

TERMS AND CONDITIONS

WATER BY NATURE TASMANIA PTY. LTD. ACN 106665847

Rafting, by its nature is an inherently dangerous recreational activity, with the ever-present risk of injury. Water by Nature Tasmania Pty. Ltd. will take every precaution to ensure your safety and enjoyment, but you will be participating in the trip at your own risk. Because much of the rafting experience occurs in remote locations, access to medical care can be limited and evacuation difficult. For these same reasons, there is always the possibility of a disruption of travel plans.

These terms and conditions limit the liability of Water by Nature Tasmania Pty. Ltd. and define your rights and obligations. **Please read them carefully.**

BOOKING INFORMATION

How to book

To book please read and agree to these terms and conditions, complete and sign the booking form (<https://franklinriver.com/booking>) and pay a deposit of AUD 200 per person. The balance of your trip cost is due 39 days before departure. We will send you a tax invoice and our bank details. Direct credit is the preferred payment method of balances although some credit cards are acceptable.

Cancellation by client

These cancellation fees apply if you cancel your booking:

>> If you cancel your booking more than 39 days prior to departure – the deposit is not refunded.

>> If you cancel your booking between 39 days and 9 days prior to departure - 75% of the trip cost plus deposit is not refunded / is payable.

>> If you cancel your booking 8 days or less prior to departure - 100% of the trip cost is not refunded / is payable

Cancellations must be in writing and **preferably be sent by email** (rafting@franklinriver.com). Cancellation charges may be recoverable on your travel insurance.

Transfers and re-sales

If you cancel your booking less than 39 days prior to departure, Water by Nature Tasmania Pty. Ltd. will make every reasonable effort to re-sell your booking. If so, you will be refunded the amount received on the re-sale, less the cancellation fee payable. However, Water by Nature Tasmania Pty. Ltd. is under no obligation to take extraordinary measures to try to fill your spot on the trip. You may at your own expense, try to sell the booking yourself. If need to cancel close to departure and let us know, we will normally offer you a position on another tour on a sub-load basis. There is normally no charge to transfer to another trip of equal duration to the trip booked, if enough notice is given. There is no refund for arriving late or leaving a trip early.

Itinerary alteration by Water by Nature Tasmania Pty. Ltd.

Our Franklin River Rafting trips are true expedition holidays. There are many rapids, some may require strenuous portages. The weather is unpredictable and you should follow the clothing lists provided closely. The weather conditions can also lead to dramatic changes in water levels that can mean additional portages and changes to planned itineraries. You accept whatever alterations to itineraries that Water by Nature Tasmania Pty. Ltd. desires to make in these circumstances.

Cancellation by Water by Nature Tasmania Pty. Ltd. and minimum numbers

In the unlikely event that Water by Nature Tasmania Pty. Ltd. cancels your tour before the scheduled meeting time and departure date, we will offer you alternative arrangements or we will refund all your payments made to Water by Nature Tasmania Pty. Ltd. We will not be liable for any additional costs incurred by you.

All tours are subject to minimum numbers. Your tour can usually be confirmed thirty days before departure.

If your tour is cancelled by us after the scheduled meeting time and departure date there are normally no refunds. However if we cancel a trip soon after it has started, we may offer a partial refund less our expenses or another trip, at our discretion.

Included

Included in the trip cost are all rafting- and safety equipment including wetsuit and whitewater spray jacket, waterproof river bag, professional guides, all transport ex Hobart (including seaplane or yacht transfers to Strahan and coach to Hobart at the end of all Full Franklin and Lower Franklin trips), satellite emergency communications, meals whilst on the river and camping equipment. Also included is one nights twin share accommodation on the Lower Franklin trip. Check our website or your itinerary for any changes and additional inclusions.

Not Included

Not included in the trip cost are airfares (except where stated), travel insurance, sleeping bag, extra meals, drinks, and any items of a personal nature. Check our website or your itinerary for any changes and additional exclusions.

Risk Warning and Waiver of Liability - Tasmania

Provider: Water by Nature Tasmania Pty. Ltd. ACN 106665847

Address of Provider: Sandy Bay 7005 TAS, Australia

For the purposes of this document, Provider includes Water by Nature Tasmania Pty. Ltd. and its officers, directors, employees, guides, agents, contractors, volunteers, franchisees, assigns and any other person involved in the provision of the Activities, including Parks Victoria where applicable.

Participant:

The following pages affect your legal rights and obligations. Please read these carefully and only sign if you fully understand their contents. For Participants under 18 years of age, these documents must be completed by a parent or legal guardian.

Participant First Name: Last Name:

Address:

Town/City: Postcode:

State / Province / Region: Country:

Activities

Activities includes all activities and services ancillary to or associated with the named Activity, both before and after the Activity, including transportation to and from the location of the Activity whether provided by the Provider or not, briefings, inductions, training, and the provision of information in all manuals, safety guidelines and other documentation provided to or made available to the Participant with respect to the Activity, familiarisation with clothing or equipment and methods of operation of equipment and the wearing and removal of any clothing or equipment associated with the Activity.

Unless otherwise specified, a reference to an Activity is a reference to a recreational service or a recreational activity as defined in relevant legislation referred to herein.

Description of Activities

Activities may include, but are not limited to adventurous pursuits such as white water rafting, kayaking, canoeing, liloing, swimming, walking, climbing, descending, canyoning, camping, caving, 4 wheel driving and flying in single engine aircraft, as well as carrying equipment for safety and existence and preparing food for consumption.

Settings may include but are not limited to wild rivers, highways or roads, forests, mountains, snowfields, cliff faces, caves, beaches and lakes.

☐ Understood

The most difficult level of rapid run on most tours is grade 4 – intense, powerful but predictable rapids requiring precise boat handling in turbulent water. *

Depending on the river level, they may feature large unavoidable waves (up to 3 metres in height), drops (up to 2 metres in height), and holes (stoppers or hydraulics) or constricted passages requiring fast manoeuvres under pressure. Rapids may require “must” moves above dangerous hazards. Scouting is necessary the first time down. Risk of injury to swimmers is moderate to high, and water conditions may make self rescue difficult. Group assistance for rescue is often essential but requires practised skills.

☐ Understood

Safety procedures taken by the Provider to effect some protection against risks. *

These procedures include but are not limited to: using safety equipment such as helmets, personal flotation devices and ropes, instruction and demonstration, avoiding dangers by detouring, modifying or aborting an endeavour.

☐ Understood

Risk Warning

Please do not book this trip if you believe it to be perfectly safe. **IT IS NOT.** While your guides are skilled and experienced, they are unable to guarantee protection from all risks. I am aware that by my participation in any activities arranged by the Provider, certain risks or dangers may occur which could include:

Physical, bodily or psychological injury or death.

Potential accidents include, but are not limited to, drowning, hypothermia (cold exposure), hyperthermia (heat stroke), falls, food poisoning, cuts, sprains, bruises, fractures, arterial bleeding, concussion, spinal cord damage and death.

☐ Understood

Physical exertion to which I am not accustomed.

☐ Understood

Failure of equipment or use of inadequate equipment.

☐ Understood

There may be no or inadequate facilities for treatment or transport to treatment if I am injured.

☐ Understood

The conditions in which the activities are conducted may vary without warning.

Rafting / kayaking trips are true expedition holidays. There are many rapids, some may require strenuous portages. The weather is unpredictable and you should follow the clothing lists provided closely.

The weather conditions can also lead to dramatic changes in water levels that can mean additional portages and changes to planned itineraries.

Once a rafting/kayaking trip has commenced it may be very difficult to leave this tour before, or in some situations, after its scheduled finish date, for operational reasons.

You accept whatever alterations to itineraries that Water by Nature Tasmania Pty. Ltd. desires to make in these circumstances.

☐ Understood

There are more specific risks on a Franklin River trip due to its remoteness.

Once rafting on the Franklin River has commenced it may be very difficult to leave this tour before, or in some situations, after its scheduled finish date, for operational reasons. The 7 day Upper river expedition has been delayed for 24 hours several times in the past due to high water levels. It is possible to walk out of the tour from the junction of Collingwood and Franklin Rivers on day 1 (easy), The Irenabyss on day 3 (difficult), and Finchams crossing on day 3 to 4 (difficult) or be air lifted out by helicopter in emergency situations.

Once on the river, at certain points it may be difficult or dangerous to stop or turn back. It is possible to walk around many, but not all rapids. Please let your guide know if you wish to do this. The Franklin River level often rises 3 metres and occasionally up to 5 metres in 6 hours. We usually have plenty of warning when this is might occur. The river level can also drop quickly, we may wait for this to happen depending on the river section we intend to run.

This expedition takes place in a remote wilderness setting. Should an accident occur or a serious medical condition occur, it may take hours or even days to get professional medical attention and evacuation may be difficult and prolonged.

The Frenchmans Cap walk (optional) involves an ascent and descent of more than 800 metres to the ridge line (great views) and to 1400 metres should you choose to climb to the summit. At the end of the 7 day tour Upper River there is a steep ascent of ~350 metres up steps, ladders and chains with a backpack of your personal equipment. The 5 day tour involves a steep descent of the same route.

☐ Understood

I may cause injury to other persons and/or other persons may cause injury to me.

☐ Understood

I may be injured or die due to the negligence, breach of contract or breach of statutory duty or guarantee of the provider.

☐ Understood

I acknowledge that the activities are being undertaken for the purposes of recreation, enjoyment or leisure, and involve a significant degree of risk of physical harm.

☐ Understood

I acknowledge that the Activity may be undertaken with one or more other persons as part of a group and that the Provider is not liable for the actions of other participants in the group activity.

☐ Understood

By signing below, I acknowledge, agree and understand that the risks associated with the Activities and/or recreational services have been explained to me. I undertake any such risk voluntarily and at my own risk.

I acknowledge that the risk warning above constitutes a "risk warning" in accordance with the Civil Liability Act 2002 (NSW) and the Civil Liability Act 2002 (WA).

☐ Understood

Participant's Warranties

I agree to abide by any of the Provider's rules, and any direction or instruction given to me by the Provider during the course of the Activities.

I agree to

- Use and/or wear any safety equipment given to me by the Provider.
- Pay close attention to and follow safety instructions, particularly the pre rafting safety talk.
- Take responsibility for avoiding or minimizing risks
- Watch where I am going.
- Watch the safety videos before the trip starts.

☐ I agree

I accept that my continued participation is at the absolute discretion of the trip leader.

☐ I agree

I declare that I am medically and physically fit and able to participate in the Activities.

I acknowledge that I must, and agree that I will, disclose any pre-existing medical or other condition, injury or concern that may affect the risk that either I or any other person will suffer injury, loss or damage during the course of the Activities.

I will notify the Provider of any injuries, illness or concerns that may arise during the Activity.

I will not engage in any reckless, negligent or foolish behaviour or any other behaviour that is likely to cause injury to me, any other participant or person.

If you are unsure of your ability to participate because of your physical or mental condition you should contact the Provider and / or speak with a physician prior to booking a trip.

☐ I agree

I agree that any personal medication is my responsibility.

If I require any medications I will ensure to take enough with me to last the trip. Any medication taken or required during the trip is the responsibility of the Participant.

☐ I agree

I agree that if I suffer any injury or illness, the Provider may provide evacuation, first aid and/or medical treatment at my expense.

And my acceptance of these terms and conditions constitutes my consent to such evacuation, first aid and/or medical treatment.

☐ I agree

I declare that I have not consumed/will not consume any alcohol or mind altering substance, or medication that may impact my judgement or physical capacity, before or at the time of engaging in the Activities.

☐ I agree

Water by Nature Tasmania Pty. Ltd. has my permission to publish and use moving and still images of me from this tour for promotional purposes, and waive any copyright I have in those images.

☐ YES ☐ NO

DISPUTES

This contract is formed in Tasmania a state of the Commonwealth of Australia. As such it is subject to the laws, first of Tasmania and second of the Commonwealth of Australia. Any legal action arising out of any contract with Water by Nature Pty. Ltd. can be heard only in a Tasmanian court, or may be appealed to an appropriate Commonwealth Court. Relevant legislation includes, in Tasmania, the Civil Liability Act 2002, the Motor Accidents Insurance Board act, and the Fair Trading Act, and for the Commonwealth, the Competition and Consumer Act 2010 as amended, and the non-excludable and applicable legislation of any other state of Australia.

If any part of these terms and conditions or booking information is determined by a court to be unenforceable, the remainder of the booking information, terms and conditions shall be unaffected and shall continue in full force and effect.

☐ Understood

Exclusion of liability

I agree to and unconditionally release, waive, discharge and forever hold harmless, the Provider or any of its employees, agents, directors or officers, from any claims as a result of any personal injury sustained, whether caused by the Provider's negligent act or wilful act or omission, breach of contract, breach of statutory duty, error, or otherwise in connection with or arising out of the Activities.

I acknowledge that the cost of all Water by Nature Tasmania Pty. Ltd. trips has been based upon trip participants executing this 'Risk Warning and Waiver of Liability'. Therefore as lawful consideration for being permitted to participate in such activities, I hereby release and discharge Water by Nature Tasmania Pty. Ltd. and its agents and employees and Parks and Wildlife Services from and against any and all liability arising from my participation in the activities.

I agree that the Provider will not be liable for any claims for personal injury that may be brought against it as a result of or in connection with any act, omission, default, failure or error on the part of the Provider.

And I agree to indemnify and keep indemnified the Provider in respect of any such claims.

☐ I agree

Waiver

It is possible for a supplier of recreational services to ask you to agree that the statutory guarantees under the Australian Consumer Law (which is schedule 2 to the Competition and Consumer Act 2010 (Cth)) do not apply to you. If you sign this form, you will be agreeing that your rights (or the rights of a person for whom or on whose behalf you are acquiring the services) to sue the Provider in relation to the Provider's services or the activities that you undertake because the services or activities provided were not in accordance with the guarantees are excluded, restricted or modified as set out below.

For Queensland, New South Wales, Western Australia, Tasmania, Northern Territory and Australian Capital Territory and Commonwealth

By signing this form, you agree that the liability of the Provider in relation to the activities (as defined by the *Competition and Consumer Act 2010* (Cth), the *Consumer Affairs and Fair Trading Act* (NT) and the *Australian Consumer Law*) and recreational activities (as defined by the *Civil Liability Act 2002* (NSW) and the *Civil Liability Act 2002* (WA)) for any:

- (a) Deaths;
- (b) Physical or mental injuries (including the aggravation, acceleration or recurrence of such an injury);
- (c) The contraction, aggravation or acceleration of a disease;
- (d) The coming into existence, the aggravation, acceleration or recurrence of any other condition, circumstance, occurrence, activity, form of behaviour, course of conduct or state of affairs in relation to an individual:
 - (i) That is or may be harmful or disadvantageous to you or the community; or
 - (ii) That may result in harm or disadvantage to you or community;

That may be suffered by you (or a person for whom or on whose behalf you are acquiring the services) resulting from the supply of the recreational services or recreational activities is excluded.

You acknowledge and agree that the above provision operates to exclude the liability of the Provider as a result of a breach of an express or implied warranty that the recreational services will be rendered with reasonable care and skill in accordance with section 5J of the *Civil Liability Act 2002* (WA) and section 5N of the *Civil Liability Act 2002* (NSW).

☐ I agree

Declaration and Signature

I have read carefully and understand this risk warning and waiver of liability and sign it freely and voluntarily without inducement of any kind.

Date signed, at (current location)

Print name and Signature

For Participants under age 18

This is to certify that I, as a parent/guardian with legal responsibility for the Participant, acknowledge, understand and accept all of the above and consent to his/her release as provided above. I release and agree to indemnify and hold harmless the Provider from any and all liabilities arising from my minor child's involvement or participation in the Activities and/or recreational services, even if arising from the negligence of the Provider.

Date signed, at (current location)

Parent or Legal Guardian - Print name and Signature