

the nature of success

GENERAL TERMS AND CONDITIONS
June 2022

THE NATURE OF SUCCESS PTY LTD
ACN 128 762 149

1. GENERAL

- a. These general terms and conditions become part of the contract between you and The Nature of Success Pty Ltd (ACN 128 762 149) (“**NOS**”, “**we**”, “**us**”, “**our**”) when you make a booking for a service provided by us or where we otherwise provide services to you (“**Services**”). Services may include high performance coaching (“**Coaching**”), retreats, tours and events including surfing, yoga, meditation, hiking, or other Recreational Activities, as defined in clause 8 (“**Experiences**”), keynote speaking, workshops or other presentations (“**Presentations**”) amongst other services. The relevant Service may be identified in any letter, email, website confirmation or other communication in which we set out the terms of (or otherwise confirm) our engagement to provide Services to you or on your behalf (“**Engagement Letter**”). By booking one of our Services, or otherwise engaging us (in any way) to provide Services to you, you agree to be bound by these General Terms and Conditions together with any other terms that may apply, including as set out in any Engagement Letter and any Nature of Success ‘*Participation, Waiver and Consent Form*’ and/or ‘*Medical Disclosure and Consent Form*’ signed by you or on your behalf.
- b. It is your responsibility to read and understand these General Terms and Conditions, together with any Engagement Letter and any other conditions that are expressed to apply to our engagement and to remain familiar with them.
- c. To the extent of any inconsistency between these General Terms and Conditions and any Engagement Letter, the terms of the Engagement Letter prevail to the extent of that inconsistency.
- d. We may modify or revise these General Terms and Conditions from time to time, and you agree to be bound by such modifications or revisions where notified to you.

2. BOOKINGS

- a. Bookings for some Services may be made online through our website or by contacting us via email or telephone. Our website terms and conditions apply to our contract with you when you use our website and, when using our website, the website terms and conditions will prevail over these General Terms and Conditions to the extent of any inconsistency.
- b. The person carrying out the booking shall be deemed to have accepted these General Terms and Conditions on behalf of all persons named in the booking (including those added at a later date).
- c. Any verbal quotations given by us, or our staff or agents, are estimates only that are subject to written confirmation prior to booking. No verbal quotations shall be binding on us.
- d. To the extent permitted by law, you acknowledge and agree that we may decline a booking request for any or no reason.
- e. No employee, contractor, or agent of us is authorised to vary these General Terms and Conditions. However, our duly authorised employees and contractors may, in certain circumstances, waive specific terms by notice in writing if signed on behalf of NOS, but not otherwise. A waiver on one occasion does not constitute a waiver on any other occasion.
- f. Bookings are not transferrable or refundable except as otherwise set out in these General Terms and Conditions or in accordance with your rights under the Australian Consumer Law.

3. PAYMENT

- a. Prices for some services may be available from time to time on our website. Where prices are displayed, on our website or in any other publication, they are in Australian Dollars (\$AUD) and are exclusive of GST, unless otherwise specified.
- b. We reserve the right to change or alter our prices without notice to you, other than where you have already made a booking, in which case there will be no change or alteration to that particular booking.
- c. A credit card surcharge may apply to all payments made by credit card.
- d. Payment may be processed by us or by third parties on our behalf. Your payment details must be verified before your booking can be accepted. If your initial payment authorisation is revoked, your booking will be terminated.
- e. Payment of any recurring fee will be direct debited from your nominated financial institution or payment method. It is your responsibility to ensure your payment details are valid and up to date.
- f. If a payment is rejected, invalid or otherwise unsuccessful, your booking may be automatically cancelled.
- g. Where applicable, Australian customers will not be charged posting and handling unless otherwise specified.
- h. Where applicable, international customers will be charged posting and handling.
- i. You will receive a tax invoice by email once payment in respect of your booking has been processed.

4. **PRIVACY**

- a. In this clause 4, the term '**Personal Information**' has the meaning given to it in the *Privacy Act 1988 (Cth)*.
- b. You agree that your Personal Information will be collected and stored by us in accordance with our Privacy Policy, which is available on our website.
- c. We are required to collect your Personal Information in order to process your booking and to communicate with you about your booking. If we cannot collect the minimum Personal Information required from you to complete your booking, we will not be able to process your booking and no contract is formed with us.

5. **PHOTOS**

- a. You agree to give your unreserved permission for all still images, moving images and audio taken or recorded of you while on participating in any events or activities ("**Images**") to be used in any or all of our promotional or advertising material.
- b. You agree that the Images may be used in various media formats including online media, social media, print, newspaper, video public displays, television, and electronic means of communication and in any edited form.
- c. You agree to waive any rights and claims, present and future, to any fees or royalties or other benefits whatsoever for or in connection with the use of the Images.
- d. Should you wish to withdraw permission for the Images to be used, you must inform us in writing. Where you have withdrawn your permission, we will cease any future new publication, but you acknowledge that the Images may continue to appear in printed and electronic material which has already been produced or disseminated.

6. **LIMITATION OF LIABILITY**

- a. Where legislation implies in these General Terms and Conditions, or in any contract with you, any warranty, condition or liability which cannot be excluded or modified, then:

- i. That warranty, condition or liability is included to the minimum extent required; and
 - ii. To the maximum extent permitted by law, our liability for a breach of such warranty, condition, or liability is limited, at our option to either the resupply of our Services, or the payment of the cost of having those Services provided.
- b. We will not be liable in any event for any indirect or consequential loss or damage of any kind whatsoever including, but not limited to, consequential or economic loss or loss of profits arising from any breach of these General Terms and Conditions and/or any other term of any contract or agreement (howsoever described) with you, our negligence or otherwise, or the negligence or otherwise of our officers, employees, contractors or agents arising out of or in connection with our provision of Services.
 - c. In any event the maximum extent of our liability to you shall be capped at an amount equal to \$10,000.

7. INDEMNITY

You agree to indemnify us for all liabilities, losses, damages, outgoings, costs and expenses of any description that we incur, and against all claims (including the cost of defending or settling any claim) which may be instituted against us, arising out of your breach of these General Terms and Conditions or of any other term or condition, express or implied, in any contract or agreement (howsoever described) that we have with you from time to time.

8. DISCLAIMER

Some of our Services may involve an option for you to participate in activities and experiences, including surfing, bodyboarding, swimming, hiking, running, jumping, climbing, yoga, meditation and mindfulness, breath-work, nature based activities, the use of hired or personal equipment (including boards, surf hardware, wetsuits and surfing accessories) and any other physical or leisure activities that involve physical exertion or physical risk undertaken in connection with any services, programs, activities, sessions, tours or seminars arranged, provided, organised, facilitated or operated by or associated with NOS and its related bodies corporate (as that term is defined in the *Corporations Act 2001*), agents, licensees, employees, officers, contractors and associates (“**Recreational Activities**”). In agreeing to participate in such Recreational Activities, you agree that you are not suffering from any condition, illness or impairment that could impact your ability to participate safely and that you possess a level of fitness and health sufficient to participate.

Some of our Services, including Coaching, involve a process through which we aim to stimulate self-reflection, awareness and an understanding of all aspects of you and your various life interactions, to help focus and develop habits conducive to peak performance. This may include identifying and discussing different areas of your life, including your personal and business relationships, lifestyle, working arrangements, professional development, finances, general health and wellbeing, recreational pursuits, your strengths and challenges and your views and attitudes.

In providing some Services we may direct you to, or provide you with, general information, guidance and/or methods (including relating to physical condition, nutrition, state of mind and meditation), to assist you as you approach your personal goal setting, decision making and self-improvement endeavors. In this regard, we make no warranties or representations, express or implied, as to the completeness, accuracy, or appropriateness for any purpose of any information, content, product or service contained in the Services and, while we may assist you and facilitate in various approaches and processes, you acknowledge and agree that:

- a. You are ultimately responsible for developing and implementing any strategies, decisions, and choices relating to your own actions and development, including in respect of physical, mental and emotional well-being, and for any consequent results;
- b. Coaching is not a substitute for seeking professional advice and assistance for the prevention, diagnosis or treatment of medical or physical disease or condition or for any mental health concerns or disorders, nor is it a substitute for obtaining professional services, including but not limited to those mentioned below;
- c. We recommend that before you make important decisions, including those that may affect you, your business or employment, your family or relationships, you consider seeking specialist advice from

suitably qualified professionals, including for any legal, financial, accounting, medical, dietary, therapeutic, counselling or psychological needs or support, which services we are not qualified to provide, and which do not form part of the Services. You are solely responsible for following through with obtaining this advice, including for the selection of appropriately qualified practitioners and for implementing any suggestions they may make; and

- d. We are not, and will not be, liable or responsible for any actions or inaction by you following our provision of Services, or for any direct or indirect results of strategies implemented by you, or for advice sought from third parties.

You know your mind and body better than anyone, so we encourage you to seek assistance as best suits your individual needs.

- e. Before participating in any activity forming part of the Services, or implementing any strategy, that relates to diet or nutrition, physical activities (including yoga, mobility exercises, strength or cardiovascular training or breathwork), meditation or using any diet, health or fitness related products or services that may be described and/or made accessible in or through the Services, we strongly recommend that you consult with a medical practitioner or other healthcare provider. You acknowledge that NOS, its directors and officers (including Matthew Griggs and Kate Griggs), employees, agents, affiliates and other content providers are not licensed medical practitioners, are not rendering personal medical advice or treatment, and have no expertise in advising on, diagnosing, examining or treating medical conditions of any kind, or in determining the effect of any specific exercise or diet on a medical condition.

9. OUR INTELLECTUAL PROPERTY

- a. In this section, **Intellectual Property** includes:
 - i. patents, copyright, registered and unregistered design rights, registered and unregistered trademarks, trade secrets, secret or confidential operations and processes, rights in know-how and Confidential Information (as defined below) and all other intellectual and industrial property rights (without limitation) resulting from intellectual activity;
 - ii. all similar or analogous rights existing under the laws of any country; and
 - iii. all rights to apply for or register such rights.
- b. We warrant that all Intellectual Property that is used as part of our Services are either owned by us or by our licensors.
- c. Unless we give you express written permission or licence to do so, you are not (and no employees or contractors of your practice are) allowed to use, modify, adapt, translate, create derivative works of, decompile, disseminate, reverse engineer, merge or reproduce any of the Intellectual Property that is used as part of our Services.

10. OUR CONFIDENTIAL INFORMATION

- a. In this section, **Confidential Information** means all information in any way relating to us or our business including, without limitation:
 - i. information provided as part of our Services;
 - ii. our marketing and technical information;
 - iii. our customer, distributor, supplier, sales and receivable information;
 - iv. our business and strategic plans;
 - v. our processes, mechanisms and methodologies used in our business; and
 - vi. our financial information.
- b. We may disclose our Confidential Information to you in the course of providing our Services.

- c. You agree that our Confidential Information must be treated as and remain confidential to you and the employees and contractors of your practice, and you must not (and must ensure that your employees and contractors do not) disclose, replicate or reuse in whole or in part our Confidential Information for any reason other than within your practice and only for the purpose of your practice.
- d. If these General Terms and Conditions expire or are terminated for any reason, you must immediately return to us or immediately destroy (at our election) all Confidential Information disclosed to you and the employees and contractors of your practice.

11. ENTIRE AGREEMENT

These General Terms and Conditions, together with any Engagement Letter and any Nature of Success '*Participation, Waiver and Consent Form*' and/or '*Medical Disclosure and Consent Form*' signed by you or on your behalf and any document expressly referred to in any of those documents constitute the whole agreement between you and us and supersede all previous discussions, correspondence, negotiations, previous arrangement, understanding or agreement between us relating to the subject matter of any contract ("**Our Agreement**").

12. SEVERABILITY

If any of the terms or conditions in Our Agreement are determined by any competent authority to be invalid, unlawful or unenforceable to any extent, such term, condition or provision will to that extent be severed from the remaining terms, conditions and provisions which will continue to be valid to the fullest extent permitted by law.

13. NO WAIVER

Any failure or delay by you or us in enforcing (in whole or in part) any provision of Our Agreement will not be interpreted as a waiver of your or our rights or remedies.

14. VARIATION

The terms of Our Agreement may only be varied by separate written agreement signed by you and by us.

15. ASSIGNMENT

You may not transfer any of your rights or obligations under Our Agreement without our prior written consent. We may transfer any of our rights or obligations under Our Agreement without your prior written consent to any of our affiliates or any business that we enter into a joint venture with, purchase or are sold to.

16. GOVERNING LAW

Our Agreement is governed by and construed in accordance with the law of New South Wales, Australia. Disputes or claims arising in connection with Our Agreement or in any way connected with our provision of Services (including non-contractual disputes or claims) are subject to the exclusive jurisdiction of the courts of New South Wales, Australia.

17. NATURE OF SUCCESS EXPERIENCES

Where you have booked one of our Nature of Success Experiences, the following terms and conditions apply:

- a. If you are attending or participating in any retreat, workshop, tour, program or physical activity (including Recreational Activities run or facilitated or operated by us) you are required to read and sign a Nature of Success '*Participation, Waiver and Consent Form*' and a '*Medical Disclosure and Consent Form*'.
- b. Tour prices are subject to variable pricing, accordingly, tour prices may vary at any time in accordance with demand, market conditions and availability. The price of your Experience is as contained in the Engagement Letter and/or any itinerary or such other document or written correspondence provided to you by us confirming pricing. Pricing may also be confirmed on our website for some Experiences. Any reduced pricing or discounts that become available after you have booked will not apply.

- c. Where a tour is operated by a third party such as 'Perfect Travel Group Pty Ltd (ACN 123 428 624) (t/as 'The Perfect Wave Travel Co') ('The Perfect Wave') your agreement in relation to the provision of services relating to such tour will be directly with such third party and, accordingly, prices cannot be itemised by us. However, we will to the extent reasonably possible assist you by liaising with such third parties on your behalf to obtain relevant information where possible and to reserve bookings for tours. In some instances we may accept payment from you for third party booking, service or tour fees and then remit such payment to relevant third parties on your behalf in order to confirm and commit your booking, any service and / or tour and you authorise us to do so in your name and on your behalf without liability. Where prices are quoted by us they only includes the Services specified at the time or in your Engagement Letter and/or any itinerary or such other document or written correspondence provided to you by us confirming any subsequent pricing or Services. Any personal incidental costs incurred during your Experience are excluded and shall be payable directly by you.
- d. Airline taxes are subject to change and cannot be confirmed until booking/issuance of your airline ticket. Some airports may also charge a local tax upon arrival.
- e. We will provide any requested information to the best of our knowledge at time of request but make no guarantees and accept no liability for changes. You are fully responsible for any additional fees or taxes.
- f. Subject to the Australian Consumer Law, if you cancel a trip your deposit will not be refunded.
- g. Subject to the Australian Consumer Law, if you cancel a trip:
 - i. 30 days or less before departure for a domestic trip, we may retain 100% paid by you in connection with the booking;
 - ii. 90 days or less before departure for an international trip, we may retain 100% paid by you in connection with the booking;
 - iii. at any time after we have remitted any fees or payments to third parties on your behalf, you will only be entitled to a refund of those fees or payments if and when we are able to recover same from such third parties.
- h. If you leave a trip for any reason after it has commenced, we are not obliged to make any refunds for unused services. If you fail to join your booked trip, join it after departure, or leave prior to its completion, we are not obliged to make a refund.
- i. All cancellations must be advised in writing by post or email to info@thenatureofsuccess.com.au and are only effective from the date they are received by our office.
- j. We reserve the right to change or cancel a trip at any time prior to departure if, in our reasonable opinion (or the reasonable opinion of any partner or principal tour operator, such as The Perfect Wave) any force majeure event (including an act of God, national emergency, flood, earthquake, storm, cyclone, lightning, fire, significant weather event, insurrection, riot, civil disturbance or government or other authority declaration or intervention, war, pandemic or industrial action) makes it unsafe to operate the tour.
- k. We on our own behalf and, where applicable, on behalf of any third party partners or principal tour operators, including The Perfect Wave, reserve the right either before or during the tour to refuse to carry or accommodate any customers (including you) which we reasonably consider, in the light of the best interests of all participants in the tour, to be disruptive to the tour or the enjoyment, comfort or safety of other customers or our staff (whether because you are under the influence of alcohol, illicit substances or otherwise). You acknowledge that our third-party partners and principal tour operators reserve the same rights independently.
- l. Because tours are planned will in advance, we may occasionally need to make changes to the services included in your tour. You agree that changes to the itinerary of your tour may be made by the principal tour operator or by us as applicable at any time and all rights are reserved by us in this regard. We will advise you of any changes at the earliest possible date.

- m. Some suppliers of the services included in your tour reserve the right to cancel or amend the services they supply. As such, we will use reasonable endeavours to assist in identifying and arranging alternative services, however, we are not liable for any such changes imposed by any third party supplier.
- n. Travel insurance is mandatory for all our guests (including you) and should be taken out at the time of booking. Your insurance must cover against personal accident or injury, death, medical expenses, emergency repatriation, cancellation, personal liability and loss of or damage to luggage and personal effects.
- o. You must provide us with a copy of your travel insurance policy along with the insurance policy number and the insurer's emergency contact number prior to commencement of your tour. If your travel insurance is connected to your credit card or bank account, please ensure that you have the details of the participating insurer, a copy of the policy along with the policy number and emergency contact (rather than your bank account details).
- p. We are not responsible for any failure by you to take out adequate travel insurance.
- q. You are solely responsible for the following:
 - i. ensuring that you meet all passport, visa (including any and all transit visas) and health requirements (including, but not limited to vaccinations) which are relevant to your tour; and
 - ii. ensuring your travel documentation is correct.
- r. Many countries require that foreign nationals enter holding a passport with at least 6 months validity remaining. Where we provide you with this information as well as any other related information it is supplied in good faith and should be treated as a guideline only. You are responsible for making your own enquiries in relation to travel requirements.
- s. You declare that you are medically and physically fit and able to participate in the tour. You agree that you will immediately notify a representative of us, and of any principal tour operator such as the Perfect Wave where applicable, of any change to my medical condition, fitness or ability to participate in any part of the tour.
- t. You must ensure that you are aware of any health requirements and recommended precautions relevant to your tour and ensure that you carry all necessary vaccine documentation. In some cases, failure to present required vaccine documentation (e.g., proof of yellow fever vaccination) may result in you being denied entry into a country.
- u. We recommend that you contact the Department of Foreign Affairs and Trade (DFAT) or visit their website at www.smarttraveller.gov.au for general travel advice, as well as specific advice (including safety alert levels) relating to the destination of your tour.
- v. Without limiting clause 8 of these General Terms and Conditions, you acknowledge and agree that we are not liable for the following:
 - i. the cancellation of journeys, deviations, delays or the failure to provide seat, berths or facilities for carrying or storing luggage or for the failure to provide travel services by any third-party suppliers. We are not liable in the event of any alteration or change of any kind made by any third-party suppliers in respect of travel services following the acceptance of any booking by it and you are responsible for any increase in charges that any third-party suppliers may be legally and properly entitled to impose.
 - ii. Luggage, including surfboards, is the responsibility of the airline (where applicable). In the event that your luggage is damaged, lost, stolen or otherwise does not arrive at the tour location, all correspondence must remain between you and the airline. We will assist where possible, but you acknowledge and agree that we are not liable for any lost, stolen, or damaged luggage or personal effects.

- w. In the event that your surfboards are damaged beyond repair, lost or stolen, we will endeavour where possible to obtain a replacement. Such replacement is to be at your cost.
- x. Unfavourable climactic and oceanic conditions including the direction and strength of winds, strong currents, very small, very large or inconsistent ocean swells, rain, snow, heat and similar climactic and oceanic conditions are completely beyond the control of the Nature of Success and do not serve as grounds to seek reimbursement or refund of any fee or agreed payment paid or payable to the Nature of Success.
- y. Where you have booked an international tour, you authorise us to act on your behalf, as your agent, to facilitate and effect your tour booking where it is organised and operated by independent third party service providers (including the Perfect Wave) and to remit payment on your behalf to the tour operator or relevant service provider if you have paid us an amount to cover such third party service, booking or tour fees. Our obligations to you are limited to arranging bookings on your behalf with those service providers. We are not responsible for providing those services to you, or for the standard of any service provided. If a service provider fails to provide you with a service, or you are not satisfied with the standard of any service provided, you agree that your only rights are directly against the service provider and not against us. You agree that we are not liable to you for any losses that you suffer in those circumstances.
- z. Where you have purchased services involving an international trip, your agreement and contract will be with The Perfect Wave or such other third party service provider in respect of the tour specific services supplied by that party. Our agreement with you shall govern only our Services. In addition to Our Agreement, you agree and acknowledge that you have read and understood The Perfect Waves' or other such third party service providers', where applicable, terms and conditions, a further copy of which can be provided on request, and you agree to be bound by them.