

MALAMALA GAME RESERVE (Pty) Ltd

STANDARD TERMS AND CONDITIONS

1. PARTIES

This document ("Standard Terms") sets out the terms and conditions of contract that apply between MalaMala Game Reserve (Pty) Ltd ("MalaMala"), of the one part, and the person who visits MalaMala Game Reserve, and the entity which makes a booking on behalf of the person who visits the Reserve, if any, of the other part (both the individual and the entity, if any, referred to as "the Guest"). The Standard Terms shall supersede and take precedence over any contrary term contended for by the Guest unless such contrary term is recorded in writing and signed by a director of MalaMala.

2. RESERVATIONS

- 2.1 Any enquiries for reservations shall be treated as provisional reservations from the time that MalaMala delivers correspondence to the Guest notifying the Guest that a provisional reservation has been made ("the Provisional Reservation").
- 2.2 The Provisional Reservation shall state, amongst other things, the dates of the reservation, the cost of the reservation and the time period within which the deposit and balance must be paid to MalaMala.
- 2.3 The reservation shall not be secure until such time as the deposit is paid, and such payment has been brought to the attention of MalaMala in accordance with 4.6, regardless of whether the time period for payment stipulated in the Provisional Reservation has lapsed or not.
- 2.4 If the deposit is paid within the time period stated in the Provisional Reservation, then MalaMala shall send confirmation in writing to the Guest ("the Confirmed Reservation").

3. RATES

- 3.1 MalaMala publishes rates from time to time and reserves the right to amend the published rates without notice. The rates quoted by MalaMala include game drives, meals and drinks over a 24 hour period – all of which form an indivisible portion of the rates quoted. Rates apply to both group and individual reservations and are quoted on a per person per night basis and are inclusive of VAT.
- 3.2 The rates are quoted in United States Dollars ("USD") and payment is accepted in that currency but arrangements can be made to convert the USD rate to South African Rand ("ZAR") using the conversion rate supplied to MalaMala by First National Bank Ltd within a 6 (six) month period of the Guest's arrival at the Reserve. Rates converted to ZAR are only valid if the amounts due are paid by due date and if the Guest fails to make payment by due date the USD rate shall apply or at MalaMala's discretion a new conversion rate supplied by First National Bank Ltd shall be used.
- 3.3 It is an express condition when entering into a business partnership with MalaMala Game Reserve that the MalaMala rates are not published in either print or electronic media at a lesser value than the MalaMala rack rates.
- 3.4 MalaMala shall not be liable for any rate fluctuations of third party suppliers whose services MalaMala books on behalf of the Guest.

4. PAYMENT

- 4.1 All reservations will be on a pre-payment basis. Payment must be made in accordance with the directions in that regard detailed in the Provisional Reservation.
- 4.2 In the event that payment is not made in accordance with the directions in that regard detailed in the Provisional Reservation then MalaMala reserves the right to treat the reservation as cancelled.
- 4.3 All payments are to be made in monetary currency, without demand and free of exchange, deduction or set-off.

- 4.4 Payment in USD must be paid directly into the following bank account:

Account Name : MalaMala Game Reserve (Pty) Ltd
Bank : First Rand Bank Ltd
Address : 2 Kikembe Drive, Umhlanga Rocks
Account No. : 395 587
Sort Code : 262650
Swift Code : FIRNZAJJ

- 4.5 In the event that MalaMala provides a ZAR rate after converting from the USD rate then payment in ZAR must be paid directly into the following bank account:

Account Name : MalaMala Game Reserve (Pty) Ltd
Bank : First National Bank
Address : FNB One Umhlanga, Durban, SA
Account No. : 625 937 987 90
Branch Code : 27 01 50

- 4.6 A copy of the bank transfer notification, together with the Provisional Reservation date and number, must be faxed or emailed to the central sales and reservations office.

- 4.7 Any bank charges resulting from the payment by the Guest shall be for the Guest's account.

- 4.8 Payment in foreign currency may be made by means of Master Card, Visa or American Express credit cards, and payment in ZAR may be made by Master Card or Visa credit cards. A letter of authorisation with the cardholder's signature must be provided in order for MalaMala to debit the credit card. Credit cards submitted to central sales and reservations office for payments must be presented at the relevant camp on check in for verification purposes.

- 4.9 In the event that the Guest fails to make payment in accordance with the directions detailed in the Provisional Reservation, and MalaMala does not treat the reservation as having lapsed then payment shall be made when demanded by MalaMala, and in any event by no later than on arrival at the relevant camp.

- 4.10 Guests shall settle their extras accounts in full prior to departure from camps, with payment to be made in cash or by means of credit card.

- 4.11 Should the Guest default in making any payment on its due date, MalaMala shall have the right forthwith to cancel the reservation, always subject to MalaMala's rights to damages, and MalaMala shall have the right to retain all moneys paid by the Guest pending the determination of such damages and thereafter to set off the amount so retained against the amount owing.

5. TRANSFERS AND CHECK-IN/CHECK-OUT

- 5.1 Transfers to and from camps, the airport/airstrips and entrance gates are by road. Transfer times are dictated by passenger numbers and their flight variations. Charges are not levied for the transfer to/from MalaMala airfield. Other transfers are charged at a nominal rate per person. MalaMala is unable to conduct transfers from Kruger Mpumalanga International Airport but MalaMala is able, on prior request, to make transfer arrangements on behalf of Guests who have a Confirmed Reservation, at an additional cost.
- 5.2 Check-in time is 12 noon and check-out is 11h00 South African Standard Time. Should a Guest require an earlier check-in or later check-out time then the Guest must request same from management and it shall be in management's discretion to allow a variation. Arrivals after 20h00 South African Standard Time are not permitted at any camp.

6. POLICIES

- 6.1 Children:

MalaMala Main Camp: Children under 12 years, sharing accommodation with full paying adults, pay the quoted child rate.

Sable Camp: Children under 12 years are not permitted unless exclusive use of the camp is reserved.

Rattray's on MalaMala: Children under 16 years are not permitted.

- 6.2 Tour leader/pilot/driver/guide:

Subject to availability, B grade accommodation may be reserved for bona fide tour leaders, pilots, drivers and guides. B grade accommodation rate shall apply, and is for accommodation and meals

and does not include game drives and other activities.

7. CANCELLATIONS

- 7.1 **No reservation is secure until the deposit detailed in the Provisional Reservation is paid and the Confirmed Reservation is delivered by MalaMala to the Guest.**
- 7.2 **MalaMala is entitled to cancel a Confirmed Reservation in the event that the balance of the amount due in terms of the Provisional Reservation is not paid by the due date or dates for payment.**
- 7.3 **MalaMala shall be entitled to charge the following cancellation fees should a Confirmed Reservation for any period outside high season be cancelled by either MalaMala in terms of 7.2 or by the Guest:**
5% of the quoted total reservation charge detailed in the Provisional Reservation if cancelled more than 60 days prior to scheduled arrival;
25% of the quoted total reservation charge detailed in the Provisional Reservation if cancelled 60 days or less and 30 days or more prior to scheduled arrival;
50% of the quoted total reservation charge detailed in the Provisional Reservation if cancelled 30 days or less and 14 days or more prior to scheduled arrival;
90% of the quoted total reservation charge detailed in the Provisional Reservation if cancelled 14 days or less prior to scheduled arrival.
- 7.4 **For purposes of the Standard Terms high season is from 20 December in one year to 10 January in the following year. MalaMala shall be entitled to charge the following cancellation fees should a Confirmed Reservation for a period in high season be cancelled by either MalaMala in terms of 7.2 or by the Guest:**
5% of the quoted total reservation charge detailed in the Provisional Reservation if cancelled more than 90 days prior to scheduled arrival;
25% of the quoted total reservation charge detailed in the Provisional Reservation if cancelled 90 days or less and 60 days or more prior to scheduled arrival;
90% of the quoted total reservation charge detailed in the Provisional Reservation if cancelled 60 days or less prior to scheduled arrival.
- 7.5 **Any cancellation fee shall be subject to the relevant provisions of the Consumer Protection Act such that if the Consumer Protection Act allows only a smaller cancellation fee, then such smaller fee shall apply.**

8. GENERAL TERMS

- 8.1 Whilst at the Reserve the Guest shall comply with any reasonable instruction given to the Guest by an employee or representative of MalaMala. MalaMala shall have the right to eject a Guest from the Reserve if a guest fails to comply with any such reasonable instruction.
- 8.2 MalaMala shall have the right to eject a Guest from the Reserve who in the reasonable opinion of the management of MalaMala causes a nuisance which interferes with the tranquility of the natural surroundings, which interferes with the reasonable enjoyment of the Reserve by other guests or which could result in harm to the Guest or other guests.
- 8.3 The Guest shall be responsible for taking out comprehensive travel insurance covering them for personal effects, personal accident, medical and emergency travel expenses and cancellation.
- 8.4 The Guest shall seek medical advice regarding prophylaxis and vaccination requirements.
- 8.5 MalaMala shall be entitled to change accommodation, game drive schedules and schedules for other activities which are absolutely necessary due to unforeseen circumstances.

- 8.6 MalaMala shall not be responsible for any services which are provided by third parties.

9. WAIVER AND INDEMNITY

- 9.1 **Safekeeping of baggage and personal effects shall at all times remain the Guest's responsibility. MalaMala will assume no liability for lost, stolen or damaged personal effects or baggage.**
- 9.2 **Whilst MalaMala undertake to make all reasonable endeavours to ensure the Guest's, the Guest's family and dependents, and the Guest's invitee's safety, it is an express condition of the Guest's visit to the Reserve that MalaMala, its employees or agents, are not responsible for loss of or damage to the property of the Guest, the Guest's family and dependents or the Guest's invitee's property, brought onto the Reserve, whether arising from fire, theft or otherwise, by whomsoever caused, or arising from negligence or wrongful act of any person, whether or not in the employ of MalaMala.**
- 9.3 **The Guest, by making the reservation and entering onto the Reserve, irrevocably waives and abandons all and any claims of whatsoever nature and howsoever arising which the Guest may have against MalaMala, its employees or agents, in connection with the facilities, services, advice and activities made available to the Guest or used by the Guest in any way, and the Guest indemnifies MalaMala, its employees and/or agents against any claims which may be made by any person arising out of or in connection with the foregoing waiver.**

10. LIMITATION OF LIABILITY

Notwithstanding anything to the contrary, and in any event MalaMala, its employees or agents shall not be liable to the Guest for any indirect, consequential, incidental or contingent loss or damages of any nature arising out of a breach of contract, delict or any cause whatsoever.

11. FORCE MAJEURE

If MalaMala is prevented or restricted directly or indirectly from carrying out all or any of its obligations due to any cause beyond the reasonable control of MalaMala (including without limitation, war, civil commotion, riot, insurrection, strikes, fire, explosion, floods and acts of God), MalaMala shall be relieved of its obligations during the period of the event and shall not be liable for any delay or failure in the performance of its obligations or for any loss or damages which the Guest may suffer due to or resulting from such delay or failure, provided that written notice of the inability to perform shall be given by MalaMala to the Guest within 72 (seventy two) hours of the occurrence constituting force majeure. If MalaMala invokes force majeure it shall use its best endeavours to terminate the circumstances giving rise to the force majeure.

12. BREACH

Should the Guest default in making any payment by due date for payment then, in addition and not substitution for what is set out elsewhere in these Standard Terms, MalaMala shall have the right to cancel all contracts with the Guest subject always to MalaMala's right to hold the Guest liable for damages. MalaMala shall have the right to retain all money paid by the Guest pending determination of such damages and thereafter to set-off the amount so retained against the amount owing.

13. DELIVERY OF DOCUMENTS

- 13.1 For the purposes of delivery of legal documents, including legal process, and contractual and statutory notices, the Guest chooses delivery by hand, by post, by fax or by email, and chooses the addresses including email addresses, and fax numbers, that the Guest:
- 13.1.1 inserts in any enquiry for a reservation;
- 13.1.2 records on its letterhead and/or other correspondence;
- 13.1.3 uses as its principal place of business;
- 13.1.4 records as its registered address;
- 13.1.5 uses to send communications to MalaMala.
- 13.2 Any notice delivered in terms of these Standard Terms, if delivered by hand, shall be deemed to have been duly delivered on the date of delivery and, if sent by post,

shall be deemed to have been delivered seven (7) days after posting and if sent by fax or email, shall be deemed to have been delivered on the day that the fax or email is sent. A written notice or communication which has been actually received by the Guest will be regarded as delivered despite the fact that it was not dispatched to a chosen address.

13. COSTS

The Guest shall pay any costs incurred by MalaMala as a result of any breach by the Guest of these Standard Terms or any failure by it to pay an amount on due date, on the scale as between attorney and own client. Such costs shall include any collection commission which MalaMala is required to pay to its attorneys as a result of any action taken by them.

14. NON-VARIATION

- 14.1 No person other than a director of MalaMala has any authority to contract on MalaMala's behalf on terms or conditions other than those contained in these Standard Terms.
- 14.2 No variation of these Standard Terms shall be binding upon MalaMala unless reduced to writing and signed by a director of MalaMala.

15. GENERAL

- 15.1 No relaxation or indulgence which MalaMala may grant to the Guest shall constitute a waiver of its right to enforce strict compliance with these Standard Terms.
- 15.2 Advice, recommendations or opinions by representatives of MalaMala are given and expressed in good faith and shall not constitute representations of any description by MalaMala, and shall not give rise to any claim against MalaMala.
- 15.3 The Standard Terms shall be governed by, and construed in accordance with, the laws of the Republic of South Africa.