has purchased a Concession / pensioner / senior ticket shall show proof of that concession rate on boarding the vessel. You must pay the Provider any difference in amount between what you purchased and the advertised adult price.

### 5. Cancellations and Refunds

- 5.1. You may request a cancellation in writing of an Individual Booking, Exclusive Booking and Event Booking subject to the following:
  - (a) For cancellation requests for Individual Bookings, you may, at the sole discretion of the Provider, be entitled to a 50% refund if a cancellation request is received by the Provider no less than 48 hours prior to the scheduled departure. You will not be entitled to a refund or to reschedule the Individual Booking if a cancellation request is received by the Provider less than 48 hours prior to the scheduled departure.
  - (b) For cancellation requests for Exclusive Bookings and Event Bookings, you may, at the sole discretion of the Provider, be entitled to a refund of the balance of the \$500 deposit paid, less a \$100 management fee, provided that a cancellation request is received by the Provider no less than fourteen (14) days prior to the

scheduled departure and the Provider is able to secure an alternate Exclusive Booking or Event Booking for the same day and at the same scheduled departure time. You will not be entitled to a partial refund or to reschedule the Exclusive Booking or Event Booking if a cancellation request is received by the Provider less than fourteen (14) days prior to the scheduled departure.

(c) Gift Vouchers applied to either an Individual Booking, Exclusive Booking or Event Booking will be forfeited upon receipt of a cancellation request.

(d) Gift Vouchers are non-refundable.

(e) In the event you fail to arrive at the departure point at the scheduled departure time, the Provider in its sole discretion reserves the right to cancel the booking, and in such circumstances you will forfeit the full payment made. You agree you are liable for the full amount payable for the booking less any amount already paid. In the event you fail to make payment, then you agree to indemnify and keep indemnified the Provider for all costs associated with collecting such payment.

(f) The Provider requests that you arrive at the departure point no less than fifteen (15) minutes prior to the scheduled departure time. In the event that you arrive after the departure time you will forfeit to the Provider the full amount paid.

## **6. Weather Conditions, Cruise Variations and Terminations**

6.1. The parties acknowledge and agree that at all times, the Captain appointed by the Provider of the vessel may in its absolute discretion:

(a) cancel the scheduled Activity up to the scheduled departure time;

(b) alter the path of the vessel during the Activity;

(c) dock the vessel for the safety of the passengers and the vessel; and

(d) take whatever action necessary to protect and maintain the safety, welfare and the good order of the vessel, its passengers and the crew.

6.2. In the event the Activity is cancelled in accordance with 6.1(a) above, the Provider's liability is limited to providing the same Individual Booking, Exclusive Booking or Event Booking you at a time agreed between the parties.

6.3. All efforts are made to give as much prior notice of cancellation as possible, but no liability is accepted for inconvenience or last-minute change of Activity plans by the Provider.

6.4. The Activity will continue in light rain/showers. You must ensure you wear appropriate wet weather gear.

6.5. You must ensure up to date and current contact details are provided at the time of making a reservation as the Provider will use these contact details in the event the Activity needs to be rescheduled on short notice.

## **7. Force Majeure**

7.1. The Provider shall not be liable for any delay in providing the Activity, or for any other interruption, delay, loss, or damage which is incurred or suffered as a result of a Force Majeure, and the Provider's obligations hereunder shall be excused and suspended during the period such Force Majeure remains in effect.

7.2. The Provider may terminate the booking in full or in part, without penalty, if Force Majeure continues longer than two (2) weeks.

## **8. Limitation of Liability**

8.1. You will be responsible for and will indemnify the Provider against liability for all loss, damage or injury to persons or property caused by you, and the amount of all claims, damages, costs and expenses which may be paid, suffered or incurred by the Provider in respect of any such loss, damage or injury will be made good at your expense.

8.2. The Provider shall not be liable to you in respect of any losses suffered or incurred by you arising out of or in connection with the provision of the Activity.

8.3. You shall be liable for any loss, damage or injury to any party or parties (including the Provider and other customers) resulting from your negligent acts and your failure to comply with these Terms and shall indemnify and keep indemnified the Provider against any claim or claims made against it.

8.4. Without limitation to the foregoing, you agree that the Provider's maximum liability to you, if any, arising out of any kind of legal claim or action in any way connected to the Activity will be limited to the total amount paid by you (if any) for the Activity.

8.5. You hereby indemnify and will keep the Provider and its Associates indemnified from and against all actions, suits, proceedings, claims, liabilities, demands, costs, losses, damages and expenses of whatsoever nature and howsoever occurring, brought against or made upon the Provider or its Associates by you or by any other person or which the Provider or its Associates may themselves pay, suffer, or sustain, arising directly, indirectly or in any other way connected with you participating in the Activity, whether in contract, tort (including negligence), breach of statutory duty or otherwise. This indemnity applies irrespective of any negligence on the part of the Provider, its Associates or any other person.

8.6. You hereby release, discharge and hold harmless the Provider and its Associates from all actions, suits, proceedings, claims, liabilities, demands, costs, losses, damages and expenses of whatsoever nature and

howsoever occurring, brought against or made upon the Provider or its Associates by you or by any other person or which the Provider or its Associates may themselves pay, suffer, or sustain, arising directly, indirectly or in any other way connected with you participating in the Activity, whether in contract, tort (including negligence), breach of statutory duty or otherwise. This indemnity applies irrespective of any negligence on the part of the Provider, its Associates or any other person.

8.7. This Agreement may be pleaded as a bar by the Provider and its Associates to any action, suit, proceeding, claim, liability, demand, costs, losses, damages and expenses made by you or anyone claiming by, through or under you howsoever arising out of or in connection with you participating in the Activity.

8.8. Certain legislation, including the Competition and Consumer Act 2010 (Cth) and Fair Trading Acts in each State and Territories of Australia (or its equivalent), may imply or impose warranties or terms into any agreement between the Provider and you which cannot be excluded restricted or modified except to a limited extent. To the extent allowed under any such legislation or otherwise at law, the Provider and its Associates limit their liability to, at the Provider's sole discretion, supplying the Activity again, or the payment of the cost of having the Activity supplied again.

## **9. Assumption of Risk**

9.1. You agree and understand that you assume all risks when using the Website and engaging in the Activity.

9.2. You agree and acknowledge that the Provider does not guarantee that any marine life, including fish will be caught or sighted during the Activity.

9.3. You expressly release the Provider, its employees, agents, and subcontractors, from any claim of any misrepresentation which you have or may have against the Provider

9.4. The use of drones or other flying craft from the vessel is to be authorised in writing by the Provider prior to the activity taking place.

## **10. Indemnification**

10.1. You agree to indemnify and keep indemnified, the Provider, its employees, agents, and subcontractors against any loss, expense, cost, damage, claim, demand, suit, action, proceeding, judgment, order of a court or tribunal, and legal fees (on a solicitor and own client basis) which we pay, suffer, or are liable for in respect of:

(a) Any death, personal injury, or loss or damage to property; and

(b) Any negligent act or omission of you;

(c) Any act or omission of you, which causes damage to us in any way, including any damage to the vessel or to any equipment or property supplied by the Provider; and/or

(d) Any breach of these Terms.

10.2. You agree to release us from any claim you have or may have had as a result of engaging in the Activity.

## **11. Advertisements, Promotion & User Generated Content**

11.1. You hereby provide your express consent to the Provider taking photographs of you engaging in the Activity which the Provider is entitled to use for promotional purposes, including but not limited to publishing on the Website, social media and written material

11.2. The Provider displays User Generated Content (UGC) from social media platforms including; Facebook, Instagram, Twitter, Google+ and YouTube on our website and other digital platforms. We do not claim to have ownership to any of the images, videos or content posted through these channels. However, by posting to our official channels or tagging @runamukcruises or #runamukcruises, you hereby grant us a non-exclusive, royalty free, worldwide, revocable, non-transferable, perpetual licence to use, modify, delete from, add to, publicly display and/ or reproduce your content without limitation in any online media formats and through any social media channels, pages or accounts.

11.3. Our social media channels we may credit your name and / or business name but due to technical reasons, some of the UGC shared on the website may not be credited. You can revoke this licence at any time by contacting us via email at info@runamukcruises.com.au

11.4. If you do not consent to the Provider publishing content containing your image, you must write to the Provider no less than two (2) days after the conclusion of the Activity.

## **12. Sea Sickness**

12.1. It is recommended that you and members of your group seek prior medical advice regarding the use of seasickness tablets or similar medication according to your personal circumstances. In the event a passenger gets seasick, the Provider cannot guarantee that you will be brought back to the jetty until the Activity is completed. In extreme cases of passenger (or crew) illness or injury and where the decision is made by crew and management to cease the Activity, the Provider is not responsible or obliged to give cash refunds or offer an alternate outing to any passenger.

### **13. Smoking**

13.1. Smoking is not permitted within confined spaces throughout the vessel.

### **14. Alcohol Policy**

14.1. You are not permitted to bring your own alcohol on board. The Provider reserves the right to refuse alcohol to any passenger at any time during the Activity. If any passenger appears under the influence of alcohol prior to the scheduled departure time, the Provider reserves its rights to refuse to allow that passenger to board the vessel. The Provider reserves its right in its absolute discretion to remove you from the vessel or to immediately terminate the Activity should you or members of your group engage in abusive or inappropriate behaviour at any time, and/or while under the influence of alcohol. You or members of your group will not be entitled to make any claim of any kind against the Provider for any such conduct.

14.2. The Provider is expressly excluded from any liability which arises due to passengers failing to adhere or conform with the directions and rules of the Provider and the Provider's crew aboard the vessel.

### **15. Recreational Drugs and Illicit and Prohibited Drugs**

15.1. Use of recreational drugs and illicit and prohibited drugs is strictly prohibited throughout the vessel and during the Activity.

15.2. The Provider reserves its right in its absolute discretion to remove you from the vessel or to immediately terminate the Activity should you or members of your group engage in such prohibited conduct. In this event, you or members of your group will not be entitled to make any claim of any kind against the Provider and clause 8.1 shall apply.

### **16. Fishing & Recreation Equipment**

16.1. The Provider may provide fishing, snorkelling and other activity equipment to you. In the event any gear belonging to the Provider is misplaced, damaged or lost at sea while that gear was in your possession, the Provider is entitled to claim payment for the replacement value of any such items from you, and will be entitled to claim all costs associated with collecting payment.

16.2. The Provider will endeavour to assist you in fishing but does not provide any warranty or guarantee that you will be able to catch and release a fish during the Activity.

### **17. Privacy Act 1988 (Cth)**

17.1. You agree that personal information provided may be used and retained by the Provider for the purpose of providing the Activity, identifying your booking, or as required by law from time to time.

### **18. General Provisions**

18.1. All of the clauses in this Agreement are to be construed individually and should any one of these clauses or parts thereof become invalid or unenforceable or be otherwise severed from this Agreement, the remaining clauses shall remain valid and enforceable and such clauses will be determinative of the liability of you, the Provider and its Associates (except to the extent any statute may provide otherwise) relating to your participation in the Activity.

18.2. These terms and conditions and any contract to which they apply shall be governed by the laws of Queensland and are subject to the jurisdiction of the courts of Queensland.

18.3. The Provider may provide any notice required under these Terms or vary the Terms in its sole discretion without notice by publishing the notice on the Website ("Notice").

18.4. The Provider may amend or vary these Terms at its sole discretion by giving Notice, and the varied Terms are to take effect immediately upon Notice being given. Your engagement in the Activity after any variation of these Terms will be deemed to constitute your acceptance of the varied Terms which may be published on the Website.