

# **UNDUMERI EXPEDITIONS PTY LTD**

## **SXS TOURS TERMS & CONDITIONS**

### **ACKNOWLEDGEMENT OF THE RISKS OF VEHICLE & MEDICAL SECTION**

#### **VEHICLE OWNERS DETAILS**

NAME: \_\_\_\_\_

ADDRESS: \_\_\_\_\_

PHONE NUMBER: \_\_\_\_\_

VEHICLE REGISTRATION NUMBER \_\_\_\_\_

VEHICLE MAKE: \_\_\_\_\_

VEHICLE MODEL: \_\_\_\_\_

EMERGENCY CONTACT: \_\_\_\_\_

PHONE NUMBER: \_\_\_\_\_

FOOD OR OTHER ALLEGERS: \_\_\_\_\_

MEDICAL CONDITIONS: \_\_\_\_\_

#### **PASSENGER DETAILS**

NAME: \_\_\_\_\_

ADDRESS: \_\_\_\_\_

PHONE NUMBER: \_\_\_\_\_

EMERGENCY CONTACT: \_\_\_\_\_

PHONE NUMBER: \_\_\_\_\_

FOOD OR OTHER ALLEGERS: \_\_\_\_\_

MEDICAL CONDITIONS: \_\_\_\_\_

**\*\* PLEASE ATTACH COPIES OF BOTH THE DRIVER & PASSENGERS CURRENT DRIVERS LICENCES**

### **ACKNOWLEDGEMENT OF THE RISKS OF VEHICLE & MEDICAL SECTION**

**READ CAREFULLY BEFORE SIGNING TO ENSURE YOU AGREE. THIS IS A LEGAL DOCUMENT THAT AFFECTS YOUR RIGHTS. DO NOT SIGN IF YOU DO NOT UNDERSTAND ANYTHING IN THIS DOCUMENT, CONSULT A LAWYER BEFORE SIGNING IT. PLEASE REFER TO THE SAFETY INDUCTION AND RULES FOR PARTICIPANTS & RELEASE OF LIABILITY FOR SPECIFIC INSTRUCTIONS. ONCE YOU BOOK WITH US, THESE TERMS FORM A LEGALLY BINDING CONTRACT.**

#### **DECLARATION**

USE OF MOTOR VEHICLES AND SIDE BY SIDE BUGGY'S CAN BE DANGEROUS AND MAY INVOLVE INJURY OR DEATH.

I understand that it is my responsibility to ensure that I am fit and able to participate each and every time I operate a side by side or motor vehicle. I will not, at any time participate against medical advice. All participants who wish to partake in activities must act responsibly at all times on the tour. All participants must act in accordance with the safety guidelines and rules.

All participants must consider carefully the risks they undertake whenever they partake. It is recognised by all participants that there is an inherent risk in the use of motor vehicles, side x side buggy's and recreational activities. There may be accidents which result in the death, permanent disability or serious injury of other participants and/or spectators. All participants must appreciate that they partake in motor vehicle and recreational activities entirely at their own risk.

By endorsing this application, the participant confirms and agrees:

1. The answers given by both myself and my passenger in this application are true. I can read and understand English.
2. I fully understand the type of activities this acknowledgement allows me to take part in and the guidelines, regulations and rules that apply to such activities and to participants and will comply with them.
3. I will ensure that before I take part in any activity, I am competent and that any vehicle I use is safe and fit for participation and the nature of the terrain.
4. I will satisfy myself before taking part in any activity that Undumeri Expeditions is acceptable to me with regard to its features and physical layout and that I am satisfied that it is safe for me to take part.
5. I/we will not enter or take part in any activity where I have doubts as to my safety.
6. I/we will inform Undumeri Expeditions immediately in writing if, for any reason I believe that I am no longer able to satisfy the terms of this agreement or I become aware that I have become unable to participate due to a physical or other disability.
7. I/we understand that there is an inherent risk of injury or death by participating in motor vehicle activities. This includes injuries related to or resulting from pre-existing disabilities or medical conditions.
8. I am not taking drugs (prescribed or otherwise) or other medication nor do I have any medical condition, amputation / loss of limb or impaired vision that adversely affects my ability to participate safely or compromises the safety of others
9. I/we will read and abide by Undumeri Expeditions safety & rules, indemnity and Terms and conditions.
10. In the event I/we are involved in an accident on tour I will allow my personal details to be passed by a Undumeri Expeditions employee to the first aid providers. I also consent to first aid treatment to be given by Undumeri staff to the best of their abilities in the event of an emergency or accident.
11. I/we understand that the Balanggarra county is a wildlife reserve and a cattle property and that there are geographic dangers in these lands. It contains natural geographical hazards and other dangers, and that these have not had signs or warning notices erected on or near the hazards.
12. It is not possible to list all potential injuries or their possible causes. Injury may be unforeseen, accidental or preventable. Although it is uncommon, the injury may be extremely serious. Injury may be caused by failure to follow instructions, failure to wear protective equipment, carelessness, the negligence of co-participants, equipment failure or other causes.
13. I/we understand that any insurance cover effected for participants may not cover me/us of any or all injury, loss or damage sustained by me/us or any other participants.
14. I/we acknowledge that safety precautions undertaken by Undumeri Expeditions (such as supervision and safety briefings) are a service to me/us and other participants but are not a guarantee of safety.
15. I/we agree to obey any instructions given to myself/ourselves by Undumeri Expeditions employees.
16. I/we agree the any minor(s) under the age of 18 (eighteen) must have parent/guardian fully signed indemnity form and must be fully supervised at all times.
17. I/we understand and agree that I/we participate in the tour entirely at my own risk, that I must rely on my own ability in dealing with hazards, and that I /we must conduct ourselves in a manner that is safe for ourselves and all others throughout the duration of the tour.
18. I/we accept that if I am involved in an accident or near miss, it is my responsibility to advise the Undumeri Expeditions employee's of the accident or near miss and have the details recorded in an incident report.
19. I/we acknowledge that motor vehicle, recreational vehicle, personal accident and personal items insurance is my responsibility.
20. I/we accept that it is my/our responsibility to provide and use a suitable vehicle and safety wear. The Undumeri Expeditions organiser's decision is final as to whether the vehicle and safety apparel is suitable.
21. I/we accept that this agreement shall be effective and binding upon my heirs, next of kin, executors, administrators, assigns and representatives, in the event of my death/child's death or incapacity.
22. I/we accept that swimming can be dangerous and may involve injury or death. Salt water crocodiles inhabit most waters of the Balanggarra country. The terrain surrounding water holes may be inherently slippery causing injury.
23. I/we are solely responsible for keeping the side x side vehicle under control, selecting proper speeds and adhering to state laws, whether being lead by the Undumeri Expeditions side x Side leader or otherwise.
24. The Undumeri Expeditions Side x Side tour leader reserves the right to terminate a drivers's or passengers tour if he considers the driver/passenger is unsafe either to himself/herself or to others, or for offensive behaviour, and thereby forfeiting the balance of the tour.
25. I/we understands that off-road side by sides are petrol powered vehicles which can suddenly and violently accelerate, turn, overturn (especially on inclined surfaces and/or lose control depending on its operation, terrain and/or weather conditions).
26. I/we will conduct themselves with respect to camp grounds, stations, restaurants and bars visited whilst on a Undumeri Expeditions tour.

27. As we operate in harsh and isolated environments participants are expected to show common sense and should familiarise themselves with croc wise safety expectations.

### **MEDICAL DECLARATION**

I acknowledge that participation in the tour may be mentally and physically demanding. I am aware of the nature of the Tour and associated medial and physical risks involved.

If I have any medical condition/s, including allergies, which Undumeri Expeditions might need to be aware of, I undertake that I have provided details of these during my booking process.

You must acknowledge that there may be no, or inadequate facilities for treatment or transport of participants if participants are injured.

I accept full responsibility and liability for any medical expenses incurred as a result of participating in the tour.

In accepting these terms & conditions you are confirming that you will not participate, at any time, against medical advice. It is your responsibility to ensure you are fit and able to participate each and every time in Undumeri Expeditions activities. If the answer to any of the questions 1-16 below is yes – you should seek medical guidance before completing this application. If the answer to question 17 is yes - then please provide the information that you provided to the transport authority along with the name of your doctor.

1. Do you suffer from epilepsy, fits, blackouts or any other condition which may cause loss of consciousness
2. Do you suffer from any condition which might cause dizziness, vertigo or loss of balance
3. Have you ever been unconscious because of a head injury or suffered a concussion in the last 12 months
4. If you have suffered a concussive injury within the last month, you should seek medical advice before taking part in any activity on Undumeri Expeditions .
5. Do you suffer from any progressive neurological disorder such as multiple sclerosis or motor neurone disease
6. Have you ever suffered a stroke at any time
7. Do you suffer from loss of strength, loss of feeling, loss of control or loss of movement on any of your limbs, head or neck
8. Have you suffered an amputation of any of your limbs or parts of limbs
9. Do you have any artificial limbs
10. Have you ever had a surgical procedure for a heart condition (e.g. bypass, angioplasty, pacemaker fitted)
11. Have you been diagnosed with any kind of tumour or cancer
12. Do you suffer from any condition affecting the main arteries (e.g. bypass, graft, aortic aneurysm)
13. Have you been diagnosed with diabetes
14. Do you suffer from any psychiatric or emotional illness
15. Do you suffer from hypertension (high blood pressure)
16. Do you suffer from any condition or disease affecting your eyes or ears
17. Do you suffer from or are you engaged in alcohol, drug, or substance misuse
18. If you hold an Australian transport authority drivers licence (whether full or provisional) is there any reason for medical restrictions to be imposed upon it if in any doubt please contact Undumeri Expeditions before proceeding.

### **PARENTS(s)/ GUARDIANS(s) AGREEMENT FOR APPLICANTS AGED UNDER 18**

1. I have read this application and confirm the truth of the applicant's answers.
2. I confirm that the applicant is competent to participate in activities of the type to which relate to that of motor vehicles entered will be suitable, safe and will comply with the rules of Undumeri Expeditions.
3. I will ensure that the applicant complies with the declaration which they endorse and will satisfy myself as to the safety of their motor vehicle and the safety of Undumeri Expeditions before allowing them to take part.
4. I confirm that the applicant does not suffer from any physical, medical or other disability that would make it unsafe for them to partake as a participant or compromise the safety of others.
5. I accept that it is my responsibility to ensure that the applicant reads and understands the Undumeri Expeditions codes, policies, rules, regulations and final instructions subsequently issued and that the applicant will comply with them.
6. During Undumeri Expeditions tour activities entered into by the applicant, they will be accompanied by a parent / legal guardian.

7. I accept and agree that photographs may be taken for promotional purposes and may appear on the Undumeri Expeditions websites or in press releases and literature.
8. I have read and understood the 'acknowledgement of risk of motor vehicle use' above and I can confirm that the applicant and I are aware of the dangers inherent in motor vehicle use, which include the risk of death, permanent disablement or serious injury.
9. I confirm that the applicant will always have a parent/guardian with them at any location on the Undumeri Expeditions Tour.

## **TERMS & CONDITIONS**

### **1. GENERAL**

1.1 You warrant that:

- (A) You are at least 18 years old
- (B) You are legally capable of entering into binding contracts
- (C) You will abide by these Terms
- (D) All information supplied by you for the purpose of this booking is accurate, true and up to date.

### **2. DISCLAIMER**

2.1 You acknowledge and agree that although Undumeri Expeditions will use all reasonable efforts to ensure that the Tours are available, interruptions to the provision of advertised Tours may occur. We will not be liable of any reason an advertised Tour is or becomes unavailable at any time. We may also restrict access to some Tours, from time to time.

2.2 All Tours are provided "AS IS" and "AS AVAILABLE" basis.

2.3 You accept that Undumeri Expeditions reserve the right to amend the Tour or cancel the Tour due to health and safety reasons, including storm, rain, inclement weather, winds, fire or any other act of God conditions. I accept that my booking fee may be non-refundable in such circumstances.

2.4 We reserve the right to withdraw or amend or vary Tours, without notice.

### **3. ELECTRONIC COMMUNICATIONS CONSENT**

3.1 You consent to Undumeri Expeditions communicating with you electronically.

3.2 This consent and authority will apply to all communications permitted to take place electronically by law including, but not limited to, booking documents that we are required to give you in relation to any Tour you are booking with us. We rely on this consent to communicate to you by e-mail to the address you have notified to us.

3.3 You should note that paper documents may no longer be given and that electronic communications must be regularly checked.

3.4 Notwithstanding this consent, we may still decide to send you paper documents in certain circumstances including where electronic delivery is unavailable or we reasonably believe your email address is not receiving the emails we send.

3.5 You must withdraw your consent to receive further records electronically at any time by contacting us.

3.6 To access and retain the records we provide electronically to you, you must have a valid email address.

### **4. DIGITAL SIGNATURE**

4.1 By completing the booking process, you are deemed to have executed these Terms electronically, effective on the date you submit your booking to us. Doing so constitutes an acknowledgement and acceptance that you are able to electronically receive, download, and print these terms.

### **5. VEHICLE BREAKAGES**

5.1 You acknowledge that you are liable for the costs of repair or replacement arising from damage to your vehicle, side x side buggy on or after the tour.

5.2. You accept that Undumeri Expeditions is not responsible for the extraction of your buggy should it become mechanically un sound/ un drivable.

5.3 To recover a damaged side x side vehicle, costs involved to do so are payable by you the participate. This may include leaving the Side x side unattended in the location of the break down occurring. A helicopter flight to extract the affected participants may be required, these costs are not covered by Undumeri Expeditions Tours. Costs associated with returning to collect the damaged side by side at a later date will be the responsibility of the participant.

5.4 A barge fee of up to/but not limited to \$7,000 may be the only option to recover a damaged/mechanically unfit side x side.

5.5 The organisation of a side x side recovery will not take place until after the Tour completion.

## **6. BAGGAGE**

6.1 You will be required to bring a small duffle bag for clothes and toiletries and a sleeping bag.

6.2 Please see our list of items required to bring on the tour.

## **7. TERRAIN**

7.1 The participant must acknowledge that any road whether sealed or unsealed, or any other venue upon which you travel, may have muddy, sandy or rocky surfaces with defects either hidden or exposed as is the nature of some roads.

7.2 You must acknowledge that the way other people may ride, drive or act is outside the control of Undumeri Expeditions.

## **8. TOUR PACKAGE INCLUSIONS**

8.1 The following items are included in our tour package: accommodation/camping and meals on tour, trail side snacks, camping gear and beds, permits and park fees, qualified Guides and support vehicles.

8.2 JOTH Side x Side packages **do not include**: alcoholic beverages, fuel, optional tours and sightseeing excursions, gratuities, travel insurance and insurance coverage for injury to the rider.

8.3 You are solely responsible for exclusions some of which may be mandatory for the tour.

8.4 If an exclusion is mandatory for you to obtain or have as part of the Tour and you do not have that exclusion at the commencement of the Tour, we reserve the right to treat this as a no-show and no refund will be given.

## **9. TOUR BOOKING & PAYMENT**

9.1 For the tour a \$2,500 non-refundable deposit is required to confirm your booking. This deposit secures your place on the tour only, it does not secure the price of the tour if there is a change in the tour price.

The final balance payment is due 12 weeks prior to your tour departure date.

**If you use a credit card to make payments with us, you will need to pay a fee of 2% which we will add at the payment stage.**

9.2 To be able to book a Tour or use a Tour:

(A) You must hold an open licence in the English language

(B) Your licence must not be the subject of an order by a court or government agency preventing you or limiting you to driving a vehicle.

(C) You must provide additional evidence of identification on request by us.

9.3 Undumeri Expeditions is not liable for any loss resulting from an event where payment is facilitated through a third party payment gateway due to any error on the part of the payment gateway provider or outside the control of any party.

9.4 You must pay the balance of the booking for the tour at least 6 weeks prior before the commencement date of the tour. Failure to have your trip entirely paid when required by this clause may result in additional charges and fees or your tour being treated as cancelled with the appropriate cancellation charges applying.

9.5 All pricing is in Australian dollars unless otherwise specified.

9.6 our obligation to accept the booking of a tour is subject to and conditional upon successful receipt of the associated payments from you. We will not be liable to you for amounts that have not been successfully received by us from you or the amounts that are received by us but are subsequently the subject of a chargeback or other payment reversal.

9.7 You are liable to pay all GST and taxes payable to the purchase of a tour.

9.8 The participant shall not engage<sup>3</sup> in any form of payment fraud including but not limited to fraud by use of payment methods such as credit card, debit card, PayPal, Apple Pay and Android pay. If we have reason to believe that you are in breach of this term of the agreement, we may notify the relevant authorities.

9.10 It is the participants responsibility to contact Undumeri Expeditions via phone call to verbally confirm the Bank BSSB and Account number before any payments are made. This is to avoid fraudulent scams via email or other means.

## **10. CANCELLATION POLICY**

10.1 We know unforeseen circumstance can happen, cancellations will be handled on a case by case basis. Please call to discuss. For this reason we strongly recommend travel insurance.

10.2 Cancelling after booking confirmation, but prior to your final payment, your \$2,500 deposit is non-refundable.

If canceling after final payment has been received:

- More than 84 days prior to departure date – 75% is refunded.
- **Less than 30 days prior to departure date – No refund.**
- **Leaving during tour - No refund**

## **11. UNUSED TOUR SECTORS**

If a participant fails to join a tour or leaves prior to completion, no refunds can be made. No refunds will be made in respect of any part of the tour that are not used or undertaken.

## **12. SEVERABILITY**

If any court decides that any of the provisions of these Terms are invalid, unlawful or unenforceable to any extent, that extent only, be severed from the remaining terms. The rest of these terms will continue to be valid.

## **13. WARNING UNDER THE COMPETITIONS & CONSUMER LAW**

13.1 Under Australian Consumer Law several statutory guarantees apply to the supply of certain goods and services. These guarantees mean that the supplier is required to ensure that the recreational services it supplies you:

- \* Are rendered with due care and skill; and
- \* Are reasonably fit for any purpose which you either expressly or by implication make known to the supplier; and
- \* Might reasonably be expected to achieve any result you have made known to the supplier.

13.2 Under section 64A of the Australian Competitions and Consumer Law, Undumeri Expeditions is entitled to ask you to agree that these statutory guarantees do not apply to you. If you agree to this you will be agreeing that your rights to sue Undumeri Expeditions under the Australian Competition and Consumer Law if you are killed or injured because the services provided were not in accordance with these guarantees, are excluded, restricted or modified in the way set out in this document.

13.3 **NOTE:** the change to your rights as set out in this form, does not apply if your death or injury is due to gross negligence on Undumeri Expeditions part. Gross negligence, in relation to an act or omission, means doing the act or omitting to do an act with reckless disregard, with or without consciousness, for the consequences of that act or omission.

## **14. RELEASE OF LIABILITY, WAIVER OF CLAIMS AND INDEMNITY AGREEMENT**

14.1 To the fullest extent permitted at law, you waive, release and discharge Undumeri Expeditions and its Representatives from and against any and all Claims or Liabilities which you have, or may at any time have, arising out of or in relation to driving or the Activities. This waiver, release and discharge extends to all acts, omissions, defaults, failures or errors on the part of all or any of Undumeri Expeditions or its Representatives;

14.2 you agree to indemnify, and keep indemnified, Undumeri Expeditions and its Representatives from and against any Claims and Liabilities, whether direct or indirect, arising out of or in relation to:

1. you being on the Premises;
2. you observing or participating in the Activities (whether on the Premises or elsewhere); and
3. your acts or omissions while on the Premises or observing or participating in the Activities;

14.3 You covenant not to sue or commence any proceedings against any of Undumeri Expeditions or its Representatives in respect of any loss or damage arising out of or relating to any loss, damage, injury or illness you may sustain (whether to you personally or to any of your property) which occurs on the Premises or in any way relates to the Activities;

14.4 To hold harmless and indemnify Undumeri Expeditions from any and all liability for any property damage or personal injury to any third party resulting from my participation in driving and activities.

14.5 In the event of personal injury, death or property loss or damage, I/we shall indemnify, release and discharge the company, it's directors, employees, representatives, shareholders and volunteers from and against any and all such contract, bailment or other action made against the company, it's Directors, employees, shareholders and volunteers.

14.6 I/we shall participate in the Tour entirely at my/our own risk and I/we shall exclude the company, it's directors, employees and shareholders from all and any liability including tortious liability and shall not institute any legal proceedings founded in negligence, breach of statutory duty, breach of contract, bailment or other action against or made on the company, it's Directors, employees, representatives, volunteers and shareholders for any personal injuries, loss of life, loss or damage to property, failure or breakage of motor vehicles or machines which may occur on the tour.

14.7 Warning: The Event, in addition to usual dangers and risks inherent, has certain additional dangers and risks, some of which include:

- rugged terrain and wilderness;
- physical exertion for which I may not be prepared;
- weather extremes subject to sudden and unexpected change;
- remoteness to normal medical services; and
- evacuation difficulties.

I acknowledge that I will be participating in activities that potentially carry the risk of harm of personal injury or death. My presence at and participation in this Event will be entirely at my own risk.

14.8 Exclusion of Liability: I acknowledge that where I am a consumer of recreational services, as defined by any relevant law, certain terms and rights usually implied into a contract for the supply of goods or services may be excluded. I acknowledge that these implied terms and rights and any liability of the Provider flowing from them, are expressly excluded to the extent possible by law, by this declaration.

14.9 Rescue, First Aid & Medical Treatment: I consent to receiving any rescue assistance, first aid and medical treatment that the Provider or authorised representatives consider necessary or desirable during the Event. I will accept the assistance, first aid and/ or medical treatment from the Provider or authorised representatives. I agree to reimburse the Provider for any costs or expenses incurred by it in providing me with rescue assistance, first aid or medical treatment, including evacuation. I consent to the hospital/ doctor report(s) relating to any medical attention received being given to the Provider.

15 Right to use image: I acknowledge and consent to photographs and electronic images being taken of me during my participation in the Event. I acknowledge that such photographs and images are owned by the Provider and they may use the photographs for promotional or other purposes without my further consent being obtained. Further, I consent to the Provider using my name, statements or otherwise at any time by any form of media, without payment or compensation.

15.1 Prevailing conditions: I acknowledge and agree that the Event can and will be affected by the weather and that the weather conditions may change without warning. I understand that the Provider may need to cancel, halt, delay or re-route the Event in response to hazards including extremes of weather, fire, flood or path instability.

Where possible the Provider will attempt to preserve the nature of the Event. I accept that if the Event is cancelled for any reason whatever, my fees may not be refunded.

15.2 In no event shall we be liable for any indirect, punitive, special, incidental or consequential damage (including loss of business, revenue, profits, use, privacy, data, goodwill or other economic advantage) however it arises, whether for breach of contract or in tort, even if it has been previously advised of the possibility of such damage.

15.3 We reserve the right, in our sole discretion, to change, modify, add or remove any part of these terms, in whole or in part, at any time.

15.4. It is you sole responsibility to periodically check these Terms for any changes.

15.5 We may assign or sublicense any of our rights or obligations under these Terms at any time, without obtaining your consent.

I have provided the information required. In voluntarily ticking this box, I covenant and warrant that (a) all information provided is true and correct; and (b) I have read, understood, acknowledge and agree to the above declaration including but not only the warning, exclusion of liability, release and indemnity.

☐

\_\_\_\_\_

Print Participate Name

\_\_\_\_\_

\_\_\_\_\_/\_\_\_\_\_/\_\_\_\_\_

Participate Signature

Date