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TERMS AND CONDITIONS

1. Introduction

The following terms and conditions ("booking conditions") form the basis of your contract with A Kimberley Adventure Pty Ltd ACN 623 286 457 ("aKa"). Please read them carefully as they set out your and our respective rights and obligations. By asking us to confirm your booking, we are entitled to assume that you have read these booking conditions, that you agree to them and that you agree to them applying to your arrangements that you book with us and which we agree to make, provide or perform (as applicable) as part of our contract with you. References in these booking conditions to your "trips" are references to the package you have booked with aKa. References to "excursions" are references to short trips included or available as part of your trip.

2. Booking Conditions

Please read and understand the booking conditions set out below prior to booking a trip with aKa. We strongly recommend that you also read the more detailed online version of your itinerary prior to booking to ensure that you understand the itinerary and the style of the trip you are undertaking. By making a booking you represent and warrant that you have the legal capacity and authority to accept these booking conditions on behalf of yourself and the other people in your booking. As part of making a booking you must read and sign the Motor Vehicle Release and Waiver of Liability, Assumption of Risk and Indemnity Agreement which will be provided to you prior to the trip commencement.

3. Contract

All bookings are made with aKa. By booking a trip with us you are deemed to have agreed to these Booking Conditions, which constitutes the entire agreement between you and us, and your booking will be accepted by us on this basis. Accordingly, a contract will exist between us from the date we issue the confirmation invoice or if you book within 30 days of departure the contract will exist when we accept your payment. The validity of details, including itinerary, prices and dates, are stated in the trip details for each trip.

4. Price

All prices are quoted in Australian currency (\$AUD) and inclusive of GST. aKa reserves the right to alter these prices in the event of any unforeseen circumstances. If paying by credit card a transaction fee is may be applicable.

Our prices are subject to variable and seasonal pricing, both of which are standard practice within the travel industry. This means our prices may vary at any time in accordance with demand, market conditions and availability. It is likely that different passengers on the same trip have been charged different prices. Your best option if you like the price you see is to book at that time. Any reduced pricing or discounts that may become available after you have paid your deposit will not apply. If you wish to cancel your booking to take advantage of a cheaper price, full cancellation conditions apply.

5. Damage to Motor Vehicle

You accept that you are responsible for any damage to motor vehicles provided by aKa to you for the trip. You further agree to pay aKa the reasonable cost of any repairs to the motor vehicles with respect to any damaged caused as a result of your driving and handling, whether caused directly or indirectly.

6. Deposit Requirement

You are required to pay a deposit of 50% of the total booking value for your booking to be confirmed. If your booking is made within 30 days of the departure date then the full amount is payable at the time of booking. Accordingly, payment of the balance of the trip price is due 30 days before the departure date. If this balance is not paid on or before the due date we reserve the right to treat your booking as cancelled.

7. Cancellation

Our trips are guaranteed to depart once they have one fully paid traveller unless minimum group size specifically states otherwise. We may cancel a trip at any time prior to departure if, due to terrorism, natural disasters, political instability or other external events it is not viable for us to operate the planned itinerary. If we cancel your trip, you can transfer amounts paid to an alternate departure date or receive a full refund. In circumstances where the cancellation is due to external events outside our reasonable control refunds will be less any unrecoverable costs. We are not responsible for any incidental expenses that you may have incurred as a result of your booking including but not limited to visas, vaccinations, travel insurance excess or non-refundable flights.

8. Cancellation Fees

If you wish to cancel your trip you must immediately inform aKa in writing. Once we have received your notice, cancellation will take effect. Please note the following charges will apply on cancellation:

Days of Notice	Fee per person
60 days and over	Loss of deposit
Between 59 and 30 days	50% of price
29 days or less	100% of price

Please note that transferring to another date is treated as a cancellation and cancellation fees apply.

9. Itinerary And Trip Arrangements

You accept that aKa may need to alter or amend itineraries, accommodation or sightseeing arrangements from those published, with little or no notice. This may be due to road conditions, weather, safety factors and other operational considerations at the time. Such decisions will be made in the best interests of your comfort and safety. aKa is unable to guarantee exact arrival or departure times and is not liable for any failure to make connections with any other service or guarantee the operation of any particular service.

10. Travel Insurance

It is essential that all aKa travellers take out their own travel insurance at the time of booking. At a minimum your travel insurance must provide cover against personal accident, death, medical expenses, emergency repatriation and personal liability, with a minimum coverage of AU\$200,000. We also strongly recommend it covers cancellation, curtailment and loss of luggage and personal effects. Ask your travel agent for details. We may ask for you to provide proof of your travel insurance through a certificate of currency. Should a proof of travel insurance not be provided you will not be allowed to embark on the trip and no refund will be provided.

11. Force Majeure

We cannot accept liability or pay you compensation where the performance or our contractual obligations is prevented or affected by "force majeure". A failure to comply or a delay in complying with these terms and conditions by us which is caused by force majeure means that we will not pay you compensation if we have to cancel or change your trip in any way because of circumstances beyond our control prior or after departure. In these booking conditions "force majeure" will include (but shall not be limited to) Acts of God, war, threat of war, riot, civil or political unrest, strikes, boycott or industrial action or dispute, terrorist activity threatened or actual and its consequences, natural or nuclear disaster, fire, adverse weather conditions, epidemics and pandemics, action in compliance with any act, regulation, ordinance, by-law or permit or with any lawful direction, order or request of any responsible authority or court, closure of ports or airports, air traffic control delays, unavoidable technical and/or financial problems with transportation or any other cause whatsoever reasonable beyond the control of aKa.

12. Limitation Of Liability

Our trips include the services of independent providers, such as trip guides and other operators, who are not agents, servants or employees of aKa. Although we take care in selecting the independent service providers and the optional excursions conducted by some independent service providers, aKa is not responsible for the conduct of the independent service providers, their servants and agents or for any ramifications of that conduct. Optional excursions may, depending on your trip, include activities such as climbing, exploring, bike riding, swimming and snorkelling. You accept and assume the risk involved with these activities.

If, in the opinion of any representative of aKa, your mental or physical condition is such as to affect your own health and safety, render you incapable to care for yourself, cause you to become a hazard to yourself or other passengers or result in you becoming objectionable to other passengers or staff, you will not be permitted to embark or continue on the whole or any part of the trip. aKa is not liable to you for any costs associated with such decision and you will not be refunded for any part of the trip.

aKa accepts no responsibility for any death, injury, illness, loss (including loss of enjoyment), damage, detention or delay (including mechanical breakdown) beyond its control.

Any term, condition or warranty express or implied by statute or otherwise in respect of the trips contained on this website are excluded to the full extent permitted by law. Nothing in these booking conditions excludes, restricts or modifies the application of the *Competition and Consumer Act 2010* (Cth) as amended, consolidated, supplemented or replaced.

To the full extent permitted by law, aKa's liability arising under or in connection with these booking conditions is limited to the re-supply of the products or services or the payment of the cost of re-supply of the products or services to you. Further, it excludes liability for any indirect or consequential losses suffered by you or any third party, howsoever caused, including but not limited to pure economic loss or any special, extraordinary or punitive damage to you or any other party.

Your travel agent may forward deposits and other payments to us on your behalf, but your travel agent is not our agent for the purpose of receipt of monies. Receipt of deposits and subsequent payments by the travel agent does not constitute receipt of those monies by us and the travel agent has no authority expressed or implied to receive monies on our behalf. There is no liability on the part of aKa in respect to any monies paid to your travel agent unless and until aKa notifies you (by way of a booking confirmation advice or payment receipt advice) that monies have been received by aKa. aKa reserves the right to cancel any ticket or booking or refuse to carry any passenger where payment has not been received by aKa within the specified time.

13. Health Check Before Departure

Regardless of where you are travelling to, we recommend you seek expert travel advice on health issues prior to departure. We advise you to consult your physician prior to departure and inform them of your destination. Your physician will indicate to you if your state of health is compatible with the stay that you have planned, notably if you have any ongoing treatments, if you have any chronic conditions. Also take the time to check the validity of your vaccinations.

14. Allergies

Any person likely to be allergic to a specific food component is invited to check with the trip guide before consuming food. It is also advised that you bring any responsive treatment (like epipen) for all known allergies. Should you have any specific dietary or health requirements, we recommend that you confirm with us that such dietary or health requirements can be met whilst on a trip.

15. Sun Protection

We advise you to use suitable sun protection, to plan ahead for limited exposure times and to drink lots of water in the heat.

16. Medical Assistance

aKa does not employ medical staff on trips. If you require medical attention, local medical services can be contacted immediately. You are responsible for all charges that result from visiting a medical facility, or for a medical practitioner visiting you. Note that the trips will take place at remote locations with little or no medical support and as such any medical emergency and/or situation may include, but is not limited to, helicopter or plane evacuation. All costs relating to a medical emergency evacuation will be charged to you including, but not limited to, administration costs, phone calls, employee wages assisting in the evacuation etc. aKa is not responsible for the type or quality of the medical services you may receive.

17. Age and Health Requirements

A minimum age at the time of travel applies to many of our trips, please see the specific trip for further details. For the majority of our trips we have no upper age limit though we remind you that our trips can be physically demanding and travellers must ensure that they are suitably fit to allow full participation. All travellers under the age of 18 must be accompanied by a legal guardian, or in lieu of a legal guardian, by an escort over the age of 18, appointed by their legal guardian. The legal guardian or their designee will be responsible for the traveller under the age of 18 care.

18. Luggage Limits

Trips will involve driving in vehicles with limited luggage capacity. Each passenger must limit their luggage to one small/medium soft bag weighing no more than 10kg. For aKa trips, excess luggage may entail special charter of aircraft or helicopter. This additional cost will be passed on to you.

19. Authority On Trip

Our trips are run by a trip guide, whose decision is final on all matters likely to affect the safety or well-being of any person participating in the trip. If you fail to comply with a decision made by a group leader, or interfere with the well-being of the group, the Guide may order you to leave the trip immediately, with no right of refund. You must at all times comply with the laws, customs and drug/alcohol regulations of all areas visited, and you also agree to travel in accordance with our booking conditions.

20. Acceptance of Risk

You acknowledge that the nature of the trip is adventurous, and participation involves a degree of personal risk. You will be visiting places where the geographical attributes present dangers and physical challenges greater than those present in our daily lives. We use information from local authorities and reports from our own contacts in assessing whether the itinerary should operate. However, it is also your own responsibility to acquaint yourself with all possible relevant travel information and the nature of your itinerary. You acknowledge that your decision to travel is made in light of consideration of this information and you accept that you assume the personal risks attendant upon such travel.

21. Errors and Omissions

Although we have made a concerted attempt to verify the accuracy of statements made in our trip details, including brochure, website and others we cannot be held responsible for any error, omission or unintentional misrepresentation that may occur.

22. Complaints And Dispute Resolution

Should any dispute arise between aKa and a traveller, it is agreed that formal proceedings in a Court or Tribunal will not commence until after the following process has been complied with:

1. A written notice specifying the nature of the dispute ("the notice");
2. Following the issue of the notice, the parties will in good faith attempt to resolve the dispute by negotiation, mediation, expert determination or as otherwise agreed;
3. If the process for the resolution of the dispute is not agreed with within 7 days of the receipt of the notice, the parties must mediate the dispute. Mediation will be conducted in accordance with Rules and Regulations of the Western Australia Law Society, as at the date of the dispute. If the parties cannot agree, the Mediator will be appointed by the President of the Law Society of Western Australia, or nominee; and
4. If there is no resolution to the dispute at the expiration of 30 days from the receipt of the notice, formal proceedings may be commenced.

The laws applicable in Western Australia govern these terms and conditions and the parties submit to the jurisdiction of the Courts and/or Tribunals of Western Australia to herein determine any disputes between the parties.

26. Severability

In the event that any term or condition contained in these booking conditions is unenforceable or void by operation of law or as being against public policy or for any other reason then such terms or condition shall be deemed to be severed from this contract or amended accordingly only to such extent necessary to allow all remaining terms and conditions to survive and continue as binding.

27. Photos and Marketing

You consent to us using images of you taken during the trip for advertising and promotional purposes in any medium we choose. You grant us a perpetual, royalty-free, worldwide, irrevocable licence to use such images for publicity and promotional purposes.

28. Use of Technology

You acknowledge that no GPS, tracking device, mobile phone, mapping device or any similar technology is permitted on any trips operated by aKa. In circumstances where you inadvertently carry such a device, you will be required to surrender the device to the trip guide for the duration of the trip. Should you refuse to surrender any and all devices aKa may cancel your trip and in such circumstances clause 9 and 10 will apply.

Further, aKa accepts no liability in the event that any and all of your devices are damaged, lost or stolen during the trip.

29. Cultural Appreciation, Understanding and Respect

Some of our trips may take place in aboriginal communities and as aKa respects cultural appreciation, it is important to know some of the essential protocols to be adhered to when visiting these communities.

These protocols encompass the 3 "R's" which are:

1. Relationship - Recognise indigenous people's relationship and connection to the land;
2. Responsibility - Acknowledge the ongoing responsibility indigenous people have to their country and recognise your own responsibility to travel thoughtfully; and
3. Respect - Respect Aboriginal beliefs associated with country and culture. As a visitor, respect the wishes of your hosts and any restrictions that you have been asked to observe.

30. Privacy

Any personal information (including sensitive information and health information) that aKa obtains and retains from you or about you is necessary for our business purposes. We do not disclose this information to other parties unless it is important, such as alerting other trip operators, restaurants or accommodations that we work with about important medical or dietary information. aKa respects your privacy and will only use your personal information in accordance the Privacy Act 1988.