

Indemnity Waiver Form - Swim With The Dolphins Tour

Please ensure you read this form in its entirety, provide all relevant details and sign the Acceptance Section.

BOOKING NAME: _____ Number of people in group: _____

Phone: _____ Email: _____

CONTACT Your contact details, please print clearly to ensure your certificate is correct Age

Swimmer 1 _____

Swimmer 2 _____

Swimmer 3 _____

Swimmer 4 _____

EMERGENCY CONTACT (Please provide details for the person whom we must contact (one per group is fine))

Name: _____

Phone: _____ Email: _____

SWIMMING and SNORKELLING Experience please tick the box/boxes which best describes your ability:	Swimmer			
	1	2	3	4
Experienced ocean swimmer				
Pool swimmer (good swimmer but mainly pool)				
Limited swimming (can swim but may require assistance)				
Limited or no snorkelling experience				

PHOTOGRAPHY
 During the tour we may take photographs and or videos. If you appear in one of the photographs or videos are you happy to give us your consent to use the photograph or video for marketing purposes - tick box: YES____ NO____

MEDICAL CONDITIONS - if any conditions apply to you it is your duty to tick relevant boxes and inform the host:	Swimmer				Details
	1	2	3	4	
Pregnant					
History of Seizures, Dizziness, Fainting (Medication?)					
History of Heart Conditions (Medication?)					
Blood Pressure Issues (Medication?)					
History of Respiratory Issues i.e. Asthma (Medication?)					
Diabetes (Medication?)					
Hearing, visual, or other disabilities (relevant to tour)					
Allergies					

ACCEPTANCE - Please sign only when you have read both side, have filled in all details requested, and are willing to accept all Terms and Conditions presented for the 'Swim With The Dolphins' Tour in this document

Name of Swimmer	Signature	Dated
1.		
2.		
3.		
4.		

TERMS and CONDITIONS

AGREEMENT BETWEEN: THE BUNBURY DOLPHIN DISCOVERY (INC) trading as THE DOLPHIN DISCOVERY CENTRE of Koombana Drive, Bunbury in the State of Western Australia (the DDC) of the other part. **THE SWIMMER AND THE DDC HEREBY AGREES AS FOLLOWS:**

1. DEFINITIONS

'Dolphin Swim' means the entire process of boarding the vessel, travelling on the vessel in search of a pod/group or pods/groups of dolphins, approaching or attempting to approach dolphins and swimming with or attempting to swim with the dolphins including all entries to and exits from the water and then returning to land, regardless of whether dolphins are found or not. 'Vessel' means the watercraft used for transportation as part of the Dolphin Swim.

2. AGREEMENT

It is evidenced by the Swimmers signature on this page that in consideration of the DDC allowing the Swimmer to participate in a Dolphin Swim, the Swimmer agrees to pay the DDC's fee and to abide by the terms and conditions set out hereunder.

3. SWIMMERS WARRANTIES

The Swimmer HEREBY WARRANTS to the DDC that:

- a) They are a proficient swimmer
- b) They are able, or willing to be instructed to swim using a snorkel, mask, wetsuit and buoyancy device (all optional) without discomfort and are familiar with the use of those items of swimming equipment. If using your own equipment it is at your own risk.
- c) They will listen to the lecture provided by DDC staff prior to the Dolphin Swim and accept all information and instruction on:
 - (i) the use of and need for minimal impact procedures when approaching and swimming with wild dolphins;
 - (ii) how to enter the water from the vessel and exit the water onto the vessel;
 - (iii) how to behave in the water with the dolphins.
- d) They have disclosed to the DDC staff that are to conduct the Dolphin Swim, the extent and nature of all physical and medical conditions to which they are subject that will, or may have an impact upon their ability to participate in any aspect of the Dolphin Swim. The Swimmer further acknowledges that the DDC has relied upon giving of the warranties by the Swimmer as set out in this clause in agreeing to take the Swimmer on the Dolphin Swim.

4. NO GUARANTEES

- a) The Swimmer hereby acknowledges that they understand the fact that dolphins are wild animals and travel through the sea as they wish and that the purpose of the Dolphin Swim is to attempt to locate a pod/group of dolphins and enter the water with them. Furthermore, the Swimmer hereby acknowledges that that purpose may not be realised if dolphins are unable to be found or if once found, the dolphins are exhibiting signs of aggression or other behaviours that in the judgement of staff of the DDC would render it unwise to enter the water with them, and that judgement will be made by staff of the DDC in their sole discretion.
- b) The Swimmer hereby acknowledges that they have paid a fee to the DDC for the Dolphin Swim but there will be no FULL refund given if a pod of wild dolphins cannot be found or if when found, the Swimmer is not allowed to enter the water with the dolphins because the dolphins are exhibiting signs of aggressive or other behaviours which in the sole discretion of DDC staff renders it or unadvisable for the Swimmer to enter the water with them.

5. RISK

The Swimmer acknowledges that dolphins are wild animals and can be unpredictable and dangerous and that the water in which they must meet the dolphins can also be dangerous. The Swimmer voluntarily accepts the risk of being attacked and injured by a dolphin or being injured by another sea creature or as a result of the Swimmer suffering any type of difficulty whilst in the water. Our guides wear electronic shark shields during the tour, if you are pregnant or wear a pacemaker we recommend to consult your physician prior to the swim tour due to the electric pulses the devices emit.

6. RELEASE

The Swimmer HEREBY RELEASES the DDC, its committee members, servants, agents and contractors in respect of liability for loss, damage, claims, demands, suits, actions, judgements, costs (on a solicitor client basis) or proceedings of any kind directly or indirectly arising out of any type of injury or property damage that the Swimmer may suffer connected with the Swimmers participation in the Dolphin Swim, however that injury or property damage may cause including, but not limited to, injury or property damage caused directly or indirectly as a result of the negligence of the DDC, its committee members, servants, agents or contractors and the Swimmer expressly acknowledges he or she has entered into his agreement and shall participate in the Dolphin Swim entirely at his or her own risk.

7. INDEMNITY

The Swimmer HEREBY INDEMNIFIES the DDC, its committee members, servants, agents and contractors in respect of liability for loss, damage, claims, demands, suits, actions, judgements, costs (on a solicitor client basis) or proceedings of any kind directly or indirectly arising out of any type of injury or property damage that the Swimmer may suffer connected with the Swimmers participation in the Dolphin Swim, however that injury or property damage may have been caused including, but not limited to, injury or property damage caused directly or indirectly as a result of the negligence of the DDC, its committee members, servants, agents or contractors.

8. BREACH - CESSATION OF SWIM

If any member of the DDC, acting in their sole discretion, requests that a Swimmer leave the water for any period of time as a result of the Swimmer breaching this Agreement or for any other reason, the Swimmer shall comply with this request forthwith.

9. NO CONTRACTING OUT

Where any clause of this agreement infringes any provision of the Trade Practices Act 1974 or the Fair Trading Act 1987, the clause is to be read down so as to not infringe that or those provisions of those 2 Acts provided always that any liability of the DDC, its committee members, servants, agents or contractors in respect of breach of any implied warranty in relation to supply of goods or provision of services is limited to the re-supply of the services comprising the Dolphin Swim or the cost of re-supply of those services or in the case of supply of goods, the re-supply of those goods.

(Please sign the **ACCEPTANCE** box agreeing that you have read and accepted the terms and conditions)