

TERMS AND CONDITIONS – SAILING SCHOOL



A WORKFORCE MARINE LEISURE GROUP COMPANY

BOOKING CONDITIONS – ADVENTURE COURSES 2021

The booking is not confirmed until we receive your payment. Refunds are not available. Postponement must be made by email and acknowledged by EastSail. Cancellation = loss of deposit / all monies paid. Postponement > 60 days prior to your booked course the deposit can be transferred to another course. 30-60 days incurs a 10% fee of the total cost and the balance will be transferred to another course. 30-0 days will incur a full loss of all monies paid unless a replacement booking is found, in this case there is a 10% fee and the balance held for another course, it may be possible to do a future course on standby. In the event that the course or yacht is unable to proceed due to unforeseen damage, lack of crew, or other events out of our control, EastSail has the right to change the scheduled itinerary or to cancel the course. In the event of a cancellation by EastSail, EastSail will however provide a pro rata refund. EastSail will not depart a safe haven in winds >30 knots, inshore sailing will be offered in these conditions. If you leave the yacht early for any reason no refund or replacement course is available.

INSURANCE: We recommend that you have adequate travel insurance in case of cancellation or postponement due to weather, illness, loss of personal items, injury, emergency evacuation, hospitalisation other scenarios out of our control. Private health insurance may cover medical evacuation by air. Please make your own enquiries regarding insurance. An example of a company specialising in this type of insurance is <https://www.topsailinsurance.com.au/>. EastSail will not be held responsible for costs associated with cancelled or postponed courses.

WAIVER OF LIABILITY

MEDICAL CONDITIONS: I warrant that I am physically fit and able to undertake the course and that I have not suffered from dizzy spells, blackout, seizure, convulsion or fainting.

RIGHTS OF A CONSUMER: Certain terms and rights may be implied by law into this contract for the supply of the Course for the benefit of the applicant. These terms and rights, and any liability of EastSail, are excluded, restricted or modified by the provisions of this contract.

WAIVER AND INDEMNITY: The applicant (itself and for its heirs, successors, executors, administrators, assigns, dependents and other personal representatives) irrevocably waives, releases from and agrees to indemnify and keep indemnified and hold harmless upon demand EastSail (hereafter including its servants, agents, officers, employees) and other students of any course or persons under EastSail's control (the "indemnified") against all losses, claims, causes of action, actions, costs, legal costs, expenses, fees, damages, fines and liabilities of any kind that may be suffered or incurred or taken or made by any person, including me, against EastSail howsoever arising out of or in connection with the Course, sailing in any craft Course or any activity carried on by the indemnified.

WARNING / SAILING DONE AT APPLICANT'S OWN RISK: The applicant acknowledges that sailing and any activity or service associated with the course is a recreational and/or sporting activity that involves a significant degree of physical exertion, danger and risk to the Applicant and other persons, including but not limited to the risk of temporary or permanent physical or mental harm, injury, disability, disease, death or the aggravation, acceleration or recurrence of any of the foregoing.

The applicant acknowledges that the enjoyment and excitement of adventure travel is derived in part from the inherent risks incurred by travel and activity beyond the accepted safety of life at home or work and that these inherent risks contribute to such enjoyment and excitement, being a reason for my participation. I agree that if I suffer injury or illness EastSail can, at my cost, arrange medical treatment and emergency evacuation service, as EastSail deem essential for my safety.

The applicant irrevocably acknowledges and accepts these risks and warrants that it engages in the Course solely and exclusively at its own risk at all times. The applicant acknowledges and agrees that sailing and the Course can be affected by weather conditions that may change without warning and that EastSail cannot control the weather and that there is an element of luck to the prevailing conditions in undertaking the Course. Serious accidents can happen and may result in the applicant suffering injury to person and/or property, or being killed. The applicant has voluntarily read and understood this warning and accepts the inherent risks in sailing.

EXCLUSION OF LIABILITY: EastSail hereby excludes any or all liability, whether direct or indirect or consequential or any loss of profits of any person, in respect of physical or mental injury, loss, disease, death, property loss or damage or third party liability howsoever arising out of or in connection with this agreement and/or the Course including, without limitation, any liability arising from any breach of any express condition, guarantee or warranty applicable to this agreement or implied by law, and whether caused or contributed to by the act, neglect, default, willful default, negligence, breach of contract or statutory enactment of EastSail. To the extent and to the extent only that any exclusion or limitation of liability for any breach of any express or implied condition, guarantee or warranty applicable to this agreement and/or the Course is held to be void or ineffective, in whole or part, the liability of EastSail is limited to the maximum extent permitted by law; in relation to goods, to the replacement of or supply of equivalent goods or the payment of the cost of the same and in the case of services, to the supply of the services again or the payment of the costs of the same, in EastSail's sole discretion.

ENTIRE AGREEMENT: This agreement constitutes the entire agreement between the parties in respect to the Course and supersedes all other agreements, understandings and representations and negotiations with the Course and the applicant warrants that in entering into this agreement and undertaking the Course, it has not relied upon any statement or representation made by or on behalf of EastSail that is not expressed in this agreement and has relied solely on its own enquiries and investigations in all other respects.

Severance: If any covenant or condition of this contract or the application of this person or circumstances shall be or become invalid or unenforceable the remaining conditions shall not be affected but shall be valid enforceable to the fullest extent permitted by law.

GOVERNING LAW: This contract is governed by the laws of NSW and the Courts of NSW have exclusive jurisdiction. Where the applicant seeks to commence proceedings against EastSail, the applicant will consent to an application for security of costs by EastSail and to pay EastSail's legal defence costs of the proceedings where EastSail successfully defends the proceedings.

I agree to be bound by the following terms and conditions which comprise a contract between me and EastSail and its officers, employees, instructors, skippers and representatives.

NAME: _____ SIGNATURE: _____ DATE: _____