

# SWAGALONG TOURS

## BOOKING CONTRACT - TERMS & CONDITIONS

### 1. Definitions

- 1.1. *We, Us, Our, Operator* means Ben Perry t/a Swagalong Tours ABN: 97780122504
- 1.2. *You, Your* means the person named on the online booking form and/or invoice.
- 1.3. *Participant*, means all named parties on the completed Participant & Vehicle Information Form.
- 1.4. *Reasonable Travel Time* means eight hours driving per day on the most direct route from your home address to the departure point as defined by Google maps without traffic conditions applied.

### 2. The Contract

- 2.1. The contract between *you* and *us* comes into existence when we send our booking confirmation email to you. *You* will have undertaken to pay for *your* booking and *we* will have undertaken to provide the specified tour.
- 2.2. By booking a tour with *us* *you* agree to these terms and conditions which form the basis of the contract.
- 2.3. If *you* make a booking on behalf of other participants as well as yourself, *you* guarantee that you have the authority of each of those other people to enter into the contract and that *you* and the *participants* have agreed to be jointly and severally liable and *you* have their agreement to give the indemnities and releases made in this agreement.
- 2.4. As lead member of *your* party, *we* will deal with *you* exclusively.
- 2.5. This agreement will be governed by and construed in accordance with the laws of the State of Queensland.
- 2.6. The parties consent to the sending and receiving of documents and the signatures thereto of any proposed or existing contract and any documents attached thereto by electronic means in accordance with Sections 11, 12 and 14 of the Electronic Transactions (Queensland) Act 2001. The *operator* accepts *you* ticking the acceptance of terms and conditions tick box on our online booking form and subsequently clicking the submit booking button below it to show *your* intention to give *your* signature.
- 2.7. These terms and conditions constitute the entire agreement between *you* and *us*.

### 3. Booking Conditions

- 3.1. Upon receipt of *your* booking request by post, telephone, online booking form or any other means *we* will issue a booking confirmation.
- 3.2. A non-refundable deposit of twenty percent of the total cost is payable by *you* within one week of the issue of a booking confirmation by *us*.
- 3.3. The balance of the tour cost is payable by *you* in full no later than 60 days before tour departure.
- 3.4. *You* agree to be liable for the full payment for all *participants*.
- 3.5. Payment will be accepted in cash, bank certified cheque or direct credit to *our* nominated bank account as detailed on the booking confirmation.
- 3.6. *You* and *your participants'* places will be provisionally held for one week. If *your* deposit is not received in this time all places will be forfeited and be open to other bookings. Your deposit remains due.
- 3.7. Any payment that is not made on time will bear interest at the rate of 12% per annum, calculated daily. In addition, *you* must pay all of *our* legal and recovery costs arising from *your* breach of these terms and conditions.

### 4. Cancellation & Amendment

#### 4.1. By Us

- 4.1.1. *We* may cancel a trip at any time prior to departure if, due to terrorism, natural disasters, seasonality, political instability, pandemics, other external events or other unexpected circumstances, it is not viable for *us* to operate the planned itinerary.
- 4.1.2. *We* require a minimum number of vehicles for each tour. If minimum numbers are not met it may be necessary to cancel *your* tour
- 4.1.3. *We* will advise you as soon as possible and *we* will refund full payment or provide an alternative date.
- 4.1.4. *We* may vary the departure date and this will not be considered a cancellation by *us* unless the variation is by more than 10 days.
- 4.1.5. *We* are not responsible for any incidental expenses that *you* may have incurred as a result of *your* booking and/or *our* cancellation or variation.

#### 4.2. By You

- 4.2.1. All cancellations or amendments by *you* must be made in writing to *us* by post or by email. The cancellation or amendment will be effective only once *we* confirm receipt.
- 4.2.2. In the event of cancellation or amendment there will be a penalty as follows:
  - 4.2.2.1. More than 90 days before departure – Loss of deposit
  - 4.2.2.2. 61-90 days before departure – 25% of full tour fee
  - 4.2.2.3. 31 to 60 days before departure – 50% of full tour fee
  - 4.2.2.4. 30 days or less before departure – 75% of full tour fee
  - 4.2.2.5. Failure to depart on tour – Full tour fee
  - 4.2.2.6. Departure during tour – Full tour fee
  - 4.2.2.7. If *you* wish to amend your booking to an alternate tour date within 12 months of our confirming receipt, as per clause 4.2.1, then *your* deposit amount can be transferred but all other penalties still remain due and amendment terms apply as per clause 4.3.
  - 4.2.2.8. If an alternate tour is not undertaken within 12 months of our confirming receipt, as per clause 4.2.1, then any and all payments made by *you* will be forfeit.

#### 4.3. Amendment terms

- 4.3.1. Should *you* change to an alternate tour date for any reason, an amendment fee of \$450 is payable to *us*.
- 4.3.2. *Your* place on the alternate tour is not guaranteed until the amendment fee is received by *us*.
- 4.3.3. Should the price of the alternate tour be higher than when *you* made *your* original booking, the difference is payable to *us* along with any outstanding balance from the original invoice, no later than 60 days prior to departure.
- 4.3.4. Irrespective of the rest of section 4.2
- 4.3.5. This section applies to each and every amendment.

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## 5. Covid

### 5.1. Cancellation due to Covid 19

5.1.1. Section 5.1 takes precedence over sections 4.1 & 4.2.

5.1.2. If your home address is in a government declared Covid-19 hotspot and government restrictions prevent you from entering Queensland and getting to the start point within a reasonable travel time we will move you to a future scheduled tour date of your choice.

5.1.3. We will attempt to run extra tours to accommodate any changes in restrictions subject to demand and minimum numbers.

5.1.4. If cancellations under section 5 reduce numbers below the minimum we require to operate a tour, irrespective of your ability to travel, we will cancel the tour and transfer your booking to a future scheduled tour date of your choice.

5.1.5. Tour cancellations may be at short notice due to the fast moving nature of government restrictions and you agree to us cancelling tours with short notice.

5.1.6. We are not responsible for any incidental expenses that you may have incurred as a result of your booking and/or our cancellation.

### 5.2. Covid 19 requirements

5.2.1. For the purposes of the tour *you* and all *participants* are responsible for meeting all government requirements related to Covid 19. This includes, but is not limited to, vaccination, check-in, mask wearing and any other order, restriction, directive or requirement subsequently introduced.

5.2.2. Requirements may be placed on *us*, *you*, *participants*, our third party providers or any other location, business or person who may be encountered on tour. *You* and your *participants* are solely responsible for meeting any requirement under section 5 in any and all circumstances.

5.2.3. If *you* or your *participants* for whatever reason are unable or unwilling to meet these requirements either before departure or whilst on tour, *you* and/or your *participants* will be unable to join or continue with our tour.

## 6. Itinerary

6.1. We operate in regions that may be affected by road conditions, weather, mechanical and vehicle breakdown, flooding, acts of nature and other unforeseen circumstances.

6.2. Where the tour includes services and facilities which are supplied by third party providers we are unable to guarantee their provision.

6.3. We reserve the right to alter, change, amend, vary or cancel the itinerary without notice in the interest of practicality, customer safety and *participant* enjoyment.

6.4. Whilst we will attempt to keep the arrival and departure times and days given in the itinerary, we are unable to guarantee these and you agree that some flexibility may be required with regards to this.

6.5. If for any reason the itinerary is altered, delayed or curtailed no refund is payable by the *operator*.

6.6. The *operator* will not be liable for any costs incurred through failure to connect with any other service. Any personal expenses incurred by the tour *participant* as a result of alteration, delay or curtailment of any tour for any reason are the responsibility of the tour *participant*.

## 7. Exclusion of Liability

7.1. Our tours operate in an outdoor environment and participants accept that there is a higher than normal element of risk.

7.2. Activities could include, but are not limited to, four wheel driving, walking, swimming, camping, fire making, interacting with wildlife.

7.3. Risks in undertaking these activities could include, but are not limited to, poor health, personal injury or damage to your vehicle or equipment.

7.4. Participants are not required to participate in any activity and should only do so if they are satisfied with the level of risk.

7.5. The *operator* and its officers, employees and agents accept no responsibility or liability for any act of omission whatsoever (whether inside or outside their control or by neglect or otherwise) for any booking, contract, travel, accommodation or tours which may result in any loss, damage, accident, detention, diversion or theft in regard to luggage or personal belongings, and will be exempt from liability in respect of direct or indirect or consequential loss or damage, death, injury, sickness, irregularity, delay liability and additional expenses, or inconvenience or any other event beyond its control including but not limited to accident or failure of machinery, equipment or vehicles, accommodation, transportation or other services, or any acts of God, natural disasters, dangers incident to the remoteness, fire, acts of government or other authorities, changes to legislation or regulations, acts of war, civil disobedience, delays, strikes or cancellation of itinerary or schedule changes whatsoever, howsoever by whosoever caused.

7.6. We work with third party providers and take reasonable care to ensure their level of service but we cannot accept liability for any conduct, level of service or act of neglect by any provider or their employees or any consequence thereof. If you have any problem with a provider please let us know as soon as possible.

## 8. Third Party Providers

8.1. The *operator* may as part of the tour engage third party providers such as National Parks, camping facilities, tour providers and the like.

8.2. The *operator* shall not in any circumstance be held liable or accept responsibility for any act, omission, default, loss, accident, misdescription, alteration, delay or failure of any kind by any third party provider.

8.3. All services provided by third party providers are subject to the terms and conditions specified by those third parties and *participants* agree to abide by them and absolve *us* of all liability to the third party.

## 9. Health & Medical

9.1. *You* and all *participants* acknowledge that you are aware we are regularly travelling in isolated and remote areas where medical help may be a significant time and/or distance away.

9.2. *You* and all *participants* warrant that you are satisfied with *your* health, have sought medical advice if necessary and will inform *us* of any medical condition that we should be aware of.

9.3. *You* and all *participants* agree you will each provide two completed medical history forms as provided by *us* to be used in the event of a medical emergency and that we have permission to use that information to obtain appropriate medical attention.

9.4. *You* and all *participants* consent to the *operator* and its representatives making emergency medical decisions on *your* behalf. This includes but is not limited to medical treatment, ambulance transportation and evacuation by air. The *operator* is not liable for any costs due to any medical emergency and any costs incurred on behalf of *participants* are to be reimbursed to the *operator* within seven days.

9.5. *You* and all *participants* agree to take sufficient personal medication prescribed or otherwise for the duration of the tour and to make allowances for possible extended delays.

9.6. *You* and all *participants* are fully responsible for *your* own medical and physical condition and for avoiding risk to yourselves.

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9.7. *You* and all *participants* must advise us on the Participant & Vehicle Information Form of any medical conditions, dietary requirements or allergies which we need to be aware of for the day to day running of the tour. We will make best endeavours to meet your needs but *you* and all *participants* remain responsible for ensuring your needs are met and we accept no responsibility in this regard.

9.8. *You* and all *participants* must check with the provider of all food and drink that it meets your personal needs with regard to your dietary requirements and allergies and we accept no liability in relation to this.

9.9. *You* and all *participants* have a choice to participate in activities and are under no obligation to the *operator* or other *participants*. Do not participate if you are not or do not feel capable.

## 10. Vehicle & Drivers

10.1. All *Participants* who are driving are required to have a current valid open driving license for the class of vehicle they are driving and have sufficient skill and experience to be able to keep pace with the tour.

10.2. All *Participants* are to ensure their vehicle is in a roadworthy condition and has been serviced and prepared for the conditions prior to departure and is registered in your home state.

10.3. The *Participants* vehicle must meet the minimum vehicle requirements for participation as detailed on our website and in the Tour Information Pack to allow the safe conduct of the tour. Failure to meet the requirements will either forfeit *the Participants* place or limit their participation in parts of the tour at the absolute discretion of the *Operator*.

10.4. It is the *Participants'* responsibility to ensure their vehicle and equipment are suitable for the trip and you understand the remote and rugged nature of the location of the tour which includes bitumen, gravel, sand, mud and creek crossings.

10.5. *Participants* are required to keep pace with the tour convoy and if unable to do so safely we may need to make alternate arrangements for your continued participation.

10.6. All *Participants* are responsible for all traffic offences by the driver and vehicle and are to show regard for other *participants* and all other road users.

10.7. We will use reasonable endeavours to assist in the repair or recovery of the *Participants* vehicle but we will not put the safety of others, or damage to property or vehicles above this. We accept no responsibility or liability for *Participants* vehicle or equipment or for the repair or recovery of the same.

10.8. *Participants* acknowledge the nature of the tour, activities, and conditions encountered lead to an increased possibility of damage to their vehicle.

10.9. If we are unable to effect repair or recovery ourselves, we will ensure *Participants* are in a location where they can be recovered by RACQ or other provider and will help to arrange this.

10.10. We accept no liability for *you* or other *participants* in your vehicle if you are unable to continue on the tour.

## 11. Children

11.1. Children aged 3 to 15 (inclusive) on the tour end date are eligible for the child rate.

11.2. Children aged under 3 years on the tour end date are free of charge.

11.3. All *participants* under 18 must be accompanied by an adult.

11.4. All *participants* over 18 have sole responsibility for their accompanying child/children at all times.

## 12. Insurance

12.1. The operator accepts no responsibility or liability for the loss, theft or damage to personal belongings or luggage, nor for repairs or recovery costs, personal accidents, hospitalisation, illness or medical expenses, nor injury or death to any person nor any expense subsequently incurred however caused, whether by, or arising out of, provision of service or failure to provide service.

12.2. We strongly recommend tour participants consult their travel or insurance agent prior to departure and purchase comprehensive travel insurance at the time of booking. Travel insurance should as a minimum cover against illness, injury, loss or damage to personal belongings or baggage, inability to travel on the confirmed departure date, medical expenses and tour cancellation.

12.3. We strongly recommend purchasing comprehensive roadside assistance cover prior to travel.

12.4. We strongly recommend purchasing comprehensive vehicle insurance prior to travel.

## 13. Media

13.1. All *participants* consent to the use of all digital media containing their image for marketing purposes.

13.2. Any media shared with the *operator* and/or other *participants* by any means may be used by the *operator* for marketing purposes.

13.3. *Participants* grant a royalty free, perpetual and irrevocable worldwide license to the *operator*.

13.4. *You* may opt out by advising *us* at any time.

## 14. Miscellaneous

14.1. *Participants* are not permitted to bring any pets or other animals on *our tours*.

14.2. *Participants* are not permitted to bring firearms on *our tours*.

14.3. *Participants* must obey all commonwealth, state and local laws on *our tours*.

14.4. We draw *participants'* attention to the alcohol restrictions in place in some of the areas *our* tour attends which you must comply with. You must satisfy yourself that you are acting within the law and any failure to comply is the responsibility of the *Participant* and the *Operator* accepts no liability.

14.5. In the interest of safety and timeliness *participants* must follow the directions of *our* officers and employees whilst on *our* tours.

14.6. The *operator* reserves the right at their discretion to remove any *participant* from the tour if they are incapable of caring for themselves, become objectionable to other *participants* or our staff, become a danger to themselves, the public or other *participants* or our staff or in the event they were to commit any unlawful or illegal act. In this event the *participant* receives no refund and the remainder of their tour is forfeit.

14.7. If a *participant* is in breach of these terms and conditions at any time we may ask them to leave the tour. In this event the *participant* receives no refund and the remainder of their tour is forfeit.

14.8. All information provided electronically, verbally or in print is believed to be accurate and reliable at the time of publishing. There may be misprints, human errors, and omissions and we reserve the right to make changes and corrections without notice.