



TOUR BOOKING - TERMS & CONDITIONS

TERMS AND CONDITIONS

Definitions

“**CPT**” means Capture Photo Tours of R a Stanley Landscape Photography, us, its successors, assigns, servants and agents.

“**you**” means you the client as set out on the Booking Form attached hereto.

“**Payment**” means booking deposit, final payment by cash, direct deposit or by bank cheque to CPT or CPT’s nominated bank account.

“**Contract**” means these Terms and Conditions signed by you and accepted by CPT and the Booking Form.

“**GST**” means the GST as defined in the New Tax System (Goods and Services Act, 1999)

“**Force Majeure**” means events beyond CPT’s control or your control and includes unavoidable casualty, earthquake, flood, fire, storm, natural disaster, acts of Gods, war, acts of terrorism, strikes, labour disputes, embargoes, or other similar events beyond reasonable control of either party

“**Australian Consumer Law**” means the Competition and Consumer Act 2010 and any equivalent State or Territory Legislation.

1. General – Contract, Booking, Acceptance

1.1. These terms and conditions shall apply to all tours provided by CPT to you.

1.2 CPT’s advertised tour prices include GST.

1.3 You acknowledge and agree that the signed Booking Form provided by you to CPT includes these terms and conditions and forms the contract between you and CPT upon: -

1.3.1 Confirmation in writing to you of acceptance of the Booking by CPT; and

1.3.2 Receipt by CPT of any payment required to secure the tour booking and/or any final payment required.

1.4 This contract is personal to you and you may not assign it without CPT’s express written consent.

2 Booking Our Tours

2.1 A deposit of 50% must be paid 45 days prior to the tour departure date. Final payment must be made 30 days prior to the tour departure date.

2.2 All bookings will be confirmed with you in writing by email.

2.3 Pre-payment of the full tour price will ensure your allocation for the tour.

2.4 Payments can be made by bank transfer upon CPT’s acceptance to the tour.

2.5 CPT requires a minimum of 6 bookings to a maximum of 12 bookings for each photography tour. CPT reserves the right to cancel a booking 30 days prior to departure date in the event the minimum number of bookings have not been achieved.

2.6 If CPT cancels a photography tour as set out in 1.5 above, then your booking payment will be refunded to you within 7 days of notification to you of cancellation of the photography tour.

3. Cancellations and alterations:

- 3.1 With the exception of any force majeure events cancellations by you must be made 30 days prior to the tour departure date;
- 3.2 Cancellation by you within 30 days prior to the tour departure date will result in your deposit being retained by CPT, however, at CPT's absolute discretion, any retained deposit may be transferable to another CPT tour with appropriate credits or debits to be applied.
- 3.3 If you choose to leave the tour early for any reason then CPT is not responsible for any expenses including your return home. No refunds will be made in relation to any unused part of a tour.
- 3.5 CPT plans tour itineraries many months in advance. Our tour itineraries are not guaranteed as many factors may affect our ability to provide particular itineraries. CPT reserves the right to vary tour itineraries at any stage due to variations in weather conditions and unforeseen circumstances.
- 3.6 If your tour has to be cancelled by CPT before the date of departure, you will have the choice of: -
- 3.6.1 Taking an alternative tour (any price differences will be refunded); or
 - 3.6.2 Accepting a full refund of all payments made by you to CPT.

4. Your Obligations

- 4.1 You must ensure that you are medically and physically fit for any of the activities that form part of the tour. Access to most, if not all locations on our tours is via a short walk and is not difficult. Generally, we have two tour leaders and we are able to split groups if so required.
- 4.2 You must advise CPT at the time of booking if you have any medical or physical conditions that will or may require medical attention, medication or special

treatment during your tour. We may also ask you to complete a health questionnaire.

- 4.3 If you have a medical or physical condition that CPT decides may seriously affect the enjoyment, health or safety of yourself or other tour clients then CPT reserves the right to refuse or cancel a booking. If you booking is refused or cancelled after completion and submission to CPT of a health questionnaire, then you will be entitled to a full refund.
- 4.3 Our tour leaders are not medically trained and therefore cannot accept any responsibility for medications or lack of access to medications.
- 4.4 You agree to abide by any reasonable directions (especially any given on account of health and safety), given by CPT or our representatives in the course of the tour.
- 4.5 You agree to behave in a reasonable and responsible manner. You will do nothing which might endanger the health and safety of any person involved in the tour or which might result in personal injury to any person or loss of or damage to property belonging to CPT or its representatives or other clients.
- 4.6 You agree to inform us of any special requests at the time of booking. You will be advised if CPT can accommodate such special requests, however, CPT does not guarantee to meet such special requests and has no liability to you if such special requests are not met.
- 4.7 In any emergency you agree that CPT or its representatives will make decisions according to our best judgement if any medical attention is required.
- 4.8 You must ensure that no travel restrictions apply to you, i.e. valid passports, travel insurance, etc.
- 4.9 **Your safety.** You agree to the following requirements:
- Wear appropriate footwear relevant to the specific shoot i.e. spiked rock-shoes or hiking boots
 - Bring a functional torch/headlamp
 - Always be wearing or carrying appropriate clothing
 - Comply fully with the safety instructions given by the tour leader. All participants accept responsibility for their own safety.
 - Alert the tour leader(s) of any danger or dangerous behaviour of other tour clients.
 - Always support other tour clients to adopt a culture of safety on tour.

5. Limitation of CPT's Liability

- 5.1 Your safety is paramount to us however you acknowledge that CPT is providing recreational activity services as defined **under various Consumer**

legislation and photography tours are activities undertaken for recreation, enjoyment and/or leisure which may involve significant degrees of physical risk.

These risks include death, serious injury or illness due to: -

- Unaccustomed physical exertion;
- Impact from rough terrain and obstacles, slippages, tripping and falling (including high vantage points such as cliff-tops and lookouts, slippery ice and rocks etc.);
- Excessive heat, cold or other adverse weather conditions;
- Being stung or bitten by insects;
- Impact or bites from animals;
- Reactions from plants, vegetation or other flora;
- Impacts and collisions whilst travelling in photography tour vehicles;
- Impacts and collisions with pedestrians.

5.2 If you participate in these recreational activities your right to sue CPT under Australian Consumer Law and Fair Trading Acts 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 our contract with you. The modifications to your rights do not apply if your death or injury is due to gross negligence on CPT's 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 of omission.

5.3 CPT accepts shall have no liability to you for any loss, damage, costs or expense or other claims for compensation arising out of incomplete instructions or details from you or damage or loss for your personal belongings or any other consequential loss such as loss of revenue or loss of income. You must ensure travel insurance covers you for all events.

5.4 CPT may arrange subsidiary services but does not give any warranty or guarantee as to their quality, fitness for purpose or otherwise but shall where possible assign to you the benefit of any warranty, guarantee or indemnity given by the person supply any such subsidiary services.

6 **Acknowledgment and warranty.**

You hereby acknowledge and warrant that:

6.1.1 You have been supplied access to, and the opportunity to this contract and voluntarily enter into a contract with us in accordance with these terms and conditions.

6.1.2 CPT's photography tour activity constitutes the supply of a Recreational Service by CPT to you.

6.1.3 CPT's photography tour activity is a dangerous activity which involves a significant risk of physical harm.

6.1.4 You are aware that you may be injured in performing CPT's photography tour activity.

6.1.5 Your being under the influence of drugs, alcohol or other mind-altering substances is likely to increase the risk to you of being injured or killed while undertaking CPT's photography tour activity.

6.1.6 Your participation in CPT's photography tour activity is voluntary and you have not been required by us to participate in the CPT's photography tour activity.

6.1.7 You have accurately disclosed to us all relevant information, including about pre-existing medical conditions, that may

affect the risk that you or any other person will suffer injury, loss or damage.

- 6.1.8 Despite the risks that have been disclosed to you by our Contract, oral and written warnings, you wish to participate in CPT's photographic tour activity at your own risk.

7 Contributory Negligence

- 7.1 Our liability will be reduced in proportion to any negligence or fault on your part.

8 Notification of Claims

- 8.1 You agree to use all reasonable efforts to report any complaints or claims during the tour, or otherwise bring the matter to our attention as soon as possible. You acknowledge that failure to bring any matter to our attention whilst on the tour will limit our ability to investigate the matter following your tour.

9 General Waiver, release and indemnity

- 9.1 You agree to release and hold harmless us, our representatives, agents, servants and employees from and against liability arising out of any physical or mental injury arising out of any voluntary or unauthorised act by you, negligence, breach of this contract, failure to follow our directions or heed our warnings.

10 Insurance:

- 10.1 It is a condition of booking that all participants be covered by comprehensive travel insurance and do not travel against medical advice.
- 10.2 **SECURING YOUR OWN INSURANCE IS A PREREQUISITE FOR ACCEPTANCE ON THIS TOUR.**

PROOF THAT YOU HAVE ARRANGED ADEQUATE INSURANCE MUST BE PROVIDED TO US PRIOR TO THE TOUR COMMENCING.

Suggested insurance include;

- Health Insurance
- Emergency Medical Evacuation Insurance
- Emergency Medical Expense Coverage
- Trip Cancellation Insurance
- Life Insurance
- Baggage Loss and Delay Reimbursement
- Equipment Insurance

11. Tour Fees

- 11.1 Your tour fee includes tuition, transport and your accommodation for the tour.
- 11.2 Your tour fee does not include airfares, privately solicited transport to and from tour start and end points, food and beverages (unless included with accommodation), optional tours, any required insurance or personal items.
- 11.3 Accommodation is based on twin share. Bathrooms are not always allocated per person per room and occasionally may have to be shared as a couple or with one other same sex tour participant.
- 11.4 Tuition for the duration of the tour will include group Lightroom workshops as well as all photographic tuition in-the-field. We also offer our clients ongoing email support post tour.
- ## 12. Force Majeure
- 12.1 Neither party shall be liable for any breach of its obligations resulting from causes beyond its reasonable control. It does not include merely inclement weather conditions.
- 12.2 Each of the parties agrees to give notice immediately to the other upon becoming aware of an event of force majeure such notice to contain details of the circumstances giving rise to it.

12.3 Neither party shall have any liability to the other in respect of the termination of this Contract as a result of force majeure, except in relation to liabilities accrued before the occurrence of the force majeure.

13. Severability and waiver

13.1 If any of these terms is at any time held by any jurisdiction to be void, invalid or unenforceable, then it shall be treated as changed or reduced, only to the extent minimally necessary to bring it within the laws of that jurisdiction and to prevent it from being void and it shall be binding in that changed or reduced form. Subject to that, each provision shall be interpreted as independent and severable from each other paragraph and therefore separately enforceable.

13.2 No delay by CPT in exercising any right, power or provision hereunder shall operate as a waiver of the exercise of any right at a future time.

14. Entire understanding

14.1 This contract contains the entire agreement between both parties. It supersedes all previous agreements and understandings between the parties. You acknowledge that, in entering into this Contract, you do not rely on any representation, warranty or other term not forming part of this contract, including by reference.

15. Dispute resolution

15.1 In the event of a dispute arising out of or in connection with this contract, the parties undertake to attempt to settle the dispute by engaging in good faith with the other in a process of mediation before commencing arbitration or litigation.

15.2 Subject to clause 15.1, if any difference shall arise between any of the parties touching the meaning of this Contract or the rights and liabilities of the parties, the same shall be referred to arbitration by a single arbitrator to be appointed, on the application of either side.

16. Privacy

16.1 CPT will not share your contact information with any third party organisation except as may be required in Clause 16.2. By agreeing to these terms you allow Capture Photos Tours to send you email reminders about your upcoming bookings and information on future tours

16.2 During the booking process and your tour, we ask for personal information about you. By providing this information, you authorise us to handle your personal information in the ways indicated below:

- to collect personal information within the meaning of the *Privacy Act 1988* (CT) about you;
- from any third party making a booking on your behalf for tour administration purposes;
- if you are travelling as part of a group – from any person in the group for tour administration purposes;
- from any third party where it is necessary to provide a health service to you (including a medical disembarkation) and you are unable to provide the information directly;
- for security purposes;
- for accident/incident reporting, investigation and management purposes;
- Where lawful and reasonably necessary to perform our functions or activities, we may be required to collect sensitive information including, information about health, race and criminal record
- where you book as part of a group – to every participant in your group (excluding credit card details);
- to an emergency contact person, you have nominated for emergency management purposes;
- to government departments/agencies/bodies including police in Australia.
Note: Where lawful we may also be required to disclose sensitive information about you to the entities listed above.
- to use and disclose your personal information, and, where lawful, your sensitive information:
- for reporting, assessing, investigating, processing and otherwise managing accidents/incidents, including disclosures to lawyers and insurers;
- for public health and quarantine purposes;
- for medical treatment purposes, including disclosures to health service providers, medical evacuation assistance companies and, where you are unable to consent, next of kin.
- where we need to disclose your personal information to someone who is not in Australia – to transfer your personal information outside Australia;
- in the event that you lodge a complaint or claim about any matter with or in relation to us – to use and disclose your personal information for the purpose of reporting, assessing, investigating,

processing, responding to and resolving your complaint or claim, including disclosures to relevant government departments/agencies/bodies, courts/tribunals, your travel agent, any authorised representative acting on your behalf and lawyers.

- You also authorise us to collect from any third party sensitive information about you within the meaning of the *Privacy Act 1988* (Cth), and for any third party to disclose personal information about you to us, for the above-mentioned purpose.

17 Jurisdiction

This contract is governed by the laws in force in New South Wales.

18. Recreational Activity Risk Waiver

I have read the general risk warning on the Booking Form and in terms of this Contract. I am aware that participating in photographic tour which is a recreational activity can be dangerous, and I accept that there is a degree of risk and acknowledge that I participate at my own risk.

I release CPT, its employees, agents, directors and all other parties associated with organising the photographic tour by CPT from any responsibility or legal liability associated with participation in the photographic tour.



GENERAL RISK

Capture Photo Tours of R a Stanley Landscape Photography Pty Ltd ABN 48120947177 is a supplier of “recreational services” (as defined in section 22 of the **Australian Consumer Law and Fair Trading Act 2012**). Photography tours are activities undertaken for recreation, enjoyment and/or leisure which may involve significant degrees of physical risk. CPT acknowledges that they are providing Recreational activities which may be subject to risks. These include death, serious injury or illness due to: -

- Unaccustomed physical exertion;
- Impact from rough terrain and obstacles, slippages, tripping and falling (including high vantage points such as cliff-tops and lookouts, slippery ice and rocks etc.);
- Excessive heat, cold or other adverse weather conditions;
- Being stung or bitten by insects;
- Impact or bites from animals;
- Reactions from plants, vegetation or other flora;
- Impacts and collisions whilst travelling in photography tour vehicles;
- Impacts and collisions with pedestrians.

and any other associated recreational activities or similar leisure time pursuits (**recreational activities**).

Capture Photo Tours, its employees, directors and agents limits any liability for these recreational activities and excludes liability for any personal injury or death you in the supply of such recreational services.

WARNING UNDER THE AUSTRALIAN CONSUMER LAW AND FAIR TRADING ACT 2012

Under the Australian Consumer Law (NSW), several statutory guarantees apply to the supply of certain goods and services. These guarantees mean that the supplier named on this form is required to ensure that the recreational services it supplies to you: -

- are rendered with due care and skill; and
- are reasonably fit for any purpose which you, either expressly or by implication, make known to the supplier; and
- might reasonably be expected to achieve any result you have made known to the supplier.

Under section 22 of the **Australian Consumer Law and Fair Trading Act 2012**, the supplier is entitled to ask you to agree that these statutory guarantees do not apply to you. If you sign make a booking with us, you will be agreeing that your rights to sue the supplier under the **Australian Consumer Law and Fair Trading Act 2012** if you are killed or injured because the services provided were not in accordance with these guarantees, are excluded, restricted or modified in the way set out in this form.

NOTE: The change to your rights, as set out in this form and contract, does not apply if your death or injury is due to gross negligence on the supplier's 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. See regulation 5 of the Australian Consumer Law and Fair Trading Regulations 2012 and section 22(3)(b) of the **Australian Consumer Law and Fair Trading Act 2012**.

BOOKING FORM

TOUR NAME	
DATE	
YOUR FULL NAME(S)	
ADDRESS	
TELEPHONE/MOBILE	
EMAIL	
EXPERIENCE	<input type="checkbox"/> First Time <input type="checkbox"/> Intermediate <input type="checkbox"/> Amateur
CAMERA/LENS/FILTERS	
EMERGENCY CONTACT name/phone/relationship	
MEDICAL CONDITIONS OR ALLERGIES? None/Heart Condition/Asthma etc.	
SIGNATURE	
	<input type="checkbox"/> I have read and understood the Terms and Conditions of this Contract

Please print this document, complete the Booking Form scan and email the entire completed document (pages 1 – 8) to mail@rastanley.com.au

or post to;

R a Stanley Landscape Photography
c/o Lemon Tree Framing
4 Henry Parry Drive
East Gosford, NSW 2250