

The Mermaid Connection

Terms and Conditions

1. DEFINITIONS

Agreement means these Terms and Conditions any other documents which are intended to form part of this Agreement for the provision of the Services to you.

The mermaid Connection, us, we or our means the business known as The Mermaid Connection, owned by Eloise Power, ABN 51 383 016 875.

Business Day means a day which is not a Saturday, Sunday or public holiday in the State or Territory of Australia in which the Products and/or Services are provided under this Agreement.

Commencement Date means the date you accept the contents of this Agreement in the manner outlined in clause 2.

GST means any amount payable as a tax under A New Tax System (Goods and Services Tax) Act 1999 (Cth).

Price means the price agreed to for the provision of the Services as set out in this Agreement or as varied by agreement between the parties as allowed under this Agreement from time to time.

Recordings means photographs, audio or video recordings or any other form of recording that may capture your likeness, voice or image.

Services means any services which are provided to you by The Mermaid Connection by agreement (including but not limited freediving courses, mermaid courses and retreats) which are intended to be provided to you in accordance with this Agreement.

Website means the website on which you are viewing these terms and conditions, including www.themermaidconnection.com.au

You or your means the customer of The Mermaid Connection, having accepted this Agreement and wishing to book the Services from us.

2. Offer and Acceptance:

- 2.1. By making a booking with us you will be regarded as having entered into a contract and will be bound by the terms and conditions set out in this Agreement once signed and returned to us.
- 2.2. Acceptance of the Agreement is indicated by either making a booking with us on the website, ticking the check box on our website to indicate that you have read and accept these terms and conditions or, alternatively, by acting in a manner which is consistent with having accepted this Agreement such as acting in a manner which is consistent with you receiving the Services from us.
- 2.3. At the time this Agreement is accepted by you, the terms and conditions which form part of this Agreement are irrevocable and are only able to be varied by the written agreement between the parties or as otherwise set out herein.

3. Price and Payment Terms:

- 3.1. To secure your booking with us, a \$500 AUD deposit is required.
- 3.2. The Price payable under this Agreement is payable in full at the time of making a booking or, alternatively, if you select a partial payment option, then in the matter set out in (3.3.)
- 3.3. If a partial payment option is selected by you, you agree that you will pay the price in full over six equal fortnightly payments, with the first payment due at the time of your booking. Each other payment due the day that is 14 days after the due date for the last payment.
- 3.4. For our Bali Retreat, the partial payment amount is \$500.00 AUD per fortnight, to be paid every Monday starting from the date of your booking until paid in full.
- 3.5. We reserve the right to change the Price or withdraw the offer at any time prior to you accepting the terms of this Agreement.

- 3.6. GST and any other taxes and duties that may be applicable to the invoice shall be added to the Price except if it is expressly stated that GST is included in the Price.
- 3.7. If at any time an amount is outstanding or due for payment to us under this Agreement or any other arrangement you have with us, then we may immediately terminate this Agreement. At no time will The Mermaid Connection be liable for any loss suffered by you as a result of the refusal to provide the Services to you if the Agreement is terminated under this clause.
- 3.8. We reserve the right to charge interest on any amount of money which is outstanding and due for payment at a rate of 10% per annum calculated daily from the due date for payment until full and clear payment is received by us. You will at no time be entitled to set off against or deduct from the Price any sums allegedly owed to you by The Mermaid Connection.
- 3.9. We additionally reserve the right to claim our reasonable legal fees on an indemnity basis and other costs incurred as a result of a default by you under this Agreement.
- 3.10. If at any time during the term of this Agreement there is an increase in the costs incurred by us in supplying the Services due to factors beyond our control then you agree that we are authorised to increase our fees for the provision of the Services only after giving you a minimum of thirty (30) days written notice of the increase. If such a notice is provided, you may terminate this Agreement within fourteen (14) days from the date that we have provided written notice of the invoice to you.

4. Term of Agreement:

- 4.1 This Agreement will commence on the date you accept these Terms and Conditions and will continue so long as you continue to use The Mermaid Connection's Services and until it is terminated by either party in accordance with this Agreement.
- 4.2 We reserve the right to amend our Terms and Conditions at any time. You agree that you will regularly check our website to ensure that you have read the latest version of our Terms and Conditions before you engage and participate in the Services.

5. Warranties:

- 5.1 The Mermaid Connection relies on you providing up to date and truthful information so that we may provide you with the Services under this Agreement. By entering into this Agreement, you acknowledge and agree that The Mermaid Connection is providing these Services to you based on the information provided by you, including any information provided in relation to any medical conditions that you have, and you warrant that information is true and correct at the Commencement Date of this Agreement.
- 5.2 Any express or implied warranties, representations or statements in respect of our Services that are not detailed or referred to in these Terms and Conditions, are excluded to the maximum extent permitted by law.
- 5.3 Nothing in these Terms and Conditions excludes, restricts or modifies any guarantee, term, condition, warranty, right or remedy implied or imposed by any statute or regulation which cannot lawfully be excluded or limited. To be clear, nothing in this Agreement will exclude, restrict or modify any rights or remedies you may have under the Competition and Consumer Act 2010 (Cth) or any other legislation which may apply.
- 5.4 To the extent that any of the limitations of liability under this clause are deemed void or not binding on the parties, you agree that the maximum liability that we can be liable for any negligence or breach of contract or law is the cost of providing those Services again.
- 5.5 The Mermaid Connection warrants that its employees and representatives will at all times be suitably skilled and will hold all legally required qualifications to enable them to complete and provide the Services to you.
- 5.6 You hereby warrant that you are physically able to participate in and are capable of engaging in the Services. You further warrant that you do not have a medical condition that would affect your ability to safely participate in the Services.

6. Indemnity and Release from Liability

- 6.1. You engage or participate in the Services at your sole risk.
- 6.2. By accepting the terms of this Agreement, you release and indemnify The Mermaid Connection from all liability, loss, damages, claims, injury, death, causes of action, demands and expenses (including any legal and court costs) arising from or in any way relating to the provision of its

Services and your participation in any courses, retreats or other Services provided or operated by The Mermaid Connection including but not limited to any injury or death that you may suffer and any reliance on information or Services provided by us, except to the extent that it is caused by negligence on the part of The Mermaid Connection, our employees or any individual under our control.

- 6.3. You acknowledge that the Services provided to you in accordance with the Quote and this Agreement may result in damage, injury or death to your property or your person which arises through no fault of our own, such as (by way of example only) injury that you might suffer from marine life. While The Mermaid Connection will take all reasonable precautions in providing the Services, at no time shall The Mermaid Connection be liable for any damages, injury or death whatsoever whether directly or indirectly arising out of the Services provided or supplied under this Agreement, except in circumstances where such damage was contributed to by the negligence of The Mermaid Connection, our employees or any individual under our control.

7. Medical Declaration

- 7.1. You acknowledge that there may be some medical conditions which prevent you from being able to participate in the Services. These conditions include, but are not limited to, heart disease or condition, lung disease, asthma, cold or congestion, pregnancy, history of seizures or strokes, etc.
- 7.2. By accepting the terms of this Agreement, you hereby declare that you have disclosed to us any pre-existing medical conditions that you have, and you hereby warrant that you are fit and able to engage or participate in the Services.
- 7.3. After your booking with us, we will forward to you a Medical History Form. You must, as soon as reasonably practicable after your booking with us complete, sign and return to us your Medical History Form. You hereby warrant to us that you will complete the Medical History Form to the best of your knowledge and that all answers provided on that form are true and correct. You acknowledge that we will be relying on the information you have provided to us in that Medical History Form in the provision of the Services to you.
- 7.4. If at any stage after the date of this Agreement and before the provision of the Services you become aware of any change in your medical circumstances which may impact on your ability to engage and participate in the Services, including any of the conditions or circumstances referred to in the Medical History Form, you hereby undertake to immediately notify us so that we can assess whether it is possible for you to still engage or participate in the Services.
- 7.5. The Mermaid Connection reserves the right to ask you at any time to provide a medical certificate which confirms that you are medically fit to engage or participate in the Services. If you do not provide a medical certificate, The Mermaid Connection may terminate this Agreement and is not required to provide the Services to you.
- 7.6. In the event that you are unable to engage or participate in the Services due to medical reasons, please refer to our refund policy set out in clause 9 below.

8. Itinerary

- 8.1. We will use all of our best endeavours to ensure that the itinerary that is provided to you prior to entering into this Agreement will not change. However, by entering into this Agreement you acknowledge that there may be various reasons why the itinerary may need to change, such as weather, medical emergencies, changes by third party providers such as transport providers, etc.
- 8.2. We hereby reserve the right to amend the itinerary if it is deemed necessary by us. We agree that we will act reasonably in making any decision to amend the itinerary.
- 8.3. If we are required to amend the itinerary, we will notify you of any changes at our earliest convenience. If the changes to the itinerary mean that you are unable to engage or participate in the Services we will provide a refund to you of any payment you have made to us towards the Price less any reasonably administrative costs incurred by us (which it is agreed will be no more than 10% of the Price) and any pre-paid costs that we have made on your behalf for which we are not entitled to receive a refund.
- 8.4. It is hereby agreed that you will not be entitled to claim any other costs from us in the event of a change in itinerary aside from those costs that you are entitled to under our refund policy. This includes any out of pocket expenses or other costs that you may have incurred in relation to or in any way associated with this Agreement and the Services.

9. Cancellation and Refund Policy

- 9.1. If you terminate this Agreement on or before 2 calendar months before the Services are due to be provided to you, you will be entitled to a 50% refund (subject to our absolute discretion to provide a greater refund) of any monies you have paid to us under this Agreement.
- 9.2. If you terminate this Agreement within a period of 2 calendar months before the Services are provided to you or if you fail to attend at the time that we are providing the Services, you acknowledge that you will not be entitled to any refund of any monies you have paid to us under this Agreement unless we, at our absolute discretion, decide that a partial refund will be made.

10. Insurance

- 10.1. We confirm that we have taken out insurance which includes a public liability insurance. However, you acknowledge that our insurance does not cover you for personal loss, including those items usually covered by travel or health insurance. We strongly recommend that you take out your own travel and medical insurance to ensure that you are adequately covered for these events while you are participating in the Services.

11. Drug and Alcohol Consumption

- 11.1. You must not participate in the Services if you are in any way influenced by alcohol or drugs. We reserve the right not to provide Services to any person who is influenced by alcohol or drugs as determined in our sole discretion, acting reasonably. In the event that we deem that you are influenced by alcohol or drugs, we have no liability to you for any reason, including any obligation to refund to you any monies that you have paid under this agreement or any other loss or damage that you may suffer.

12. Equipment Hire

- 12.1. You must provide your own equipment to participate in the Services, including wetsuits, snorkel, mask, weights and weight belt, fins and whatever else you feel you may require. This will ensure that you have equipment that is matched to your size and is comfortable to you.
- 12.2. If you do not have your own equipment, we can provide some equipment to you, the cost of which is not included in the Price. However please keep in mind, personalised equipment is best. You must advise us at the time of making your booking whether you require us to provide equipment to you for the Services. If you do not, you will be required to provide your own equipment.
- 12.3. After you have finished participating in the Services, you must return all equipment that we have provided to you to us in the manner directed by us.
- 12.4. If you damage or destroy the equipment or otherwise fail to return to the equipment to us, you hereby agree that you must pay to us all costs incurred by us in repairing or replacing the equipment.

13. Privacy Policy and use of media

- 13.1. The Mermaid Connection recognises the importance of privacy and protecting your personal information. We only collect information that is reasonably necessary for the proper performance of our obligations under this Agreement and to enable us to provide the Services. The type of information that we will collect includes your name and contact details, documents that identify you and medical information. This information may be collected either directly from you or through other means such as through our website.
- 13.2. You agree that we may use your personal information for the purpose of sending you marketing communication and information relating to the services provided by us that we think may be of interest to you. We may also use this information to comply with our statutory or insurance requirements and to provide you with the Services.
- 13.3. We may only disclose your personal information to a third party if it has been collected by you for that purpose or for a related or ancillary purpose related to the Services provided by us to you. We will never give your personal information to third party marketing firms. We agree that we will comply with the requirements of anti-spam legislation and any electronic marketing will have the option for you to "opt-out" of receiving future marketing material from us.

- 13.4. We will also take all reasonable steps to protect the personal information that we hold from loss, unauthorised access and misuse. When no longer required, we will destroy your personal information.
- 13.5. If you wish to access the personal information that we hold for you, you should contact us directly. We will take all reasonable steps to respond to such requests subject to any exemptions including where the provision of the requested information breaches another party's privacy entitlements.
- 13.6. If you have a privacy related complaint, you may contact us directly. If we are unable to resolve your complaint, you may also make complaints to the Office of the Australian Information Commissioner.
- 13.7. Unless you specifically notify us otherwise in writing at the time of entering into this Agreement, you hereby authorise us, or any agent that we engage, to take the Recordings. You further authorise us to use the Recordings for our own marketing and to promote the services that we offer. You agree that these Recordings may be published on means such as (but not limited to) our website, in print, radio, video or internet marketing. You acknowledge that we may alter or vary any of the Recordings to suit the marketing purpose for which we are using it.

14. General

- 14.1. Any failure by The Mermaid Connection to enforce any provision of these terms and conditions shall not be treated as a waiver of that provision, nor shall it affect The Mermaid Connection's right to subsequently enforce that provision.
- 14.2. These terms and conditions are to be governed by and construed in accordance with the laws of Australia and shall be subject to the non-exclusive jurisdiction of the courts of Australia and the laws of Queensland.
- 14.3. Where more than one individual or entity has entered into this Agreement, you agree to be jointly and severally liable for all payments and obligations required under the Agreement.
- 14.4. If any part of these Terms and Conditions and any further documentation intended to be read in conjunction with these Terms and Conditions is invalid or unenforceable, that part is to be removed from the Terms and Conditions and/or other documentation and the remainder of the Agreement continues in full force.

Sign The Agreement:

Your name:
Title:
DOB:
Date signed:
Signature:

The Mermaid Connection
Eloise Power
Signature:
