

TERMS AND CONDITIONS OF BUSINESS

These terms and conditions constitute the basis upon which Skydive Operations (Pty) Ltd, Co. Reg. 2015/089651/07, Trading as "Skydive Two Oceans" ("S2O") and/or "Skydive Big Five" ("SB5"), agrees to provide its services to you. Please make sure that you have read and understood them and raised any queries you may have before agreeing to be bound by them. They will apply to each and every instruction for services and/or products you give us.

1. INTRODUCTION

S2O/SB5 is a skydiving operation, offering introductory tandem skydives as well as skydiving to already qualified sport skydivers with a PASA – B license or international equivalent.

2. DEFINITIONS

As used in this Agreement the following words have the meanings as set out below:

- 2.1. **"the Agreement"** means these terms and conditions of business concluded between you and us in respect of the Services, together with the terms in the Incorporated Documents which are incorporated by reference;
- 2.2. **"Client"** or **"you"** means the person who applies (directly or indirectly) to S2O/SB5 for S2O/SB5's services including, but not limited to, a person who applies for his own use or benefit or that of any other person and whether applying as principal, agent or sub-contractor. The Client shall include any other person on behalf of the Client or whom the Client represents;
- 2.3. **"Incorporated Documents"** means the Waiver and Indemnity Form and the Privacy Policy (which is available on S2O/SB5's website);
- 2.4. **"Personal Information"** shall have the meaning assigned to it in terms of POPI;
- 2.5. **"POPI"** means the Protection of Personal Information Act 4 of 2013 as amended from time to time.
- 2.6. **"Services"** means the provision of booking and payment facilities, return transport to and from the airfield from various points in the Western Cape, South Africa, introductory tandem skydives, sport skydives and instruction;
- 2.7. **"S2O/SB5", "we", "us" and "our"** means Skydive Operations (Pty) Ltd, Registration Number 2015/089651/07, trading as Skydive Two Oceans or Skydive big Five of 29 Jacobus Crescent, Duynfontein, Cape Town, 7441 and its affiliates and subsidiaries;
- 2.8. **"Waiver and Indemnity Form"** means the Waiver of Liability and Claims, and Indemnity Form every person who wants to skydive with us must complete and sign.

3. THE SERVICES

- 3.1. S2O/SB5 shall provide the Services as requested by the Client from time to time.

4. VARIATIONS TO THE SERVICES

- 4.1. Please note that skydiving activities we offer are dependent on a number of variables including but not limited to weather, equipment and other logistical factors. If for any reason your initially booked slot cannot be fulfilled (at our sole discretion):
 - 4.1.1. you will be notified by us at the earliest possible time;
 - 4.1.2. we will assist to try and re-book your cancelled skydive. Your deposit/booking fee will be dealt with as recorded under clause 9.2;
 - 4.1.3. your booking can be transferred to any available slot, subject to availability (for which no guarantee is given by S2O/SB5), at the discretion of S2O/SB5. Differences in package costs will be charged.
- 4.2. S2O/SB5 shall not be held liable for any such variations to the final itinerary.

5. HOW TO BOOK

STEP 1 Book your Skydive and Lodge your Enquiry

Search our [website](#) for options on Skydiving Packages. Simply select the package you are interested in, select a proposed date and the number of people who will participate and pay.

You can also book via [email](#), [telephone](#) or in person [at the dropzone](#).

STEP 2 Confirmation & Payment

Website: your booking will be immediately confirmed and a deposit payment must be made immediately via our secure website payment option.

Email or Telephone Bookings or at the dropzone: A member of our team will check availability and get back to you with suggested dates and times for your adventure.

Once we have confirmed your itinerary we will invoice you for the deposit/booking fee. You can either pay by Credit Card or by EFT (South African banks only).

Your booking will be confirmed on the payment of the deposit. Balance to be paid to S2O/SB5 on site.

STEP 3 Booking Information & Details

We will then supply you with the relevant information you may need for your booking, such as:

- Directions
- Contact numbers
- Payment options for balance of payment
- Arrival times
- Pickup points

5.1. All quotations provided by S2O/SB5 are subject to availability of skydiving slots. **Difference in price between deposit payment and the date of your activity are for the Client's account.**

5.2. **All quotations or estimates provided by, or bookings made with and/or all Services rendered, or vouchers, receipts or tickets issued by or on behalf of S2O/SB5 are subject to this Agreement.**

6. REQUIREMENTS TO SKYDIVE

If you have booked a skydive you (and every person who wishes to skydive that you booked for):

- 6.1. **must be of able body and physically and medically fit;**
- 6.2. **must be less the 100 kilograms/220pounds; and**
- 6.3. **if you are under 18yrs of age, you must have written consent from your legal guardian.**
- 6.4. **You 16 years old or older**

7. WAIVER AND INDEMNITY FORM AND PHYSICAL HEALTH

7.1. **Please ensure that you and every person who will skydive with us through a booking made by you signs the Waiver and Indemnity Form that we will provide to you/them before commencement of the activity, and that you and they adhere to all weight,**

physical fitness and other limitations and/or requirements as recorded herein and/or in the Waiver and Indemnity Form.

- 7.2. It is your obligation to ensure you, every person who will skydive with us through a booking made by you, are medically fit to embark on the skydives you book through us.

8. PERSONAL INJURY AND OUR LIABILITY TO YOU

- 8.1. Please note that the activities (including but not limited to skydiving) offered by S2O/SB5, and being at/on a dropzone or airfield, involve taking risks and could result in your sustaining serious injuries or death.
- 8.2. You must at all times comply with the instructions and requirements given to you by us.
- 8.3. This entire clause is subject to any law that imposes liability on S2O/SB5. S2O/SB5, its officers, directors, servants or agents will under no circumstances be liable for any claim, loss, damage or injury suffered by any person whether to their person or property, howsoever caused whether or not arising from any act, omission, default, or negligence on the part of S2O/SB5, unless such claim is due to the gross negligence or wilful conduct of S2O/SB5, and under no circumstances will S2O/SB5 be liable for any indirect or consequential loss or damage and the Client indemnifies S2O/SB5 accordingly.

9. CANCELLATIONS

- 9.1. In the event of the Client cancelling a booking with us:
- 9.1.1. with more than 24 hours' notice before the booked meeting time for the skydive, we will refund the fees paid to us in full, within 7 days;
 - 9.1.2. with 24 hours or less notice before the booked meeting time for the skydive, we shall have the right to either claim the amount of, or retain an amount of the payments that the Client has made to us for such booking, and claim reasonable damages suffered by S2O/SB5, provided that S2O shall not impose any cancellation fee or claim any damages in respect of a booking or reservation if the Client is unable to honour the booking or reservation due to the death or hospitalisation of the Client.
- 9.2. Cancellation by S2O/SB5:
- 9.2.1. S2O reserves the right to discontinue and summarily cancel any booking arrangement in respect of which payment has fallen in arrears, and in the event of this right being exercised, S2O/SB5 is entitled to keep any monies already paid to it, and the full balance still owing shall immediately become due and payable on demand; and
 - 9.2.2. S2O/SB5 shall have the right to cancel any booking arrangement should its fulfilment be rendered impossible, impeded or frustrated by strike, lock-out, civil commotion, war, act of God, force majeure, lack of materials, operation of law or regulations or order made by any statutory or other duly constituted authorities or any other cause beyond the control of S2O/SB5.
- 9.3. Insurance: Trip cancellation and interruption insurance is therefore highly recommended.

10. VOUCHERS

Any vouchers purchased from S2O/SB5 are valid for 3 months from the date of purchase, and are valid only for the value that was transacted. If the price of the chosen activity

changes before the voucher is redeemed then the settlement of this difference will need to be made before a booking can be confirmed.

11. PARTIES' RELATIONSHIP

Nothing contained in this Agreement shall be deemed to constitute a relationship of partnership and/or a joint venture between the Client and us.

12. CONFIDENTIALITY

All matters relating to the Agreement shall be treated by the parties as confidential and no such matters shall be disclosed to any third party without the prior agreement in writing by both parties (subject to the proviso that confidential information does not include information which is publicly known, or which is available from or disclosed by a third party not bound by any duty of confidentiality under this Agreement).

13. BREACH

In the event of either party failing to meet its obligations under this Agreement, the innocent party shall be entitled to cancel this Agreement or demand specific performance of the other party's obligations together with any damages suffered by the innocent party as a result of such default, provided that the defaulting party is given 10 days written notice to remedy the default.

14. ARBITRATION

14.1. Notwithstanding the provisions of clause 7 above, in the event of any dispute arising between the Parties in respect of any matter arising out of this Agreement, then that dispute shall be finally resolved in accordance with the Rules of the Arbitration Foundation of Southern Africa by an arbitrator appointed by the Foundation. Such arbitration shall take place within the city of Cape Town, South Africa.

14.2. Nothing contained herein shall preclude any of the parties to this Agreement from approaching a court of competent jurisdiction for an interdict or for relief on an urgent basis.

15. CESSION AND ASSIGNMENT

S2O/SB5 shall be entitled to cede or assign any of its rights or obligations under this Agreement without Client's prior written consent. Client shall not be entitled to cede or assign any right or obligations under this Agreement without S2O/SB5's prior written consent.

16. CONFLICTING PROVISIONS AND INCORPORATED DOCUMENTS

16.1. In the event of a conflict between this Agreement and the provisions of any invoice or booking schedule we provide to you, the provisions of this Agreement shall prevail.

16.2. In the event of any conflict between this Agreement and any part of the Incorporated Documents: with respect to privacy matters, the provisions of the Privacy Policy shall prevail, with respect to waivers, indemnities, and/or liabilities, the Waiver and Indemnity Form shall prevail, and in all other cases this Agreement shall prevail.

17. DOMICILIUM AND NOTICES

The Parties choose the physical addresses identified in this Agreement at which documents in legal proceedings in connection with this Agreement may be served (ie their *domicilia citandi et executandi*) and at which any written notice in connection with this Agreement may be addressed.

18. EFFECTIVE DATE

The effective date of the Agreement shall be the date on which the Client accepts the Agreement or is deemed to accept it under clause 19, whichever is the earlier.

19. APPLICATION OF THIS AGREEMENT

If you, having received a copy of this Agreement, instruct us to proceed with an booking or to assist with any other matter, or made any payment to us, without having initialled/signed and returned a copy of this Agreement to us, you will be deemed to have accepted this Agreement, as amended or supplemented by any specific terms agreed to by us in writing.

20. WHOLE AGREEMENT

20.1. This Agreement makes up the whole agreement between the Parties. Neither Party shall be obliged to comply with any express or implied term, condition, undertaking, representation, warranty, or promise not recorded in this Agreement. **This Agreement replaces any arrangement or understanding held by the Parties before this Agreement was signed and accepted.**

20.2. No amendment, addition or consensual cancellation of the Agreement will be binding unless it is recorded in writing and signed by both Parties.

21. RELAXATION

Neither Party shall lose any of its rights under this Agreement if it does not immediately and in every instance insist on them.

22. SEVERABILITY

The parties acknowledge that each clause of this Agreement is separate. If any clause of this Agreement is or becomes illegal, invalid or unenforceable for any reason or in any jurisdiction, it will be treated as if it had not been written. This does not:

22.1. make the rest of the Agreement illegal, invalid or unenforceable;

22.2. affect the legality, validity or enforceability of the clause in another jurisdiction.

23. APPLICABLE LAW

This Agreement shall be governed, interpreted and implemented in accordance with the laws of South Africa.

24. JURISDICTION OF SOUTH AFRICAN COURTS

The Parties consent to all proceedings instituted in connection with this Agreement being instituted in the Magistrate's Court in terms of section 45 of the Magistrate's Court Act of 1944 (as amended).

25. COSTS

If S2O/SB5 brings legal proceedings against the Client to enforce payments of amounts owed to it, the Client shall be responsible to pay all costs S2O incurs in collecting the payment on an attorney and own client scale.

26. DATA PROTECTION AND PROTECTION OF PERSONAL INFORMATION

26.1. The parties acknowledge and agree that some data provided by Client to us, or to which we may have access to pursuant to this Agreement, shall constitute Personal Information.

26.2. Where Client supplies Personal Information to us, we will:

- 26.2.1. use the personal information for purposes of providing services to the Client and the person for whom Client booked activities with us, and in terms of this Agreement;
 - 26.2.2. notify the Client of any request we receive from third parties for access to or changes to the Personal Information;
 - 26.2.3. not transfer the Personal Information in any manner to any third party not authorised in writing by the Client;
 - 26.2.4. not send Personal Information outside South Africa to a territory without at least the same or better data privacy laws without prior written authorization from the Client other than as set out in this Agreement.
- 26.3. **The Client warrants that it has obtained all necessary consents, where required, from its end users, suppliers, employees or any other third parties when requesting their Personal Information for the purposes of providing it to S2O/SB5 to utilize to provide the services as set out in this Agreement. In the event that S2O/SB5 suffers any loss as a result of a breach of this warranty, the Client indemnifies S2O/SB5 fully and such indemnity shall not be limited.**

27. GENERAL

- 27.1. **The Client understands that the terms in bold and/or underlined have important legal consequences.**
- 27.2. **By making a booking or payment through S2O/SB5 you are deemed to have read, understood and accepted these terms and conditions and to have the authority to do so on behalf of the person in whose name the ultimate reservation or booking is made.**
- 27.3. **The Client agrees that the terms of this Agreement shall serve as a release and express assumption of risk for yourself, your heirs, assignees, administrators, executors, and all members of your family, including any minors accompanying you.**