

T E R M S A N D C O N D I T I O N S

CAPE CAR HIRE, or its duly appointed licensee ("the Lessor") leases to the Lessee referred to ("the Lessee") the motor vehicle described overleaf ("the vehicle"), subject to the terms and conditions set out overleaf, the following terms and conditions set out on the tariff brochure (all of which terms and conditions are referred to as "this agreement").

01. Delivery And Return
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01 - DELIVERY AND RETURN

- a. The Lessee acknowledges that he vehicle is in good overall condition and undertakes that the vehicle will be returned together with all its accessories and parts in the same condition as when received, fair wear and tear excepted, at the place and on the date specified overleaf, or on earlier demand by the Lessor for any reason whatsoever.
- b. In the event of the Lessee wishing to extend the duration of use beyond the date specified overleaf, then the Lessee shall conclude a new Agreement of Hire prior to the expiration of this agreement.
- c. For the purposes of this agreement, duration means a 24 hour cycle commencing from the time the delivery of the vehicle is effected on the Lessee to when the vehicle is returned to the Lessor.
- d. For the purpose of this agreement the distance calculations shall include the distance travelled to affect delivery of the vehicle to the Lessee where the Lessee request that delivery of the vehicle is effected to him/her at a location other than the Lessor's place of business.

02 - CONDITIONS OF USE

The vehicle shall not be used or driven by the Lessor or any other person through or under the authority of the Lessee:

- a. For the conveyance of persons or property for reward;
- b. By any person while under the influence of alcohol or any drug;
- c. In any race, speed test or contest;
- d. To propel or tow any vehicle or trailer;
- e. In any area or on any road where, in the circumstances subsisting at the date of commencement of this agreement or at any time during the currency of this agreement, there is a risk that the vehicle may be damaged through civil disturbance, or any act of malicious damage by third parties, including any act or action of any person, military or police forces, or any other lawfully established authority made or taken for the purpose of controlling preventing, suppressing or in any other way dealing with the occurrences referred to above.
- f. On any road other than a tarmac surfaced road;
- g. By anyone under the age of 23 years or over the age of 70 years;
- h. By anyone other than a person in possession of a valid driver's licence, whose licence shall be produced to the Lessor on demand;
- i. Only the Lessee and additional driver(s) named overleaf shall drive the Vehicle, and the Vehicle shall at all times be kept under the Lessee's control;
- j. By anyone in possession of a driver's licence endorsed within the last two years;
- k. Further than a radius of 800 kms out of Cape Town unless the Lessor's prior written consent is obtained.

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03 - CHARGES

- a. The Lessee shall pay to the Lessor on demand all charges indicated overleaf. The signatory to his agreement, should he/she be a person other than the Lessee, binds himself jointly and severally in solidum as surety and co-principal debtor with the Lessee for all the Lessee's obligations under this agreement. Every reference herein to the Lessee shall be deemed to include a reference to the signatory to this agreement.
- b. The Lessee acknowledges that he shall, under the circumstances hereinafter set out further be liable for the following additional expenses:
 - i. In the event of the Lessee abandoning the vehicle, any charges incurred by the Lessor in recovering the vehicle, including and without prejudice to the generality of the foregoing, the cost of towing the vehicle to a place of repair.
 - ii. In the event of the vehicle being stolen during the period of hire, unless the Lessor should prove a greater distance, the tariff charges applicable and calculated on the agreed assumption that the Lessee had travelled a distance of 250 kilometres per day up to and including the day upon which the theft of the vehicle is reported to the Lessor.
 - iii. In the event of the Lessor, for whatever reason, being unable to determine or prove the distance travelled by the Lessee during the period of hire, the tariff charges applicable and calculated on the agreed assumption that the Lessee had travelled a distance of 500 kilometres per day up to and including the day upon which the theft of the vehicle is reported to the Lessor of the collision occurred or when the vehicle is returned to the Lessor.
 - iv. In the event of the Lessee breaching the terms of this agreement, any consequential damages which the Lessor may suffer, whether as a result of lost profit on downtime for repair or otherwise.
 - v. In the event of damage to the vehicle of whatsoever caused arising, the Lessee shall be liable for an administration fee of R250, 00 for the purpose of submitting a claim to the Lessor's insurers.
 - vi. The replacement cost of the vehicle's keys and the vehicle's locking system in circumstances when the Lessor or the driver set out overleaf have wilfully or negligently misplaced the vehicle's keys. The Lessee agrees that it shall be presumed that in the event the keys are misplaced and cannot be found that the Lessee has acted negligently.
 - vii. Insurance excess in circumstances as referred to in clause 6(d).

04 - RELATIONSHIP TO LESSOR

Under no circumstances shall either the Lessee or any driver be or be deemed to be agent, servant or employee of the Lessor.

05 - INDEMNITY

Save to the extent provided in paragraph 6, here under:

- a. The Lessor:
 - i. Shall not be liable for any loss of or damage to any property left or transported in or upon the vehicle;
 - ii. Does not accept responsibility for any delay or any damages (whether consequential or otherwise) arising from any defect, mechanical failure, breakdown or other circumstances relating to the vehicle;
 - iii. Shall not be liable for any loss or damages of whatsoever nature arising out of any injury which may be sustained by the driver of the vehicle, whatsoever such loss or damage may have been caused including and without prejudice to the generality of the foregoing, the negligence of the Lessor and/or its employees, or whether the vehicle or any part thereof is defective.
- b. The Lessee hereby indemnified and holds the Lessor harmless against any claim of whatsoever nature which may be brought by any passenger in the vehicle (whether or not such passenger is entitled to payment of his medical expenses and/or loss of earnings up to the amount specified in the M.V.A. Act) irrespective of how the cause of such claim arose and, without limiting the generality of the foregoing, irrespective of the negligence of the Lessor and or its employees, or whether the vehicle or any part thereof is defective.
- c. The Lessee, in the absence of having accepted the Collision Damage Waiver ("CDW") by marking the appropriate block, hereby indemnifies and holds the Lessor harmless against any loss or damage to property belonging to any third party irrespective of the cause of such loss or damage and without limiting the generality of the foregoing irrespective of the negligence of the Lessor and/or its employees, or whether the vehicle or any part thereof is defective.

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06 - INSURANCE

- a. The Lessor provides automatic cover in respect of damage to the vehicle, balance of third party, fire and theft in excess of the amounts stated in the Lessor's tariff brochure in force at the commencement of this agreement, the Lessee's liability being limited to such excess amounts if the full cover insurance option is not taken up by the Lessee.
- b. When the Lessee has accepted CDW by marking the appropriate block overleaf, the Lessor provides:
 - i. Balance of third party cover in accordance with the standard provisions of a basic motor policy;
 - ii. Cover for all collision damage to the vehicle in excess of the collision damage waiver amount as stated in the Lessor's tariff brochure in force at the commencement of this agreement ("CDW amount"), a copy of which the Lessee acknowledges having received and read.
- c. In respect of the insurance referred to in (b) and as a condition of this agreement the Lessee warrants that not company or underwriter in respect of any motor insurance has ever declined his application for, cancelled or refused to renew any policy or on the additional driver's in respect of any policy.
- d. When the Lessee has taken up the full insurance cover option but failed to comply with his obligations set out in clause 7(a) and (b), the Lessor shall be liable for the insurance excess amount stipulated on the tariff brochure.

07 - ADDITIONAL DUTIES AND OBLIGATION

It shall be the duty of the Lessee and/or the additional driver/s to:

- a. ensure that the vehicle is parked in well lighted and safe streets or in secure car parks and shall only leave the vehicle unattended after having ensured that the vehicle is properly locked. Where the vehicle is fitted with a gear-lock, the same is engaged, if fitted with an alarm or immobiliser the same are operative and armed and if fitted with a face detachable radio, that the face is detached and stored away from view.
- b. the vehicle's keys are on his/her person or under control whilst the vehicle is parked and unattended;
- c. immediately report to the Lessor any damage, accident, breakdown or theft involving the vehicle or its accessories and immediately complete the Lessor's Motor accident claim form" where the vehicle is involved in an accident. It is recorded that in the absence of the Lessee reporting the accident or breakdown within 24 (twenty-four) hours thereof, then the Lessee shall, unless the contrary is proved, be deemed to have committed a breach of the agreement;
- d. immediately report any accident or theft of the vehicle to the nearest police station;
- e. immediately deliver to the Lessor any demand, notification, summons or process received, relating to any claim, action or prosecution in connection with any collision or occurrence involving the vehicle.
- f. refrain from admitting liability for or assisting any claimant in regard to any claim, action or prosecution in connection with any collision or occurrence involving the vehicle;
- g. in the event of the vehicle breaking down or being involved in an accident, take all such steps as might reasonably be possible to prevent any theft of, pilfering or additional damage to the vehicle, including but without limiting the generality of the foregoing, shall not abandon the vehicle at the place of breakdown or accident, but shall ensure that the vehicle is towed or moved to a safe location;
- h. Co-operated with the Lessor and its insurer in the investigation and or the defence of any prosecution, claim or action related to the vehicle, failing which the Lessee shall be deemed to have committed a breach of this agreement.
- i. Make written statements for insurance claim purposes before a Commissioner of Oaths and/or the completion of insurance claim forms setting out the circumstances and facts of the collision, theft, or damage to the vehicle.

08 - BREACH

Without in any way derogating from the generality of any provision of this agreement, it is specifically recorded that, in the event of the Lessee, either:

- a. failing to return the vehicle on the date specified overleaf; or
- b. in any manner tampering with the odometer of the vehicle (a criminal offence); or
- c. exchanging any of the parts of the vehicle, whether electrical, mechanical or whatsoever in nature (a criminal offence) with the part of any other vehicle;
- d. committing any other breach of this agreement;

Then the Lessee shall automatically forfeit all benefits available under every form of insurance provided in terms of this agreement, and shall be liable for the full extent of any damage to the vehicle, as well as any damage to the person or property of any third party and shall be criminally charged and may be convicted of a criminal offence in respect of breach as set out in () and (c) above.

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09 - FINES AND PENALTIES

1. The Lessee shall be solely liable for all fines or penalties imposed for parking or traffic offences whilst the vehicle is under the hire in terms of his agreement which the Lessee undertakes to pay with 24 (twenty-four) hours of any fine or penalty being imposed.
2. The Lessee agrees to and irrevocably authorises the Lessor to charge and debit the Lessee's credit card number with the amount of the fine and/or penalty imposed for parking or traffic offences when notice of such fine or penalty is given to the Lessor after this contract has terminated.

10 - VARIATION OR WAIVER

No variation or waiver of any of the conditions of this agreement shall apply against the Lessor unless agreed to in writing by the Lessor.

11 - WARRANTIES AND UNDERTAKINGS

1. The Lessee warrants and undertakes that:
 - i. Should any repair or replacement or parts in excess of R50.00 be effected by or at the instance of the Lessee without the prior written consent of the Lessor, the cost of such repairs shall be borne by the Lessee.
 - ii. Should the Lessee fail to return the vehicle on demand by the Lessor (for any reason whatsoever) the Lessor shall be entitled to immediately terminate this agreement and to immediately repossess the vehicle without prejudice to any other rights of the Lessor. The Lessor shall not be liable for any damage (consequently or otherwise) arising from such repossession.
2. the signatory warrants that he is an adult person of full contractual capacity and is duly authorised by the Lessee to sign this agreement.

12 - LEGAL FEES AND COLLECTION CHARGES

The Lessee agrees to pay all reasonable legal fees and costs (including attorney and clients costs and collection commission) incurred by the Lessor in enforcing any of its rights under this agreement.

13 - JURISDICTION

The Lessee consents to the Lessor taking any legal proceedings for enforcing any of its rights or for the recovery of any amounts which may become due to the Lessor by the Lessee under this agreement, at the option of the Lessor, in the Magistrate's Court of any district having jurisdiction in respect of the Lessee.

14 - ADDITIONAL TERMS

The Lessee further agrees to abide by the additional terms and conditions (if any) stipulated in the Lessor's tariff brochure in force at the commencement of this agreement, a copy of which brochure The Lessee acknowledges having received and read.