

TERMS AND CONDITIONS

1. DEFINITIONS AND INTERPRETATIONS

- 1.1. In this agreement unless the context indicates otherwise:
- 1.1.1. "Additional driver" means such person who, in addition to the driver, is duly authorized by The Company to drive the vehicle as reflected on Original Rental Agreement.
 - 1.1.2. "Auto Dealers Guide" means: Mead & McGrouther's latest publication containing, inter alia, recommended selling prices of motor vehicles;
 - 1.1.3. "Claims Administration Fee" means: An administration fee charged in all instances where a claim needs to be processed i.r.o. damage, loss of/ or theft of the vehicle.
 - 1.1.4. "the Company" means Global Car Rental (Pty) Ltd trading as Active Car Rental;
 - 1.1.5. "Contract Fee" means: a once-off charge per rental to cater for inter alia storage fees of Original Documents;
 - 1.1.6. "Damages" (in relation to the vehicle) means the actual expenditure in towing, transporting and storing the vehicle, repairing any damage (including tyre and rim damage) replacing parts or accessories (without allowing for depreciation), remunerating an expert to inspect collision damage and report thereon, and reimbursing such expert (an invoice, job card or quotation produced by the company to be prima facie proof of any such expenditure) or any other charges incurred related to an incident of whatsoever nature;
 - 1.1.7. "Day" means a period of 24 hours (or any part thereof), calculated from the time out as reflected on ORA;
 - 1.1.8. "Driver" means such person who is duly authorized by The Company to drive the vehicle as reflected on ORA;
 - 1.1.9. "Extend" means: any extension of the rental period authorized by The Company;
 - 1.1.10. "The official rates brochure" means The Company's current official brochure on the rental rates and other general information issued from time to time;
 - 1.1.11. "Original Rental Agreement" means the rental agreement signed by the renter, herein referred as ORA;
 - 1.1.12. "The rental period" means the period between the date and time out and the termination date and time as specified on ORA or if such period is extended, the time and date entered on The Company's records;
 - 1.1.13. "The renter" means all of the persons, natural or juristic, jointly and severally, whose names appear on the ORA hereof, including any additional driver and / or driver of the vehicle;
 - 1.1.14. "The renting location" means the physical address of The Company from which the vehicle is rented by the renter, alternatively any location agreed upon in writing by both parties;
 - 1.1.15. "The vehicle" means: the vehicle described on the ORA including all keys, tyres, tools, equipment, accessories and documents in and on the vehicle when the renter takes delivery of the vehicle at the renting location and includes any replacement vehicle which has been officially authorised by The Company, whether or not such replacement was authorized or approved by the renter;
 - 1.1.16. "Traffic Fine Administration Fee" means an amount levied to administer any traffic fine(s) incurred by the renter whilst renting the vehicle;
 - 1.1.17. "Total loss" (in relation to a vehicle) means –
 - (a) damages (see clause 1.1.6) where the estimated costs of repairs is such that the vehicle is in the sole and absolute discretion of The Company uneconomical to repair in relation to the value of the vehicle and condition of the vehicle for the time being; or
 - (b) when the vehicle is stolen and / or lost;The amount of the total loss will be the retail value as reflected in the Auto Dealers Guide (Clause 1.1.2) or if not reflected therein, the replacement value of the vehicle, as supplied by the manufacturer, as at the date of loss less any salvage;
 - 1.1.18. "Waiver" means a reduction of liability / responsibility of the renter in the event of an accident / theft / loss of the vehicle.
 - 1.1.19. "First Amount Payable" means the first amount that the renter is responsible to pay in respect of any damages, theft of loss that may result in a claim.
- 1.2. The singular shall include the plural and vice versa, pronouns of any gender shall include those of the other gender and natural persons shall include legal and juristic persons and vice versa.

2. RENTAL OF THE VEHICLE

The company rents to the renter, who hires the vehicle subject to the terms and conditions as set out herein. The renter will be bound by these terms and conditions, whether he was driving or not.

3. DELIVERY OF THE VEHICLE

- 3.1. Delivery of the vehicle takes place at the time the renter or his representative takes possession of the keys and/or vehicle at the renting location.
- 3.2. The vehicle shall be deemed to have been delivered in good order and repair and without any damage to inter alia the paintwork, upholstery and accessories (unless such damage is recorded in writing on the ORA and signed by both parties)

4. USE OF VEHICLE

- 4.1. The vehicle may be utilized for the rental period or any extended period.
- 4.2. The renter agrees that any extension so noted on the company's records would correctly reflect such extended period.
- 4.3. During the rental period, the vehicle may not be used for the conveyance of passengers and/or goods for reward; to propel or tow any other vehicle, (including any caravan or trailer) unless authorized by The Company in writing; to transport goods in violation of any customs laws or in any other illegal manner; in any motor sport of similar high risk activity; beyond the borders of SA, unless authorized by The Company in writing; or in any area where there is or may be a risk of incidents of civil unrest, political disturbance or riot or any activity associated with any of the afore going;
- 4.4. The renter shall make adequate provision for the safety and security of the vehicle and, in particular, but without limiting the generality of the afore going, he shall keep the vehicle properly locked and secured and immobilized and the burglar alarm (if any) activated and any anti-theft device in the vehicle properly secured and in place when the vehicle is not in use.
- 4.5. Should damages or loss be sustained as a result of not removing the removable face of the radio, the renter shall be liable for the loss.
- 4.6. The renter will make sure that the keys of the vehicle are under the renter's control at all times.
- 4.7. The Company will at all times remain the owner of the vehicle.

5. RETURN OF THE VEHICLE

- 5.1. The renter shall return the vehicle, at the renter's expense to an authorised representative of The Company at the agreed time and location or such location as agreed to by The Company.
- 5.2. The renter acknowledges that failure to return the vehicle in terms of this agreement shall constitute illegal possession by him, and The Company may repossess the vehicle wherever same may be found and from whomsoever is in possession thereof.
- 5.3. Should the vehicle not be returned as indicated in 5.1 above, any waiver option in terms hereof will become null and void.
- 5.4. Should the vehicle not be returned as indicated in 5.1 above, the vehicle may be reported as stolen to the relevant authorities.
- 5.5. The vehicle shall be returned undamaged, in good order and in roadworthy condition, fair wear and tear excepted.

6. TERMINATION/CANCELLATION/EXTENSION OF RENTAL

- 6.1. Notwithstanding anything to the contrary contained in this agreement, The Company shall be entitled to terminate this agreement without any explanation at any time by notice (verbal or in writing depending on the situation) to the renter, whereupon the renter shall return the vehicle to The Company. The Company shall be entitled at any time to retake possession or the vehicle, wherever found and from whosoever has possession thereof. The obligations of the renter and the rights of The Company under this agreement shall continue in full force and effect until the vehicle has been returned to The Company in terms of this agreement and the renter has complied with all his obligations.
- 6.2. The renter shall give The Company 24 hour notice, prior to the termination of the contract, of his/her intention to extend the rental period.

7. THE RENTER / DRIVER

- 7.1. The vehicle may not be driven by any person other than the renter and/or the driver(s) specified on the ORA.
- 7.2. Notwithstanding anything else to the contrary in clause 7.1 above, the vehicle may not be driven by any person under the age of 23 or has held a valid licence to drive for less than two (2) years unless otherwise agreed to in writing by the company in its sole and absolute discretion, in which instance an additional first amount of two thousand rand (R2000) will be payable in case of damage, loss or theft of the vehicle that may result in a claim
- 7.3. The renter warrants that at all times the vehicle will not be driven by any person whose blood alcohol concentration exceeds the limit permitted by any applicable law or regulation or whilst under the influence of intoxicating liquor or of a narcotic drug of similar substance and that every driver of the vehicle will have a valid license to drive the vehicle, will comply with all applicable laws and will comply in all respects with the provisions of this agreement.
- 7.4. The renter warrants that he/she will inform The Company of any physical impairment that may prejudice The Company in any way if the vehicle has not been adapted to accommodate the physical impairment. Should the renter decline to notify The Company the renter will bear full responsibility for damages in the event of an accident.
- 7.5. If the vehicle is driven by anyone other than the renter, then, without derogating from any rights or remedies which The Company may have the renter shall remain liable for all his obligations in terms of this agreement and in particular, he shall be liable to The Company as if he had been driving the vehicle.
- 7.6. The renter warrants that he is entitled to enter into this agreement, that all particulars given to The Company and/or recorded on the ORA are true and correct.

8. RENTAL RATES AND CHARGES

- 8.1. The renter agrees to pay The Company the rental rates plus all other charges and fees opted for or utilized by the renter as contemplated in the ORA and up until the vehicle is returned.
- 8.2. In determining the rental charges, the distance traveled by the vehicle (where required) shall be determined from the vehicle's odometer, or if this is not possible for any reason, by The Company in its sole discretion, on any other fair and reasonable basis and the renter shall be obliged to furnish all such information and assistance as The Company may reasonably require for that purpose. If the odometer has been tampered with, then the kilometers traveled will be deemed to be 500 kilometers per day.
- 8.3. The renter shall also be liable for all fines, penalties and like expenses including but not limited to parking, traffic and other offences, arising out of or concerning the use of the vehicle during the rental period and the renter accordingly indemnifies The Company against all such liability.

9. PAYMENT

- 9.1. All payments are due on demand, but at latest on expiry of the rental period (unless otherwise agreed in writing). All charges payable by the renter shall be payable by credit card or in cash on the termination of the rental period unless The Company requires all or any of the charges to be prepaid in advance;
- 9.2. The renter will not be allowed to set-off or withhold payment of any amounts due in terms of this agreement for any reason whatsoever;
- 9.3. If The Company has agreed to accept payment from the renter by credit card or charge card specified on ORA, the renter's signature of the ORA will constitute authority for The Company 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 Company (including but not limited to any damages or loss suffered by The Company).
- 9.4. In the event that the renter returns the vehicle to The Company prior to the due date as per the ORA, the renter will pay, at the discretion of The Company either the usual rates and charges applicable to the period and/or kilometers actually used, or the rates and charges as if the full rental period and/or kilometers actually occurred.
- 9.5. In the event of an accident and/or if the vehicle is stolen and/or lost, the amount of the damages or the total loss as suffered by The Company is payable on demand.
- 9.6. The renter shall be obliged to accept the quotation for repairs as proof of quantum for the damages caused to the vehicle. Damages in excess of R5 000,00 will be supported by an independent Assessors report.
- 9.7. If any amount is not paid on due date, The Company may without prejudice to any rights it may have, charge interest on the overdue amount at the applicable prescribed legal rate or prime plus 3% as charged by FNB bank, whichever is the higher, and in the sole discretion of The Company.
- 9.8. A certificate of any Director, Manager or Accountant of The Company as to any amount owed by the renter to The Company shall constitute prima facie proof of the amount.

10. RENTERS RISKS AND LIABILITIES

- 10.1. The vehicle is at the sole risk of the renter (fair wear and tear excepted) from the moment the key and/or the vehicle is handed to the renter until such time as the vehicle and key is returned in terms of clause 5.
- 10.2. The renter is liable for all fines and/or penalties incurred during the rental period and hereby authorize The Company to disclose any information required by a relevant authority to process it.
- 10.3. In the event of loss or damage which has occurred in a situation where no other vehicle or animal or object or person (in or on the road surface) was involved (i.e. no physical contact was made with any of the above mentioned), the renter will be liable for a Double Excess charge – i.e. the excess charge applicable will be doubled – subject to 10.4 and 10.5 below.
- 10.4. Should the vehicle be damaged, stolen or lost in a situation where there was a breach of any of the terms and conditions as contained herein, the renter will be liable for the total loss and/or damage suffered by The Company (notwithstanding the fact that waivers were opted for).
- 10.5. Standard (*Collision*) Damage Waiver and/or Theft (*Loss*) Waiver do not cover:
 - 10.5.1. any damage to glass, tyres and rims;
 - 10.5.2. damage to undercarriage;
 - 10.5.3. damage caused by water;
 - 10.5.4. damage and/or total loss sustained as result of renter negligence;
 - 10.5.5. damage and/or total loss sustained whilst the renter is in breach of any applicable traffic laws or ordinances;
 - 10.5.6. damage and/or total loss sustained where incidents are not reported as contemplated in clause 13
 - 10.5.7. damage and/or total loss sustained where the incident takes place outside the country in which the vehicle was rented unless prior written authority for the vehicle to be taken outside such country has been obtained;
 - 10.5.8. damage and/or total loss sustained if at any time the vehicle is driven by an unauthorized driver;
 - 10.5.9. damage and/or total loss sustained when in the opinion of The Company the vehicle has been driven or used in a manner which prejudices The Company's interest or rights therein and/or as prohibited in clause 4;
 - 10.5.10. damages and/or total loss sustained where the driver was not holding a valid unendorsed drivers license at the time the damage or loss was sustained;
 - 10.5.11. damage and/or total loss sustained where an extension of the rental agreement is not authorized by The Company and where the rental period has expired;
 - 10.5.12. damage caused as a result of the vehicle being driven on an un tarred road or a road that was not suitable for that vehicle.
- 10.6. The renter, by signing the ORA, accepts full responsibly for the damages incurred for which he/she is liable. The renter agrees that if payment is to be made by credit card, his/her signature on the ORA shall constitute authority to debit his/her credit card for the total amount due including his/her full liability for the damages incurred.

11. WAIVER (REDUCTION) OF LIABILITIES

- 11.1. The acceptance of Standard Waivers will reduce the renters' liability to the extent of the excess reflected on ORA and/or on the official rates brochure in force at the time of rental, the latter which is deemed to be incorporated herein.
- 11.2. Notwithstanding anything in this agreement, The Company shall not be obliged to make, institute or proceed with any claim which The Company may otherwise have had against a third party for the recovery of any loss or damage to or in connection with the vehicle and, accordingly, The Company shall be entitled, in its fair and reasonable discretion, to abandon such claim or to settle such claim on any terms.

12. PERSONAL ACCIDENT INSURANCE (PAI)

- 12.1. If the renter accepts the purchase of personal accident insurance as indicated on the ORA, his acceptance shall constitute an acceptance by him of the benefit of the personal accident insurance policy and other accompanying arrangements, if any, procured by The Company for his benefit but subject to all the terms and conditions of that policy and the other accompanying arrangements, if any, and the renter acknowledges that The Company itself shall not under any circumstances have any liability to him under that policy or the accompanying arrangements, if inspection by the renter at The Company's physical address and the renter shall in any event be deemed to be aware of and accept all the terms and conditions of the policy and the other arrangements, if any.

13. PROCEDURE IN THE EVENT OF AN INCIDENT INVOLVING THE VEHICLE

- 13.1. If at any time the vehicle is damaged, stolen or lost, the renter shall take every reasonable precaution to safeguard the interest of The Company including but without being limited to, the following where appropriate:
 - 13.1.1. he shall notify The Company immediately or within 3 hours of becoming aware of the occurrence and shall within twenty-four hours of the occurrence in question complete and furnish to The Company, The Company's standard claim form together with a copy of his drivers license;
 - 13.1.2. he shall obtain the name(s) and addresses of everyone involved and of possible witnesses;
 - 13.1.3. he shall not admit 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 nor accept any disclaimer or liability;
 - 13.1.4. he shall notify the police within six hours of the occurrence in question and furnish The Company with an accident case number;
 - 13.1.5. he shall make adequate provision for the safety and security of the vehicle and will not abandon the vehicle under any circumstances and will retain possession of the keys at all times;
 - 13.1.6. he shall co-operate with The Company and its insurer in the investigation, the making or instituting of any claim or action and the defense of any prosecution, claim or action relating to the incident (including the making of an affidavit if he is requested to do so).
- 13.2. If the renter is not the driver, then, without in any way derogating from the renter's obligations in terms of this clause 13 the renter shall procure that the driver complies with the provisions of 13.1 and the renter warrants that the driver shall do so.
- 13.3. The renter shall within 24 hours of receipt thereof furnish to The Company (and if the renter is not the driver, the renter shall also procure that the driver does) any notice of claim, demand, summons or the like which the renter or the driver may receive in connection with the vehicle.
- 13.4. The renter warrants that the information completed in The Company's claim form as referred to in 13.1.1 will be complete, true and correct in every respect.

14. INDEMNITY OF COMPANY BY RENTER

- 14.1. Neither the company nor any of its directors, officers, employees, servants or agents shall be liable for any loss or damage (including any loss or damage to property left or transported in the vehicle, any loss of life or any loss or damage arising from the installation or condition of a child seat or any other accessory in and/or on the vehicle), whether direct, indirect, consequential or otherwise arising from the rental by the renter of the vehicle, including, without limitation, any defect in and/or mechanical failure of the vehicle (howsoever arising and of whatever nature) or the failure of The Company to detect defects in or mechanical problems with the vehicle and whether such loss or damage results from breach of contract or delict, (including negligence or gross negligence) or otherwise which may be suffered by the renter and/or any third party and/or passenger.
- 14.2. The Company, its directors, officers, employees, servants or agents ("it") are accordingly indemnified by the renter or his estate against any claim of any nature whatsoever and howsoever arising from any damages or loss which might be instituted against it arising from or connected with or pursuant to the renting of the vehicle contemplated in these terms and conditions.

15. GENERAL

- 15.1. This document contains the entire agreement between the parties regarding the matters contained herein and neither party shall be bound by any undertakings, representations, warranties, promises or the like (other than The Company extending the agreed return date) not recorded by The Company.
- 15.2. If any provision of this Agreement is found by a court of law to be invalid or void such provision will be severed from the remaining provisions, without affecting the remainder of the provisions hereof.
- 15.3. No extension, latitude or other indulgence that may be given or are allowed by any Party in respect of performance of any obligation hereunder, and no delay or forbearance in the enforcement of any Party arising from this Agreement, and no single or partial exercise of any right of any Party under this Agreement will in any circumstances be construed as implied consent or election by such

- Party or operate as a waiver or a novation of or otherwise affect any Party's rights in terms of or arising from this Agreement or stop or preclude any such Party from enforcing at any time and without notice, strict and punctual compliance with each and every provision or term hereof.
- 15.4. The renter authorizes The Company to insert any particulars in the agreement which are not known or are unavailable at the time of signature in order to rectify any bona fide errors in any fact, figure or calculation.
 - 15.5. This agreement and all matters or disputes arising there from or incidental thereto shall be governed and construed in accordance with the laws of the Republic of South Africa.
 - 15.6. The renter further consents to the jurisdiction of the Magistrates Court, should The Company, at its election, bring legal proceedings in a Magistrates Court, notwithstanding the fact that the amount involved exceeds the jurisdiction of the Magistrates Court. The renter agrees, however, that The Company in its sole and absolute discretion may institute any such action or proceedings in any division of the High Court that may have jurisdiction.
 - 15.7. The renter shall not be entitled to cede any of his rights or obligations under this agreement or to rent or part with possession of the vehicle, its tools or equipment or any part of it.
 - 15.8. If The Company institutes any legal proceedings against the renter to enforce any of its rights under this agreement it shall be entitled to recover from the renter all the legal costs it incurs to its own attorneys in accordance with their then usual charges and assessed as between attorney and own client including but not limited to collection commission and tracing agent charges.
 - 15.9. If the renter enters into this agreement as an agent on behalf of any disclosed or undisclosed principal, he shall be jointly and severally liable as surety and co-principal debtor in solidum with his principal for the due fulfillment of all the obligations of his principal to The Company in terms of this agreement.
 - 15.10. The renter chooses the address specified on ORA as his domicilium citandi et executandi (i.e. address for service of all legal process).
 - 15.11. The Company shall be entitled to carry out a credit check on a renter with one or more credit agencies who may retain a record thereof and The Company shall be entitled to record any default by the renter with any credit agency. Such records may be made available by the credit agency to third parties, in which case The Company shall not be held liable/responsible for any repercussions such disclosure may have on the renter.
 - 15.12. The renter acknowledges that certain vehicles may be fitted with a vehicle management system, which is used to inter alia, record speed and other information relating the vehicle rented. The Company shall be entitled to use such information (including in court proceedings) as it deems fit.
 - 15.13. It is recorded that this agreement is exempt from the provisions of the Usuary Act and shall be limited to a maximum period of 90 days and is not subject to further renewal.
 - 15.14. If the driver or additional driver is not the same as the renter, then the driver by his signature on ORA binds himself/herself as surety and co-principal debtor in solidum with the renter in favour of The Company for the due fulfillment of all of the obligations of the renter to The Company in terms of this agreement.

