

Whyalla Diving Services Terms and Conditions

April 2021



Please read the following terms and conditions prior to booking your tour.

WHYALLA DIVING SERVICES CONFIRMATIONS AND CANCELLATIONS

Whyalla Diving Services reserves the right at any time to cancel any trip we offer due to a variety of reasons, including, but not limited to not meeting minimum numbers, bad sea conditions, and unforeseen disruptions.

If we cancel the tour, you will be asked how to proceed. We can place your booking on hold for another time, you can reschedule the trip at the time of cancellation or provide a full refund (Unfortunately we are forced to charge a \$10 service fee due to fees incurring with involved financial institutions.). We will inform you about the status of your tour the day before your tour starts at 4pm per email.

We understand that some of our customers may be travelling, with transport and accommodation costs in addition to the tour. Please note we will not be responsible for paying costs or expenses you may incur because of change of time or cancellation.

CANCELLATIONS, NO-SHOWS, NON-COMPLETE TOUR, MINIMUM NUMBERS

A cancellation made less than 48 hours prior to departure incurs a 100% cancellation fee. NO REFUNDS. However, your tour booking is transferable to another person and the new passenger can simply change the name on the booking at check in – please call us to let us know. Any cancellation before 48 hours is possible no questions asked but stipulate a \$10 financial institution service fee.

NO-SHOWS

Failure to turn up for your tour at the time stipulated incurs a 100% cancellation fee. NO REFUNDS.

INABILITY TO COMPLETE THE TOUR

If you find yourself unable to participate during the tour our crew will look after you and ensure you are comfortable and safe. However, as this is not something in our control, we will not issue any re bookings or refunds for being nonparticipation.

This tour is an active and relatively strenuous physical activity. There are no refunds if you cannot complete the tour for any reason that prevents an individual from participating fully.

MINIMUM NUMBERS

Trips are subject to meeting minimum numbers to run our trips and may be cancelled or have schedule changes for this reason. If we must cancel a trip due to not meeting minimum numbers, we will either rebook or refund you for this (minus a service fee of \$10).

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SEA CONDITIONS, WEATHER

Much of the confirmation of your trip will be dependent on the wind direction and occasional swell occurrence. We will monitor this closely and if the conditions are deemed unsuitable*, we will let you know at 4pm the day before departure. We will not cancel the trip based on the rain or cloud cover.

**Please note that if we must cancel a tour due to poor sea conditions, it is for your safety.*

MEDICAL QUESTIONS and DIVE/SNORKEL TOUR WAIVER

If you have any pre-existing medical conditions, are taking prescription medication, are suffering from any injury or illness you may be unable to participate in the program. You must affirm that you are not currently suffering from a cold or congestion or have an ear infection. You must affirm that you do not have a history of seizures, dizziness or fainting, or a history of heart condition (e.g. cardiovascular disease, angina, heart attack) or a history of respiratory problems, such as emphysema or tuberculosis. You must affirm that you are not currently taking medication that carries a warning about any impairment of your physical or mental abilities. Some medical conditions may preclude a person from diving/ snorkelling or need a medical declaration signed by a doctor. If in doubt, please contact us prior your tour.

Medicals are mandatory for all Scuba diving tours including Try Scuba Diving.

Before commencing any activities, we will require all customers to complete our liability forms. All information provided must be strictly accurate.

We are informing you that snorkelling/diving has inherent risks which may result in serious injury or death.

Neither your guide(s)/instructor(s), nor the Whyalla Diving Services through which this program is offered may be held liable or responsible in any way for any injury, death or other damages to you, your family, estate, heirs or assigns that may occur as a result of your participation in this program or as a result of the negligence of any party, including the Released Parties, whether passive or active.

You must understand the terms in your waiver are contractual and not a mere recital, and that you have signed this agreement of your own free act and with the knowledge that you hereby agree to waive your legal rights.

If during the tour it becomes apparent that a form has been filled in incorrectly, by omission or false statement, we reserve the right to prevent any customer from undertaking any scuba diving / snorkelling activities. Any decision made in this regard will be at the absolute discretion of the Dive Guide.

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You must not participate in scuba diving or snorkelling whilst under the influence of alcohol or any drugs. We shall have no liability to any customer should they participate in diving or snorkelling whilst under the influence of alcohol or any drugs. We may refuse entry to the water in the event we have reasonable grounds to expect a customer has consumed alcohol or drugs within a timeframe that could, in any way, affect their ability to scuba dive/snorkel safely. Any decision made in this regard will be at the absolute discretion of the tour guide.

Guests must be able to swim competently (except if you book a snorkel tour for non-swimmers) in the open ocean and should be aware that the tours can be a relatively physically demanding activity. You must understand that if you are injured as a result of heart attack, panic, hyperventilation, drowning or any other cause, that you expressly assume the risk of said injuries and that you will not hold the Released Parties responsible for the same.

If you are pregnant, we unfortunately cannot take you on this tour except if you have the express written permission of your medical professional.

You must further state that you are of lawful age and legally competent to sign this liability release, or that you have acquired the written consent of your parent or guardian.

Children under 15 years old must be always accompanied by an adult.

All guests MUST ALWAYS follow staff instructions which includes listening to all briefings.

SCUBA DIVING

We require all Certified Divers to present a valid Certification Card. Failure to show a Certification Card may result in the customer not being able to dive on the tour. This includes but is not limited to dive equipment that varies from standard and any speciality cards Nitrox.

Our tours are subject to the risks and perils of scuba diving in changeable conditions in an open water environment. We reserve the right, for our customer's safety and/ or the safety of our crew or other scuba divers, to prevent any customer's participation in scuba diving if they are deemed physically or medically unfit to do so or in our sole discretion.

No compensation is offered if you should be unable to complete all offered dives.

We strongly recommend a wait of 24 hours before flying after diving.

We strongly recommend that all customers also purchase Evacuation and Medical cover for scuba diving. It is important to note that in the event a customer requires medical emergency services the expenses are at the financial responsibility of the

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customer. Divers Alert Network (DAN) www.diversalertnetwork.org offer comprehensive insurance packages specifically for scuba divers.

WHAT TO BRING

Please wear your swimmers when meeting us at the dive shop. You will be given all the necessary equipment (Kindly check in your booking options – most of our tour bookings have equipment included. If you choose a guide-only option, you can hire equipment at additional cost. Please refer to price list.)

Please remember to bring a towel, and change of warm clothes for the time when you leave the water. Please ensure you have your personal medications with you (e.g., asthmatics, heart disease, anaphylaxis, etc).

HIRE GEAR

If any equipment is left in a damaged state or lost, the same shall be replaced or repaired at Whyalla Diving Services sole discretion. Whenever repairs or replacement is required the amount charged shall be the replacement cost of the unit at cost price or repair cost.

All equipment is to be inspected by the hirer prior to leaving the dive shop for correct function and serviceability. Once equipment leaves the dive shop it is considered hired and no refunds are applicable.

Please note that no refund will be issued for any activities not completed or equipment not used (including dive cylinders).

By using this website, you signify your acceptance of these terms and conditions of use. For the purposes of these Terms and Conditions, “Us”, “Our” and “We” refers to Whyalla Diving Services and our website whyalladivingservices.com.au, while, “You” and “Your” refers to you, the client, visitor, website user or person using our website.

GIFT VOUCHERS

All Whyalla Diving Services gift vouchers are non-refundable. Vouchers do not expire but cannot be redeemed for cash. The voucher can be transferred to another person or used for any goods and/or services at Whyalla Diving Services.

All charter and course cancellation policies apply as usual. All Whyalla Diving Services gift vouchers are just worth that dollar value and can be used for any other goods/service provided by Whyalla Diving Services. As such, if a product price has changed and if the owner wants to use it for the assigned product, they will have to pay the difference.

AMENDMENT OF TERMS

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We reserve the right to change, modify, add or remove portions of these terms at any time. Please check these terms regularly prior to using our website to ensure you are aware of any changes. We will endeavor to highlight any significant or substantive changes to you where possible. If you choose to use our website, then we will regard that use as conclusive evidence of your agreement and acceptance that these terms govern your and Whyalla Diving Services rights and obligations to each other.

LIMITATION OF LIABILITY

It is an essential pre-condition to you using our website that you agree and accept that Whyalla Diving Services is not legally responsible for any loss or damage you might suffer related to your use of our website, whether from errors or from omissions in our documents or information, any goods or services we may offer or from any other use of the website. This includes your use or reliance on any third party content, links, comments or advertisements. Your use of, or reliance on, any information or materials on this website is entirely at your own risk, for which we shall not be liable.

It shall be your own responsibility to ensure that any products, services or information available through this website meet your specific, personal requirements. You acknowledge that such information and materials may contain inaccuracies or errors and we expressly exclude liability for any such inaccuracies or errors to the fullest extent permitted by law.

LINKS TO OTHER WEBSITES

Whyalla Diving Services may from time to time provide on its website, links to other websites, advertisements and information on those websites for your convenience. This does not necessarily imply sponsorship, endorsement, or approval or arrangement between Whyalla Diving Services and the owners of those websites and Whyalla Diving Services takes no responsibility for any of the content found on the linked websites.

Whyalla Diving Services website may contain information or advertisements provided by third parties for which Whyalla Diving Services accepts no responsibility whatsoever for any information or advice provided to you directly by third parties. We are making a 'recommendation' only and are not providing any advice nor do we take any responsibility for any advice received in this regard.

DISCLAIMER

To the fullest extent permitted by law, Whyalla Diving Services absolutely disclaims all warranties, expressed or implied, including, but not limited to, implied warranties of merchantability and fitness for any particular purpose. Whyalla Diving Services gives no warranty that the documents, goods or services will be free of errors, or that defects will be corrected, or that our website or its server is free of viruses or any other harmful components.

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Whilst we, at all times endeavour to have the most accurate, reliable and up-to-date information on our website, we do not warrant or make any representations regarding the use or the result of the use of any document, product, service, link or information in its website or as to their correctness, suitability, accuracy, reliability, or otherwise.

It is your sole responsibility and not the responsibility of Whyalla Diving Services to bear any entire costs of servicing, repairs, or correction. The applicable law in your state or territory may not permit these exclusions, particularly the exclusions of some implied warranties. Some of the above may not apply to you but you must ensure you are aware of any risk you may be taking by using this website or any products or services that may be offered through it. It is your responsibility to do so.

YOUR PRIVACY

At Whyalla Diving Services, we are committed to protecting your privacy. We use the information we collect about you to maximize the services that we provide to you. We respect the privacy and confidentiality of the information provided by you and adheres to the Australian Privacy Principles. Please read our separate Privacy Policy carefully.

The participant acknowledges and gives consent for Whyalla Diving Services by itself or through an agent to take photographs, audio or video recordings, or other forms of recordings that capture the passenger's image, likeness, voice, performance, or all of these ("Images") during the course of this activity / tour.

Whyalla Diving Services may use Images for marketing and promoting its services. The ways in which the Images will be used for marketing purposes include, but are not limited to, incorporating the Images in print, broadcast, internet media, direct marketing channels, downloadable content and applications, and all other media, platform or technology now known or to be developed for distribution around the world. The Images may be altered, modified, changed, combined or incorporated into other works. The images may be published internationally within printed brochures or websites, and hosted in data centres outside of Australia.

THIRD PARTIES

Whyalla Diving Services does not and will not sell or deal in personal or customer information. We may however use in a general sense without any reference to your name, your information to create marketing statistics, identify user demands and to assist it in meeting customer needs generally. In addition, we may use the information that you provide to improve its website and its services but not for any other use.

DISCLOSE YOUR INFORMATION

Whyalla Diving Services may be required, in certain circumstances, to disclose information in good faith and where Whyalla Diving Services is required to do so in

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the following circumstances: by law or by any court; to enforce the terms of any of our customer agreements; or to protect the rights, property or safety of our customers or third parties.

WHOLE AGREEMENT

These terms and conditions represent the whole agreement between you and Whyalla Diving Services concerning your use and access to Whyalla Diving Services website and your use and access to the documents and information on it. No other term is to be included in this agreement except where it is required to be included by any legislation of the Commonwealth or any State or Territory. All implied terms except those implied by statute and which cannot be expressly excluded are hereby expressly excluded.

EXCLUSION OF UNENFORCEABLE TERMS

Where any clause or term above would by any applicable statute be illegal, void, or unenforceable in any State or Territory then such a clause shall not apply in that State or Territory and shall be deemed never to have been included in these terms and conditions in that State or Territory. Such a clause if legal and enforceable in any other State or Territory shall continue to be fully enforceable and part of this agreement in those other States and Territories. The deemed exclusion of any term pursuant to this paragraph shall not affect or modify the full enforceability and construction of the other clauses of these terms and conditions.

JURISDICTION

This agreement and this website are subject to the laws of South Australia and Australia. If there is a dispute between you and Whyalla Diving Services that results in litigation, then you must submit to the jurisdiction of the courts of South Australia.

PRIVACY POLICY

Whyalla Diving Services is committed to providing quality services to you and this policy outlines our ongoing obligations to you in respect of how we manage your Personal Information.

We have adopted the Australian Privacy Principles (APPs) contained in the Privacy Act 1988 (Cth) (the Privacy Act). The APPs govern the way in which we collect, use, disclose, store, secure and dispose of your Personal Information.

A copy of the Australian Privacy Principles may be obtained from the website of The Office of the Australian Information Commissioner at www.aoic.gov.au

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Whyalla, 27th April 2021