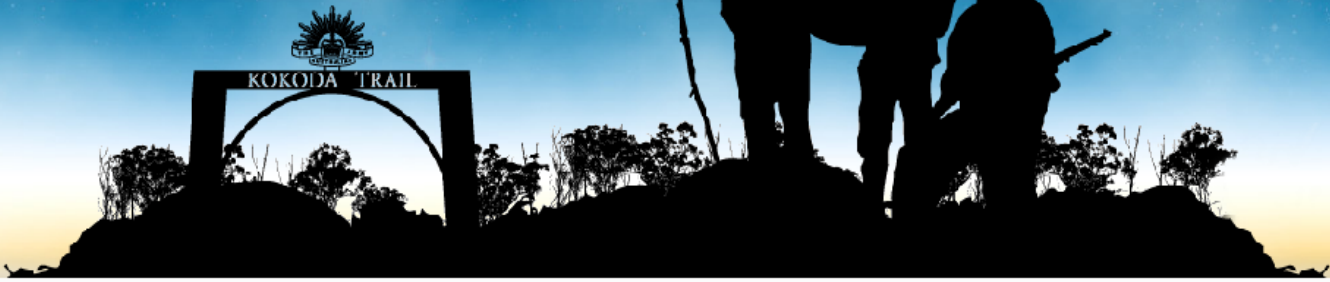


AUSTRALIAN KOKODA TOURS



COURAGE • ENDURANCE • MATESHIP • SACRIFICE

TREK CONTRACT

IMPORTANT: Please take the time to read and understand the terms and conditions outlined in this Trek Contract. The contract is a binding agreement between you, the trekker and Australian Kokoda Tours/O'Malley Fitness Pty Ltd. After you have read, understood and accepted this contract, it will be deemed that you agree to the terms contained herein. Please pay special attention to Australian Kokoda Tours/O'Malley Fitness right to exemption and limitation of liability.

The Kokoda Trail traverses the Owen Stanley Ranges in Papua New Guinea. It is a hot, humid, tropical area and the trail itself is extremely rugged. You will need a moderate to high level of physical fitness and be free of any physical or medical handicap or ailments inconsistent with the terrain, the weather conditions and the physically demanding nature of the trek.

TERMS AND CONDITIONS

Australian Kokoda Tours/O'Malley Fitness Agrees:

That it shall conduct the trek in a professional manner

That it will, at all times hold uppermost the best interest and welfare of the client

Trek Cancellation by Australian Kokoda Tours/O'Malley Fitness.

Australian Kokoda Tours/O'Malley Fitness reserves the right, by absolute discretion, to cancel any trek due to circumstances beyond our control, for reasons of security or personal safety (e.g. severe weather, civil unrest) or insufficient number of participants. In the event that any of these unlikely circumstances arise, Australian Kokoda Tours/O'Malley Fitness will work with all affected members to try to provide alternative trek dates without penalty or provide a full refund of any monies due, minus cancellation fees charged by airline companies and accommodation companies not controlled by Australian Kokoda Tours/O'Malley Fitness.

Health of Trekker: AUSTRALIAN KOKODA TOURS / O'MALLEY FITNESS IS NOT LIABLE FOR MEDICAL CARE OR EXPENSES WHATSOEVER

- a. Trekker is fit for trek. The trekker warrants he or she is physically fit and capable of undertaking the agreed trek. Australian Kokoda Tours/O'Malley Fitness in its sole discretion may require a doctor's certificate in that regard. Also a certificate of fitness may be required over 60 years of age.
- b. Consent to treatment. If in the opinion of Australian Kokoda Tours/O'Malley Fitness, a trekker is in need of medical assistance and is unable to request it, the trekker hereby consents to Australian Kokoda Tours/O'Malley Fitness making such medical arrangements, as it deems necessary, at the cost of the trekker.
- c. Trekker's Obligation to Report Medical Condition. The trekker must report any pre-existing illness, disability, pregnancy or any other conditions for which the trekker may require medical attention during the course of the trek to Australian Kokoda Tours/O'Malley Fitness before the trek tour commences. If any such condition arises before the commencement of the trek, it must be reported to Australian Kokoda Tours/O'Malley Fitness as soon as such illness or disability is known. Failure to report any such condition completely absolves Australian Kokoda Tours/O'Malley Fitness and all contractors, guides and porters from all or any liability in respect of such condition.
- d. Refusal of trekking. Australian Kokoda Tours/O'Malley Fitness reserves the right to refuse any passenger who has failed to give proper notice of physical disability, illness or handicap requiring special care, attention or treatment or who in Australian Kokoda Tours/O'Malley Fitness opinion is physically or mentally unfit for travel. In such event, the tour fees will be refunded at the sole discretion of Australian Kokoda Tours/O'Malley Fitness. Australian Kokoda Tours/O'Malley Fitness shall be entitled to deduct any expense associated therewith.

- e. Treatment at trekker's risk. Subject to the foregoing, any medicines, surgical, attention or medical treatment furnished by a qualified doctor or medical service personnel (all of who are engaged as independent contractors) designated by Australian Kokoda Tours/O'Malley Fitness shall be and are accepted at the trekker's sole risk, and Australian Kokoda Tours/O'Malley Fitness shall not be responsible for the quality, nature or consequences thereof.
- f. Trekker must have purchased Travel and Medical Insurance for the trek to cover the following:
 - Emergency evacuation
 - Medical treatment
 - Payment of hospitalization
 - Repatriation to Australia
 - Travel delays
 - Loss of luggage, money etc.
 - Death and disability; and
 - Events such as airline strike causing cancellation of the trek.

Australian Kokoda Tours/O'Malley Fitness in its sole discretion may require proof in that regard.

- g. Australian Kokoda Tours/O'Malley Fitness reserves the right to withdraw any trekker due to illness and substance abuse such as alcohol and drugs and violation of strict traditional taboos and customary practices at any time during the trek.

The Trekker acknowledges that whilst Australian Kokoda Tours/O'Malley Fitness will take every reasonable precaution to ensure the safety of the trekker on the trek, that the nature of the trek has inherent risks and dangers encountered which may well be beyond the control of Australian Kokoda Tours/O'Malley Fitness. The trekker acknowledges that they participate in the trek at his/her own risk, and in the event of any accident, injury, incapacitation, illness, pain, death or other event suffered or incurred by the trekker on the trek that the trekker will seek no compensation from Australian Kokoda Tours/O'Malley Fitness and will hold Australian Kokoda Tours/O'Malley Fitness blameless and will not seek damages from any court of competent jurisdiction in relation to any accident, injury, incapacitation, illness, pain, death or other arising from the trek.

1. **THE CONTRACT:**

Upon payment of the Kokoda trek fees for the agreed itinerary supplied within the Australian Kokoda Tours/O'Malley Fitness contract, and subject to the terms of this contract, Australian Kokoda Tours/O'Malley Fitness agrees to accept the trekkers named on the Confirmed Booking Form.

2. **DEFINITIONS:**

- a. **"Trekker"** means anyone that has booked and purchased Australian Kokoda Tours/O'Malley Fitness Kokoda Track trek and whose name appears on the Confirmed Booking Form.
- b. **"Australian Kokoda Tours/O'Malley Fitness"** is the Company organising and operating the Kokoda Track trek, Australian Kokoda Tours/O'Malley Fitness staff includes guides and porters.
- c. **"Track"** means the route along the Owen Stanley Range between Kokoda and Ower's Corner that is used for trekking by trekkers as a leisure and recreational activity.
- d. **"Trekking,"** means walking and other activities undertaken by trekkers according to their accepted itinerary.

3. **GENERAL PROVISION:**

- a. Your authority to agree. In purchasing the trek tour, you state that you are authorized by or on behalf any trekker listed on the Confirmed Booking Form to agree to all the terms of this contract.
- b. No transfer. This contract is between the tour operator and the trekker. It cannot be sold, assigned or transferred to any other person without prior express written consent of the tour operator.
- c. No third-party responsibility. This contract is only with the tour operator. No other person or company shall be responsible in any way to the trekker.
- d. Limitations applied if that party is held responsible. However, if any other person or company is held responsible, all benefit limitations, exemptions from liability, defences and immunities referred to in this contract or under law, or treaty or from any other source to such person or company and their staff, guides, porter and agents.
- e. Contract continues. This contract remains in effect for all period when the tour operator is under any responsibility to the trekker or the trekker's property.
- f. No oral changes, no additions, variations or waiver or any of the contract can be effected unless it is expressed in writing and signed by the tour operator or each authorized agent.

4. **PAYMENT OF TOUR FEES:**

- a. Payment of trek tour fees. The trek tour fees agreed between the trekker and the tour operator shall be payable as follows:
 - i. A deposit at the time of booking Non-Refundable
 - ii. Balance of tour trek fees at least 60 days prior to trekking date.
 - iii. Any expenses incurred by the trekker on the tour will be paid within seven days of completion of the tour. If payment is not made within seven days, you may incur collection costs.
- b. What is covered: The trek tour fees as agreed shall include the trekking tour, during the trek: accommodation on the track, meals, airport transfers, trek permits, guides and General porters. The fee does not include expenses of a personal nature including drinks, fruits or vegetables sold by the locals, telephone, fax and email bills and gift items or personal porters. All outstanding bills must be settled before the trekker's departure from PNG.
- c. **PRICE VARIATIONS-** The price for your trip may change due to currency fluctuations, airlines fuel costs and other surcharges, departure/arrival tax variations. We will not apply these charges to you after you have paid in full unless the variations and substantial, in which case we will offer you the choice of a refund or continuing with the payment of variation.
- 5. **CANCELLATION BY THE TREKKER:** The trekker shall be entitled to withdraw from the contract only upon the times or events set out as follows:
 - a. At least 30 days in advance. If the trekker gives written notice of cancellation more than 30 days in advance, a handling fee of AUD500 per person will be charged.
 - b. From 29 days to 19 days. If the trekker gives notice of cancellation between 29-19 days before the trekking date, the trekker is liable to pay 60% of the trek cost.
 - c. From 18 days to 8 days. If the trekker gives written notice of cancellation between 18-8 days before the trekking date, the trekker is liable to pay 80% of the trek cost.
 - d. From 0 days to 7 days. A trekker is liable to pay 100% of the trek cost even if they give written notice 7 days or less before the trekking date.
 - e. Deposits are non-refundable

6. **TOUR OPERATOR'S RIGHT TO CANCEL AND CHANGE ITINERARIES:**

- a. Changes in itineraries. The tour operator may at any time, without notice, cancel or change the approved and accepted itinerary or substitute trek tours. The trekker shall have no claim against the tour operator due to any cancellation, change or delay of the trekking tour, accommodation and meal options, traveling expenses or other loss, and inconveniences from delays.
- b. Approximate schedule. Trekking tours and itineraries including departure times and arrival times maybe altered at the discretion of the tour or trek leader due to unforeseen circumstances.
- c. Deviations and Diversions. Trekkers in all situations shall not have the liberty to deviate from the original itinerary or undertake a diversion from the same advertised and approved itinerary. For whatever reason or reasons necessary, trekkers who deviate and divert from the advertised and approved itinerary may do so at their own risk and will be liable to pay any expense associated with the change.
- d. Interruption of trek tour.
- i. Acts of God. If the trek tour is interrupted, or unduly delayed or prevented from proceeding as advertised by *Acts of God, *perils of the trail, mountains, rivers and valleys, *Acts of Government, or ruling authority, *epidemics, natural disasters, fires, landslides, earthquakes, war, hostilities, riots and strikes, or *any other causes of circumstances beyond the tour operator's control and responsibility. The tour operator shall have the right to terminate the purchased trek tour at any time without notice and of any reason whatsoever. In that event, the tour operator may (at its absolute discretion, of which it shall be the sole judge) refund such proportionate part of the trek tour fee.
- e. Indemnity by Trekker. The tour operator shall have the right to be indemnified by the trekker for all penalties, fines, charges, losses and expenses upon and incurred by the tour operator because of the trekker, or any other person in the tour operator's care.
- f. **NOTE:** Australian Kokoda Tours/O'Malley Fitness reserves the right to cancel where the Department of Foreign Affairs and Trade or other available information indicates the trip should not proceed. This decision is at the absolute discretion of Australian Kokoda Tours/O'Malley Fitness. The balance of monies paid minus any associated cancellation fees will be credited towards another Australian Kokoda Tours/O'Malley Fitness trek.

7. **REGULATIONS CONCERNING BAGGAGE AND PERSONAL PROPERTY:**

- a. Baggage means backpacks, handbags and bundles containing wearing apparels and personal effects.
- b. Limitations and Liabilities. For safekeeping purposes, the tour operator does not undertake to store any contents of a baggage belonging to other persons apart from the trekker named on the Confirmed Booking Form. The tour operator shall not accept for storage any baggage unless all the contents are declared listed and personally viewed by the tour operator, its agents or servants. The tour operator will not be held responsible for the loss or damage to any item that is claimed as content in the baggage and which was not personally viewed by the tour operator, its agents and servants.
- c. Marking of baggage. Each piece of baggage will be marked with the full name and address of the trekker. The tour operator shall not be liable for loss, damage or delay resulting from the trekker's failure to mark each piece of baggage plainly as directed.

- d. All backpacks supplied to trekkers must be returned in the in good condition without defect or damage.
- e. All backpacks must be returned with 10 days from the completion of the trek unless written permission is given otherwise.
- f. All costs for the return of the backpacks are trekkers responsibility.
- g. Forbidden items. The trekker should not take away natural, historical and cultural items, the importation and exportation of which may be forbidden or which do not conform to customs, police regulations and the laws of PNG and other countries with which PNG has treaties and bilateral relations. Should this rule be violated, the trekker shall be held liable for all resulting fines, losses, damages or delays.
- h. Valuables, the tour operator is not responsible for money, jewellery, documents and any other valuables, which trekkers keep on their persons, in their accommodation or in their baggage.
- i. Insurance by Passenger. Trekkers are strongly recommended to obtain adequate insurance to cover his or her baggage and personal effects from theft, loss, damage and delays.
- 8. **PASSPORT**- you must have a valid passport with not less than 6 months' validity from the date of return travel.
- 9. **VISA**- you should obtain a Papua New Guinea Visa on arrival at the Port Moresby or prior to travel from the PNG High Commission in Canberra of the PNG Consulate General in Brisbane. For more information visit pngcanberra.org/visas

LIABILITY DISCLAIMER

THE NATURE OF THE TOUR IS THAT IT WILL BE PHYSICALLY DEMANDING ON THE CLIENT, REQUIRING THE CLIENT TO UNDERTAKE A WALKING, HIKING, CLIMBING, RUNNING, A COMBINATION OF THESE OR SIMILAR, TOUR OVER, AT TIMES, INHOSPITABLE TERRAIN AND BEING EXPOSED TO THE ELEMENTS AND ANIMALS, REPTILES, INSECTS BEYOND THE CONTROL OF AUSTRALIAN KOKODA TOURS/O'MALLEY FITNESS.

10. **LIMITATION ON TOUR OPERATOR'S LIABILITY:**

- 1. No liability for certain events. The tour operator and its agents including its staff, guides and porters shall not be liable for loss, death or delay of injury, to, any trekker or loss or damage or delay to his baggage, personal effects or other property arising from *Acts of God, *Public enemy, *Government restraint, Riots, *Strikes, *labour troubles who ever may be the instigators thereof, *epidemics, *civil disturbances of whatever nature, *perils of the trail, mountains, rivers and valleys, *Acts of Government, or ruling authority, *epidemics, natural disasters, fires, landslides, earthquakes, war, hostilities, riots and strikes, or *any other causes of circumstances beyond the tour operator's control and responsibility.
- 2. Limitation on Trekker's Liability with respect to baggage and personal property. This liability shall not exceed AUD200 in the event of loss, damage or delay to any of the trekker's baggage or other property taken with him on the trekking tour.

OTHER OPERATORS AND SUB-CONTRACTORS: Whilst all care is taken, no responsibility or liability whatsoever is borne or accepted by the Tour Operator for any other operator that is included, for any reason, as part of a package or holiday. The trekker agrees that any independent contractors with whom the Company contracts provide their services subject to their usual terms and conditions.