

ITM 'DON'T MISS THE BOAT' 2021 PRIZE INFORMATION AND TERMS AND CONDITIONS

PACKAGE INFORMATION:

The below prize package has been prepared exclusively for ITM and its customers. Guests can enjoy all the racing action for the upcoming Prada Cup Challenger Series onboard the 82-foot luxury motor launch "*Tawaki*".

This Package Information and the attached Terms and Conditions form the agreement between ITM and Guests in relation to the packages and are binding on ITM and the Guests. For the purposes of this agreement reference to "Guest", "Customer" or "Prize Winner" shall be a reference to the party utilising the package and must be an ITM customer.

Draw Date:

- The Winner will be drawn at random from all eligible entries on 9 December, 2020, at 4pm.
- Winner selection is final and no correspondence will be entered into.
- In the event ITM is unable to contact the winner, ITM reserves the right to redraw the prize on December 14, 2020, at 4pm. The original winner will be deemed to have forfeited the prize at this time and no further correspondence will be entered into.

Prize Date:

- PRADA Cup Date: 13 February 2021

Prize Mechanic:

- To enter, ITM Customers must tag a friend on the Prize Package post on the official ITM Facebook post and tag the Facebook page of the ITM store they shop at to be eligible for the draw.
- The competition is only open to New Zealand-based ITM Trade, Rural or DIY Customers. Store Owners & Shareholders, Permanent Staff, Part Time Staff, Casual Staff and Contractors are not eligible to enter.

"Prize Package" includes:

- 5-6 hours of fully inclusive hospitality out on the Waitamata Harbour
- Premium beverage package including your choice of beers, wines and non-alcoholic beverages
- Fully catered afternoon tea and dinner aboard "*Tawaki*"
- 1x night accommodation for 2x people in Auckland City (either twin share or double)
- Return flights to Auckland (if applicable)

MEETING POINTS:

ITM will advise times and meeting points for the day. An ITM representative will be allocated to the prize winner.

IMPORTANT: You need to be on board, ready to depart at the allocated time. The boat will not wait or return for late comers. No compensation will be provided if the boat departs at the allocated time and you are not on board.

TRAVEL & ACCOMMODATION NEEDS:

ITM have engaged the services of C&I Travel Specialists to cater for all your travel needs, should you require transfers, sightseeing or rental cars. The dedicated team are here to help.

Except for accommodation and flights (if required) as stated above, travel arrangements are not included in the ITM prize package and are additional at your own cost.

C&I Travel Specialists contact:

Lisa Watson

Phone: 027 299 3135

Email: lisa@travelspecialists.co.nz

Any arrangements entered into between C&I Travel Specialists and the Guest are as between those parties only and ITM takes no responsibility for such arrangements.

DIETARY REQUIREMENTS:

Please be advised a majority of dietary requirements can be accommodated. We will request confirmed dietary requirements of attendees at least 21 days from the prize date.

DRESS CODE:

The dress code for Guests is as follows:

- Smart casual
- Collared shirts and dress shorts or long trousers are required
- T-shirts, singlets, board shorts and jandals are not permitted
- Dress for the weather - it is advisable to bring a weatherproof jacket
- Be prepared for all weather - hat, sunglasses, sea sickness pills and outer layers for cover. Sunscreen will be provided
- Tawaki is a luxury vessel, so soft soled, non-marking shoes are required (white or light coloured soles only)

The following shoes are not allowed on board the boat:

- Stilettoes or high heel shoes
- Jandals or open-toed shoes
- Dark soled shoes

GUESTS CONDUCT:

Please be aware that ITM take host responsibility seriously. Intoxicated Guests, either prior to boarding or onboard the vessel, will not be tolerated and will be denied boarding. Use of any illegal substances on the charter will result in instant termination of the charter.

Any costs involved in their removal and/or damage to the vessel could be passed on.

ITM retains the primary responsibility for ensuring the Health and Safety of its event attendees at each event. All Guests must follow the direction of ITM and boat staff and ITM reserves the right to evict a Guest whose conduct is deemed inappropriate by ITM.

WEATHER:

In the event where the weather dictates a no race day (e.g. not enough or too much wind) or if the scheduled racing on a day does not occur in whole or in part, other than as a result of a Force

Majeure event (“**No Race Day**”) there will be no subsidy or lieu day for the day that has become a ‘No Race Day’.

ITM will endeavor to still take the charter out for the day and arrange other alternative activities e.g. trip to Waiheke and/or surrounding islands.

Should the weather conditions on the day of your charter be so adverse as to cause concern for the safety of passengers, crew and vessel, the skipper at his absolute discretion, has the right to cancel the day's charter. Neither ITM nor “Tawaki” accept any liability for costs incurred to you due to such cancellation, nor is ITM or "Tawaki" liable to refund you.

CANCELLATION:

Subject to the Force Majeure provisions below, any and all packages are non-refundable or redeemable for cash.

In the event that your race day on the chartered boat is cancelled or otherwise does not occur because of a No Race Day, ITM will contact those scheduled to board the boat to discuss other hosting options for the day. All options will be weather dependent and subject to availability, and ITM will evaluate the cancellation on a case by case basis and may offer an option to continue to take the chartered boat out on the water, pending weather conditions. This is at the sole discretion of ITM and/or the skipper and will require an evaluation of safety. If ITM and/or the skipper determine that no sailing can occur or if the boat is taken out on the water but no racing occurs, then the Guest shall not be entitled to any compensation.

By accepting the Terms and Conditions and confirming the registration for these packages, you acknowledge the risk that this is a non-refundable event.

If the numbers allowed on the boat are reduced below 40 guests for any reason (including as a result of COVID-19), a ballot will be drawn to determine which Guests can attend. No compensation will be provided to Guests that are not selected from the ballot to attend.

FORCE MAJEURE:

If the event is cancelled due to a Force Majeure event, the prize will fall away.

For the purposes of this clause, a Force Majeure is an event beyond the control of ITM which prevents Prada Cup racing occurring (either on a particular day or racing is cancelled in its entirety) including but not limited to:

- Act of God such as fires, explosions and earthquakes.
- War, hostilities (whether war be declared or not), invasion, act of foreign enemies, mobilisation, requisition, embargo, acts or threats of terrorism.
- Civil unrest, rebellion, revolution, insurrection or military or usurped power or civil war.
- Extreme health threats, epidemic, pandemic (including, without limitation, COVID-19), contamination by radio-activity from any nuclear fuel, or from any nuclear waste from the combustion of nuclear fuel, radio-active toxic explosive.
- Riot, commotion, strikes, go slows, lock outs or disorder, default or failure of subcontractors or suppliers, provided that it is acknowledged that a Force Majeure event does not include a weather-related event.

TERMS & CONDITIONS (T&C'S):

The Package Information and the following Terms and Conditions govern all requests of a Package by the Customer from ITM with regard to the PRADA packages (in each case a "**Package**").

Accordingly, in requesting a Package, the Customer acknowledges that they have read and accepted these Terms and Conditions and agrees to be legally bound by them. These Terms and Conditions shall take effect notwithstanding any inconsistency with any other term or condition that relates to any Package. Please direct any queries regarding these Terms and Conditions to ITM, before any request for a Package.

ITM's Website Terms of Use and Privacy Policy (on the Website) are incorporated into these Terms and Conditions.

1.0 BOOKING

1.1 Following your prize allocation, the Prize Winner will receive a confirmation of your booking ("Booking Acknowledgement"). It is the Prize Winner's responsibility to check the Package(s) detailed in the Booking Acknowledgement are correct at the time the Booking Acknowledgment is issued.

1.2 It is always possible that, despite ITM's best efforts, the Booking Acknowledgment may be incorrect. If ITM discovers an error in any Booking Acknowledgment, it will inform the customer and will offer a fair and reasonable alternative.

2.0 PERSONAL CONDUCT

2.10 ITM, Suppliers and Operators retain the right to require any person to leave a venue, hospitality area, establishment or event if that person:

1. Breaches these Terms and Conditions or causes any damage to the Vessel
2. Engages in conduct which unreasonably interferes with other persons enjoyment eg; excessive drinking or inappropriate behaviour
3. Interferes with either ITM or the Operators' ability to provide hospitality and/or conduct the Event
4. Breaches any laws, by-laws, orders, rules, or the Venue Regulations.

2.11 If a person fails to leave after being requested to do so then that Customer's right to access any vessel, venue or hospitality area shall be automatically revoked.

3.0 CUSTOMER'S OBLIGATIONS

3.1 In addition to the Customer's other obligations set out in these Terms and Conditions, the Customer agrees to:

1. Pay to ITM any damages for non-performance of these Terms and Conditions including legal costs on a full indemnity basis.

2. Be responsible for the reasonable dress standard, good behaviour and full compliance with all provisions under these Terms and Conditions.
3. Exercise responsibility in respect of the amount of alcohol consumed, age of guests and the dangers of drinking and driving.
4. Not use (or attempt to do so) the Package or Hospitality Area except as expressly permitted.
5. Not bring any food or alcoholic beverages to any hospitality area or vessel (unless expressly authorised by ITM) and further agree that alcoholic beverages may only be consumed as directed by ITM or the principals, officers or administration personnel of any vessel charter or hospitality area.
6. Not to smoke on board the charter vessel.
7. Immediately pay to ITM all loss resulting from any claim made against ITM in making good any damage to the vessel, hospitality area, etc. caused by the Customer and/or guests.
8. Comply with the terms and conditions of the Event Organiser (ITM), Suppliers and Operators and any instruction given by them.
9. Comply with all laws, rules and regulations and all local and statutory authorities.
10. Comply with all health and safety procedures and regulations specific to the Hospitality Areas.

4.0 POSTPONEMENT/CANCELLATION

- 4.1 If the Customer cancels part or all of a Package the Customer shall forfeit the prize.
- 4.2 The postponement policy relating to Packages is set out at the Appendix of these Terms and Conditions (the "Postponement Policy"). The Customer (including its guests) acknowledges and agrees that all Packages are expressly subject to the Postponement Policy and agrees to be bound by the same.
- 4.3 In the event that your race day on the chartered boat is cancelled because of a No Race Day, ITM will contact those scheduled to board the boat to discuss other hosting options for the day. All options will be weather dependant and subject to availability ITM will evaluate the cancellation on a case by case basis and may offer an option to continue to take the chartered boat out on the water, pending weather conditions. This is at the sole discretion of ITM and will require an evaluation of safety. If ITM and/or the skipper determines that no sailing can occur or if the boat is taken out on the water but no racing occurs, then the Customer shall not be entitled to any compensation.
- 4.4 If the event is cancelled due to a Force Majeure event, the prize will fall away. For the purposes of this clause, a Force Majeure is an event beyond the control of ITM which prevents the Event racing occurring (either on a particular day or racing in its entirety) including but not limited to:
 1. Act of God such as fires, explosions and earthquakes.
 2. War, hostilities (whether war be declared or not), invasion, act of foreign enemies, mobilisation, requisition, embargo, acts or threats of terrorism.
 3. Civil unrest, rebellion, revolution, insurrection or military or usurped power or civil war.

4. Extreme health threats, epidemic, pandemic, contamination by radio-activity from any nuclear fuel, or from any nuclear waste from the combustion of nuclear fuel, radio-active toxic explosive. Riot, commotion, strikes, go slows, lock outs or disorder, default or failure of subcontractors or suppliers, provided that it is acknowledged that a Force Majeure event does not include a weather-related event.
- 4.5 If the numbers allowed on the boat are reduced below 40 guests for any reason (including as a result of COVID-19), a ballot will be drawn to determine which Guests can attend. No compensation will be provided to Guests that are not selected from the ballot to attend.
- 4.6 Hours on the water are approximate only and no compensation will be given if the hours on the water is less or more than the anticipated 5-6 hours.

5.0 INDEMNITY

- 5.1 The Customer indemnifies ITM and its employees, directors and representatives (the "Indemnified Persons") and hold the Indemnified Persons harmless from and against all claims brought or made by or against the Indemnified Persons, and from and against all loss incurred, suffered or sustained by the Indemnified Persons resulting from:
 1. A breach (or attempted breach) of these Terms and Conditions.
 2. Any negligent act or omission by the Customer (including any guest) under, or in connection with, these Terms and Conditions.
 3. Any exercise (or attempted exercise) by ITM of any of its rights against the Customer under, or in connection with, these Terms and Conditions.

6.0 LIABILITY

- 6.1 To the fullest extent permitted by law:
 1. Neither ITM, nor its directors, employees or agents accept any liability in contract, tort or otherwise for any injury, damage, loss, delay, additional expense or inconvenience caused directly or indirectly by the acts, omissions, default, whether negligent or otherwise of Suppliers, Event Organiser and Operators.
 2. Other than already expressed in these Terms and Conditions or as required by the CGA, ITM excludes all warranties, terms, conditions or undertakings of any nature and in any form (whether express or implied, written, oral, statutory or otherwise) in relation to the Package(s).
 3. ITM will not be liable for:
 4. any Loss, injury or damage to property or persons whatsoever including illness, death, injury suffered by the Customer (including guests) or any third party arising from use by the Customer (including guests) of the Package(s); or any special, indirect or consequential loss of profit arising under or in connection with, these Terms and Conditions.
 5. Subject to the CGA, ITM's maximum liability to the Customer (including guests) under, or in connection with, these Terms and Conditions shall be limited to the amount actually paid by the Customer for the Package(s).

7.0 GENERAL

- 7.1 These Terms and Conditions shall be governed by and interpreted in accordance with the laws of New Zealand.
- 7.2 These Terms and Conditions may be amended whether in whole or in part by ITM at any time. ITM will notify its Customers (using the contact details provided) of any changes to these Terms and Conditions. Any variations will only apply to any Package provided made after these Terms and Conditions have been updated.
- 7.3 The Package Information and these Terms and Conditions constitute the entire agreement between the parties regarding the matters set out in it and supersedes any prior representations, understandings or arrangements made between the parties whether orally or in writing or otherwise.
- 7.4 If any clause or part of any clause is in any way unenforceable, invalid or illegal, it is to be read down so as to be enforceable, valid and legal, if this is not possible, the clause (or where possible, the offending part) is to be severed from these Terms and Conditions without affecting the enforceability, validity or legality of the remaining clauses (or parts of those clauses) which will continue in full force and effect.
- 7.5 If the Customer is utilising the Package for the purposes of a business, the parties acknowledge that (i) the parties are in trade; (ii) the services are both supplied and acquired in trade; (iii) the parties agree to contract out of sections 9 (misleading and deceptive conduct generally), 12A (unsubstantiated representations), 13 (false or misleading representations) and 14(1) (false representations and other misleading conduct in relation to land) of the Fair Trading Act 1986 ("FTA"); and (iv) all warranties, conditions and other terms implied by the CGA or sections 9 (misleading and deceptive conduct generally), 12A (unsubstantiated representations), 13 (false or misleading representations) and 14(1) (false representations and other misleading conduct in relation to land) of the FTA are excluded to the fullest extent permitted by law and that this is fair and reasonable.

Appendix

Each Customer (including Guests) agrees and acknowledge the following:

1. "Tawaki" vessel is scheduled for the following race day dates: (dates are subject to change).
PRADA Finals: 13 Feb 2021
Review Race Dates: <https://www.americascup.com/en/prada-cup>
1. Wind conditions have been set for each Race to go ahead between 6.5 to 23 knots.
2. In the event of a Postponement of a Race, then Customers who have booked a Package for that Race day will forfeit this day. ITM will endeavour to arrange an alternative outing on the charter, this will be at the sole discretion of ITM.
3. Package(s) for any Race day will be deemed to be used by a Customer where that Customer has been alerted to board their Vessel to which the Package(s) relates (a "Deemed Use"). For the avoidance of doubt, a Deemed Use will occur regardless of whether the relevant Race(s) go ahead or not on that day. In the event of a Deemed Use, Customers on the relevant Vessel will receive their corporate hospitality which forms part of their Package, in accordance with

schedule of the relevant Package. No refunds will be provided to Customers for any Package(s) to which a Deemed Use applies.

4. If a Customer and/or its Guests are late to a location/pick-up point designated by ITM, which results in the Customer and/ or its Guests missed boarding to their Vessel, then that Customer and/or its Guests shall not be entitled to any compensation.
5. ITM will use reasonable endeavours to communicate any Postponements and/or changed times for Races, however, Customers acknowledge that such notice could be delayed or late and ITM will have no liability to Customers and/or their Guests where such communication or notice is late or delayed.