

## Terms and Conditions – Training Services

### 1 Background

- (a) Reef Check Foundation Ltd (ABN 46 108 200 933) (**we, us, our**) is a not-for-profit organisation which is involved in monitoring and promoting the health of reefs.
- (b) These Terms and Conditions – Training Services (**Terms and Conditions**) apply to each sale of training by us.
- (c) By paying (including a deposit) for any training (**Training**) via the Sea Store on our website or any other sales portal (**Sales Portal**), or in any other way, you agree to be bound by these Terms and Conditions.

### 2 Definitions

**Claim** means any action, suit, proceeding or demand.

**Commencement Date** means the date that we are scheduled to start providing the Training.

**Government Agency** means any government or governmental, administrative, monetary, fiscal or judicial body, department or commission, authority, tribunal, agency or entity.

**In-Water Training** means any reef survey training, fish survey training or other Training that involves an in-water component.

**Law** means all applicable present and future laws, including:

- (a) acts, ordinances, regulations, by-laws, orders, awards and proclamations of the jurisdiction of Queensland, the place that the Training is being provided, or the Commonwealth of Australia;
- (b) authorisations from any Government Agency;
- (c) principles of law or equity;
- (d) standards, codes and guidelines; and

**Loss** means any loss, liability, cost, charge or expense (including legal costs and expenses on a full indemnity basis) that a party suffers or incurs.

**Policies** means all applicable policies published on our website or provided by us in writing to you (or your nominee, if applicable), as added to and amended from time to time, including our:

- (a) Dive Policy and Procedures;
- (b) Snorkel Policy & Procedures;
- (c) Handbook of Volunteer & Participant Policies;
- (d) Work Health and Safety Management Plan; and
- (e) Reef Check Volunteer Code of Conduct.

**Participation Form** means the participation forms relating to participation in In-Water Training, available on the date that you first pay for the Training.

### 3 Purchase of Training

- (a) You agree to purchase the Training set out in your order in accordance with these Terms and Conditions.
- (b) Subject to clause 13 and any Law, you cannot cancel an order for Training.

### 4 Payment, tax invoice and GST

- (a) If you only paid a deposit for the Training, then you must pay us the amount outstanding (in accordance with the prices listed on the Sales Portal on the date that you paid the deposit) at least 14 days before the Commencement Date.
- (b) We will issue a tax invoice to you for each payment you make in relation to the Training.
- (c) All amounts that you pay or are required to pay for the Training include GST (as that term is defined in *A New Tax System (Goods and Services Tax) Act 1999* (Cth)).

### 5 Provision of Training

- (a) You may nominate a third party to participate in the Training on your behalf.

- (b) Subject to:

- (i) you complying with your obligations under these Terms and Conditions; and
- (ii) you (and your nominee, if applicable) complying with your obligations under the Participation Form (if applicable),

we will provide the Training to you (or your nominee, if applicable) at the times and at the locations that we nominate.

- (c) We will advise you (or your nominee, if applicable) of the Commencement Date and schedule for the Training after we receive your payment.
- (d) To the extent applicable to the Training, you must comply with, and you must ensure that your nominee (if applicable) complies with:
  - (i) all Laws;
  - (ii) our Policies; and
  - (iii) all reasonable directions that we, or any party engaged by us in relation to the Training, give you (or your nominee, if applicable).

### 6 Certification

- (a) The Training may consist of theory sessions, practical sessions or assessments. If you (or your nominee, if applicable) complete the Training to our satisfaction (in our absolute discretion), you (or your nominee, if applicable) will be issued with any applicable certifications. For further information on the applicable certifications, please consult the description of the Training on the Sales Portal.
- (b) You (or your nominee, if applicable) will not complete the Training to our satisfaction if you (or your nominee, if applicable) does not:
  - (i) attend and participate in all theory and practical sessions that form part of the Training; and
  - (ii) achieve the minimum standard on each assessment that forms part of the Training (as determined by us in our absolute discretion).

- (c) If you (or your nominee, if applicable) does not achieve the minimum standard on any assessment, we may allow you (or your nominee, if applicable) to re-sit the assessment.

- (d) We will not refund any amounts paid for the Training if you (or your nominee, if applicable) fails to complete the Training to our satisfaction (in our absolute discretion).

### 7 Participation Form

- (a) You must provide, and must ensure that your nominee (if applicable) provides, signed Participation Forms to us on the Commencement Date.
- (b) You must comply, and must ensure that your nominee (if applicable) complies, with the relevant sections of the Participation Form.
- (c) You agree that each of the statements in the relevant section of the Participation Form that you (or your nominee, if applicable) signs is true as at the Commencement Date and on each day that you (or your nominee, if applicable) participates in the Training.
- (d) If any of the statements in the relevant section of the Participation Form that you (or your nominee, if applicable) signs are untrue, or become untrue during the Training, you must tell us immediately, and we may not allow you (or your nominee, if applicable) to participate (or continue to participate) in the Training (in our absolute discretion).
- (e) You must, and must ensure that your nominee (if applicable), satisfy the Training prerequisites set out in the relevant section of the Participation Form prior to the Commencement Date. You (or your nominee, if applicable) must provide us with evidence (satisfactory to us, in our sole discretion) that you (or your nominee, if applicable) have satisfied the prerequisites on the Commencement Date.

## 8 Warranties

- (a) To the maximum extent permitted by Law, we provide no warranties, representations or guarantees in relation to the Training.
- (b) All warranties, guarantees, conditions and other terms (express, implied, statutory or otherwise) are excluded, or limited, to the fullest extent permitted by Law.

## 9 Limit of liability

- (a) Subject to clauses 9(b) and 9(c), our liability to you (including liability for consequential loss) in connection with the Training is completely excluded.
- (b) Subject to clause 9(c), if our liability to you in connection with the Training cannot be excluded in accordance with clause 9(a) due to the operation of any Law, our liability to you (including liability for consequential loss) is limited, at our option, to:
  - (i) re-performing the Training;
  - (ii) refunding your payments; or
  - (iii) paying you the cost of replacing the Training or acquiring equivalent training.
- (c) If our liability to you in connection with the Training cannot be limited in accordance with clause 9(a) or 9(b) due to the operation of any Law, our liability to you (including liability for consequential loss) is limited to the fullest extent permitted by Law.

## 10 Indemnity

To the maximum extent permitted by Law, you indemnify us and our officers, agents and employees against all Claims and Loss arising in connection with any act or omission by you in connection with your participation in the Training.

## 11 Consumer Rights

- (a) You may, in some circumstances, have rights as a consumer under the Australian Consumer Law and other Laws which cannot be excluded, modified or restricted (**Consumer Rights**). These rights may relate to conditions, warranties and guarantees in relation to the Training.
- (b) These Terms and Conditions (including clauses 3(b), 8, 9 and 10) do not exclude, restrict or modify any Consumer Rights that you may have.

## 12 Suspension

We may suspend or modify the performance of the whole or part of the Training as reasonably required to avoid the effects of circumstances beyond our control, including adverse weather conditions (in relation to In-Water Training) and instructor unavailability.

## 13 Cancellation

- (a) You (or your nominee, if applicable) may cancel the Training at any time by notifying us in writing.
- (b) If you (or your nominee, if applicable) cancel the Training at any time up to 3 weeks prior to the Commencement Date, we will refund any amounts you paid for the Training, excluding your deposit (or, if you did not pay a deposit, an amount equal to the cost of a deposit on the date that you paid for the Training).
- (c) If you (or your nominee, if applicable) cancel the Training after 3 weeks prior to the Commencement Date, we will not refund any amounts and you must pay for the Training in full.

## 14 Termination

- (a) We may terminate these Terms and Conditions at any time if:
  - (i) you commit a material breach of these Terms and Conditions;
  - (ii) you breach clause 4(a), 5(d) or 6; or
  - (iii) the Training involves theory or practical sessions and you (or your nominee, if applicable) fail to attend every session.

- (b) If we terminate these Terms and Conditions under clause 14(a), you will not be entitled to a refund of any amounts paid in relation to the Training.

- (c) We may terminate these Terms and Conditions at any time to avoid the effects of circumstances beyond our control, including adverse weather conditions (in relation to In-Water Training) and instructor unavailability.

- (d) If we terminate these Terms and Conditions under clause 14(c), we will refund your payments on a pro rata basis.

## 15 Intellectual Property

- (a) No Intellectual Property is transferred to you (or your nominee, if applicable) as a result of you (or your nominee, if applicable) purchasing or participating in the Training.
- (b) Any Intellectual Property that you (or your nominee, if applicable) create during the Training is owned by us, including (in relation to In-Water Training) any survey data that you (or your nominee, if applicable) collects or compiles.
- (c) In this clause 15, **Intellectual Property** means all intellectual and industrial property, whether registered or not, existing anywhere in the world including patents, designs, trade marks, plans, drawings, specifications, computations, files, copyright, trade secrets or confidential information.

## 16 Personal Information

We will use any personal information that you (or your nominee, if applicable) provides us in accordance with our privacy policy (as amended from time to time), which can be accessed at <http://www.reefcheckaustralia.org/privacy.html>.

## 17 General

- (a) (**Severance**) Any provision of these Terms and Conditions which is void, illegal or unenforceable in any jurisdiction does not affect the validity, legality or enforceability of that provision in any other jurisdiction or of the remaining provisions in that or any other jurisdiction.
- (b) (**Jurisdiction**) These Terms and Conditions are governed by the laws of Queensland, Australia. The parties submit to the non-exclusive jurisdiction of the courts of Queensland, Australia.
- (c) (**Notices**) If you (or your nominee, if applicable) want to contact us in relation to the Training, you can contact us by:
  - (i) phone, on 0402 284 681;
  - (ii) email, at support@reefcheckaustralia.org; or
  - (iii) post, at 9/10 Thomas Street, West End, Queensland 4105.