

## TERMS AND CONDITIONS

### 1 DEFINITIONS

In this agreement, unless the context requires a contrary interpretation:

- 1.1. any reference to:
  - 1.1.1. the singular shall include the plural, and vice versa;
  - 1.1.2. the masculine gender shall include the feminine and neuter genders, and vice versa;
  - 1.1.3. a natural person shall include a juristic person, and vice versa;
- 1.2. the following words and expressions shall have the meanings herein assigned to them:
  - 1.2.1. **"this agreement"** means the terms and conditions contained in this document, which includes this page and the first page;
  - 1.2.2. **"the check-list"** means the document signed by the parties and annexed to this agreement which lists the vehicle, the vehicle's accessories, spare parts and tools, and any existing damage to same;
  - 1.2.3. **"Departure date"** means the date and time specified under "DATE OUT" and "TIME OUT" on the first page, or the date and time upon which the hirer takes possession of the vehicle, whichever occurs earlier;
  - 1.2.4. **"depot"** means the premises of the lessor situated at 298 Main Road, Kenilworth, Cape Town, South Africa;
  - 1.2.5. **"the driver"** means the hirer and/or any other person/s recorded under 'ADDITIONAL DRIVERS DETAILS' on the first page;
  - 1.2.6. **"excess"** means the amount specified as the "EXCESS" under 'WAIVER OPTIONS' on the first page;
  - 1.2.7. **"the first page"** means the cover page entitled "Rental Agreement" to be completed by the hirer;
  - 1.2.8. **"the hirer"** means the person specified as 'CUSTOMER NAME' on the first page;
  - 1.2.9. **"the lessor"** means Vineyard Car Hire CC (registration no. 2007/020325/23);
  - 1.2.10. **"the parties"** means the hirer and the lessor;
  - 1.2.11. **"the price"** means the total amount calculated in accordance with the 'PROVISIONAL CHARGE SUMMARY' and the 'APPLICABLE RATES' sections on the first page;
  - 1.2.12. **"the rental period"** means a minimum of twenty-four (24) hours and shall mean the period from the Departure date until the vehicle is returned to the lessor;
  - 1.2.13. **"the return date"** means the date and time specified as 'DATE IN' and 'TIME IN' on the first page;
  - 1.2.14. **"the signature date"** means the date of signature of this agreement by the last of the parties to sign it;
  - 1.2.15. **"VAT"** means value-added tax levied in terms of the Value-added Tax Act, 89 of 1991, as amended;
  - 1.2.16. **"the vehicle"** means the vehicle described as "MAKE" and with the registration number recorded under "REG. NO." on the first page;
  - 1.2.17. **"waiver option"** means the waiver option applicable to the hirer recorded on the first page which operates to reduce the hirer's liability in the event of loss, theft and/or damage to the vehicle, subject to the hirer's compliance with this agreement. The standard cover waiver option applies to all vehicles, and the super cover waiver option is an optional extra which the hirer may purchase at the premium per day recorded on the first page.

### 2 LEASE

The lessor hereby leases the vehicle to the hirer, on the terms and conditions contained in this agreement.

### 3 DURATION

- 3.1 This agreement shall commence upon the earlier of the signature date or the departure date and shall continue until the return date or the date upon which the vehicle is returned to the lessor, whichever occurs later.
- 3.2 Notwithstanding the provisions of 3.1, this agreement may be extended verbally for a period agreed to by the parties and on the same terms and conditions as contained herein, and the return date shall be deemed to be amended accordingly.
- 3.3 Failure to return the vehicle by the return date shall constitute illegal possession of the vehicle by the hirer and the lessor may repossess the vehicle at their discretion wherever it may be found and from whomsoever it is in possession of, it, the cost thereof to be for the hirer's account.
- 3.4 Any rights which accrue to the lessor during the currency of this agreement shall continue after the termination of this agreement.

### 4 CONSIDERATION AND PAYMENT

- 4.1 In consideration for the lease of the vehicle in terms of this agreement, the hirer shall pay an amount equivalent to the price plus all other amounts for which the hirer may be liable in terms of this agreement (**"the consideration"**) to the lessor.
- 4.2 The number of "Days Charged" specified on the first page is calculated strictly in cycles of 24 (twenty four) hours, from time of collection by or delivery to the hirer, to time of return of the vehicle to the lessor.
- 4.3 The consideration shall be calculated on the return date by the lessor in accordance with the information contained on the first page and the provisions of this agreement.
- 4.4 The consideration shall be payable on the return date, or on such other date as agreed to by the parties, by means of credit card or in any other manner agreed to by the lessor.
- 4.5 In the event that the hirer returns the vehicle after the return date, then upon the return of the vehicle the hirer shall pay such additional amount to the lessor as would have been payable had the return date been the date upon which the vehicle was actually returned, without prejudice to any other claim which the lessor may have as a result of such late return of the vehicle.
- 4.6 In the event that the hirer fails to make payment on the return date, or the date specified in 4.4, then interest shall accrue on the consideration payable at the prime rate of the Standard Bank of South Africa, as is from time to time, from due date to date of payment.
- 4.7 **If the lessor has agreed to accept payment from the hirer by credit card or charge card, which card has been imprinted on the first page, the hirer's signature on the first page will constitute authority for the lessor to obtain authorisation and/or payment. The signature will also constitute authority for the issuer of the card to debit him with the total amount due to the lessor under this agreement (including but not limited to any damages or loss suffered by the lessor).**
- 4.8 The hirer remains liable for payment of any and all amounts due which are not paid or settled in full by the issuer of the card.
- 4.9 A certificate of a member, manager or accountant of the lessor, whose capacity need not be proved, as to any amount owed by the hirer to the lessor shall constitute prima facie proof of the amount due.
- 4.10 The hirer will not be allowed to deduct or withhold payment of any amounts due in terms of this agreement for any reason whatsoever.

### 5 SECURITY

- 5.1 As security for the payment of the consideration and/or any other amounts due to the lessor in terms of this agreement, the hirer hereby authorises the lessor to obtain an authorisation on the hirer's credit card account of the credit card imprinted under "CREDIT CARD IMPRINT" on the first page, the authorisation amount being the amount specified as the "EXCESS" amount under "STANDARD" "WAIVER OPTIONS" on the first page.
- 5.2 The lessor shall only debit the hirer's credit card account in the event that the hirer fails to pay any amount due to the lessor on due date or as otherwise agreed to by the parties.

### 6 THE DRIVER

- 6.1 **There is no additional charge for the first two nominated drivers (the hirer included), thereafter, an additional driver once-off fee of R250 per driver is charged.**
- 6.2 It is recorded that only "the driver" is entitled to drive the vehicle.
- 6.3 Under no circumstances shall more than three (3) additional drivers be authorised to drive the vehicle.
- 6.4 **Each driver shall be at least twenty-three (23) years old upon the signature date and shall possess a valid unendorsed driver's license for the full rental period, which shall be produced on request by the lessor.**
- 6.5 The driver's license must have been valid for a minimum of two years prior to the signature date.
- 6.6 The driver must be in possession of his original driver's license at all times whilst driving the vehicle.

### 7 DELIVERY AND RETURN

- 7.1 The driver shall take delivery of the vehicle at the depot on the departure date and return the vehicle to the depot on the return date.
- 7.2 Notwithstanding the provisions of 7.1, the lessor may agree to the delivery and/or collection of the vehicle to and from the driver either free of charge or at a price to be determined by the lessor and included in the price under "PROVISIONAL CHARGE SUMMARY".
- 7.3 The hirer shall have no claim against the lessor if the vehicle is not available for delivery on the Departure date, other than a refund of any amount paid or pro rata thereof.
- 7.4 Where delivery takes place outside of the place and time specified in the agreement, the hirer's acceptance of delivery shall not constitute the delivery as being unsolicited.
- 7.5 Check-list:
  - 7.5.1 The parties shall complete and sign the check-list upon delivery of the vehicle to the driver on the Departure date. The signature of the check-list is the parties' acknowledgment that the vehicle is delivered by the lessor free of any damage whatsoever and in good order and repair unless such damage is recorded in writing on the check-list.
  - 7.5.2 In the event of any loss of or damage to the vehicle and/or any items referred to in the checklist during the rental period, which is occasioned by the negligence of the hirer or driver, then the costs of the repairs or replacement of the items shall be borne by the hirer and shall be payable to the lessor on demand.
- 7.6 The vehicle shall be handed to the hirer in good, clean condition. The lessor reserves the right to charge a valet fee should the vehicle not be returned in the same or an acceptable condition.
- 7.7 On the return date the hirer must:
  - 7.7.1 return the vehicle at the hirer's risk and expense to the lessor at the address agreed herein;
  - 7.7.2 hand the keys to an authorised representative of the lessor unless the parties have agreed that the lessor will collect the keys from a specified third party; and
  - 7.7.3 return the vehicle undamaged, in good order and in roadworthy conditions, fair wear and tear accepted.
- 7.8 Where the driver is obliged to return the vehicle to an address other than the depot, on such return the vehicle must be legally parked, locked and secure.

### 8 PETROL AND SUNDRY COSTS

- 8.1 The lessor shall deliver the vehicle to the hirer with a full tank of petrol. Upon the return of the vehicle to the depot (and not the return to another agreed return address), the lessor shall refuel the vehicle at the rate regulated by the South African government and
- 8.2 The hirer shall be responsible for all petrol and oil costs of the vehicle during the rental period.
- 8.3 The hirer shall be responsible for all Electronic Toll (E-Toll) Collection fees.

### 9 ODOMETER

- 9.1 The distance travelled by the vehicle shall be calculated in kilometres from the time the vehicle is collected or delivered from the depot (and not from another agreed address) until the vehicle is returned to the depot (and not another agreed address).
- 9.2 If the seal of the odometer is broken or has been tampered with, the hirer shall be liable to pay the lessor an amount equivalent to the price per kilometre, at the rate specified in 'APPLICABLE RATES' on the first page, multiplied by a factor of 300 km per day, in addition to the other consideration payable in terms of this agreement.

### 10 INDEMNITY AND EXEMPTIONS

- 10.1 **The hirer hereby indemnifies and holds the lessor and the lessor's employees and agents harmless against any claim in respect of any injury, loss or damage, of any nature whatsoever, suffered by the hirer, the driver or any other person whatsoever and arising out of the use or operation of the vehicle during the rental period, whether such injury, loss or damage was occasioned by the negligence of the lessor and/or the hirer and/or otherwise.**
- 10.2 **The hirer hereby waives any claims which the hirer may have against the lessor and/or the lessor's employees and agents, arising out of any injury, loss or damage suffered or sustained by the hirer in**

connection with the use of the vehicle, from whatsoever cause arising, notwithstanding that the injury, loss or damage may have resulted from the negligence of the lessor and/or the lessor's agents and/or employees.

- 10.3 **No warranties as to the condition, state of repair, performance capabilities, year of manufacture, odometer reading or anything else concerning the vehicle or given by the lessor.**
- 10.4 **Notwithstanding anything to the contrary contained in this agreement, the hirer shall at all times be personally liable for the actions of any person driving the vehicle and for any breach of the terms and conditions of this agreement, whether by the hirer or any other person whatsoever.**

### 11 INSURANCE

- 11.1 **It is recorded that the lessor has taken out an insurance policy which covers all vehicles being leased by the lessor ("the insurance policy").**
  - 11.2 In the event that the vehicle is damaged or stolen during the rental period, whether by reason of the negligence of the hirer or otherwise, then the hirer shall pay the excess to the lessor on demand irrespective of whether the lessor is entitled to claim compensation in terms of the insurance policy or not.
  - 11.3 In the event that the lessor is compensated for damage to the vehicle by a third party or the third party's insurers, then the lessor shall repay the excess less 15% paid by the hirer as soon as reasonably possible thereafter.
  - 11.4 In the event that the vehicle is damaged or stolen during the rental period, and the lessor does not receive full compensation in terms of the insurance policy by reason of any act or omission of the hirer and/or driver, then the hirer shall be liable for all reasonable costs associated with the repair or replacement of the vehicle, which costs shall be payable to the lessor on demand, and which the lessor may charge to the hirer's credit card or charge card.
  - 11.5 The hirer shall be liable for a claim-handling fee of R600 including VAT (this amount is not included in any excess the hirer may be liable for) for any insurance claim the lessor has to lodge in excess of R1000.
  - 11.6 **For the avoidance of doubt, it is recorded that the waiver option shall be negated and/or declined if there is damage and/or loss sustained:**
    - 11.6.1 as a result of hirer and/or driver negligence;
    - 11.6.2 whilst the hirer and/or driver is in breach of any applicable traffic laws or ordinances;
    - 11.6.3 where incidents are not reported as per clause 14;
    - 11.6.4 where the incident takes place outside the Republic of South Africa;
    - 11.6.5 where the incident takes place between the hours of 00h00 and 04h00 and where there is no other vehicle involved;
    - 11.6.6 if at any time the vehicle is driven by an unauthorised driver;
    - 11.6.7 when in the opinion of the lessor the vehicle has been driven or used in a manner which prejudices the lessor's interests or rights therein;
    - 11.6.8 in any instance where the hirer and/or driver has used or driven the vehicle:
      - for the conveyance of property or persons for hire,
      - in contravention of any law,
      - by any person who has given the lessor or the hirer false information,
      - in any race, speed test or contest,
      - to propel or tow any other vehicle or trailer,
      - by anyone other than the driver, and/or
      - on any road other than a recognized tarred or paved road.
  - 11.6.9 where the driver was not holding a valid driver's licence at the time of the damage or loss;
  - 11.6.10 where an extension of the agreement is not authorised in writing by the lessor and where the rental period has expired;
  - 11.6.11 to the vehicle while the vehicle was being driven (at the time of damage and total loss) by a person whose blood alcohol concentration exceeded the limit permitted by any applicable law or regulation or whilst under the influence of a narcotic drug or similar substance;
  - 11.6.12 arising from injuries sustained or suffered by the occupants of the vehicle,
  - 11.6.13 to destruction of any property owned by, rented to, in the charge of, and/or transported by the hirer or driver; and the hirer undertakes to take out any further personal insurance which the hirer may require in this regard;
  - 11.6.14 to the vehicle's keys due to the hirer's negligence.
- 11.7 **Further, the insurance policy and waiver option does not apply to or cover the cost of towing nor does it cover the cost of the Assessor's fee, and these costs will be charged to the hirer.**

### 12 FINES

- 12.1 The hirer shall be responsible for all fines and penalties imposed in respect of the vehicle for parking or traffic offences during the rental period.
- 12.2 The lessor shall be entitled, but not obliged, to pay all fines and penalties on receipt and claim the amount from the hirer.
- 12.3 The hirer shall pay all amounts in respect of such fines and penalties to the lessor on demand.
- 12.4 **The hirer shall be liable to the lessor for an administration fee of R250.00 including VAT should a fine be imposed.**

### 13 REPAIRS

- 13.1 No repairs to the vehicle ("repairs") or replacement of parts ("replacements") shall be effected without the lessor's consent.
  - 13.2 The lessor shall bear the costs of all repairs and replacements unless such repair or replacement was necessitated by the negligence of the hirer or the driver.
  - 13.3 Notwithstanding the provisions of 13.2:
    - 13.3.1 **Should repairs to the vehicle be effected, or replacement parts for the vehicle be purchased in an amount in excess of R100.00, without the prior written consent of the lessor, the cost of such repairs and/or replacements shall be borne by the hirer; and**
    - 13.3.2 **In the event that the vehicle is driven in excess of 250 km from the depot, then the hirer shall bear the costs of replacement and repairs unless otherwise agreed to by the lessor.**
- ### 14 PROCEDURE IN THE EVENT OF AN ACCIDENT INVOLVING, OR THEFT OF, THE VEHICLE
- 14.1 **If at any time the vehicle is stolen or damaged, the hirer shall take every reasonable precaution to safeguard the interests of the lessor, including by doing the following:**
    - 14.1.1 **notify the lessor within three hours of becoming aware of the occurrence and shall within twenty-four hours of the occurrence complete and furnish to the lessor the lessor's standard claim form together with the driver's license of the driver that was driving the vehicle at the time of the accident or in most recent possession of the vehicle prior to the theft,**
    - 14.1.2 **obtain the name(s), identity number(s), addresses and telephone numbers of all parties involved and of any possible witnesses, and the license and registration numbers, and make and models of all the vehicles involved,**
    - 14.1.3 **not admit any responsibility or liability nor release any party from any liability or potential liability, nor settle any claim or potential claim against or by any party, and not accept any disclaimer of liability,**
    - 14.1.4 **notify the police within twenty-four hours of the occurrence and furnish the lessor with an accident report number and the details of the relevant police station where it was reported,**
    - 14.1.5 **make adequate provision for the safety and security of the vehicle and not abandon the vehicle under any circumstances,**
    - 14.1.6 **where the vehicle is not driveable, phone the lessor and an authorised towing company will be appointed to tow the vehicle,**
    - 14.1.7 **co-operate with the lessor and its insurer in the investigation, the making or instituting of any claim or action and the defence of any prosecution or claim action relating to the incident (including the making of an affidavit if the hirer/driver is requested to do so).**
  - 14.2 **If the hirer is not the driver, then, without in anyway derogating from the hirer's obligations in terms of clause 14, the hirer shall ensure that the driver complies with the provisions of 14.1 and the hirer warrants that the driver will do so.**
  - 14.3 **The hirer and/or driver warrant that the information completed in the lessor's claim form as referred to in clause 14.1.1 will be complete, true and correct in every respect.**
  - 14.4 **Failure and/or refusal to adhere to the conditions as set out in clauses 14.1 to 14.3 will negate the waiver option and the hirer will be liable for any damages and/or losses suffered by the lessor.**

### 15 BREACH

- 15.1 The lessor shall be entitled to terminate this agreement forthwith, without notice to the hirer, and immediately repossess the vehicle from whomsoever it is in possession of it without prejudice to any other claims of any nature whatsoever that the lessor may have, if:
  - 15.1.1 the hirer or driver breaches any of the terms and conditions of this agreement; or
  - 15.1.2 the lessor is of the opinion that the vehicle is being driven or used in a manner prejudicial to the lessor.

### 16 LAWS, JURISDICTION, LEGAL COSTS AND DOMICILIUM

- 16.1 This agreement shall be governed by the laws of the Republic of South Africa.
- 16.2 The hirer consents to the jurisdiction of the magistrate's court in respect of any action or proceeding arising out of this agreement, even if the amount in issue would otherwise exceed the authority of such court.
- 16.3 Notwithstanding the provisions of 16.1, the lessor shall be entitled to bring proceedings against the hirer out of any other competent court having jurisdiction.
- 16.4 In the event that the lessor institutes legal proceedings against the hirer, for any reason whatsoever, the hirer shall pay all costs incurred by the lessor, including collection commission, costs of tracing the hirer or the vehicle, and legal costs on an attorney-and-own-client scale.
- 16.5 The parties select the street and email addresses reflected on the first page for the purpose of being sent any notice, the serving of any process and for any other purpose arising out of this agreement.

### 17 GENERAL PROVISIONS

- 17.1 The parties agree that this agreement embodies the entire agreement between them and confirm that:
- 17.2 none of the terms and conditions of this agreement is capable of being waived, amended, added to or deleted, unless such waiver, amendment, addition or deletion is reduced to writing and is signed by both parties;
- 17.3 no representations or warranties have been made by either of them, save as are expressly contained in this agreement;
- 17.4 the clause headings in this agreement are for reference purposes only and shall not be used for the purposes of interpreting this agreement.
- 17.5 no indulgence granted by a party shall constitute a waiver or abandonment of any of that party's rights under this agreement; accordingly, that party shall not be precluded, as a consequence of having granted that indulgence, from exercising any rights against the other party which may have arisen in the past or may arise in the future.

### 18 PRIVACY AND PERSONAL INFORMATION

- 18.1 The lessor will comply with all applicable data protection and privacy laws and regulations, in the performance of its services under this agreement.
- 18.2 The hirer warrants he/it has the right to transfer the personal information to the lessor for the purposes as set out in this agreement and indemnifies the lessor from any and all liability arising from his/its failure to obtain the necessary consent.