

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 as signed to them:
 - 1.2.1 "the/this agreement" shall mean the terms and conditions contained in this document, which includes this page and the first page;
 - 1.2.2 "the check-list" shall mean the document signed by the parties and annexed to this agreement which lists the vehicle's accessories, spare parts and tools;
 - 1.2.3 "Departure date" shall mean 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" shall mean the premises of the lessor situated at 298 Main Road, Kenilworth, Cape Town, South Africa;
 - 1.2.5 "the driver" shall mean the hirer and/or any other person/s nominated in terms of 'ADD. DRIVERS' on the first page;
 - 1.2.6 "excess" shall mean the amount specified under 'INSURANCE OPTIONS' on the first page, being an amount agreed to by the parties;
 - 1.2.7 "the first page" shall mean the cover page to be completed by the hirer;
 - 1.2.8 "the hirer" shall mean the person specified as 'CUSTOMER NAME' on the first page
 - 1.2.9 "the lessor" shall mean Vineyard Car Hire cc (close corporation);
 - 1.2.10 "the parties" shall mean the hirer and the lessor;
 - 1.2.11 "the price" shall mean the total amount calculated in accordance with the 'PROVISIONAL CHARGE SUMMARY' on the first page and based on the hire and insurance charges specified in 'APPLICABLE RATES' on the first page;
 - 1.2.12 "the rental period" shall be 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" shall mean the date and time specified as 'DATE IN' and 'TIME IN' on the first page;
 - 1.2.14 "the signature date" shall mean the date of signature of this agreement by the last of the parties to do so;
 - 1.2.15 "the vehicle" shall mean the vehicle described as "MAKE" 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 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 ("the consideration") to the lessor.
- 4.2 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.
- 4.3 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.
- 4.4 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.
- 4.5 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 it is from time to time, from due date to date of payment.

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, the authorisation amount being the amount specified as the 'EXCESS' amount under 'STANDARD' 'INSURANCE OPTIONS' on the first page.
- 5.2 The hirer shall sign an authorisation voucher to enable the lessor to give effect to the provisions of 5.1.
- 5.3 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 It is recorded that only "the driver" is entitled to drive the vehicle.
- 6.2 Under no circumstances shall more than three (3) drivers be authorised to drive the vehicle.
- 6.3 Each driver shall be at least twenty-three (23) years old upon the signature date and shall possess a valid unendorsed driver's license, which shall be produced on request by the lessor.
- 6.4 The driver's license must have been valid for a minimum of two years.
- 6.5 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'.

8 PETROL

- 8.1 The lessor shall deliver the vehicle to the hirer with a full tank of petrol.
- 8.2 Upon the return of the vehicle to the depot, the lessor shall refuel the vehicle and include the cost of such refueling in the calculation of the price under the heading 'PETROL'.
- 8.3 The hirer shall be responsible for all petrol costs of the vehicle during the rental period.

9 ODOMETER

- 9.1 The vehicle's odometer is sealed.
- 9.2 The distance travelled by the vehicle shall be calculated in kilometres from the time the vehicle is collected or delivered from the depot until the vehicle is returned to the depot.
- 9.3 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

- 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 whomsoever 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 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 insurance 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 compensation in terms of the insurance policy, by reason of any act or omission of the hirer or driver, then the driver 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.
- 11.5 The Hirer shall be liable for a claim-handling fee of R400 for any insurance claim in excess of R1000 regardless of whether the hirer is covered in terms of the insurance policy or not.
- 11.6 For the avoidance of doubt, it is recorded that the insurance policy does not apply to or cover 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 15;
 - 11.6.4 where the incident takes place outside the Republic of South Africa;
 - 11.6.5 if at any time the vehicle is driven by an unauthorised driver;
 - 11.6.6 when in the opinion of the Company the vehicle has been driven or used in a manner which prejudices the Company's interests or rights therein;
 - 11.6.7 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 under the age of twenty-three (23) years; and,
 - by anyone other than the driver,
 - on any road other than a recognized tarred or paved road.
 - 11.6.8 where the driver was not holding a valid drivers licence at the time of the damage or loss;
 - 11.6.9 where an extension of the rental agreement is not authorised in writing by the Company and where the rental period has expired;
 - 11.6.10 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 law or regulation or whilst under the influence of a narcotic drug or similar substance;
 - 11.6.11 arising from injuries sustained or suffered by the occupants of the vehicle,
 - 11.6.12 to destruction of any property owned by, rented to, in the charge of, 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,
 - 11.6.13 to the vehicle's keys due to the hirer's negligence.
- 11.7 Further, the insurance policy does not apply to or cover the cost of towing.

12 FINES

- 12.1 The hirer shall be responsible for all fines and penalties imposed 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 fines and penalties to the lessor on demand.
- 12.4 The hirer shall be liable for an administration fee of R200.00 should a fine be imposed.

13 CHECK-LIST

- 13.1 The parties shall complete the checklist before the departure date.
- 13.2 In the event of any loss of or damage to the 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.

14 REPAIRS

- 14.1 No repairs to the vehicle ("repairs") or replacement of parts ("replacements") shall be effected without the lessor's consent.
- 14.2 The Lessor shall bear the costs of all repairs and replacements unless such repair or replacement was necessitated by the negligence of hirer or the driver.
- 14.3 Notwithstanding the provisions of 14.2:
 - 14.3.1 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
 - 14.3.2 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 re-pairs unless otherwise agreed to by the lessor.

15 PROCEDURE IN THE EVENT OF AN ACCIDENT INVOLVING THE VEHICLE

- 15.1 If at any time the vehicle is stolen or damaged, the hirer shall take every reasonable precaution to safeguard the interest of the lessor, regardless of whether an insurance policy is taken or not, including the following:
 - 15.1.1 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,
 - 15.1.2 obtain the name(s), addresses, telephone numbers, license and registration numbers, make and models of the vehicles of all parties involved and of any possible witnesses,
 - 15.1.3 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, not accept any disclaimer of liability,
 - 15.1.4 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,
 - 15.1.5 make adequate provision for the safety and security of the vehicle and will not abandon the vehicle under any circumstances,
 - 15.1.6 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).
- 15.2 If the hirer is not the driver, then, without in anyway derogating from the hirer's obligations in terms of clause 15, the hirer shall ensure that the driver complies with the provisions of 15.1 and the hirer warrants that the driver will do so
- 15.3 The hirer and/or driver warrant that the information completed in the lessor's claim form as referred to in clause 15.1.1 will be complete, true and correct in every respect".
- 15.4 Failure and/or refusal to adhere to the conditions as set out in clause 15.1-15.3, will render the hirer and/or driver liable for any damages suffered by the lessor regardless of whether an insurance policy has been taken out or not.

16 BREACH

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

17 JURISDICTION, LEGAL COSTS AND DOMICILIUM

- 17.1 The hirer consents to the jurisdiction of the magistrate's court in respect of any action or proceeding arising out of this agreement.
- 17.2 Notwithstanding the provisions of 17.1, the lessor shall be entitled to bring proceedings against the hirer out of any other competent court having jurisdiction.
- 17.3 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 and legal costs on an attorney-and-own-client scale.
- 17.4 The parties select their domicilia for the purpose of giving any notice, the serving of any process and for any other purpose arising out of this agreement as follows:
 - 17.4.1 the lessor: the address reflected on the first page;
 - 17.4.2 the hirer: the address reflected on the first page.

18 GENERAL PROVISIONS

- The parties agree that this agreement embodies the entire agreement between them and confirm that:
- 18.1 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;
 - 18.2 no representations or warranties have been made by either of them, save as are expressly contained in this agreement;
 - 18.3 the clause headings in this agreement are for reference purposes only and shall not be used for the purposes of interpreting this agreement.
 - 18.4 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.