



2021 Terms and Conditions: Port to Pub Swim

1. Definitions

Entry Fee means the relevant fee (calculated under clause 6) for Your entry in the Event;

Event means the **Port to Pub Swim** (*Channel 7 Port to Pub swim with Hotel Rottnest*) proposed to be conducted by the Organiser on the Event Course on Saturday, 20 March 2021 that includes the 19.7km Port to Pub swim for one or more swimming Participants competing as a single team and the Port to Pub 25km ultra-marathon for Solo Swimmers only;

Event Briefing means the compulsory briefing for Participants (other than Skippers) to be conducted by the Organiser on 11 March 2021 (or any other dates notified by the Organiser on the Event Website);

Event Course means the courses delineated by the Organiser located in the Indian Ocean between Leighton Beach and Rottnest Island, Western Australia over which the Event, including the 19.7km Port to Pub swim and the Port to Pub 25km ultra-marathon, will be conducted as published and updated from time to time on the Event Website;

Event Qualifying Requirements mean the pre-requisites for entry as a Participant in the Event (that include the pre-requisites for entry as a Skipper and the separate pre-requisites for entry as a swimmer in each of the Port to Pub swim and the Port to Pub 25km ultra-marathon);

Event Website means the website at www.porttopub.com.au and any pages within that website;

Harm means death, personal injury (including burns), psychological trauma, loss or damage (including property damage);

Interested Parties means the Organiser together with the port authorities, local councils and other public bodies, landholders, sponsors and suppliers in any way involved in the organisation or conduct of the Event;

Law means all acts and statutes (of the State of Western Australia or Commonwealth of Australia) enacted and all regulations, by-laws, requisitions or orders made under any Law from time to time;

Marine Rules mean all statutes, regulations, by-laws, requirements and approvals (including conditions) under any applicable Law regulating the conduct of boating and recreational activities on or about the Event Course including the rules and regulations for safe boating and marine safety in Western Australian waters published by the



Department of Transport from time to time; including the Western Australian Marine Act 1982 (WA), the Navigable Waters Regulations 1958 (WA) and the Fair Trading (Product Information Standard) Regulations 2005 (WA);

Non-Adult Participant is defined in clause 3(b);

Organiser means Port to Pub Pty Ltd ABN 11 603 209 623 of PO Box 4237 Mosman Park South, Western Australia, 6012, its directors, officers, employees, agents, volunteers and contractors;

Other Participant means any other person for whom You complete the online registration as a member of Your Team subject to clause 4;

Paddler means a person operating a Ski who is supporting a Participant in the Event;

Participant means a person participating in the Event as a swimmer, Paddler, Skipper, or support crew;

Ski means a canoe, kayak, surf ski or any other similar craft that is propelled by paddle or otherwise by the movements of a seated person operating the craft;

Skipper means a person in charge of a Vessel;

Skipper Briefing means the compulsory briefing for Skippers to be conducted by the Organiser on 04 March 2021 (or any other dates notified by the Organiser on the Event Website);

Solo Swimmer is defined in clause 2(b);

Terms means these terms and conditions for entry into the Event that include an exclusion of liability, indemnity and risk acknowledgment (including any amendments made by the Organiser subject to clause 14);

You and Your means:

- (a) the person completing the online registration personally (or by a parent or guardian on his or her behalf where the Participant is under the age of 18 years) or as authorised agent for and on behalf of an Other Participant (subject to clause 4); and
- (b) each Participant;

and in each case, the person's heirs, executors and administrators;

Your Team means You and each person participating with You or supporting You in the Event as part of a discrete team including any person participating as a swimmer, Paddler, Skipper or support crew; and

Vessel means a motor boat subject to clause 2(f) which is used to support a Participant to participate in the Event.



2. Event Qualifying Requirements

- (a) Entry in this Event by You and Your Team is subject to the Event Qualifying Requirements. You must not submit an online registration unless You and each member of Your Team meet the relevant Event Qualifying Requirements.
- (b) **Solo Swimmers** - The Event Qualifying Requirements for participation as a solo swimmer in the Event are set out in the table below (**Solo Swimmer**). If You are participating in the Event as a Solo Swimmers You must provide the Organiser with proof that You meet the Event Qualifying Requirements set out below:

Event	Minimum Age	Qualifying Swim
Port to Pub 25km ultra-marathon Solo Swimmer	14 years (subject to clause 3(b))	10km under 4 hours and 15 mins within a 2 year timeframe prior to the date of the Event. OR Solo Rottnest Channel crossing (Port to Pub or Rottnest Channel Swim (RCS)) or similar distance swim completed in last 2 years.
Port to Pub 19.7km Solo Swimmer	14 years (subject to clause 3(b))	10km under 4 hours and 15 mins within a 2 year timeframe prior to the date of the Event. OR Solo Rottnest Channel crossing (Port to Pub or RCS) or similar distance swim completed in last 2 years.

- (c) **Teams** - If You are participating in the Event as part of a single team of two or more swimmers, by agreeing to these Terms You warrant that You meet the relevant Event Qualifying Requirements set out in the table below:

Event	Minimum Age	Qualifying Swim
Port to Pub 19.7km Duo	13 years (subject to clause 3(b))	Recommended only - 2.5km within a 2 year timeframe prior to the date of the Event. OR Rottnest Channel solo or duo crossing (Port to Pub or RCS) or similar distance swim completed in last 2 years.



Port to Pub 19.7km Team of 4	13 years (subject to clause 3(b))	Recommended only - 1.25km within a 2 year timeframe prior to the date of the Event.
Port to Pub 19.7km Team of 6	13 years (subject to clause 3(b))	Recommended only - 1.25km within a 2 year timeframe prior to the date of the Event

- (d) Your Team must be supported by a Vessel and Skipper that comply with the Event Qualifying Requirements in clause 2(f). The Vessel must have Your Team's registration number stickers affixed to each side of the Vessel in a visible location, unless Your Team is supported by two Vessels as permitted by clause 2(f) in which case each Vessel must have at least one sticker affixed to it in a visible location. A Vessel may only support one team or one Solo Swimmer participating in the Event except that a Vessel may support no more than two Solo Swimmers if it satisfies the following conditions:
- (i) each such Solo Swimmer is also supported by their own Paddler; and
 - (ii) the Solo Swimmers remain no more than 20 metres distance from each other at all times while on the Event Course.
- (e) Your Team must be supported by a Paddler. The Ski being operated by the Paddler must have Your Team's registration number stickers affixed to each side of the Ski in a visible location. Paddlers are encouraged to wear a PFD. This will become a compulsory measure in 2022 as per a WA Department of Transport mandate.
- (f) The Event Qualifying Requirements for participation as a Skipper for Your Team in the Event are:
- (i) that the Skipper has read and understood the Marine Rules and that the Vessel used by the Skipper satisfies the requirements of the Marine Rules for participation in the Event; and
 - (ii) that the Vessel used by Your Skipper is not less than 5 metres and not more than 12 metres in length, provided that if the Vessel is greater than 10 metres but not more than 12 metres in length then it must stay south of the channel and of the main fleet and must be supported by a tender vessel. Tenders should be 3.1 metres or less in size with a motor not exceeding 5hp. Anything over that size is required to be registered. Tenders also need to carry necessary safety equipment, including a marine radio, and comply with the Marine Rules (and in the event a tender vessel is so used, the person in control of that tender vessel must satisfy all the requirements of a Skipper under these Terms and must



comply with these Terms in respect of the tender vessel as if that person is a Skipper under these Terms); and

- (iii) that the Skipper holds all licences required by Law to operate the Vessel, including, but not limited to, a current recreational skipper's ticket (or an interstate equivalent if the Skipper has not been in Western Australia for more than 3 months) and any such licence is not provisional or restricted or subject to disqualification or suspension for any reason.

It is recommended that each Skipper is a member of the Fremantle Volunteer Sea Rescue Group, but this is not compulsory.

3. Registration, warranties and acknowledgements

- (a) By participating in the Event You acknowledge that You have read the Terms and agree to be bound by them (whether or not You comply with clause 3(d)).
- (b) You warrant that You and each member of Your Team are 18 years or older or, if on the date of the Event You or a member of Your Team are under the age of 18 years (**Non-Adult Participant**), then:
 - (i) a parent or guardian must agree to be bound by these Terms on the Non-Adult Participant's behalf by printing out and providing a signed copy of the Parent/Guardian consent attached to these Terms to the Organiser at the address shown on the Event Website or at the Event Briefing; and
 - (ii) the Non-Adult Participant must be supervised by an adult at all times during the Event.
- (c) You warrant that:
 - (i) the information You have provided to the Organiser or that has been provided to the Organiser about You in the online registration is true and correct;
 - (ii) You, and each member of Your Team, meet the applicable Event Qualifying Requirements (if any);
 - (iii) You have the legal capacity to agree to these Terms; and
 - (iv) You will not use a false name or impersonate another person in the online registration or in relation to the Event generally.
- (d) You acknowledge and agree that:
 - (i) by clicking the "I AGREE" button on an electronic copy of these Terms that will be provided to You as part of the online registration or by email following online registration that You will be bound by these Terms; and



- (ii) in any event, by participating in the Event You will be bound by these Terms (even if You fail to click the "I AGREE" button on an electronic copy of these Terms or if the Organiser does not receive confirmation that You have done so).

4. Registering another member of Your Team

- (a) If You complete the online registration for another member of Your Team (**Other Participant**), You warrant that:
 - (i) You are authorised to do so and that each Other Participant is 18 years or older, or if on the date of the Event, an Other Participant is under the age of 18 years, that:
 - (A) You are authorised by a parent or guardian of the Other Participant to register the Other Participant as a Participant; and
 - (B) You will procure a parent or guardian of the Other Participant to agree to be bound by these Terms on the Participant's behalf by printing out and providing a signed copy of the Parent/Guardian consent attached to these Terms to the Organiser at the address shown on the Event Website or at the Event Briefing.
- (b) If You complete the online registration for an Other Participant, You agree that You will invite each Other Participant to join Your Team by following the process outlined on the 'Register Now' platform and procure each Other Participant agrees to these Terms by clicking on the "I AGREE" button on an electronic copy of these Terms that will be sent electronically to each Other Participant following online registration. In accordance with clause 3(d)(ii), You also acknowledge and agree that You and the Other Participant will be bound by these Terms even where the Other Participant does not click the "I AGREE" button on an electronic copy of these Terms or the Organiser does not receive confirmation that the Other Participant has done so, but otherwise participates in the Event.
- (c) IF YOU COMPLETE THE ONLINE REGISTRATION FOR AN OTHER PARTICIPANT, YOU INDEMNIFY AND HOLD HARMLESS ANY INTERESTED PARTIES TO THE FULLEST EXTENT PERMITTED BY LAW, FROM AND AGAINST ALL ACTIONS, CLAIMS, PROCEEDINGS, DEMANDS, LIABILITIES, LOSSES, DAMAGES (INCLUDING INDIRECT AND CONSEQUENTIAL LOSS), EXPENSES, COSTS (INCLUDING LEGAL COSTS ON A FULL INDEMNITY BASIS) WHATSOEVER THAT MAY BE INCURRED, AS A DIRECT OR INDIRECT RESULT OF ANY BREACH OF YOUR WARRANTIES OR FAILURE TO COMPLY WITH YOUR OBLIGATIONS IN THIS CLAUSE 4.



5. Registration changes

- (a) Your Event registration must be completed by, and no changes may be made after, 05 March 2021.
- (b) Notwithstanding clause 5(a), no changes to Your Event registration relating to a change of Participants may be made after 05 March 2021, except where a proposed new Participant attended the Event Briefing (where the proposed new Participant will not be a Skipper) or Skipper Briefing (where the proposed new Participant will be a Skipper) and provides the Organiser with written confirmation of such attendance.
- (c) Changes to Your Event registration (including changes to the Participants) may only be made by logging on to the Event Website using Your or Your Team's individual Event registration reference code and following the prompts.
- (d) You acknowledge and agree that no amendment may be made to an Event registration which would result in:
 - (i) a person who does not meet the relevant Event Qualifying Requirements participating in the Event;
 - (ii) a Non-Adult Participant participating in the Event unless the Organiser has received the Parent/Guardian consent attached to these Terms signed by a parent or guardian of that Non-Adult Participant agreeing to be bound by these Terms on the Non-Adult Participant's behalf; and
 - (iii) any person participating in the Event who has not signed and provided to the Organiser a signed copy of these Terms or has otherwise accepted these Terms in a manner advised by, or acceptable to, the Organiser.
- (e) You acknowledge and agree that any changes to Your Event registration will not result in any part of the Event Fee that has been paid being refunded by the Organiser.

6. Payment and refunds

- (a) You must pay, or arrange payment of, the Entry Fee in full during the online registration by going to or arranging for a member of Your Team to go to the Event Website and following the prompts.
- (b) The Entry Fee varies depending upon the capacity in which You participate in the Event and the time at which payment is made and can be calculated according to the following table:

Event Fee



Event	Early Bird: 26 Oct – 30 Oct 2020 (midnight)	Standard: 31 Oct – 20 Feb 2021 (midnight)	Late Entries: 21 Feb – 05 March 2021
25km ultra-marathon	\$330	\$350	\$375
Solo	\$330	\$350	\$375
Duo	\$580	\$600	\$620
Teams of four	\$1100	\$1140	\$1200
Team of six	\$1650	\$1710	\$1800

- (c) You acknowledge and agree that You (or Your Team or any member of Your Team) are not entitled to any refund of the Entry Fee where You withdraw (or Your Team or any member of Your Team withdraws) from the Event at any time or are unable to participate or compete in the Event for any reason (including where You (or any member of Your Team) are incapacitated or declared medically unfit for any reason).
- (d) The Organiser does not guarantee that the Event will take place at the time stated on the Event Website and reserves the right to delay the starting time of the Event or to alter the duration of the Event or any proposed Event activities, or to cancel or abandon the Event at any time, where circumstances occur beyond the reasonable control of the Organiser including but not limited to shark sightings, bad weather, strong and dangerous currents and swells or other safety or security concerns. Where the Event is delayed, altered, cancelled or abandoned in any circumstance, You agree that no refund of the Event Fee will be payable and that neither You nor any member of Your Team will have any claim for damages or loss of any kind against any of the Interested Parties.
- (e) The Organiser is not obliged to ensure competitor items are distributed to all competitors.

7. Conduct

- (a) You are responsible for ensuring that:
 - (i) You satisfy the relevant Event Qualifying Requirements;
 - (ii) You are in an appropriate physical and mental condition to participate in the Event including taking into account Your level of general health, physical fitness, any physical or medical condition, physical and mental stamina and likelihood of fatigue;
 - (iii) You are present for the Event Briefing (if you are a Participant that is not a Skipper) or the Skipper Briefing (if you are a Skipper) which will be



conducted at the time and place specified by the Organiser. Skippers are encouraged to attend either the Event Briefing or Skipper Briefing, or both;

- (iv) You have obtained adequate insurance to cover any injuries and loss or damage to Your property that occurs during the Event; and
 - (v) You do not participate in the Event while under the influence of alcohol or drugs.
- (b) If You participate as a swimmer in the Event, You are responsible for ensuring that:
- (i) You are experienced in swimming in open water conditions that include strong and dangerous currents and swells, rips, seaweed, reefs, channels and other unexpected water environments that include water that is very cold, sandy and difficult to swim in; and
 - (ii) You understand that in addition to the usual risks involved in swimming in open water conditions the high concentration of Participants means that You will be exposed to additional risks of injury from other Participants and Vessels.
- (c) If You participate as a Paddler in the Event, You are responsible for ensuring that:
- (i) You are a strong and experienced Paddler and are experienced in paddling in open water conditions that include strong and dangerous currents and swells, rips, seaweed, reefs, channels and other unexpected water environments;
 - (ii) if You are dislodged from Your Ski, You will be capable of swimming in open water conditions that include strong and dangerous currents and swells, rips, seaweed, reefs, channels and other unexpected water environments that include water that is very cold, sandy and difficult to swim in; and
 - (iii) You understand that in addition to the usual risks involved in paddling in open water conditions the high concentration of Participants means that You will be exposed to additional risks of injury from other Participants and Vessels.
- (d) If You participate as Skipper of a Vessel during the Event, You are responsible for ensuring that:
- (i) You hold any licence (including but not limited to a recreational skipper's ticket) required by Law or the Marine Rules to skipper the Vessel; and



that licence is not provisional or restricted or subject to disqualification or suspension for any reason;

- (ii) the Vessel will be seaworthy and capable of carrying the number of passengers and undertaking the operations required to participate safely in the Event;
 - (iii) without limiting the operation of clause 7(d)(ii), the maximum number of passengers on the Vessel (including You) at all times must not exceed the number permitted under the Marine Rules relevant to the Vessel;
 - (iv) You have sufficient experience in being in charge of the Vessel in conditions similar to the Event (that will include heavy traffic and swimmers in the water, requiring a high degree of Vessel control and navigational ability); and
 - (v) You, and any person assisting You, comply with the Marine Rules at all times.
- (e) You agree:
- (i) to attend the Event Briefing (if you are a Participant that is not a Skipper) or the Skipper Briefing (if you are a Skipper) and to comply, and procure compliance by each member of Your Team, with any additional directions for participation in the Event given by the Organiser at either the Event Briefing or the Skipper Briefing or published on the Event Website. Skippers are encouraged to attend both the Event Briefing and the Skipper Briefing;
 - (ii) without limiting clause 7(e)(i), that the Organiser may exclude You or Your Team from participation in the Event where:
 - (A) a Skipper from Your Team does not attend the Skipper Briefing;
 - (B) at least one Paddler or one swimmer from Your Team (or a Solo Swimmer) does not attend the Event Briefing; or
 - (C) the Organiser does not receive on or before the Event Briefing (or any later date determined by the Organiser in its absolute discretion) confirmation that each member of Your Team has agreed to these Terms by clicking on the "I AGREE" button on an electronic version of these Terms that will be provided to each member of Your Team as part of the online registration or by email following online registration;
 - (iii) that no Participant who is under 18 years of age at the date of the Event will be allowed to participate unless the Organiser has received a copy



of the Parent/Guardian consent attached to these Terms signed by a parent or guardian of the Participant; and

- (iv) to promptly follow, and procure that each member of Your Team follows, all directions given by the Organiser during the conduct of the Events.
- (f) You acknowledge that to the extent that there are no inconsistencies with these Terms or any directions of the Organiser, the Event will be generally governed in accordance with the Open Water Swimming Rules of FINA which can be found on the FINA website <http://www.fina.org>.
- (g) During the Event, You and each member of Your Team must not engage in any conduct that may cause Harm to another Participant or their property, or in any criminal activity, bad language or other antisocial behaviour that will interfere with the conduct of the Event or damage the reputation of the Event or the Interested Parties.
- (h) The Organiser reserves the right, in its absolute discretion, to refuse to allow You or members of Your Team to participate in the Event or to require You or members of Your Team to immediately withdraw from the Event and leave an Event venue at any time if You and/or members of Your Team breach these Terms (including by failing to comply with clause 3(d)), or otherwise where the Organiser determines it is in the best interests of the Event or the Interested Parties to do so, and in any such case You and each member of Your Team will have no claim against the Organiser or the Interest Parties for any Harm You or members of Your Team may suffer and You will forfeit all Entry Fees.
- (i) You acknowledge that Your Team must complete the Event by 5pm on 20 March 2021 and that if Your Team has not completed the Event by that time you must cease participating in the Event and must comply with all directions of the Organisers in respect of the Event.

8. Risks

- (a) You acknowledge that attending or participating in the Event involves inherent risks that may result in You suffering Harm. These risks include, but are not limited to:
 - (i) exposure to a range of marine life including sharks, sting rays, seals and other marine creatures including jellyfish and stingers that may cause Harm to You including death or life-threatening injuries;
 - (ii) exposure to dangerous ocean conditions that may cause Harm including heavy swell, tides, rips, currents, reefs, channels, and other ocean conditions that are unexpected and unpredictable;
 - (iii) accidents (and resulting Harm) arising from exposure to inclement or extreme weather or ocean conditions;



- (iv) collisions (and resulting Harm) involving Vessels, Skis, marine animals, persons or property;
 - (v) acts of violence and other harmful acts (whether intentional or inadvertent) committed by Participants or persons attending, or encountered during the Event (and resulting Harm);
 - (vi) the mechanical unreliability or failure or unsuitability for Event conditions of Your Vessel or Ski during the Event (and resulting Harm);
 - (vii) dangerous conditions for Participants during the Event (and resulting Harm) caused by the number of swimmers, Paddlers, Skis or Vessels in close proximity or unpredictable ocean conditions;
 - (viii) lack of Event services or equipment to ensure the safety of persons or property during the Event (and resulting Harm);
 - (ix) accidents (and resulting Harm) caused by Your fatigue or the fatigue of other Participants; and
 - (x) the conduct of the Event in a remote location in ocean waters with limited or no access to medical facilities and assistance, telecommunications services and emergency services and equipment (and resulting Harm).
- (b) IF YOU PARTICIPATE IN THE EVENT AS THE SKIPPER OF THE VESSEL FOR YOUR TEAM YOU ACKNOWLEDGE THAT YOU ARE ULTIMATELY RESPONSIBLE FOR THE SAFETY AND WELFARE OF EACH MEMBER OF YOUR TEAM DURING THE EVENT AND THAT YOU ARE RESPONSIBLE FOR DETERMINING WHETHER IT IS SAFE TO CONTINUE OR WHETHER YOU AND YOUR TEAM SHOULD WITHDRAW FROM THE EVENT AT ANY TIME.
- (c) IF YOU ARE NOT THE SKIPPER OF THE VESSEL FOR YOUR TEAM, THEN YOU ACKNOWLEDGE THAT THE SKIPPER OF THE VESSEL FOR YOUR TEAM, IS ULTIMATELY RESPONSIBLE FOR YOUR SAFETY AND WELFARE AND THE SAFETY AND WELFARE OF EACH MEMBER OF YOUR TEAM DURING THE EVENT AND YOU AGREE TO ABIDE BY THE DIRECTIONS OF THE SKIPPER OF THE VESSEL FOR YOUR TEAM INCLUDING ANY DETERMINATION BY THE SKIPPER OF THE VESSEL FOR YOUR TEAM TO WITHDRAW FROM THE EVENT AT ANY TIME.

9. Medical treatment

- (a) You consent to receive and pay for any medical treatment (including without limitation, ambulance or emergency transportation) which is considered by the Organiser to be advisable or deemed reasonable before, during or after the Event and agree to indemnify and keep indemnified the Organiser for all costs associated with this medical treatment.



- (b) Where You receive medical treatment before, during or after the Event (at the request of or in consultation with the Organiser), You agree to provide a copy of Your medical records for that medical treatment to the Organiser's insurers upon request.
- (c) If You receive medical treatment before, during or after the Event, You consent to the Organiser providing to persons giving You such medical treatment any medical information about You that the Organiser has received in connection with Your participation in the Event (including in the online registration process).

10. Exclusion of liability

- (a) TO THE FULLEST EXTENT PERMITTED BY LAW (INCLUDING BUT NOT LIMITED TO SECTION 139A OF THE *COMPETITION AND CONSUMER ACT 2010* (CTH) AND SECTION 5J OF THE *CIVIL LIABILITY ACT 2002* (WA)) THE INTERESTED PARTIES EXCLUDE ALL LIABILITY (INCLUDING IN RELATION TO ANY WARRANTY OR GUARANTEE) ARISING FROM ANY LOSS OR DAMAGE SUFFERED BY YOU OR ANY MEMBER OF YOUR TEAM IN CONNECTION WITH THE EVENT, INCLUDING (WITHOUT LIMITATION) IN RESPECT OF ANY LOSS OR DAMAGE TO PROPERTY AND IN RESPECT OF ANY DEATH, PHYSICAL OR MENTAL INJURY (INCLUDING AGGRAVATION, ACCELERATION OR RECURRENCE OF SUCH AN INJURY), CONTRACTION, AGGRAVATION OR ACCELERATION OF A DISEASE OR COMING INTO EXISTENCE, AGGRAVATION, ACCELERATION OR RECURRENCE OF ANY OTHER CONDITION OR OCCURRENCE THAT IS OR MAY BE HARMFUL OR DISADVANTAGEOUS TO YOU OR YOUR TEAM ARISING FROM THE EVENT NOT BEING SUPPLIED WITH DUE CARE AND SKILL OR NOT BEING REASONABLY FIT FOR PURPOSE OR FOR ANY BREACHES OR FAILURE OF ANY CONSUMER GUARANTEES UNDER SCHEDULE 2 TO THE *COMPETITION AND CONSUMER ACT 2010* (CTH) (THE "**AUSTRALIAN CONSUMER LAW**") OR ARISING UNDER ANY LAW OR DUE TO NEGLIGENCE BY ANY OF THE INTERESTED PARTIES OR FOR BREACH OF CONTRACT OR ARISING IN ANY OTHER WAY WHATSOEVER.
- (b) Nothing in this document excludes, limits or modifies the application of the Australian Consumer Law, or any other applicable Law or the exercise of any rights or remedies conferred by the Australian Consumer Law or any other applicable Law where to do so would contravene the Australian Consumer Law.

11. Indemnity

YOU INDEMNIFY AND HOLD HARMLESS THE INTERESTED PARTIES TO THE FULLEST EXTENT PERMITTED BY LAW, FROM AND AGAINST ALL ACTIONS, CLAIMS, PROCEEDINGS, DEMANDS, LIABILITIES, LOSSES, DAMAGES (INCLUDING INDIRECT AND CONSEQUENTIAL LOSS), EXPENSES, COSTS (INCLUDING LEGAL COSTS ON A FULL INDEMNITY BASIS) WHATSOEVER THAT MAY BE INCURRED, AS A DIRECT OR INDIRECT RESULT OF YOUR



PARTICIPATION IN THE EVENT AND/OR PARTICIPATION IN THE EVENT OF ANY MEMBER OF YOUR TEAM.

12. Privacy

- (a) You consent to the Organiser collecting and using Your name on the Event Website for promotional and fundraising purposes to the extent permitted by Law.
- (b) You agree that photos taken at the Event can be used in advertising and promotional material for the Port to Pub Swim provided that all images will reflect behaviour that is appropriate and will meet community standards of acceptable dress and deportment and will not contain Your personal details, and the Organiser will remove those photos where requested by You.

13. Cancellation of the Event

You agree that the Organiser may in its sole and absolute discretion cancel or postpone the Event at any time before or during the conduct of the Event and if that occurs, neither You nor any member of Your Team will have any claim for damages or loss of any kind against the Interested Parties.

14. Amendment of terms

You acknowledge that the Organiser may amend these Terms at any time, in its sole discretion, but must notify You where an amendment is important and will impact detrimentally on You. You agree that the Organiser can notify You by sending an email to the email address included in the online registration process.

15. Previous disclaimers

To the extent there is any inconsistency, these Terms replace all previous terms and conditions in relation to the Event.

16. Severance

If any provision of this document is prohibited, invalid or unenforceable in any jurisdiction, that provision will, as to that jurisdiction, be ineffective to the extent of the prohibition, invalidity or unenforceability without invalidating the remaining provisions of this document or affecting the validity or enforceability of that provision in any other jurisdiction.



17. RISK WARNING AND ACKNOWLEDGEMENT

- (a) YOUR PARTICIPATION IN THE EVENT MAY INVOLVE RISK. THE RISKS INVOLVED MAY RESULT IN PROPERTY LOSS OR DAMAGE AND PERSONAL INJURY INCLUDING DEATH. PRIOR TO PARTICIPATING IN THE EVENT, YOU SHOULD ENSURE YOU ARE AWARE OF ALL OF THE RISKS INVOLVED, INCLUDING THOSE RISKS ASSOCIATED WITH ANY HEALTH CONDITION YOU MAY HAVE. YOU ACKNOWLEDGE, AGREE, AND UNDERSTAND THAT PARTICIPATION IN THE EVENT INCLUDING THE SERVICES PROVIDED BY THE INTERESTED PARTIES MAY INVOLVE RISK.
- (b) YOU FREELY AND VOLUNTARILY ASSUME ALL RISKS ASSOCIATED WITH PARTICIPATING IN THE EVENT INCLUDING THE RISKS DESCRIBED IN CLAUSES 8 AND 17(a) AND ACKNOWLEDGE THAT YOUR PARTICIPATION IN THE EVENT IS ENTIRELY AT YOUR OWN RISK AND THAT YOU MAY WITHDRAW FROM THE EVENT AT ANY TIME.
- (c) YOU ALSO ACKNOWLEDGE THAT THE RISK WARNING IN THIS CLAUSE 17 CONSTITUTES A 'RISK WARNING' IN ACCORDANCE WITH RELEVANT LAW INCLUDING THE *CIVIL LIABILITY ACT 2002 (WA)*.
- (d) **WARNING:** IF YOU PARTICIPATE IN THESE ACTIVITIES YOUR RIGHTS TO SUE THE INTERESTED PARTIES IF YOU ARE KILLED OR INJURED BECAUSE THE ACTIVITIES WERE NOT SUPPLIED WITH DUE CARE AND SKILL OR WERE NOT REASONABLY FIT FOR THEIR PURPOSE, ARE EXCLUDED, RESTRICTED OR MODIFIED IN THE WAY SET OUT IN OR ON THIS NOTICE.
- (e) **NOTE:** THE CHANGE TO YOUR RIGHTS, AS SET OUT IN OR ON THIS NOTICE, DOES NOT APPLY IF YOUR DEATH OR INJURY IS DUE TO GROSS NEGLIGENCE ON THE INTERESTED PARTIES PART. GROSS NEGLIGENCE, IN RELATION TO AN ACT OR OMISSION, MEANS DOING THE ACT OR OMITTING TO DO AN ACT WITH RECKLESS DISREGARD, WITH OR WITHOUT CONSCIOUSNESS, FOR THE CONSEQUENCES OF THE ACT OR OMISSION.

18. You consent to Port to Pub sharing the following details provided by You with the *Rottneest Channel Swim Association (RSCA)* for the purposes of assisting the RSCA perform its functions including holding the annual Rottneest Channel Swim, improving ongoing safety, and maintaining a record of successful channel swim crossings for solo swimmers for the purposes of determining and recording RSCA membership:

- (a) name of the swimmer;
- (b) where the swimmer has swum as part of a Team, the name of the Team;



- (c) in the case of solo swimmers, the date of birth of the swimmer;
 - (d) in the case of solo swimmers, an email contact address;
 - (e) the time taken for the soloist or the Team to undertake the crossing;
 - (f) the skipper of the support boat; and
 - (g) details of any sanction given in the Event to the swimmer, the Team or the skipper of the support vessel.
- 19.** Without limiting the above, You acknowledge and agree that the details of any swimmer, skipper or family member of a swimmer who is banned or sanctioned from the Port to Pub Event, will be provided to the RSCSA to enable the RSCA to make a determination on whether it will preclude that swimmer, skipper, or family member from participating in the Rottneest Channel Swim event.
- 20.** You agree that the GSS is not the operator or producer of this event and is not liable or in any way responsible for any accidents or incidents resulting from this event and agree not to take any type of legal action against the GSS.



PARENT/GUARDIAN CONSENT – PERSONS UNDER 18 YEARS

Iof [Address].....
am the parent/guardian* of(the **Participant**) who is
under 18 years old. I have read this document and understand its contents, including the
exclusion of liability, assumption of risk, and risk warning and acknowledgment, and have
explained the contents to the Participant. I agree to the terms of this document on behalf of
the Participant and I consent to the Participant participating in the Event at his/her own risk
and agree that I will ensure the Participant is supervised by an adult at all times during the
Event.

Name (participant) _____

Team Name _____

Signature (parent or guardian*) _____

*Delete whichever does not apply

Date _____