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BROOME, ROTTNEST & MANDURAH CRUISES TERMS & CONDITIONS

For the purpose of this agreement, and unless stated otherwise,

The Company shall mean Quay Ventures Pty Ltd, t/a Mandurah Cruises, Rottnest Cruises Broome Cruises, and any related corporations of it providing goods or services to the customer, and any person acting with due authority of the Company.

The Customer shall mean the person or persons procuring services from the Company.

Services shall mean any cruise, function, event or activity occurring on the Company's assets.

Unless caused by gross negligence or wilful misconduct, the Company and/or its owners and operators do not accept any responsibility whether in tort contract or otherwise for injury to, or death of, any of its passengers whether during a cruise, boarding or disembarking or on the ferry terminal boarding jetties or any other jetties or wharves used whilst passengers are on board, boarding or disembarking.

Further no liability, either expressed or implied, will be accepted for the loss of damage of luggage or other personal items.

If any term or condition contained herein shall be rendered null or void by the trade Practices Act 1974 as amended ('the Act'), this contract shall take effect as if any such term or condition be void but only to the extent that the same is inconsistent with the Act.

The Company reserves the right to alter future schedules and prices, or substitute one vessel with another if considered necessary, at any time.

The Company reserve the right to refuse Services if it is deemed that a Customer is intoxicated, abusive or threatening any of the Company's employees, contractors or passengers. No refund shall apply in this case.

If the Customer disregards any directions given by the Company's employees or contractors, it may result in being removed from the vessel or premises. No refund shall apply in this case.

In respect to any cancellation of any Service, the Company will endeavour to re-schedule the cruise within 12 months of the date that was cancelled.

All prices are in Australian dollars (AUD) and include GST (Goods and services tax).

Payment and Cancellation Policy for bookable Services, excluding Christmas Lights Services:

This section refers to all publicly bookable Services, excluding any Christmas Lights Services.

The Company needs to take payment from the Customer at the time of booking to secure the Services otherwise the Services shall be considered tentative only and subject to cancellation or amendment at the Company's discretion with no notice to the Customer.

The Company's policies allow for the fact that life can change, but also reflects the fact that the Company may lose the opportunity to sell seats or incur costs cancellation or amendment of Services are requested.

Should the Customer cancel or amend their booking for any reason, any card administration fees incurred by the Company shall be retained from any refund and shall not be included in the amounts referred to below.

Any amendments or cancellations up to 14 days prior to the departure date shall be refunded in full.

From 14 days to 72 hours prior to the departure date, 50% ticket price will be refunded

Cancellations or amendments from 72 hours onwards, or failure to attend will be charged 100% ticket price

The Company may make reasonable endeavours to re-schedule the Services if this is requested and reasonably possible. However, the Company shall be under no obligation to re-schedule the Services.

If the Company agrees to reschedule the Services from 72 hours prior to start of the day of departure, and catering has been provided, the catering cost advised for that cruise will be charged, plus an administration fee of \$10, which covers the staff cost of fulfilling catering orders related to those Services.

CHRISTMAS LIGHTS SERVICES

Owing to high demand all payment must be made in full at booking time. There are no refunds available on any Christmas Lights Services, however the Company will make reasonable endeavours to re-schedule the Christmas Lights services if this is possible.

DEPOSITS

Full payment is required at the time of booking of Services. If the Company agrees because the booking is material enough, a 20% non-refundable part payment ("Deposit") is due at the time of booking.

If a Deposit is taken, full payment is due 30 days prior to departure, unless the Company agrees otherwise with the Customer. If this is not received by the time agreed, the Company may cancel the booking and retain the Deposit.

Payment and Cancellation Policy for privately hired Services, including privately hired Christmas Lights Services

Full payment is required at the time of booking of all private hire Services. If the Company agrees, a Deposit is due at the time of booking.

Should the Customer cancel their booking, card administration fees will be retained by the Company.

If a Deposit is taken, full payment is due 30 days prior to departure, unless the Company notifies the Customer otherwise. If this is not received, the Company may cancel the booking.

Should the Customer cancel or amend their booking for any reason, any card administration fees incurred by the Company shall be retained from any refund.

If the Customer wishes Cancellation this must be put in writing and forwarded to the Company, (a "Cancellation Notice").

In the event a Cancellation Notice is received by the Company within 30 days prior to the departure date, the Company reserves the right to charge 50% of the agreed rate for those Services.

If a Cancellation Notice is received within 14 days prior to the day of the departure the Company will charge 100% of the agreed rate plus any other expense already incurred or committed to.

For privately hired Christmas Lights Services, non-refundable payment in full must be made by November 1st prior to the Christmas Lights cruises starting.

Group Discounts

If the group is significant enough to have received a discretionary discount, and passenger numbers drop below the required numbers, the Company reserves the right to increase the price to the rate applicable to the number of people travelling.

Cancellation or Re-Scheduling by the Company

In the event of a cancellation by the Company of any Services due to inclement weather or any force majeure event, the Company will endeavour to re-schedule the cruise or a full refund will be offered if the Customer is unable to reschedule.

Companion Card

Companion Card holders plus their companions are accepted on the Company's Dolphin and Scenic Marine Cruises. Where food or drink components of a cruise are included, the companion is required to pay for this.

Photography

The Company's photographers may be present on Services and may take images which may be used in marketing material. The Customer can opt out of being included in these images.

Privacy Policy

The Company will only use any personal data collected during the booking process in accordance with the National Privacy Principles established under the Privacy Act 1988 (Cwlth) and the Company's Privacy Policy. The information provided by the Customer during the booking process ("Personal Information") and any other information sent to the Company by the Customer or otherwise obtained by the Company about the Customer is only used for the purposes of fulfilling requests for our products; providing a personalised service and highlighting new Services; maintaining accounts and records; statistical analysis and conducting market research surveys; assessing and evaluating the use that is being made of the Company's website. The Company's website uses cookies for collecting user information and the data collected in this way may be processed in the same way as other data submitted as outlined above and for the same purposes. If the Customer do not wish their Personal Information to be handled in this way, they may cancel the booking process. Credit card details are not viewable to the Company or any other parties. The Company may amend this Privacy Policy from time to time.

MANDURAH WATERBIKES - TERMS & CONDITIONS & HIRE AGREEMENT

INTERPRETATION

For the purpose of this agreement, and unless stated otherwise,

The **Company** shall mean **Quay Ventures Pty Ltd**, t/a Mandurah Waterbikes, Mandurah Cruises, Eco BBQ Boats, Rottnest Cruises and any related corporations of it providing goods or services to the Hirer and any person acting with due authority of the Company.

Hirer shall mean the person or persons named in the documentation for this agreement as the Hirer and any person signing or initialing this agreement (other than on behalf of the Company).

Group Members shall be people within the Hirer's group who may hire Waterbikes. the Hirer shall ensure their adherence to the terms of this agreement.

Price shall mean the cost of the rental as agreed between the Company and the Hirer subject to the other terms of this agreement.

Services shall mean all Services supplied by the Company to the Hirer.

A reference to a **Waterbike** includes:

the Waterbike;

a reference to multiple Waterbikes and other similar or related equipment;

a reference to a proposed Waterbike which has been booked or provided (even in the absence of a signed agreement);

No rule of construction applies to the disadvantage of the party preparing the document on the basis that it put forward this document or any part of it.

Time is of the essence except where specific provision is made or the contrary intention appears.

A reference to a person includes the person's heirs, executors, administrators, successors, substitutes and assigns and this document is intended to be binding upon such persons.

The singular includes the plural and vice versa and words importing a gender include other genders.

Other grammatical forms of defined words and expressions have corresponding meanings.

An agreement, covenant, representation, warranty or indemnity in favour of two or more persons is for the benefit of them jointly and severally.

An agreement, covenant, representation, warranty or indemnity made by two or more persons is made by them jointly and severally

Headings are for ease of reference only and do not affect the construction of this agreement.

The terms appearing on the company's document entitled "Waterbike Hire Agreement" apply and supersede the terms herein to the extent of any inconsistency.

Where the context admits, the provisions of this document extend beyond any termination.

TERMS OF AGREEMENT

Any further performance of this agreement after receipt of these terms and any subsequent or other offers or agreements between the Hirer and the Company for the supply of a Waterbike or of equipment, shall be on the terms and conditions contained herein unless otherwise agreed (including any terms on any part of this agreement entitled).

Where the Hirer constitutes more than one person, the Hirer shall be jointly and severally liable for all amounts payable by the Hirer to the Company in connection with this agreement.

The terms of this Agreement may not be altered except in writing. The Hirer acknowledges that the Company's personnel and agents are not authorised to vary this agreement except in writing.

Any variation to this agreement extending the period of the rental shall, unless otherwise agreed, be on the basis of the Company's prevailing rates applicable for the rental as at the date of variation.

Except where required by mandatory operation of law, the Company shall not be liable to the Hirer or any other person for any personal injury, indirect, special or consequential loss or damage (including without limitation loss of profits, loss of opportunity or business interruption) suffered by the Hirer or any other person howsoever caused (including by negligence where allowed by law) by the Waterbike or the use thereof or any delay or non-performance and the Hirer does hereby waive and release the Company from any action, claim, loss or right which the Hirer may now or in the future have against the Company or its officers, agents, contractors and employees arising in connection with the Waterbike in any way whatsoever.

FEES AND PRICES

The Hirer agrees to pay the hire fee to the Company online through the booking system before the hire of the Waterbike, or as otherwise demanded or required by the Company.

In common with car hire companies, or hotels, the Company's online credit card payment system provider will securely retain the Hirer's card details for a short period and the Company may charge these details in the event this agreement is breached. These card details will otherwise be destroyed in accordance with the payment provider's protocols.

If the Hirer leaves the location identified by the Company as the operating location for the Waterbike, which is set for the safety of customers, and explained at the start of the Hire, a penalty of \$500 will be charged.

If the Waterbike is returned late, a penalty fee of \$50 per 15 minutes per Waterbike will be charged.

If the Waterbike is damaged during the hire, the Hirer shall be liable for up to \$500 charge, per Waterbike damaged, as a reasonable pre-estimate of repairs. Invoices for actual costs will be made available for the Hirer's inspection and should actual repair costs be less expensive, the difference shall be refunded to the Hirer.

If the Hirer does not return the Waterbike by the time agreed with the Company then the Company may report the Waterbike as stolen to the police; and the Hirer will compensate the Company in accordance with any loss suffered by the Company (including purchasing replacement equipment and/ or any reasonable additional costs the Company incurs in recovering the Waterbike).

If the Hirer breaches this agreement and the breach has caused the downtime of the Waterbike, the Hirer will be liable to pay a per day loss of revenues based on the actual downtime of the Waterbike, or a reasonable estimate of that downtime.

The Hire Price will be determined by the Company's prevailing price list at the time of this agreement.

Any quotation provided by the Company shall be valid for a period of 28 days only.

All products and services are sold subject to goods & services tax (GST) unless the products or services are classified as GST exempt.

Payment will be made by such reasonable means as the Company may require.

Vouchers and Gift cards are valid for 3 years from date of purchase and not redeemable for cash.

CONDITION OF THE WATERBIKE

The Hirer must inspect the Waterbike upon receipt and delivery and notify the Company immediately of any concern the Hirer has about the Waterbike. The Hirer must notify to the Company any issue identified during the course of the hire as soon as practicable after it is identified.

If the Hirer fails to inspect or notify the Company of any issue with the Waterbike when provided by the Company then in the absence of clear contrary evidence the Waterbike shall be deemed to be in good condition when so provided by the Company.

The Company shall not be liable for any losses caused by any delay in repairing or replacing the Waterbike(s) should any issue be identified prior to the start of the Services.

HIRER'S OBLIGATIONS

The Hirer acknowledges that they hire the Waterbike(s) relying solely upon their own skill and judgment and not upon any representations or statements by the Company (including of a broad or general nature).

The Waterbike can only be controlled at all times by the Hirer identified in the in the "Mandurah Waterbikes – Hire Agreement", or their Group Members.

The Hirer will not allow any other persons outside this to control the Waterbike.

The Hirer is responsible and liable for Group Members adherence to this agreement and shall advise all Group Members of the risks and dangers associated with the use and operation of the Waterbike prior to boarding.

The Hirer is responsible for the safety of all persons in their group.

It is a condition of hire that all persons are competent swimmers.

The Hirer and Group Members will wear a suitable Personal Flotation Device (PFD) at all times during the hire of the Waterbikes. If the Hirer or Group Member removes their PFD then any resultant injury or loss of life incurred by the Hirer or Group Members shall not be the liability of the Company.

The Hirer must present their current and valid driver's licence or other form of photographic ID before they or any Group Members board the Waterbike(s).

The Hirer shall ensure all Group Members understand all safety material and briefings presented by the Company.

The Hirer and Group Members shall not use the Waterbike for any commercial activity without the consent of the Company provided in writing.

The hired Waterbike shall not be used for any illegal purpose such as carrying passengers or goods for hire or sublease. At no time shall the weight carried by the Waterbike exceed the maximum allowable weight of 120kg. This was

explained during the Safety Briefing & can also be found onboard in the Safety Management Plan.

The Hirer and Group Members are not allowed to remove or disassemble any parts from the Waterbike.

The Hirer shall not leave the Waterbike unattended and shall be responsible for any losses suffered due to theft or other misadventure.

The Hirer is aware that the Company shall not be responsible for any fines incurred or any breaches of WA Roads & Maritime Services regulations in respect to the Waterbike whilst it is under the control or custody of the Hirer or Group Members, or during the continuance of the term of the hire. All fines incurred whether they be Traffic, Department of Transport or Marines & Harbours etc. shall be paid by the Hirer or Group Members

The Hirer and Group Members will accept the consequences if they breach these conditions and will not be covered by insurance if found to be in breach of the conditions.

SAFE OPERATION

Use of the Waterbike is only permitted inside the area of operation and during the operational hours stated by the Company. These limits are set for safety and it is critical these rules are adhered to.

All Western Australian marine safety and licensing rules apply. The Waterbike is to be used and navigated so as to comply with the requirements of WA Roads & Maritime Services.

The Hirer acknowledges and accepts that the use and operation of the Waterbike is subject to inherent risks and dangers. The Hirer accepts those risks and agrees to indemnify the Company for any losses suffered by the Hirer, any passengers or any third parties as a result of the materialisation of those risks and dangers. The Hirer also undertakes to advise all passengers of the risks and dangers associated with the use and operation of the Waterbike prior to boarding

The Hirer will be given clear & concise instructions on:

Correct & safe handling and navigation of the Waterbike

Limits of operation (Marine Map)

Safety Management System

The Hirer agrees:

The Waterbike will only be operated during the operational hours stated by the company

The Waterbike is to operate in sheltered waters (e.g. not at sea).

The Waterbike will only be operated in areas specified in the Marine Map provided.

Only the Hirer or Group Members are allowed to control the Waterbike.

Tying Waterbikes together is not allowed unless in an emergency situation.

No animals or pets are allowed on the Waterbikes

No fishing, crabbing or swimming from the Waterbike is allowed at all times. Littering in the Waterbike and disposing rubbish into the water is not allowed.

The Hirer and Group Members are not under the influence of any substance which may impair their judgment, such as non-prescription drugs or alcohol

Alcohol cannot be consumed during the hire to ensure safe operations

Smoking or consumption of illegal drugs on the Waterbike is not allowed at all times. The use of e-cigarettes (electronic cigarettes) is also prohibited.

WEATHER CONDITIONS and WATERBIKE BREAKDOWN

Weather forecast monitoring is the responsibility of the Hirer and the Company to ensure safety of persons on board of the Waterbike.

The Hirer must not operate the Waterbike in poor weather or sea/river conditions and must come back to the shore / jetty / pen as soon as possible or where such conditions are imminent. If these conditions are present before the hire proceeds a transfer of reservation will be granted or a refund will be given.

In the event of a Waterbike breaking down or the onset of poor weather conditions, the Hirer shall notify the Company to arrange for the immediate return of the Waterbike. In no event shall the Company be responsible for any consequential loss incurred by the Hirer in returning the Waterbike.

DAMAGES and LITTERING

The Hirer must pay for any damage or losses caused to the Waterbike during the hire period. The Hirer agrees that he shall be held fully responsible for any and all loss of or damage to the Waterbike or equipment or motor or trailer during the term of the "Mandurah Waterbikes – Hire Agreement" whether caused by collision, fire, flood, vandalism, theft or any other cause, except that which shall be determined to be caused by a fault or defect of the Waterbike.

The Hirer must report any damage, theft or accident to the appropriate authorities and the Company immediately and substantiate those details with a Statutory Declaration within 48 hours of the incident.

CANCELLATION and RESCHEDULING of a BOOKING

At the Company's sole discretion, the Hirer may request a cancellation of the booking or rental of the Waterbike by giving written notice to the Company not less than 7 days (168 hours) prior to the booking date. Failure to provide such notice will result in the Hirer forfeiting any booking fee to the Company even if the Company accepts the cancellation. All cancellations will incur a \$10 admin fee which will be deducted from the Hirer's refund.

At the Company's sole discretion, the Hirer may request a rescheduling of the booking or rental of the Waterbike by giving written notice to the Company not less than 3 days (72 hours) prior to the booking date. The booking will then be transferred to another date within a 3-months-period. A refund of the Hirer's booking fee is not possible. Failure to provide such notice will result in the Hirer forfeiting any booking fee to the Company.

The Company may cancel delivery of the Waterbike Services at any time before delivery by giving notice to the Hirer or due to weather conditions or safety reasons before and during delivery. The Hirer then can reschedule date and time within a 3-month-period at no additional charge. If the Hirer decides not to reschedule the booking, The Company will refund the full hire fee to the Hirer.

The Company shall not be liable for any direct, indirect, special, or consequential loss or damage whatsoever arising from such cancellation or rescheduling by the Company.

Should the Waterbikes provide Christmas Lights services these are non refundable. However attempts will be made to reschedule any tours.

RETENTION of TITLE

The Company retains complete ownership and title in the Waterbike being hired at all times.

The Hirer grants to the Company a general power of attorney granting the Company and its officers, employees and agents a right of entry to the Hirer's vehicles, trailers or premises (including any vehicles, trailers or premises leased or licensed by the Hirer) should the Hirer fail to return the Waterbike to the Company upon such notice, for the purpose of taking possession of the Waterbike.

The Hirer shall reimburse the Company for all costs and expenses associated with the Company's actions under this clause.

The Hirer shall do all things necessary to ensure that, where the Personal Properties Securities Act applies, the Company obtains and maintains a perfected security interest in the Waterbike.

The Hirer may not sub-lease or sub-licence or otherwise encumber the Waterbike in any manner whatsoever.

Without limitation to the other rights of the Company, the Hirer shall be responsible for reimbursing the Company for any insurance excess which may apply in the

event that the Hirer breaches the conditions or causes loss or damage and an insurance claim is made by the Company.

The Hirer will accept the consequences if he/she or any listed co-driver breach these conditions and will not be covered by insurance if found to be in breach of the conditions.

The Hirer is aware that the Company's insurance does not cover the loss or damage to personal items; due to negligence or criminal action by the Hirer; resulting from overloading or misuse of the Waterbike; when the Waterbike is overdue for return; arising from more than one accident or event; and if at any time the driver of the Waterbike is not the Nominated Driver under this hire contract.

The Company is under no obligation to the Hirer to maintain any insurance over the Waterbike. In certain situations, insurance obtained shall not be available to the Company, in which case the Hirer shall remain liable for any loss arising in connection with the Waterbike.

LIMITATION of LIABILITY

If permitted by law, the liability of the Company to the Hirer in connection with this agreement shall be limited to the amount paid by the Hirer to the Company pursuant to this agreement or the cost of providing the Waterbike/Services again (at the election of the Company).

PRIVACY

The Hirer acknowledges that the information provided by the Hirer to the Company may be supplied to a credit reporting or debt collection agency in the event that the Hirer fails to make payment as required under this agreement and may be supplied to other persons in order to give effect to the terms of this agreement.

The Hirer agrees that the Hirer's personal information may be used and retained by the Company for the following purposes and as required by law from time to time:

Provision of the Waterbike/Services.

Marketing of Waterbike/Services by the Company, its agents, distributors, or contractors, including by electronic message.

The Collection of monies owed to the Company.

GENERAL

The Company may assign or sub-contract the whole or any part of this agreement without the Hirer's consent.

The Company shall not be liable for any breach of any provisions of this contract if the cause is outside of the reasonable control of the Company.

This document and its interpretation, validity and all claims relating to any actions or omissions arising from conduct in connection with this document shall be governed by the laws of Western Australia and the parties agree to submit to the exclusive jurisdiction of the Courts of Western Australia.

A waiver of any provision of this agreement by the Company must be in writing. No delay by the Company in exercising any right or power pursuant to this document will operate as a waiver of that right or power nor will any single or partial exercise of any right or power preclude any other or further exercise of that right or power.

The warranties, undertakings, agreements and continuing obligations in this document do not merge on completion.

No condition or provision of this agreement shall be deemed waived or excluded unless it is expressly stipulated to be so waived or excluded in writing by the Company.

INDEMNITY

To the extent permitted by law, the Hirer hereby indemnifies the Company against all losses and expenses which Company or its officers, contractors, employees or agents may suffer or incur (including dishonour fees, debt collection costs and legal costs on an indemnity basis) due to the failure of the Hirer to fully observe its obligations under this agreement, or any other willful or neglectful conduct by any person not directly connected with the Company in connection with the Waterbike.

CONSUMER LAWS

If any provision of this agreement would, but for this clause, be contrary to any laws, including any conditions, warranties, rights or remedies which the Hirer may have pursuant to the Competition and Consumer Act or otherwise then that clause is to be severed from this agreement and treated as void, but so that the remaining provisions shall not be affected in any way whatsoever.

Mandurah Waterbikes Hire Agreement

For the purpose of this agreement, and unless stated otherwise, the Company shall mean Quay Ventures Pty Ltd, t/a Mandurah Waterbikes and any related corporations of it providing goods or services to the Hirer and any person acting with due authority of the Company.

- It is a condition the Company, agreeing to permit you or a person for whom or on whose behalf you are acquiring the services ('you') to participate in the Tour/Hire ('the Activities'), that you complete and sign this Agreement.
- This Agreement will become a legally binding contract between you and the Company once you sign it. It is important that you carefully read and understand the terms of this Agreement, in particular the clauses relating to acceptance of risks, release from claims and indemnity. If you require any help in understanding this Agreement, please ask the staff of the Company for assistance.
- If you do not accept the terms of this Agreement you cannot participate in the activities and the Company will, on request, refund any participation fees you may have paid.
- By signing this document, you are signing on behalf of yourself. If you are procuring the Activities on behalf of others, you warrant that you have adequate authority to sign this document on their behalf.
- Where this document refers to "I", if you have signed on behalf of others, those people are bound by your signature and will comply with the terms of this agreement.
- If you are not confident that is the case, do not sign on their behalf and we will have them sign for themselves.
- Our staff will take a copy of your Photo ID. It will be retained only for the purposes of the Activities.

DECLARATIONS

With my signature I declare that:

- I have received and fully understood the instructions from the Briefing
- I acknowledge all terms and conditions of the Company.
- I acknowledge that I or members of my party on whose behalf I am signing are not under the influence of drinks or drugs and shall not be during the course of the Activities.
- I am responsible for my safety and of members of my party on whose behalf I am purchasing the Activities.
- I shall wear a Personal Flotation Device, and if I or any member of my party choose to take this off while on the Waterbike, the Company shall be held harmless from any consequential injury, death or loss.
- I understand the Safety Briefing and operating location.
- I am responsible for the safe return of their Waterbike at the agreed end of the Activities.
- I am able to stay afloat unaided in open water for more than 30 minutes and that I do not suffer from any illness, ailment or incapacity that may

hinder or affect my ability to stay afloat unaided in open water for 30 minutes, or which may prevent me from participating in the Activities.

- I confirm that I have read and understood this Agreement prior to signing it, and it shall be binding upon my heirs, executors, assigns and next of kin.
- I understand that the Company will rely on this Agreement.
- I am aged eighteen years or older and for those of whom on whose behalf I am signing, that I have adequate authority to sign this document on behalf.
- I declare that I will abide by the instructions of the Company's staff at all times and that any person(s) for whom or on whose behalf I am acquiring the Activities, are under my duty of care and will remain so at all times while participating in the Activities.
- I acknowledge that participation in the Activities is limited to those who weigh no more than 120 kilograms and I weigh no more than 120 kilograms.
- I am aware that if I overload the Waterbike to a weight greater than 120kg or use it for any purpose other than which it is intended, then it is unsafe and our details may be forwarded to the authorities for prosecution.
- I agree that the operational boundaries set on the map provided at the start of my hire are set for my safety given the design of the Waterbike. I understand that going outside these boundaries can result in serious operating risks and that one of the conditions of my hire and the return of is that I always remain within the map boundaries.
- I understand the breach of this agreement or our terms and conditions or actions which cause damage or loss to the Company may result in charges to our card

RISK WARNING

- I understand that the Activities have an inherent risk and I accept that this document ensures I understand and accept these for the purposes of all relevant legislation.
- The Activities present certain risks including
- suffering bodily injury; strains; twists, ligament damage, fractures; broken bones; other physical injury; paralysis; disease; and / or death;
- Falling into water or off the Waterbike, or being affected by other foreseeable risks associated with paddling, Waterbike riding, the use and presence of propellers, swimming, boarding and alighting the Waterbike and using the Waterbike and other associated equipment;
- Extremes of weather including sudden and unexpected changes and / or other natural occurrences such as the presence of any kind of marine life which may harm you.
- Being involved in an accident or contracting an illness in any case, generally or requiring the assistance of medical / emergency services.

ACCEPTANCE OF RISK / RELEASE AND INDEMNITY

- Given these risks have been explained to me, I irrevocably undertake in favour of the Company
- That I participate in the Activities contemplated herein at my own risk.
- I agree to release the Company and its agents, contractors and employees from all liabilities for any actions, claims, demands, losses,

damages, costs and expenses arising from any death or injury to any persons and damage to, or loss of, any property, which may be suffered or sustained as a result of my participation in any of the activities with Quay Ventures.

- To indemnify the Company and its agents, contractors and employees against all actions, claims, demands, losses, damages, costs and expenses suffered or incurred in relation to my participation in any of the activities with the Company; and
- I agree that the Company holds, and may enforce, the release and indemnity in respect of this agreement.

OBLIGATIONS

- I also understand that I have certain obligations under this agreement, which are:
- To act as a reasonably prudent person when engaging in the activities with the Company, and to obey and follow the instructions, rules, warnings and regulations notified (whether in writing, on signs, verbally or otherwise) at any time by staff.
- To advise staff of any known health problems or medical condition or disability affecting me and any prescribed medication that may be used in the treatment of such health problems, medical condition or disability.
- To notify staff of any incident or accident incurred by or witnessed by you during the course of any of the Activities.
- That if I suffer an injury or illness during the activities the Company and its staff may, at my own cost, arrange such medical treatment and emergency evacuation service, as they shall consider reasonable for health and safety.
- To supervise and provide a duty of care to all person(s) for whom or on whose behalf I am acquiring the services for, whilst they participate in the activities.
- I will return the Waterbike at the end of the Activities. If, after a reasonable waiting period and attempts to contact me, the Waterbike will be deemed to have been stolen. I understand that the Company holds my credit card and will charge this in the event of loss, or damage to the Waterbikes, in accordance with the Terms and Conditions.
- If I am late, I accept I can be charged with an additional fee of \$50 for every 15 minutes I return the Waterbike later than the agreed return time
- I also understand I may be charged a \$500 penalty should I leave the Operating Area and the Activities will be terminated. I understand I may be charged up to \$500 if Waterbikes are damaged while hired to me.

Finally, I will

- Operate the Waterbike in more than 30cm of water (less than 30cm can cause damage to the propeller and fins and loss of steering)
- Stay away from rocks (rocks can puncture the pontoon and cause their deflation), observe marine regulations which have been explained to me, and stay away from boats

Ensure I have a powered phone capable of outbound calls, and the Mandurah Waterbikes' operator's number

ECO BBQ BOATS & MANDURAH BBQ BOATS – TERMS AND CONDITIONS AND HIRE AGREEMENT

For the purpose of this agreement, and unless stated otherwise, the Company shall mean **Quay Ventures Pty Ltd, t/a ECO BBQ Boats and Mandurah BBQ Boats** and any related corporations of it providing goods or services to the Hirer and any person acting with due authority of the Company.

Hirer shall mean the person or persons named in the documentation for this agreement as the Hirer and any person signing or initialing this agreement (other than on behalf of the Company).

Price shall mean the cost of the rental as agreed between the Company and the Hirer subject to the other terms of this agreement.

Services shall mean all Services supplied by the Company to the Hirer.

A reference to a Boat includes: • the Boat; • a reference to multiple Boats and other similar or related equipment; • a reference to a proposed Boat which has been booked or provided (even in the absence of a signed agreement);

No rule of construction applies to the disadvantage of the party preparing the document on the basis that it put forward this document or any part of it.

Time is of the essence except where specific provision is made or the contrary intention appears.

A reference to a person includes the person's heirs, executors, administrators, successors, substitutes and assigns and this document is intended to be binding upon such persons.

The singular includes the plural and vice versa and words importing a gender include other genders.

Other grammatical forms of defined words and expressions have corresponding meanings.

An agreement, covenant, representation, warranty or indemnity in favour of two or more persons is for the benefit of them jointly and severally.

An agreement, covenant, representation, warranty or indemnity made by two or more persons is made by them jointly and severally

Headings are for ease of reference only and do not affect the construction of this agreement.

The terms appearing on the company's document entitled "Boat Hire Agreement" apply and supersede the terms herein to the extent of any inconsistency.

Where the context admits, the provisions of this document extend beyond any termination.

TERMS OF AGREEMENT

Any further performance of this agreement after receipt of these terms and any subsequent or other offers or agreements between the Hirer and the Company for the supply of a Boat or of equipment, shall be on the terms and conditions contained herein unless otherwise agreed (including any terms on any part of this agreement entitled "Eco BBQ Boats – Hire Agreement").

Where the Hirer constitutes more than one person, the Hirer shall be jointly and severally liable for all amounts payable by the Hirer to the Company in connection with this agreement.

The terms of this Agreement may not be altered except in writing. The Hirer acknowledges that the Company's personnel and agents are not authorised to vary this agreement except in writing.

Any variation to this agreement extending the period of the rental shall, unless otherwise agreed, be based on the Company's prevailing hourly rates applicable for the rental as at the date of variation.

Except where required by mandatory operation of law, the Company shall not be liable to the Hirer or any other person for any personal injury, indirect, special or consequential loss or damage (including without limitation loss of profits, loss of opportunity or business interruption) suffered by the Hirer or any other person howsoever caused (including by negligence where allowed by law) by the Boat or the use thereof or any delay or non-performance and the Hirer does hereby waive and release the Company from any action, claim, loss or right which the Hirer may now or in the future have against the Company or its officers, agents, contractors and employees arising in connection with the Boat in any way whatsoever.

FEES AND PRICES

The Hirer agrees to pay the hire fee to the Company online through the booking system before the hire of the Boat, or as otherwise demanded or required by the Company.

In common with car hire companies, or hotels, the Company's online credit card payment system provider will securely retain the Hirer's card details for a short period and the Company may charge these details in the event this agreement is breached. These card details will otherwise be destroyed in accordance with the payment provider's protocols.

If the Hirer leaves the location identified by the Company as the operating location for the boat, which is set for the safety of customers, and explained at the start of the Hire, a penalty of \$500 will be charged.

If the Boat is returned late, a penalty fee of \$50 per 15 minutes will be charged.

A cleaning fee will be levied if the boat is returned unclean. The Hirer will need to dispose the rubbish and uneaten food in the rubbish bags provided otherwise a cleaning charge of \$ 50.00 applies and will be deducted from the security deposit.

If there is damage incurred during the Hire, \$500 will be taken as a reasonable pre-estimate of costs of repair. Actual invoices will be shared with the Hirer and should these be less, then difference shall be refunded.

If the Hirer does not return the Boat by the time agreed with the Company, then the Company may report the Boat as stolen to the police; and the Hirer will compensate the Company in accordance with any loss suffered by the Company (including purchasing replacement equipment and/ or any reasonable additional costs the Company incurs in recovering the boat).

If the Hirer breaches this agreement and the breach has caused the downtime of the boat, the Hirer will be liable to pay a per day loss of revenues based on the actual downtime of the Boat, or a reasonable pre-estimate of that downtime, which may then be revised with actual invoices.

If the Hirer has hired the boat as Couple (max 2 persons) or as Small Group (max 6 persons) they are not allowed to replace or add passengers. Boarding will be denied if this condition is not met and hire fee will be forfeited. If the Hirer breaches this condition during the hire period, the hire will be terminated hire fee will be forfeited.

The Hire Price will be determined by the Company's prevailing price list at the time of this agreement.

Any quotation provided by the Company shall be valid for a period of 28 days only. ^[L]_[SEP]

All products and services are sold subject to goods & services tax (GST) unless the products or services are classified as GST exempt. ^[L]_[SEP]

Payment will be made by such reasonable means as the Company may require.

{[]}
{SEP}

Vouchers and Gift cards are valid for 3 years from date of purchase and not redeemable for cash. {[]}
{SEP}

CONDITION OF THE BOAT and WARRANTY

The Hirer must inspect the Boat upon receipt and delivery and notify the Company immediately of any concern the Hirer has about the Boat. The Hirer must notify to the Company any issue identified during the hire as soon as practicable after it is identified.

If the Hirer fails to inspect or notify the Company of any issue with the Boat when provided by the Company then in the absence of clear contrary evidence the Boat shall be deemed to be in good condition when so provided by the Company.

If through no fault of the Hirer a material fault is identified in the Boat, then provided that the Hirer has complied with this agreement the Company shall repair the Boat, replace the Boat, or refund the balance of the rental fee (at the Company's sole discretion) ("the warranty").

The warranty shall not be applicable in a situation where: The Hirer has failed to follow instructions supplied by the Company in relation to proper use of the Boat; The Boat or any Services have been used in a manner other than for their intended purpose; The Hirer wilfully or recklessly causes damage or fails to maintain the Boat; The Hirer continues to use the Boat after any issue with the Boat is identified, or would have been apparent to a reasonable person licensed or qualified for the use of that equipment; Any alteration is made to the Boat without the Company's knowledge and consent; or, The fault has occurred because of circumstances outside the control of the Company.

The Company shall not be liable for any losses caused by any delay in repairing or replacing the Boat.

HIRER'S OBLIGATIONS

The Hirer acknowledges that they hire the Boat relying solely upon their own skill and judgment and not upon any representations or statements by the Company (including of a broad or general nature).

The boat can only be controlled at all times by the Nominated Skipper, who has to be registered in the "Eco BBQ Boats – Hire Agreement". The Nominated Skipper is required to be at least 20 years of age. The Hirer will not allow any other person than the Nominated Skipper to control the boat.

The Hirer is responsible and liable for all occupants and their actions at all time and he is required to advise all occupants of the risks and dangers associated with the use and operation of the boat prior to boarding

The Hirer is responsible for the safety of all persons on board.

It is a condition of hire that all persons on board can float unaided for 30 minutes. Where a person is not confident of this OR is less than 10 years of age, the hirer accepts responsibility and will ensure this person always wears a suitable life jacket (PFD).

Both the Hirer and the Nominated Skipper must present their current and valid driver's licence before boarding the boat.

The Hirer and the Nominated Skipper acknowledges & understands all safety material and briefings presented by the Company.

The Hirer shall not use the boat for any commercial activity without the consent of the Company provided in writing.

The hired boat shall not be used for any illegal purpose such as carrying passengers or goods for hire or sublease. At no time shall the Hirer exceed the maximum persons onboard stated on the manufacturer's compliance plate. This was explained during the Safety Briefing & can also be found onboard in the Safety Management Plan.

The hired boat shall not be used to push, propel or tow another boat, barge or any other thing and also not to be tied to another boat without the written permission of the Company.

The Hirer is not allowed to remove or disassemble any parts (especially motor or batteries) from the boat.

The Hirer shall not leave the boat and/or trailer unattended for any unreasonable length of time and shall be responsible for any losses suffered due to theft or other misadventure, which cannot be recouped by the owner under the provision of his insurance policy.

The Hirer is aware that the Company shall not be responsible for any fines incurred or any breaches of WA Roads & Maritime Services regulations in respect to the boat whilst it is under the control or custody of the Hirer, or during the continuance of the term of the hire. All fines incurred whether they be Traffic, Department of Transport or Marines & Harbours etc. shall be paid by the Hirer.

The Hirer will accept the consequences if he/she or any co-driver breach these conditions and will not be covered by insurance if found to be in breach of the conditions.

SAFE OPERATION

Operation of the boat is only permitted inside the area of operation and during the operational hours stated by the Company. These limits are set for the safety of passengers and it is critical these rules are adhered to.

All Western Australian marine safety and licensing rules apply. The boat is to be used and navigated to comply with the requirements of WA Roads & Maritime Services.

The Hirer acknowledges and accepts that the use and operation of the boat is subject to inherent risks and dangers. The Hirer accepts those risks and agrees to indemnify the Company for any losses suffered by the Hirer, any passengers or any third parties because of the materialisation of those risks and dangers. The Hirer also undertakes to advise all passengers of the risks and dangers associated with the use and operation of the boat prior to boarding

The Hirer will be given clear & concise instructions on:

Correct & safe handling and navigation of the boat

Correct & safe operation of motor and the battery system
o Stowage and use of life saving apparatus (Life buoy and PFDs)

Location & use of the fire extinguisher

Location & use of the anchor

Limits of operation (Marine Map)

A summarised version of the vessel Safety Management System

The Hirer agrees:

The boat will only be operated during the operational hours stated by the company

The boat is not to operate in non-smooth waters (e.g. at sea).

The boat will only be operated in areas specified in the Marine Map provided.

Only the Nominated Skipper is allowed to control the boat.

Tying boats together is not allowed. o No animals or pets are allowed on board.

No fishing, crabbing or swimming from the boat is allowed at all times.

Littering in the boat and disposing rubbish into the water is not allowed.

The Nominated Skipper will not drive the boat nor allow other Hirers/drivers to drive the boat whilst under the influence of alcohol or drugs.

The Nominated Skipper will have a blood alcohol limit of no more than 0.05 (0.05 g/ 100 ml) at all times, however the Company strongly recommends absolutely no alcohol is consumed by the Nominated Skipper. In addition, the Nominated Skipper will not be under the influence of any drugs which may impair their

decision making. If the policy is breached, authorities will be notified, and the Hirer will forfeit the security deposit.

All passengers can only drink moderately.

Smoking or consumption of illegal drugs on the boat, the pen and on the whole premises is not allowed at all times. The use of e-cigarettes (electronic cigarettes) is also prohibited.

WEATHER CONDITIONS and BOAT BREAKDOWN

Weather forecast monitoring is the responsibility of the Hirer and the Company to ensure safety of persons on board of the boat.

The Hirer must not operate the boat in poor weather or marine conditions and must come back to the shore / jetty / pen as soon as possible or where such conditions are imminent. If these conditions are present before the hire proceeds a transfer of reservation will be granted.

In the event of a boat breaking down or the onset of poor weather conditions, the Hirer shall notify the Company to arrange for the immediate return of the boat. In no event shall the Company be responsible for any consequential loss incurred by the Hirer in returning the boat.

DAMAGES and LITTERING

The Hirer must pay for any damage or losses caused to the boat/equipment/trailer during the hire period. The Hirer agrees that he shall be held fully responsible for any and all loss of or damage to the boat or equipment or motor or trailer during the term of the hire, whether caused by collision, fire, flood, vandalism, theft or any other cause, except that which shall be determined to be caused by a fault or defect of the boat or equipment or motor or trailer.

The Hirer must report any damage, theft or accident to the appropriate authorities and the Company immediately and substantiate those details with a Statutory Declaration within 48 hours of the incident.

A cleaning fee will be levied if the boat is returned unclean. The Hirer will need to dispose the rubbish and uneaten food in the rubbish bags provided otherwise a cleaning charge of \$ 50.00 applies and will be deducted from the security deposit.

CANCELLATION and RESCHEDULING of a BOOKING

At the Company's sole discretion, the Hirer may request a cancellation of the Services by giving written notice to the Company not less than 14 days prior to the booking date. Failure to provide such notice will result in the Hirer forfeiting any booking fee to the Company even if the Company accepts the cancellation.

All cancellations will incur a \$10 admin fee which will be deducted from the Hirer's refund.

At the Company's sole discretion, the Hirer may give written notice of a cancellation between 14 days and 72 hours and at the Company's sole discretion it may give 50% refund.

At the Company's sole discretion, the Hirer may request a rescheduling of the Services by giving written notice to the Company not less than 3 days (72 hours) prior to the booking date. The booking will then be transferred to another date within a 3-months-period. A refund of the Hirer's booking fee is not possible. Failure to provide such notice will result in the Hirer forfeiting any booking fee to the Company. ^[1]_[SEP]

The Company may cancel delivery of the Boat Services at any time before delivery by giving notice to the Hirer or due to weather conditions or safety reasons before and during delivery. The Hirer then can reschedule date and time within a 3-month-period at no additional charge. If the Hirer decides not to reschedule the booking, The Company will refund the full hire fee to the Hirer.

The Company shall not be liable for any direct, indirect, special, or consequential loss or damage whatsoever arising from such cancellation or rescheduling by the Company. ^[1]_[SEP]

Should the Boats provide Christmas Lights Services these are non refundable at any time. However attempts will be made to reschedule any tours.

RETENTION of TITLE

The Company retains complete ownership and title in the Boat being hired at all times.

The Hirer grants to the Company a general power of attorney granting the Company and its officers, employees and agents a right of entry to the Hirer's vehicles, trailers or premises (including any vehicles, trailers or premises leased or licensed by the Hirer) should the Hirer fail to return the Boat to the Company upon such notice, for the purpose of taking possession of the Boat.

The Hirer shall reimburse the Company for all costs and expenses associated with the Company's actions under this clause.

The Hirer shall do all things necessary to ensure that, where the Personal Properties Securities Act applies, the Company obtains and maintains a perfected security interest in the Boat.

The Hirer may not sub-lease or sub-licence or otherwise encumber the Boat in any manner whatsoever.

INSURANCE

Without limitation to the other rights of the Company, the Hirer shall be responsible for reimbursing the Company for any insurance excess which may apply in the event that the Hirer breaches the conditions or causes loss or damage and an insurance claim is made by the Company.

The Hirer will accept the consequences if he/she or any listed co-driver breach these conditions and will not be covered by insurance if found to be in breach of the conditions.

The Hirer is aware that the Company's insurance does not cover the loss or damage to personal items; due to negligence or criminal action by the Hirer; resulting from overloading, speeding, overheating, seizure or misuse of the boat; when the boat is overdue for return; arising from more than one accident or event; and if at any time the driver of the boat is not the Nominated Skipper under this hire contract.

The Company is under no obligation to the Hirer to maintain any insurance over the Boat. In certain situations, insurance obtained shall not be available to the Company, in which case the Hirer shall remain liable for any loss arising in connection with the Boat.

LIMITATION of LIABILITY

If permitted by law, the liability of the Company to the Hirer in connection with this agreement shall be limited to the amount paid by the Hirer to the Company pursuant to this agreement or the cost of providing the Boat/Services again (at the election of the Company).

PRIVACY

The Hirer acknowledges that the information provided by the Hirer to the Company may be supplied to a credit reporting or debt collection agency in the event that the Hirer fails to make payment as required under this agreement and may be supplied to other persons in order to give effect to the terms of this agreement.

The Hirer agrees that the Hirer's personal information may be used and retained by the Company for the following purposes and as required by law from time to time:

- Provision of the Boat/Services.
- Marketing of Boat/Services by the Company, its agents, distributors, or contractors, including by electronic message.
- The Collection of monies owed to the Company.

GENERAL

The Company may assign or sub-contract the whole or any part of this agreement without the Hirer's consent.

The Company shall not be liable for any breach of any provisions of this contract if the cause is outside of the reasonable control of the Company.

This document and its interpretation, validity and all claims relating to any actions or omissions arising from conduct in connection with this document shall be governed by the laws of Western Australia and the parties agree to submit to the exclusive jurisdiction of the Courts of Western Australia.

A waiver of any provision of this agreement by the Company must be in writing. No delay by the Company in exercising any right or power pursuant to this document will operate as a waiver of that right or power nor will any single or partial exercise of any right or power preclude any other or further exercise of that right or power.

The warranties, undertakings, agreements and continuing obligations in this document do not merge on completion. No condition or provision of this agreement shall be deemed waived or excluded unless it is expressly stipulated to be so waived or excluded in writing by the Company.

To the extent permitted by law, the Hirer hereby indemnifies the Company against all losses and expenses which Company or its officers, contractors, employees or agents may suffer or incur (including dishonour fees, debt collection costs and legal costs on an indemnity basis) due to the failure of the Hirer to fully observe its obligations under this agreement, or any other willful or neglectful conduct by any person not directly connected with the Company in connection with the Boat.

If any provision of this agreement would, but for this clause, be contrary to any laws, including any conditions, warranties, rights or remedies which the Hirer may have pursuant to the Competition and Consumer Act or otherwise then that clause is to be severed from this agreement and treated as void, but so that the remaining provisions shall not be affected in any way whatsoever.

ECO BBQ BOATS & Mandurah BBQ BOATS BOATS HIRE AGREEMENT

For the purpose of this agreement, and unless stated otherwise, the **Company** shall mean **Quay Ventures Pty Ltd, t/a ECO BBQ Boats and Mandurah BBQ Boats** and any related corporations of it providing goods or services to the Hirer and any person acting with due authority of the Company.

It is a condition of the Company agreeing to permit you or a person for whom or on whose behalf you are acquiring the services ('you') to participate in the Tour/Hire ('the Activities'), that you complete and sign this Agreement.

Please bring it completed and signed on the day together with your (and your skipper's) driver's licence and your credit card.

1 – Signatures With my/our signature(s) I/we declare that:

- I/We have received and fully understood the instructions from the Skipper's Briefing
- I/We acknowledge all terms and conditions of associated with the Activities.
- I/ We acknowledge we are not under the influence of drinks or drugs.
- I am/ We are responsible for the safety of all passengers and their actions
- I am/ We are responsible that all passengers that are non-competent swimmers or under the age of 10 years always wear a life jacket (Personal Flotation Device or PFD)
- I/We acknowledge that breaching any of the Conditions of Hire or behaving abusively will result in forfeiting my hire fee as well as in the immediate termination of the Activities. Additionally, I and my passengers will be restricted from using the Company's services again.
- I am/We are fully aware that if I/we overload the boat or take more passengers on board than allowed my/our details will be forwarded to the authorities for prosecution.
- I/ We agree that the operational boundaries set on the map provided at the start of my hire are set for my safety given the design of the boat. I/we understand that going outside these boundaries can result in serious operating risks. One of the conditions of my hire is that I always remain within the map boundaries.

Security Bond & Penalties

I authorise the Company to charge my credit card \$500 in the event of loss or damage to the Company's assets to defray the reasonably pre-estimated cost of repairs/ replacements

I understand I will have my credit card charged with an additional fee of \$50.00:

- for every person that I take on board during the trip that is not on the passenger list,
- for every 10 % remaining battery life less than 90% on return of the 10-seater boat,
- if I run out of battery on the 6-seater boat during my trip
- if I beach the boat or moor it to commercial or private pens or jetties
- if I return the boat dirty, e.g. food, drinks or rubbish spilled over benches and floor
- if I / my passengers swim from the boat or spill or splash salt water into the boat,
- if I / my passengers smoke on the boat or are/get intoxicated
- if I / my passengers behave in an abusive way
- if I / my passengers misbehave so that Eco BBQ Boats receives complaints.

If I drive the boat outside the legal area of operation shown in the Skipper's map, which area is set for my safety, I will be charged a penalty fee \$500 given the likelihood of damage to the boat and the need for retrieval service, and the Activities will be terminated.

By signing this agreement, I will waive certain legal rights including the right to sue.