



# ROCKJUMPER

Worldwide Birding Adventures

## BOOKING TERMS AND CONDITIONS South Africa

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### 1 About us

- 1.1 Company details. Rockjumper Birding Tours CC (registration number 2001/059480/23) (we and us or RBT) is a close corporation registered in South Africa and our registered office is at PO Box 13972, Cascades, 3202, South Africa. We operate the website [www.rockjumperbirding.com](http://www.rockjumperbirding.com).
- 1.2 Contacting us. To contact us, you e-mail us at [info@rockjumper.com](mailto:info@rockjumper.com) or [rockjumperbirding@yahoo.com](mailto:rockjumperbirding@yahoo.com). How to give us formal notice of any matter under the Contract is set out in clause 11.
- 1.3 How we may contact you. If we must contact you, we will do so by telephone or by writing to you at the email address or postal address you provided to us in your booking form.

### 2 Our contract with you

- 2.1 Our contract. These terms and conditions (Terms) apply to your booking and our supply of the tour services to you (Contract). The Terms apply to the exclusion of any other terms that you seek to impose or incorporate, or which are implied by trade, custom, practice or course of dealing.
- 2.2 Entire agreement. The Contract is the entire agreement between you and us in relation to its subject matter. You acknowledge that you have not relied on any statement, promise or representation or assurance or warranty that is not set out in the Contract.

### 3 Making a Booking and its acceptance

- 3.1 Making a booking. You must enquire about a Tour using our website or directly by email. Once we receive your enquiry then we will either send you an email with our Booking Form and the tour prices, or you can complete the Booking Form electronically through our online accounts. Please submit the Booking Form together with a copy of the biometric page of your passport, your travelling companion's passport, and any children's passport. A booking is an offer by you to buy the services specified in the Booking Form (Tour) subject to these Terms.
- 3.2 Tour extensions: If the Tour you are booking has an option to extend the Tour, then you must either complete the extension section in the Booking Form or you can email us to request the extension (Tour Extension).
- 3.3 Acknowledging receipt of your booking. After you make a booking, you will receive an email from us acknowledging that we have received your Booking Form, but please note that this does not mean that your booking has been accepted. Our acceptance of your booking will take place as described in clause 3.4.
- 3.4 Accepting your booking. Our acceptance of your booking takes place when we send you an email to accept it (Booking Confirmation), at which point, and on which date the Contract between you and us will come into existence. The Contract will relate only to the Tour and any Tour Extension confirmed in the Booking Confirmation.

- 3.5 If we cannot accept your booking. If we are unable to accept your booking for any reason, we will inform you of this by email and we will not process your booking. If you have already partly or fully paid for the Tour, we will refund you the amount that you paid.

#### 4 Cancelling your booking and obtaining a refund

- 4.1 You may cancel the Contract if you notify us as set out in clause 4.2.
- 4.2 To cancel the Contract, you must email us at [info@rockjumper.com](mailto:info@rockjumper.com) or [support@rockjumper.com](mailto:support@rockjumper.com). Please include details of your booking to help us to identify it. Your cancellation is effective on the date you send us the email. For example, you will have given us notice on time if you email us before midnight on that day.
- 4.3 If you cancel the Contract, we will refund you in full for the price you paid for the Tour, less any deductions as set out in clause 4.4. Refunds will be paid by the method you used for payment, if possible.
- 4.4 Depending on the date on which you notify us of your cancellation, we will deduct from any refund the following amounts corresponding to the Tour that you booked, as follows:
- (i) Unconfirmed tour:
    - Free cancellation until the tour is confirmed, or 5 months prior to tour start date, whichever occurs first.
  - (ii) Confirmed tour, >5 months prior to start of the tour:
    - \$495 is retained from your deposit (per person). This fee is not refundable, even if you meet the requirements of clause 4.6.
  - (iii) Confirmed tour, <5 months prior to start of tour:
    - Full Tour price is due and payable, even if you have not yet paid in full.
  - (iv) The cost of any non-refundable extra costs and permits issued, including but not limited to domestic flights, gorilla tracking, day trips and pelagics etc.
- 4.5 No refunds will be considered for any unutilized services on the Tour (this includes accommodation, meals, flights, permits, and Tour excursions).
- 4.6 If you cancel the Tour, we will accept a booking by another person or persons to replace you, if any direct additional costs (e.g. reissuing of domestic flight tickets) are covered by you. If you wish to transfer your booking to another RBT tour, this will be considered as a cancellation and rebooking, and the cancellation fees in clause 4.6 will apply unless a replacement is found for your original booking by you or us.
- 4.7 We have the right to cancel the Tour or Tour Extension for which there are insufficient reservations, two months before the departure date for the Tour. If we cancel the entire Tour because of insufficient reservations, all deposits and other payments will be refunded to you by us in full. An alternative to cancelling the Tour will be to charge a small group supplement (the Supplement). If the Supplement is charged and you don't want to pay it, then you may cancel or transfer your booking to another Tour without incurring any cancellation penalties if you notify us in writing no later than seven days after receiving our notice of the Supplement charge.
- 4.8 **Events outside our control**
- (a) We will not be liable or responsible for any failure to perform, or delay in performance of, any of our obligations under the Contract which is caused by any act or event beyond our reasonable control (Event Outside Our Control).
  - (b) If an Event Outside Our Control takes place that affects the performance of our obligations under the Contract:

- (i) we will contact you as soon as reasonably possible to notify you; and
- (ii) our obligations under the Contract will be suspended and the time for performance of our obligations will be extended for the duration of the Event Outside Our Control. We will arrange a new date for the Tour with you after the Event Outside Our Control is over.

(c) You may cancel the Contract affected by an Event Outside Our Control. To cancel please contact us by telephone or by email. If you opt to cancel, we will refund the price you have paid, less the charges reasonably and actually incurred by us in performing the services for the Tour up to the date of the occurrence of the Event Outside Our Control.

4.9 Cancellation & special circumstances. Rockjumper will not deviate from the refund policy of 4.4 due to extremity of circumstance. While it is not a pre-requisite to booking a Tour, you should purchase trip cancellation cover to reimburse you should you need to cancel your tour before departure. Typically, the following circumstances are covered:

- (a) unexpected death, illness, or injury of you and/or a traveling companion that causes you to be unfit to travel, by order of a licensed doctor or physician;
- (b) hospitalization or death of a non-traveling family member;
- (c) natural disasters at home or the destination;
- (d) legal obligation, such as being called for jury duty or to appear as a witness in court.

4.10 Travel Insurance. Rockjumper recommends that you purchase comprehensive travel insurance upon booking your tour, to cover any financial losses due to cancellation for whatever reason. Please be aware that most travel insurance policies will refuse to pay out on a travel insurance claim if your travel insurance has been purchased after a particular period of time since booking for the tour. This period may be one week to one month. Please check with your travel insurance provider to ensure you are fully covered at the time of purchasing travel insurance. It is highly recommended that if you do purchase travel insurance, that you do not delay this purchase much beyond the tour booking date.

## 5 The tour

5.1 Descriptions and illustrations. Any descriptions or illustrations on our website are published for the sole purpose of giving an approximate idea of the Tour described in them. They will not form part of the Contract or have any contractual force.

5.2 Itinerary. The itinerary for the Tour is available on our website. The itinerary will specify the services which are included and excluded from the Tour (Itinerary).

5.3 Compliance with itinerary. Subject to our right to amend the Itinerary (see clause 5.4) we will supply the Tour to you in accordance with the Itinerary that we send you under clause 5.2.

5.4 Changes to Itinerary. We reserve the right to amend the Itinerary if required by any applicable statutory or regulatory requirement, or if the amendment will not materially affect the nature or quality of the Tour. We will notify you in advance of any such event and any alteration in the Itinerary. This applies to all logistical changes, including that of advertised hotels or vessels. Any changes to the Itinerary will not give you the right to cancel the Contract, without us deducting the amounts under clause 4.2.

5.5 Tour materials.

- (a) We will send you a predeparture information sheet approximately two months before the scheduled start date of the Tour, this includes but is not limited to information concerning your passport, visa and health requirements, emergency contact details, as well as details of climate, what to bring, recommended reading etc.
- (b) If you notify us in writing before the start of the Tour, we can send you an electronic bird and mammal checklist. We will give you a bound daily checklist on the first day of the Tour, or we will email it to you before the start of the Tour.

- 5.6 Tour leaders. We may substitute the Tour leader or leaders whose names appear on our website for other Tour leaders. Any changes to the Tour Leader or leader will not give you the right to cancel the Contract, without us deducting the amounts under clause 4.4.
- 5.7 Tour size. The maximum group size for a Tour is detailed on our website, we may increase the maximum group size if two people travelling together sign up for a final available place, in which case, the maximum group size may be increased by one person.
- 5.8 Removal from the tour. We have the right to remove you from the Tour on recommendation from the Tour leader. If we remove you from the Tour, then we will not make any refund or be liable for any losses or additional costs incurred by you as a result. If we remove you from the Tour and you have booked any other tours, then we will cancel your other tours on the terms set out in clause 4.
- 5.9 Reasonable care and skill. We warrant to you that the Tour will be provided using reasonable care and skill.
- 5.10 Time for performance. We will use all reasonable endeavours to meet any performance dates specified in the Booking Confirmation, but any such dates are estimates only and failure to perform the Tour by such dates will not give you the right to cancel the Contract, without us deducting the amounts under clause 4.4.

## 6 Your obligations

- 6.1 It is your responsibility to ensure that:
- (a) the terms of your booking are complete and accurate;
  - (b) you co-operate with us in all matters relating to the Tour;
  - (c) you provide us with such information and materials we may reasonably require to supply the Tour, and ensure that such information is complete and accurate in all material respects;
  - (d) you obtain and maintain all necessary international flight tickets, visas, permissions and consents which may be required for the Tour before the date on which the Tour is to start;
  - (e) you are emotionally and medically fit for the Tour; and
  - (f) you comply with all applicable laws, including health and safety laws.
- 6.2 If our ability to perform the Tour for you is prevented or delayed by any failure by you to fulfil any obligation listed in clause 6.1 (Your Default):
- (a) we will be entitled to terminate the contract under clause 13;
  - (b) we will not be responsible for any costs or losses you sustain or incur arising directly or indirectly from our failure or delay performing the Tour; and
  - (c) it will be your responsibility to reimburse us on written demand for any costs or losses we sustain or incur arising directly or indirectly from Your Default.

## 7 Tour Prices

- 7.1 General
- (a) In consideration of us providing the Tour you must pay our tour prices (Tour Prices) in accordance with this clause 7.
  - (b) The Tour Prices are the prices quoted on our website at the time you submit your booking, and as detailed in our email to you under clause 3.1. If there is a conflict between the Tour Prices quoted on the website and in the email under clause 3.1, the Tour Prices in the email we sent you under clause 3.1 shall prevail.
  - (c) We use our best efforts to ensure that the prices stated for the Tour are correct at the time when the relevant information was entered into the system. However, please see clause 7.1(e) for what happens if we discover an error in the price of the Tour you booked.

- (d) Our Tour Prices are exclusive of VAT unless otherwise stated. Where VAT is payable in respect of some or all of the Tour you must pay us such additional amounts in respect of VAT, at the applicable rate, at the same time as you pay the Tour Prices.
- (e) It is always possible that, despite our best efforts, the Tour on our website may be incorrectly priced. If the correct price for the Tour is higher than the price stated on our site, we will contact you in writing as soon as possible to inform you of this error and we will give you the option of continuing to purchase the Tour at the correct price or cancelling your booking. We will not process your booking until we have your instructions. If we are unable to contact you using the contact details you provided during the booking process, we will treat the booking as cancelled and notify you in writing. However, if we mistakenly accept and process your booking where a pricing error is obvious and unmistakable and could reasonably have been recognised by you as a mispricing, we may cancel your booking and refund you any sums you have paid.

7.2 Currency fluctuations. We have the right to increase the Tour Prices by notifying you in writing at any time before we issue our invoice to you if the Tour costs increase because of foreign exchange rate fluctuation between the local currency of the country where the Tour takes place and the U.S. dollar. If we must increase the Tour Prices by more than 10% of the Tour Prices quoted on our website, then you have the right to cancel or transfer your booking to another Tour. If you choose to cancel the Tour then we will refund you in full for the price you paid for the Tour, and we will not deduct any amounts if you notify us no later than 7 days after receipt of our notice to you of the increase in the Tour Prices.

We list our tours in a number of currencies on our website. The tour price is however fixed only in the currency printed in bold, and the actual cost in the other currencies listed will be adjusted according to prevailing exchange rates at the time of final invoicing (usually 4 months before the tour.) The same applies to approximate flight and single supplement rates, which are also quoted in the respective fixed currency.

7.3 Domestic flights. We will book and buy airline tickets for your domestic flights for the Tour (if domestic flights are required). The costs for the domestic flights are set out in the email to you under clause 3.1, and must be paid together with your payment under clause 3.1. The costs for the domestic flights are not part of the Tour fees and are subject to changes and re-scheduling beyond our control. Any price difference in the actual cost of the domestic flights at the time we buy the airline ticket will be at your expense. Should there be any price difference in the actual cost of the domestic flights, we will add or deduct the difference to the Tour Prices in your invoice or issue a separate invoice to you if the Tour Prices have been paid in full.

7.4 Additional Tour Prices. We have the right to claim from you any extra costs incurred by us for domestic flights booked on your behalf or any additional Tour expenses incurred by us for you during the Tour caused by any Event Outside Our Control (including but not limited to, extra domestic flight costs, our suppliers or business partners increasing the costs of goods or services included in the Tour or additional accommodation resulting from logistical delays caused by weather conditions, damaged roads or any other infrastructure, mechanical defects, violence, wars or cancellation of scheduled flights by the carrier).

#### 7.5 Single Supplements

- (a) The single supplement price is detailed on our website and will be charged if you want single accommodation. This single supplement is based on the estimated actual cost of a single room for the duration of the Tour. Sometimes single rooms are of inferior quality to double rooms and we take this into account when we calculate the single supplement charge.
- (b) If we cannot provide you with a rooming partner even if you choose to share, the single supplement will become applicable. We will make all reasonable efforts to ensure that a rooming partner is found if you want to share. Rooming partners will be allocated in order of booking unless a participant requests a specific rooming partner who has not been matched. If your allocated rooming partner cancels before the start of the Tour, the single room supplement will become applicable to you unless we find another rooming partner for you. If you choose to share a room and during the Tour, you or your rooming partner decide to no longer share a room, any additional costs incurred will be shared equally between you and your rooming partner.

- (c) Sometimes single rooms are not available, and you will have to share a room. This may be detailed in the Itinerary (e.g. where the entire group all share a dormitory-style room or rooms, or when we need to use a lodge that doesn't have enough rooms to service the entire group) and we will then calculate the single supplement to exclude any additional costs for these nights. If single rooms are not available due to room limitations at certain hotels, then the single supplement for that part of the Tour will be refunded to you within a reasonable time after the Tour has finished.

7.6 Changes to the Itinerary. If we change the Itinerary under clause 5.4, and we downgrade the hotels or other services which were included in the original Itinerary, then we will refund you the difference in cost between the hotel or service as per the original Itinerary and the hotel or service in the amended Itinerary.

## 8 How to pay

8.1 Payment for the Tour is in advance, and must be paid as follows:

- (a) If we receive your Booking Form, earlier than 5 months before the start of the Tour, then you must pay the full amount set out in the email that we sent you under clause 3.1 when you send us your Booking Form.
- (b) If we receive your Booking Form more than 5 months before the start of the Tour then you must pay:
  - (i) the amounts set out in the email that we sent you under clause 3.1 when you send us your Booking Form; and
  - (ii) the balance no later than 7 days after receipt of an invoice from us.

8.2 You can pay for the Tour using a cheque, electronic funds transfer, debit card or credit card. We accept most major credit cards.

8.3 We will send you an electronic invoice showing the amounts paid and due for payment.

8.4 You must pay all amounts due under the Contract in full without any set-off, counterclaim, deduction or withholding.

## 9 How we may use your personal information

9.1 We will use any personal information you provide to us to:

- (a) provide the Tour; and
- (b) process your payment for the Tour.

9.2 Further details of how we will process personal information are set out in our [privacy policy](#).

## 10 Limitation of liability. YOUR ATTENTION IS PARTICULARLY DRAWN TO THIS CLAUSE.

10.1 Nothing in the Contract limits or excludes our liability for:

- (a) death or personal injury caused by our negligence, or the negligence of our employees, agents or subcontractors;
- (b) fraud or fraudulent misrepresentation; or
- (c) any liability which cannot be limited or excluded by applicable law.

10.2 Subject to clause 10.1, we will not be liable to you, whether in contract, delict (including negligence), for breach of statutory duty, or otherwise, arising under or in connection with the Contract for:

- (a) loss of profits;
- (b) loss of sales or business;



- (c) loss of agreements or contracts; and
- (d) any indirect or consequential loss.

- 10.3 Subject to clause 10.1, our total liability to you arising under or in connection with the Contract, whether in contract, delict (including negligence), breach of statutory duty, or otherwise, will be limited to 100% of the total Tour Prices paid under the Contract.
- 10.4 Except as expressly stated in these Terms, we do not give any representations, warranties or undertakings in relation to the Tour. Any representation, condition or warranty which might be implied or incorporated into these Terms by statute, by common law or otherwise are, to the fullest extent permitted by law, excluded from the Contract.
- 10.5 Third Party Suppliers: Certain services reserved by us, including but not limited to transportation, accommodations, restaurants, sightseeing and activities may be purchased from various independent suppliers not affiliated with us (referred to as "Third Party Supplier(s)" or "Supplier(s)"). We take reasonable care in selecting competent, reliable and qualified suppliers based on information that is reasonably available to us. That said, we act only as an intermediary for these Third Party Suppliers and do not and cannot control the quality of their services. You acknowledge that you are aware and clearly understand that these Third Party Suppliers are independent contractors, are not managed by us and are not our agents or employees. If there is an injury, damage to property, delay, or any other loss, compensation must be sought from the Third Party Suppliers, not from us. Each of these Third Party Suppliers is subject to the laws of the state or country in which the service is provided. The liability of Third Party Suppliers may be limited by their tariffs, conditions of carriage, tickets and vouchers, and international conventions and agreements.
- 10.6 This clause 10 will survive termination of the Contract.

## 11 Communications between us

- 11.1 When we refer to "in writing" in these Terms, this includes email.
- 11.2 Any notice or other communication given by one of us to the other under or in connection with the Contract must be in writing and be delivered personally, sent by registered post or other next working day delivery service, or email.
- 11.3 A notice or other communication is deemed to have been received:
- (a) if delivered personally, on signature of a delivery receipt or at the time the notice is left at the proper address; or
  - (b) if sent by email, at 9.00 am the next working day after transmission.
- 11.4 In proving the service of any notice, it will be enough to prove, in the case of a letter, that such letter was properly addressed, stamped and placed in the post and, in the case of an email, that such email was sent to the specified email address of the addressee.
- 11.5 The provisions of this clause will not apply to the service of any proceedings or other documents in any legal action.

## 12 Complaints

If a problem arises or you are dissatisfied with the Tour, please inform the Tour leader immediately. If the leader is unable to resolve the problem to your satisfaction, please inform the us during the Tour or in writing no later than one month after the Tour has finished.

## 13 Termination

- 13.1 Without limiting any of our other rights, we may terminate the Contract with immediate effect by giving written notice to you if:

- (a) you commit a material breach of any term of the Contract and (if such a breach is remediable) and you fail to remedy that breach within 7 days of you being notified in writing to do so;
- (b) you are removed from the Tour under clause 5.8; or
- (c) you fail to pay any amount due under the Contract on the due date for payment;

13.2 Termination of the Contract will not affect your or our rights and remedies that have accrued as at termination.

13.3 Any provision of the Contract that expressly or by implication is intended to come into or continue in force on or after termination will remain in full force and effect.

## **14 General**

14.1 Assignment and transfer.

- (a) We may assign or transfer our rights and obligations under the Contract to another entity but will always notify you in writing if this happens.
- (b) You may only assign or transfer your rights or your obligations under the Contract to another person if we agree in writing.

14.2 Variation. Any variation of the Contract only has effect if it is in writing and signed by you and us (or our respective authorised representatives).

14.3 Waiver. If we do not insist that you perform any of your obligations under the Contract, or if we do not enforce our rights against you, or if we delay in doing so, it will not mean that we have waived our rights against you or that you do not have to comply with those obligations. If we do waive any rights, we will only do so in writing, and this will not mean that we will automatically waive any right related to any later default by you.

14.4 Severance. Each paragraph of these Terms operates separately. If any court or relevant authority decides that any of them is unlawful or unenforceable, the remaining paragraphs will remain in full force and effect.

14.5 Third party rights. The Contract is between you and us. No other person has any rights to enforce any of its terms.

14.6 **Governing law and jurisdiction.**

- (a) This Contract and any non-contractual obligations arising out of or in connection with it are governed by the laws of South Africa.
- (b) RBT and you hereby irrevocably and unconditionally consent to the exclusive jurisdiction of the Courts of South Africa in regard to a dispute relating to the existence, validity or termination of this Contract or any non-contractual obligation arising out of or in connection with this Contract (a "Dispute").
- (c) RBT and you agree that the courts of South Africa are the most appropriate and convenient courts to settle a Dispute and accordingly no party will argue to the contrary.