

TERMS & CONDITIONS OF CARRIAGE

This ticket is issued subject to these terms, which the passenger acknowledges having read and understood, and agrees to be bound by them.

For the purposes of these terms and conditions:

- (a) the Carrier is Cruise Whitsundays; and
- (b) 'Carriage' means all times during which the Carrier legally owes a duty of care to passengers to take reasonable steps to ensure their safety.

SAFETY

1. Passengers shall at all times follow and carry out all lawful directions of the Master and/or crewmembers of the vessel, particularly in relation to (but not limited to) personal safety of themselves, crew or other passengers.
2. Passengers are required to be seated when advised or requested to do so by the Master or any crewmember, for any reason.
3. Passengers are required at all times to take all reasonable precautions for their own safety and the safety of any person in their care (particularly children). This includes (but is not limited to) using hand and guard rails at all times as provided around the vessel, appropriately restraining children and ensuring that children are accompanied by a responsible adult at all times and paying attention to the safety briefing given by crewmembers at the commencement of carriage.
4. Passengers are advised and required to take particular care in conditions of inclement, rough or heavy weather or as advised by the crew.
5. Neither the carrier, the vessel nor any crewmember shall be held responsible for any loss or damage (including personal injury) suffered by any person, as a result of breach of that person's safety obligations (as detailed in paragraphs 1, 2, 3 and 4 above), or their failure to utilise all safety devices and precautions as provided and/or advised on board the vessel, or caused by any passenger acting in an unreasonable, unnecessary or unsafe manner.

LIMITATION OF LIABILITY

Liability of the Carrier

6. The carrier shall be liable for the damage suffered as a result of the death of or personal injury to a passenger and the loss of or damage to luggage if:
 - (a) the incident which caused the damage so suffered occurred in the course of the carriage; and
 - (b) was due to the fault or neglect of the carrier or of his servants or agents acting within the scope of their employment.
7. The burden of proving that the incident which caused the loss or damage occurred in the course of the carriage, and the extent of the loss or damage, shall lie with the claimant.

Valuables

8. The carrier shall not be liable for the loss of or damage to monies, negotiable securities, gold, silverware, jewellery, ornaments, works of art, or other valuables, except where such valuables have been deposited with the carrier for the agreed purpose of safe-keeping in which case the carrier shall be liable up to the limit provided for in Clause 11.

Contributory Fault

9. If the death of or personal injury to a passenger or the loss of or damage to his luggage was contributed to by the fault or neglect of the passenger, the carrier will not be liable for such proportion of the damages for death or personal injury, or the loss or damage to luggage, as may be attributable to the fault or neglect of the passenger.

Limit of Liability For Death or Personal Injury

10. The liability of the carrier for the death of or personal injury to a passenger shall in no case exceed A\$500,000 per carriage.

Limit of Liability For Loss of or Damage to Luggage

11. The liability of the carrier for the loss of or damage to cabin luggage shall in no case exceed A\$2,500 per passenger, per carriage.
12. The liability of the carrier for the loss of or damage to vehicles including all luggage carried in or on the vehicle shall in no case exceed A\$8,000 per vehicle, per carriage.
13. The liability of the carrier for the loss of or damage to any luggage other than that mentioned in Clauses 11 and 12 shall in no case exceed A\$3,000 per passenger, per carriage.

Defences and Limits for Carriers' Servants

14. If an action is brought against a servant or agent of the carrier arising out of damage covered by this contract, such servant or agent, if he proves that he acted within the scope of his employment, shall be entitled to avail himself of the defences and limits of liability which the carrier or the performing carrier is entitled to invoke under this contract.

Notice of Loss or Damage to Luggage

15. The passenger shall give written notice to the carrier or his agent:
 - (a) in the case of apparent damage to luggage:
 - (i) for cabin luggage, before or at the time of disembarkation of the passenger;
 - (ii) for all other luggage, before or at the time of its receipt;
 - (b) in the case of damage to luggage which is not apparent, or loss of luggage, within 15 days from the date of disembarkation or receipt or from the time when such receipt should have taken place.
16. If the passenger fails to comply with Clause 15, they shall be presumed, unless the contrary is proved, to have received the luggage undamaged.
17. The notice in writing need not be given if the condition of the luggage has at the time of its receipt been the subject of joint survey or inspection.

Time Bar for Actions

18. The passenger must notify the carrier in writing within 3 calendar months of the date of the incident from which any alleged loss arises.
19. Any action for damage arising out of the death of or personal injury to a passenger or for the loss of or damage to luggage shall be time-barred after a period of one year.
20. The limitation period shall be calculated as follows:
 - (a) In the case of personal injury, from the date the injury was suffered;
 - (b) In the case of death occurring during carriage, from the date when the passenger died, and in the case of personal injury occurring during carriage and resulting in the death of the passenger after disembarkation, from the date of the personal injury;
 - (c) In the case of loss of or damage to luggage, from the date of disembarkation or from the date when disembarkation should have taken place, whichever is later.
21. The law of Queensland shall govern the grounds of suspension and interruption of limitation periods, but in no case shall an action under this contract be brought after the expiration of a period of three years from the date of disembarkation of the passenger or from the date when disembarkation should have taken place, whichever is later.
22. Notwithstanding Clauses 18, 19 and 20, the period of limitation may be extended by a declaration of the carrier or by agreement of the parties in writing, after the cause of action has arisen.

JURISDICTION

23. If any term of this contract is found to be invalid or unenforceable, it shall be entirely severable from the remainder of the contract, and all other terms of this contract shall continue in full force and effect for all other purposes.
24. These terms of carriage shall be construed and interpreted according to the laws of the State of Queensland and, where appropriate the Commonwealth of Australia. In particular, s.68B of the Trade Practices Act is expressly incorporated into this contract. 10.4.03