

**TERMS AND CONDITIONS**  
**POSITIVE ENERGY ADVENTURES & RETREATS PTY LIMITED**  
**(ACN 658 018 903)**

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## 1. Definitions

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- 1.1. "**Client**" means a person who is over 18 years of age and who is successfully registered for the tour upon payment of the Deposit.
- 1.2. "**Company**" means Positive Energy Adventures and Retreats Pty Limited (ACN 658 018 903).
- 1.3. "**Deposit**" means 20% of the total purchase price which is required on booking.
- 1.4. "**Itinerary**" means the planned route of the tour.
- 1.5. "**Jurisdiction**" means New South Wales.
- 1.6. "**Force Majeure Event**" means an event or circumstance which is outside of your control which prohibits the performance of obligations under the contract. This includes acts of god which can be bushfires, major flooding, impassable snow, earthquakes or hurricanes or other catastrophic events such as war, nuclear contamination, terrorism, riots, pandemic, or epidemic.
- 1.7. "**Free Time**" means any periods of free time which may be made available to you during the tour in which you may undertake activities which are not limited to or are include on the itinerary, walking notes or planned or supervised by the Tour Guides.
- 1.8. "**Tour Guides**" means any employee, director, contractor officers or agent employed by the Company engaged for the purpose of leading the Tour Guides.
- 1.9. "**Services**" means any hiking tour service provided by the Company to the Client.
- 1.10. "**Walking Notes**" means the walking notes prepared by the Company and provided to you on receipt of your deposit payment.
- 1.11. "**We/us**" is, where the context permits, a reference to the Company.
- 1.12. "**You/your**" is, where the context permits, a reference to the Client.

## 2. How to book

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- 2.1. You can make a booking through our website by emailing our reservations team. A deposit of \$400 is required to confirm your booking.
- 2.2. Once your booking has been made, you'll receive a booking confirmation email and be asked to complete all your guest information. All guests travelling must be over the age of 18 and must complete the guest information.

- 2.3. By confirming your booking, you agree to accept and be binding by our terms and conditions, as set out in this document. If you are booking on behalf of another person, we rely on the authority of the person making the booking to act on behalf of any other traveller on the booking and that person will bind all such travellers to these terms and conditions.

### **3. Pricing**

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- 3.1. Prices are quoted on a sessional basis: winter, shoulder and peak. The prices quoted on our website are the most current prices and are subject to minimum numbers. The prices quoted cover (and only cover) the following:
- 3.1.1. pick up and return from the collection and return point designated by the Company;
  - 3.1.2. transport to the start of the relevant walk experience, including, where applicable, any ferry transfers;
  - 3.1.3. twin share accommodation during the walk;
  - 3.1.4. food, limited non-alcoholic beverages and wine;
  - 3.1.5. all National Park entry fees;
  - 3.1.6. qualified staff for the duration of the walk; and
  - 3.1.7. use of backpack and weatherproof jacket (if required) for duration of walk.
- Any other cost is to be borne by you.
- 3.2. As above, included in the price is an allocation of wine per night. Although we do not promote doing so, you may bring your own alcohol (within reason), but you are responsible for carrying it and any bottles, cans etc. must also be taken out of the National Park by you. Final approval for any additional alcohol will be made by your guides, at their absolute discretion, on the day of departure.
- 3.3. No price reduction is available for guests who either elect to bring their own alcohol or choose not to avail themselves of the food or drink provided.
- 3.4. The Company abides by responsible service of alcohol principles as it promotes a safe and enjoyable environment for all guests and staff, and reduces the risk of alcohol-related injury. Your guides have absolute discretion around the provision of alcohol (including BYO alcohol) and will stop serving and/or prohibit continued consumption of alcohol if guest(s) appear (in the opinion of the guides) drunk or become violent, quarrelsome, disorderly or behave indecently.
- 3.5. Without limitation, the following items are excluded from the pricing:
- 3.5.1. Massages, treatments and other activities extra to the multi day hike;
  - 3.5.2. travel insurance;

- 3.5.3. pre and post walk departure travel arrangements, including accommodation and transport to the collection point and from the return point designated by the Company; and
- 3.5.4. any expenses not defined as an inclusion in the pricing including tips, personal clothing, medical expenses, items of a personal nature and emergency evacuations.

#### **4. Single Supplement**

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- 4.1. Our accommodation is twin share and all our walk prices per person are based on twin share (two people sharing one room). Solo travellers are always welcome and we will use our best endeavours to ensure that single travellers share with the same gender. If a single room is requested, a supplementary price of 75% of the full fee will apply. Requests for single supplement must be stipulated at the time of booking.

#### **5. Payment**

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- 5.1. All pricing is Australian Dollars
- 5.2. DEPOSIT: As above, bookings are not confirmed until your booked has been confirmed by the Company. A deposit of \$400 per person must be paid at the time the tentative booking is made.
- 5.3. FINAL PAYMENT: The balance of the booking price is payable to the Company at least 30 days prior to departure. For reservations made 30 days or less from the departure date, full payment is due at the time of booking.
- 5.4. Once you have paid the required deposit for your booking, any subsequent discounts or price reductions that are advertised by the Company or any third party will not be applied retrospectively.
- 5.5. Payment may be made by direct deposit, credit card or Australian debit cards. We do not accept payment by any other method, including cheque or foreign debit cards.
- 5.6. We do not charge a fee for payments made via
  - 5.6.1. Direct deposit, or Australian Visa or MasterCard "debit" card.
- 5.7. However, we do charge for the following payment fees for the following transactions
  - 5.7.1. 1% fee for Australian Visa and MasterCard "credit" cards;
  - 5.7.2. 2% fee for all foreign Visa and MasterCard "credit" cards; and

- 5.7.3. 3% fee for all American Express cards.
- 5.8. Gift Vouchers are available for purchase on our website and must be used in accordance with the following:
  - 5.8.1. must be used within 12 months from the date of purchase, otherwise it will be voided and may not be redeemed after expiry date.
  - 5.8.2. Gift Vouchers are not redeemable for cash and cannot be refunded for cash or credit.
  - 5.8.3. Purchases exceeding the available balances on the Gift Voucher will require the difference to be paid at the time of booking.
  - 5.8.4. A Gift Voucher is redeemable for any tour and/or product we offer on our website.
  - 5.8.5. Gift Vouchers cannot be used in conjunction with promotional offers.

## **6. Cancellation by Client**

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If you wish to cancel your booking, you must notify the Company in writing as soon as possible. Once the Company receives your notice, cancellation will take effect subject to the following:

- 6.1. the date of cancellation is the date that the Company receives written notice of the cancellation; and
- 6.2. if the cancellation is made:
  - 6.2.1. more than 90 days from the scheduled departure date, a fee of \$350 per person will be charged with the balance payment refunded to you;
  - 6.2.2. between 90 and 60 days prior to departure, you will be charged 50% of the full trip cost with the balance refunded to you; or
  - 6.3.3. within 60 days of departure, no refund is available.
- 6.3. cancellation by the Client will also take effect if:
  - 6.3.1. you fail to arrive at the pre-arranged meeting place at the time stipulated by the Company; or

- 6.3.2. your payment of the balance of the booking is not received by the Company by the required time as stipulated in condition 4.
- 6.4. No refund will be paid to you:
  - 6.4.1. voluntarily leave your walk after it has commenced, including (without limitation) for reasons of bereavement, injury or illness; or
  - 6.4.2. are directed by the Company to leave or not commence your walk in accordance with these terms and conditions.
- 6.5. The Company reserves the right to not provide a refund if you arrive on the day of departure for any walk with inappropriate footwear and are unable to join the walk (please refer to condition 15).

## **7. Booking Amendment by Client**

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- 7.1. If you wish to change your booking, you must notify the Company in writing as soon as possible. Once the Company receives your notice, the change will take effect subject to the following:
  - 7.1.1. one amendment can be made to your original booking, up to 90 days prior to the date of departure, at no cost. Any subsequent change up to 90 days prior to the date of departure will incur a non-refundable fee of \$200 per person;
  - 7.1.2. for booking changes made between 60 and 90 days prior to departure, there is a \$350 per person charge to change the departure date; and
  - 7.1.3. we do not accept changes to bookings within 60 days of departure.
- 7.2. Changes to your walk departure date, or transfer of booking to a different walk experience may incur additional costs payable by you for any difference in pricing. We will do our best to change your booking to your preferred date, but it may not always be possible.

## **8. Cancellation by Company**

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- 8.1. All of our walks take place in very special wilderness settings. We are at the mercy of nature in all her beauty and all her fury. We will under no circumstance knowingly place at risk the health and well-being of our guests and guides. In the case of a Force Majeure Event (defined in Clause 10), we

may need to cancel a walk with very little notice. In some cases, this can occur after the walk has commenced.

- 8.2. If a walk does not meet minimum numbers, the Company reserves the right to cancel the departure; however every effort will be made to consolidate numbers so that the booked walk will successfully depart. Your flexibility in this regard would be appreciated.
- 8.3. If we need to cancel a walk departure for any reason, we will provide you with the following options:
  - 8.3.1. we can hold a credit towards an alternative booking departure date to be used within 24 months, including a guarantee that there will be no additional charges for the future walk;
  - 8.3.2. provide a replacement walk that complements your existing travel arrangements (subject to availability);
  - 8.3.3. provide a replacement walk at a later date convenient to both parties; or
- 8.4. Where your walk is cancelled by the Company, we will not be liable for any costs associated with travel to and from the designated walk departure pick up point. We therefore strongly recommend travel insurance be taken out at the time of booking.

## **9. Unforeseen changes to Itinerary**

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- 9.1 There is a risk prior to the tour or during the tour that there may be unforeseen obstructions to the walking track, such as fallen trees, or a landslide and your Tour Guide may be required to take you an alternative route to avoid the obstruction and protect your safety. You acknowledge and agree that you will not claim a refund in the event you are required to take an alternative route due to an unforeseen obstruction which is out of the control of the Tour Guide.

## **10. Force Majeure**

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- 10.1. In circumstances where the tour is required to be cancelled due to a Force Majeure Event, no refunds will be granted, and Clients will be given the opportunity to reschedule their tour to a future date within 12 (twelve) months of months, plus pay a surcharge for unrecoverable costs, comprising any costs, fees, expenses or the like that the Company has paid or is liable to pay and which the Company is unable to recover.

## **11. Free Time**

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- 11.1. You agree and acknowledge that you may be given Free Time through the duration of the tour and during this Free Time or if you choose to leave the tour for any reason you agree to:
- 11.1.1. participate in Free Time at your own risk and you understand the extent of the risk involved in undertaking any activity as chosen by you in Free Time;
  - 11.1.2. fully release and indemnify the Company and each of its officers, employees, contractors, and agents, for any and all liability arising from any claim you may have relating to your death, injury, illness and loss and damage suffered during Free Time; and
  - 11.1.3. participate in Free Time willingly, freely and voluntarily.
- 11.2 You are free to leave the tour at any point at your own discretion. If in the instance you decide to leave the supervision of the Tour Guide or the tour; you understand and agree the Company will not be liable for you death, injury, illness, loss or damage you may suffer.

## **12. Evacuations**

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- 12.1. In rare circumstances during the tour, you may be injured or suffer an unforeseen illness which requires you to be evacuated from the tour. In instances where you are in a remote location and your condition is deemed to be potentially life threatening, a Government Funded Search and Rescue helicopter may be dispatched at no cost to you.
- 12.2. In circumstances where you are injured and you require a rescue helicopter for injuries such as broken or sprained limbs or even illnesses such as severe fatigue however, your condition is not life threatening; you will be liable for any third-party costs incurred and associated with your evacuation. An evacuation by ambulance or rescue helicopter can cost anywhere between several hundred to several thousand dollars, depending on the individual circumstances of the rescue.
- 12.3. Please note the Australian Government Medicare Act prohibits domestic travel insurance from reimbursing costs associated with ambulance or air ambulance services. To ensure you are covered for these unforeseen costs, we recommend obtaining private health insurance which includes specific ambulance cover or inquiring with your current private health provider to ensure your policy includes specific ambulance cover.



- 12.4. In addition to the cost of rescue helicopters and ambulances, you acknowledge and agree that you will be liable for all costs incurred and associated with any ground transportation and staff wages if the evacuations prohibit the continuation of the tour.

### **13. Travel Insurance**

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- 13.1. When selecting a travel insurance product, please ensure that it provides cover against, at a minimum, personal accidents or injury, medical expenses, Force Majeure Events, emergency repatriation and personal liability, cancellation for any reason including bereavement, delayed flights, lost luggage and personal effects.

### **14. Indemnity Form**

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- 14.1. We require that all walkers sign an indemnity prior to departure on the morning of the walk. This form indemnifies the Company, its officers, directors, employees, servants, agents or consultants or any of them from and against all costs, claims, actions, demands and liability whatsoever and howsoever arising from or in any way connected with the walking tour (including any transportation to or from the area in which the tour is to take place) including such costs, claims, actions, demands or statutory duty or otherwise on the part of the Company, or any of its officers, directors, employees, servants, agents or consultants, and including any liability in respect of or related to your death, personal injury or loss of or damage to any property owned or possessed by you, but excluding any liability in respect of which the Motor Accidents Insurance Board (if/as applicable) is bound to indemnify the Company, its officers, directors, employees, servants, agents or consultants.
- 14.2. By signing the indemnity form, you will also give the Company various acknowledgements including confirmation that you have been informed of the most appropriate form of footwear for the walk you are undertaking.

### **15. Footwear**

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- 15.1. Guests are required to wear supportive walking shoes or hiking boots with firm treaded soles. New boots should be worn in prior to the commencement of the walk. Waterproof or water-resistant boots are recommended.
- 15.2. These recommendations are made in the interests of your safety and to give you the best chance of having the most enjoyable experience possible. Arriving on the day of departure for any walk with inappropriate footwear may result in forfeiting your walk without refund. If you are unsure whether your footwear is suitable for your intended walk, please contact our reservations team for further advice.

## **16. Health and Fitness Requirements**

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- 16.1. It is your responsibility to read through the itinerary carefully and ensure you have adequate fitness for the proposed trip.
- 16.2. Walkers must be in good health and must be at least moderately fit in order to undertake a walk. Some training and preparation work is required prior to departure. The more physically prepared you are, the more enjoyable your walk will be. Speak with our reservations staff for more information about health and fitness requirements and walk preparation. As a general indication:
  - 16.2.1. guests will walk 18KM on the longest day of the walk along beaches, some rocky headlands and bush trails;
- 16.3. The Company reserves the right in its absolute discretion to refuse a guest the right to participate in a trip on medical or fitness grounds.

## **17. Medical Forms and Doctors Certificates**

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- 17.1. Guests with a pre-existing medical condition, including allergies, are required to disclose this on the booking form and may be required to supply a doctor's certificate or complete a confidential medical questionnaire.
- 17.2. Guests who are 69 years of age or older, at the time of departure, must supply a doctor's certificate stating that they are in good physical condition and that there are no known ailments or pre-existing medical conditions likely to prevent them from completing the walk. This step assists us to ensure an enjoyable, relaxed and trouble-free walk for all participants involved.

## **18. Dietary Requirements**

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- 18.1. Dietary requirements stating whether it is a lifestyle choice or allergy must be noted on the booking form. We will endeavor to cater to your needs, but we operate in remote locations which in some cases are only provisioned twice per year.
- 18.2. If dietary requirements are not disclosed at least 30 days prior to your departure date, we may not be able to cater to your needs. Should you need to cancel your trip because you have not disclosed dietary requirements in a timely manner, standard cancellation fees will apply (refer to Clause 6).

## **19. Guide and Guest Responsibilities**

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- 19.1. The trip leader includes both the nominated lead guide and any other person nominated by or on behalf of the Company to lead or supervise any aspect of the trip.

- 19.2. The Company's guides and support staff take their roles and responsibilities seriously and if for any reason the trip leader believes, in their absolute discretion, that you should not participate in the trip, they may exclude you from the trip. In this event, without prejudice to any other condition in these terms and conditions, you will be offered the option of taking another walk considered suitable for you or a full refund.
- 19.3. All our walks are group trips and guests need to be conscious of how their action may impact others. The trip leader is in charge to ensure not only your safety, but the comfort, safety and enjoyment of the entire group. If for any reason during a trip the nominated trip leader considers you should not participate further due to you committing an illegal act, or in the opinion of the nominated tour leader, your behaviour is causing or may cause danger, intimidation, distress, infringing conduct or annoyance to other participants, the nominated leader may direct you not to continue and you must follow their instructions. In this case you will not be entitled to any refund. Travel insurance may compensate you depending on the circumstances (and the terms and conditions of the relevant policy).

## **20. Environment Responsibilities**

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- 20.1. The Company operates within the Wilderness World Heritage Area and National Parks. Therefore, our environmental responsibilities are taken very seriously. Prior to departure, you will be briefed about such responsibilities, however prior knowledge and awareness is extremely helpful.

## **21. Exclusion of Liability**

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- 21.1. Guests acknowledge that walking in a wilderness area of a National Park is potentially a dangerous activity and guests are undertaking such an activity at their own risk. Guests acknowledge and agree that they will undertake the walk freely, voluntarily and absolutely at their own risk and with a full appreciation of the nature and extent of all risks involved in the walk. Guests acknowledge that the Company is supplying them with Recreational Services (as defined in Clause 3.1.1 to 3.1.7) for the purposes of applicable laws.
- 21.2. Guests agree to the fullest extent permitted by law waive all of their legal rights of action against and fully release the Company and its officers, directors, employees, servants, agents or consultants from all liability arising from or connected with their death or personal injury howsoever arising out of or in relation to the participation by them in a walk including without limitation, liability for a negligent or tortuous act or omission, breach of duty, breach of contract or breach of statutory duty on the part of the Company, its officers,

directors, employees, servants, agents or consultants. This waiver shall bind all guests and their legal personal representatives.

## **22. Limitation of Liability**

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- 22.1. The Company does not exclude or limit the application of any provision of any statute (including the *Competition and Consumer Act 2010* (Cth)) where to do so would:
- 22.1.1. contravene that statute; or
  - 22.1.2. cause any part of these terms and conditions to be void.
- 22.2. Except to the extent condition 21.1 applies, and to the extent permitted by law, the Company excludes all:
- 22.2.1. statutory liability;
  - 22.2.2. tortious liability (including negligence);
  - 22.2.3. conditions and warranties implied by custom, the general law or statute; and
  - 22.2.4. liability for all special, indirect, incidental, consequential or punitive damage and economic loss, loss of profits, loss of revenue, loss of bargain, loss of goodwill, loss of anticipated savings, or loss of use of products or equipment, arising out of or relating to these terms and conditions, the walk, or any failure to supply or delay in supplying the walk, whether or not the Company was aware or should have been aware of the possibility of such loss or damage.
- 22.3. The Company's liability to guests for any breach of any express or implied provision of these terms and conditions is limited, at the Company's option, to:
- 22.3.1. refunding the price of the goods or services in respect of which the breach occurred; or
  - 22.3.2. providing, replacing or repairing those goods or providing those services again.
- 22.4. Guests agree to indemnify and hold harmless the Company and each of its officers, directors, employees, servants, agents or consultants against any losses, costs, claims, damages, expenses, liabilities, proceedings or demands which any of them may directly or indirectly incur or suffer as a consequence of any breach by them of their obligations under these terms and conditions.

### **23. Third Party Liability**

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- 23.1. The Company is an intermediary between the Client and all external third-party service providers. If the Client has an incident arising out of or in relation to a service provided by a third party provider, the Client agrees to make a claim directly against the third party provider and not the Company.
- 23.2. You agree to indemnify the Company for all claims relating to the damage, destruction or loss of your personal property caused by a third party provider.

### **24. Jurisdiction**

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- 24.1. The laws of New South Wales shall apply to these terms and conditions

### **25. Acknowledgement**

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- 25.1. By placing a booking with the Company, guests acknowledge and agree that the Company has relied on the representations made by you, including in respect of your circumstances, travel insurance availability, age and medical condition which representations you hereby confirm, and warrant are true, correct and complete in every respect.