

## Cape Town Marathon General Terms

### IMPORTANT NOTICE

Your attention is drawn in particular to clauses rendered in bold capitals in these terms. What follows is a summary for your convenience and does not form part of the agreement between you and us. It is your responsibility to read the clauses referred to:

- If the participant is a minor, i.e. younger than 18, he or she may not participate unless his or her parent(s) or legal guardian(s) have agreed to be bound by these terms (clause 5.1).
- You acknowledge that there are risks and hazards associated with an event of this nature (clause 6.2).
- You limit our liability and indemnify us for various acts or omissions (clause 7).
- You agree to indemnify our service providers from and against, any loss, damage, injury, disability, death, expense, cost or liability (clause 8).
- The rules for each event are available on the Website for the event and in the Virtual Race Entry Terms and Conditions or upon request from the event organiser (clause 10.1).
- You agree to comply with applicable sporting code and applicable law and agree to indemnify us for any damage you may sustain because you breach these.
- You give us permission to use certain of your personal information (clause 11).
- You give us permission to use photographs and videos taken of you during the event for our own marketing purposes (clause 12).

### 1. What is this agreement about?

- 1.1. In broad terms, this is an agreement between you and us (Asem Running (Pty) Ltd) that sets out our general terms applicable to each user of the Cape Town Marathon Website and each participant in the Cape Town Marathon; 10km Peace Run, 5km Peace Run, Marathon Trail Run; 22km Trail Run, whether physically or virtually ("events"). It is important that you read and understand the contents hereof, as you will be bound to these terms.
- 1.2. Should you participate in a virtual event, you will need to download a mobile application (an "App"), and you will have to agree to any terms and conditions dealing with use of that App too.

### 2. Contact information

- 2.1. If you have any questions or queries, please contact us at: [raceoffice@capetownmarathon.com](mailto:raceoffice@capetownmarathon.com)

### 3. Cooling Off Period

- 3.1. ENTRANTS ARE ENTITLED TO CANCEL, WITHOUT REASON AND WITHOUT PENALTY, ANY ENTRY WITHIN SEVEN (7) DAYS AFTER THE DATE OF ENTRY. SUCH ENTRANTS WILL BE ENTITLED TO A FULL REFUND OF THE ENTRY FEE; THE REFUND WILL BE MADE WITHIN 30 (THIRTY) DAYS OF THE DATE OF CANCELLATION.

#### **4. Payment Terms**

- 4.1. There are entry fees for the events as detailed on our website. Upon entering the events on our Website, you will be redirected to the Howler platform where you will be able to select your event entry (licensed runner or unlicensed runner) and whether you wish to participate in the Cape Town Marathon; 10km Peace Run, 5km Peace Race, Marathon Trail; 22km Trail Run, whether physically or virtually.
- 4.2. Race entry fees for the Marathon Trail and 22km and Trail Run will include the compulsory SANParks permit fee.
- 4.3. Your use of the Howler platform will be subject to Howler's standard terms and conditions that can be located here: [https://www.howler.co.za/terms\\_and\\_conditions](https://www.howler.co.za/terms_and_conditions). We do not accept any liability for your use of the Howler platform.
- 4.4. Your payment of any fees must be made in the following ways on the Howler platform:
  - Credit or Debit Card
  - EFT
  - In store at certain stores
- 4.5. All payments will be made in South African rands (ZAR). Your total order price will include the price of the purchase plus value added tax (VAT) if applicable.
- 4.6. You acknowledge that depending on your residence and geographical location, taxes may be added to the entry fee. Value added tax at the prevailing rate is charged on all orders.
- 4.7. We reserve the right to change pricing at any time without prior notice.
- 4.8. Howler uses the strictest form of encryption and no credit card or payment data are stored by Howler or us.

#### **5. Children's participation in events**

- 5.1. IF THE PARTICIPANT IS A MINOR, I.E. YOUNGER THAN 18, HE OR SHE MAY NOT PARTICIPATE IN THE EVENT UNLESS HIS OR HER PARENT(S) OR LEGAL GUARDIAN(S), HAVE AGREED TO BE BOUND BY THESE TERMS.
- 5.2. By giving permission for a minor to participate in the event, you agree not to bring any claims against us for losses or damages he/she may suffer as a result of injury or death he/she may have suffered as a result of their participation in the event. You also agree to only claim on his/her behalf for losses, damages and injuries he/she may suffer as a result of his/her participation in the event to extent allowed for in this agreement.
- 5.3. IF YOU ARE ENTERING ON BEHALF OF A MINOR, YOU CONFIRM THAT YOU ARE DULY AUHORISED IN LAW TO ACT AND LEGALLY BIND THE MINOR. YOU AGREE TO HOLD US HARMLESS FROM ANY CLAIMS AGAINST US AS A RESULT OF THE ABSENCE OF SUCH LEGAL AUTHORITY.

## **6. Risks associated with the events**

- 6.1. You accept that you participate in the events at your own risk and acknowledge that we cannot manage all potential risks, even foreseen ones, otherwise it would not be feasible to organise the events.
- 6.2. YOU THEREFORE UNDERSTAND AND ACKNOWLEDGE THAT THERE ARE RISKS AND HAZARDS ASSOCIATED WITH EVENTS OF THIS NATURE AND THAT THE POSSIBLE EFFECTS OF THESE RISKS CAN RANGE FROM MINOR INJURIES TO SEVERE INJURIES TO DEATH, AND IN RELATION TO YOUR PROPERTY CAN RANGE FROM MINOR DAMAGE TO SEVERE DAMAGE TO COMPLETE DESTRUCTION OR LOSS.

## **7. Limitation of Liability and Indemnity**

- 7.1. This Limitation of Liability and Indemnity applies to all participants and is in favour of us and other parties that may be indicated. It does not matter who or how you entered for an event (being any event organised by us).
- 7.2. Each entrant warrants that he or she has not been suspended or banned from participating in a Cape Town Marathon or associated events.
- 7.3. You understand and acknowledge that you enter and/or participate in the events entirely at your own risk and each runner is obliged to strictly adhere to all applicable rules, directives and instructions of the organisers in respect of the events.
- 7.4. TO THE EXTENT PERMISSIBLE BY LAW, EACH RUNNER ACCEPTS THAT ASEM RUNNING (PTY) LTD, ITS AFFILIATES, STAKEHOLDERS, SPONSORS OR THE ORGANISERS (HEREINAFTER REFERRED TO AS ENTITIES) ACCEPT NO RESPONSIBILITY OR LIABILITY FOR AND AGREES TO INDEMNIFY THESE ENTITIES FROM AND AGAINST ANY LOSS, DAMAGE, INJURY, DISABILITY, DEATH, EXPENSE, COST OR LIABILITY OF WHATSOEVER NATURE SUFFERED BY THE RUNNER, HIS/HER ESTATE AND/OR HIS/HER DEPENDENTS WHICH IN ANY MANNER, IN WHOLE OR IN PART, ARISE DIRECTLY OR INDIRECTLY FROM HIS/HER PARTICIPATION IN THE EVENTS OR ANY OF THE ACTIVITIES ASSOCIATED THEREWITH OR INCIDENTAL THERETO, USE OF FACILITIES AND/OR AMENITIES OR BY REASON OF DEFECTIVE MATERIAL OR EQUIPMENT OR BY WAY OF ANY HUMAN OR MECHANICAL ERROR, DEFAULT OR FAILURE OR FROM ANY OTHER CAUSE WHATSOEVER.
- 7.5. WE DO NOT UNDER ANY CIRCUMSTANCES ACCEPT LIABILITY FOR ANY INDIRECT, SPECIAL, CONSEQUENTIAL OR AGGRAVATED DAMAGE.
- 7.6. THE EVENTS ARE ORGANISED ON A REASONABLE EFFORT BASIS AND ALL WARRANTIES AS TO THE QUALITY OF THE EVENTS ARE DISCLAIMED TO THE MAXIMUM EXTENT PERMISSIBLE AT LAW.
- 7.7. IN PARTICULAR, SHOULD WE ELECT TO PROVIDE A MEDICAL HOTLINE SERVICE OR THE LIKE FOR AN EVENT, YOU AGREE THAT SUCH A SERVICE IS PROVIDED ON A REASONABLE EFFORT BASIS, AND YOU FURTHER AGREE TO INDEMNIFY AND HOLD US HARMLESS AGAINST ANY DAMAGE RELATING TO OR ARISING FROM YOUR USE OF SUCH A SERVICE, WHETHER SUFFERED BY YOU OR A THIRD PARTY.
- 7.8. YOU AGREE THAT THIS LIMITATION OF OUR LIABILITY APPLIES TO YOU, YOUR ESTATE AND YOUR DEPENDANTS.
- 7.9. The content of the Limitation of Liability and Indemnity must be interpreted to the extent necessary to ensure compliance with the Consumer Protection Act 68 of 2008. If a court finds

that any part of this Limitation of Liability and Indemnity is void such finding will only apply to that part and the rest will remain valid and binding.

## **8. Third Party Indemnity**

- 8.1. You agree to indemnify any and all third parties that act as our service providers, Western Province Athletics, Athletics South Africa, as well as all our sponsors, partners, volunteers, medical personnel and all other parties associated with the events that we organise and you participate in from and against any loss, damage, injury, disability, death, expense, cost or liability of whatsoever nature suffered by you, your estate and/or your dependents which in any manner, in whole or in part, arise directly or indirectly from your participation in the events or any of the activities associated therewith or incidental thereto, use of facilities and/or amenities or by reason of defective material or equipment or by way of any human or mechanical error, default or failure or from any other cause whatsoever and any claims as a result of loss suffered.
- 8.2. Doctors, paramedics and other medical personnel who attend to you at the event do so independently from us and they are not our representatives or contractors. It is your choice to make use of these services and you do so at your own risk.
- 8.3. You may be required to indemnify certain specific third parties for particular events in the same way as described in clause 8.1, and these parties will be identified in the rules of the individual events.

## **9. Insurance**

- 9.1. We have a public liability insurance policy in place, but our insurance cover may only pay out subject to the policy's terms.

## **10. Rules of the events**

- 10.1. THE RULES FOR THE EVENTS ARE AVAILABLE ON THE WEBSITE (AT [HTTPS://WWW.CAPETOWNMARATHON.COM/](https://www.capetownmarathon.com/)) AND IN THE RACE ENTRY TERMS AND CONDITIONS OR UPON REQUEST FROM THE EVENT ORGANISER. OUR RULES ARE THERE TO PROMOTE YOUR SAFETY, AND YOU AGREE TO STRICTLY ADHERE TO ALL APPLICABLE RULES, DIRECTIVES AND INSTRUCTIONS OF THE ORGANISERS IN RESPECT OF THE EVENTS.
- 10.2. Other rules also apply to the events depending upon your location, such as the rules of local sporting codes or bodies, national or local traffic regulations, local government rules and any rules that apply to a facility or area used for the events and you agree to adhere to any such rules. YOU AGREE TO ACQUAINT YOURSELF WITH THESE RULES AND REGULATIONS, AND THAT YOU WILL INDEMNIFY US AGAINST ANY DAMAGE THAT YOU MAY SUSTAIN (INCLUDING ANY FINES THAT MAY BE IMPOSED UPON YOU) DUE TO A BREACH OF THESE RULES OR REGULATIONS.

## **11. Personal information**

- 11.1. When you enter an event, we collect certain information about you, including information that directly or indirectly identifies you if you choose to share it with us ("Personal Information").
- 11.2. You cannot enter an event without us processing information about you, including basic account information such as your name, email address, date of birth, gender that helps secure and provide you with access to our services.

- 11.3. YOU HEREBY EXPRESSLY AGREE THAT WE MAY COLLECT, USE AND SHARE YOUR PERSONAL INFORMATION THAT YOU HAVE PROVIDED IN ENTERING THE EVENTS ON THE BASIS AND WITH THE PEOPLE AS SET OUT IN OUR PRIVACY POLICY AVAILABLE [HERE](#).
- 11.4. Notwithstanding the above, we collect the following information specifically for your entry to the events:
- your name and surname;
  - your identity number;
  - your contact information;
  - your current location in real time during participation in the event;
  - health information;
  - medical aid details;
  - information from content you share on our services or the events, including when you participate in events;
  - location information from your race to provide you with statistics and inclusion in the results.
- 11.5. We undertake that your information will be processed in accordance with applicable law and requirements directly applicable to the provision of our services, and that we will only process the information in a manner consistent with entering an event and will process it to the minimum extent necessary.
- 11.6. Destruction of Personal Information
- 11.6.1. We will delete all Personal Information, insofar as it relates to a particular participant when we receive a written instruction from you to do so.
- 11.6.2. We will destroy or delete any Personal Information that is no longer needed by us for the purpose it was initially collected, or subsequently Processed.
- 11.6.3. We may retain information from deleted accounts to comply with the law, prevent fraud, resolve disputes, troubleshoot problems and enforce any of our terms. Any information we retain will be handled in accordance with our Privacy Policy.
- 11.7. Emergency or Health Professionals
- 11.7.1. In accordance with our Privacy Policy, you agree that we may give your medical information to any emergency or health professional attending to you on an event day for purposes of giving you medical treatment and care.
- 11.7.2. You consent to any medical services provider which may treat you as a result of your participation in an event providing us with the following medical information relating to the incident in which you were injured and any treatment that you may receive:
- Full Name
  - Race Number
  - Place of incident
  - Time of incident
  - Nature of incident
  - High-level description of injuries
  - The hospital or medical facility to which you were dispatched, if relevant
  - If you are currently admitted to hospital or have been discharged
- 11.7.3. For these purposes medical service providers include without limitation paramedics (and their employers), ambulance services, emergency services, and hospitals or other medical facilities.

11.7.4. We will use the above information solely to render assistance and support to you and your family if and where needed, and you consent to such use.

11.7.5. We will not give your information to anyone else unless you have expressly consented.

## 11.8. Security

11.8.1. We will take appropriate, reasonable technical and organisational measures as required by applicable law to protect the information submitted to or collected by us from loss, misuse, unauthorised disclosure, alteration or destruction.

11.8.2. We will secure the integrity and confidentiality of Personal Information in our possession or under our control by taking appropriate, reasonable technical and organisational measures to prevent:

11.8.2.1. loss of, damage to or unauthorised destruction of Personal Information; and

11.8.2.2. unlawful access to or processing of Personal Information.

11.8.3. We will take reasonable measures to:

11.8.3.1. identify all reasonably foreseeable internal and external risks to Personal Information in our possession or under our control;

11.8.3.2. establish and maintain appropriate safeguards against the risks identified;

11.8.3.3. regularly verify that the safeguards are effectively implemented; and

11.8.3.4. ensure that the safeguards are continually updated in response to new risks or deficiencies in previously implemented safeguards.

11.8.4. We endeavour to protect your Personal Information, but you understand that no data transmission over the Internet can be guaranteed to be absolutely secure, and we cannot ensure or warrant the security of any information you transmit to us. Transmitting Personal Information is done at your own risk.

## 11.9. EU Members' Rights

11.9.1. If you normally live in the European Union ("EU"), you have the right to access, rectify, download or erase your information, as well as the right to restrict and object to certain processing of your Personal Information as fully described here:

11.9.1.1. you can request us to rectify, restrict, limit or delete your information;

11.9.1.2. if we process your information as set out above, you can object to this processing in certain circumstances;

11.9.1.3. if you have given us consent to process information, you have the right to withdraw your consent at any time; and

11.9.1.4. if you have a concern about our use of your information, you have the right to raise such concern with your local supervisory authority.

## 11.10. Transfer of Personal Information

11.10.1. Our website and services are operated from the Republic of South Africa ("RSA"). If you are not located here, and choose to use our website, services, enter into events, or provide information to us, you acknowledge and understand that your information will be transferred, processed and stored in the RSA, as it is necessary, and our privacy laws may not be as protective as those in your jurisdiction.

11.10.2. If you are a resident of the EU, we are the controller of your personal data for the purposes of EU data protection law.

11.10.3. We will not transfer your personal information or any portion of it to any third party for any reason without your prior written consent.

11.10.4. We may use hosting or cloud services to operate our website and store our data which are not located in the RSA. If we do so we will ensure that the level of protection given to your Personal Information is at least as good as that provided for under South African law, either by means of a binding contract with the service provider, or by using a service provider located in a country with privacy laws of similar or stronger effect.

## **12. Photographs / video material taken at events**

12.1. By participating in any of the events, runners consent to their photographs being taken during an event.

12.2. Runners further grant us a worldwide, fully paid-up, non-exclusive perpetual license to use, publish, produce, reproduce, broadcast, exhibit, transmit or otherwise deal with their image rights relating to images captured by us during their participation in the Cape Town Marathon, solely for marketing purposes related to the Cape Town Marathon.

## **13. Disputes**

13.1. Should any dispute of whatsoever nature arise between the parties concerning these terms, the parties must try to resolve the dispute by negotiation. This entails that the one Party should invite the other in writing to meet and attempt to resolve the dispute within 10 (ten) Business Days from date of written invitation.

13.2. If the dispute has not been resolved by such negotiation, either of the parties may submit, by written notice to the other Party, the dispute to the Arbitration Foundation of Southern Africa ("AFSA") for administered mediation, upon the terms set by the AFSA Secretariat. The receipt by either party of a notice as aforesaid, will constitute the submission of the dispute to arbitration for the purposes of delaying the completion of prescription in terms of section 13 of the Prescription Act No. 68 of 1969 or the corresponding provisions in any amendment thereto or replacement legislation.

13.3. Failing such a resolution, the dispute, if arbitrable in law, will be finally resolved in accordance with the Rules of the AFSA by an arbitrator or arbitrators appointed by AFSA.

13.4. This clause constitutes an irrevocable consent by the parties to any proceedings in terms hereof and neither of the parties will be entitled to withdraw from the provisions of this clause or claim at any such proceedings that it is not bound by this clause.

13.5. The foregoing will not restrict the right of the parties to apply to a competent court for relief of an urgent nature or should its intellectual property rights be violated or threatened.

**14. Jurisdiction**

- 14.1. These terms are governed by and construed in accordance with the law of the Republic of South Africa; we both agree to submit any dispute arising out of these terms to the jurisdiction of the courts of the Republic of South Africa (unless it is dealt with under the disputes clause above).

**15. UPDATED 25 February 2022**

-----ENDS-----