

### 1. DEFINITIONS AND INTERPRETATIONS

#### 1.1. In this Rental Agreement unless the context indicates otherwise:

- 1.1.1. "Additional Driver" means any person who has signed the Rental Form as an Additional Driver;
  - 1.1.2. "Collision Damage Waiver" means that, provided the Waiver is purchased before commencement of the Rental, the Lessor will reduce the Liability of the Renter, to the liability amount reflected on the Rental Form, in respect of Damage to the Vehicle, save in respect of the circumstances set out in clause 14;
  - 1.1.3. "Contract Fee" means an administration fee for conclusion and safekeeping of the Rental Agreement in the amount stipulated on the Rental Form which is charged for each 30 days of rental or part thereof;
  - 1.1.4. "CPA" means the Consumer Protection Act 68 of 2008, including its regulations, as amended or replaced from time to time;
  - 1.1.5. "Damage(s)" means any and all damages, costs or expenses, suffered by the Lessor, of whatsoever nature in relation to the Vehicle whilst the Vehicle was in the possession or at the risk of the Renter, and includes a Total Loss where applicable. An invoice, job card, quotation or similar document produced by the Lessor shall be regarded as sufficient proof of any such damages, costs or expenditure;
  - 1.1.6. "Day" means a period of 24 hours (or any part thereof), calculated from the time the Vehicle is rented by the Renter;
  - 1.1.7. "Driver" means the person identified on the Rental Form as the Driver and who shall be at least 18 years old and shall hold and shall have a valid, unendorsed, and acceptable driver's license issued by a competent authority;
  - 1.1.8. "Drop Fee" means a fee that shall be charged when a vehicle is returned to any location that is not the Renting Location;
  - 1.1.9. "Equipment" means equipment such as, inter alia, a navigation device or infant, child or booster seat that may also be booked at the time of booking the Vehicle;
  - 1.1.10. "HERO Brochure" means the HERTZ Emergency Rescue Option (HERO) Terms and Conditions, made available to the Renter on request by the Lessor's representative, which brochure shall contain the essential terms and conditions of the personal accident insurance product, purchased by the Renter, where applicable;
  - 1.1.11. "Lessor" means Unitrans Rental Services (Pty) Ltd trading as Hertz Namibia which is a Hertz International Franchisee;
  - 1.1.12. "Liability" means the amount payable by the Renter in respect of Damages to the Vehicle which shall include Total Loss where applicable;
  - 1.1.13. "Loss/Damage Administration Fee" means an administration fee charged by the Lessor, per incident, for the processing of claims relating to Damage or loss incurred in respect of, or theft of, the Vehicle, as set out in the Rental Form;
  - 1.1.14. "Parties" means the parties to this Rental Agreement and "Party" means anyone of them as the context requires;
  - 1.1.15. "Processing Fee" means a fee which is charged, per incident, for the processing of parking, speeding or other notices of infringement as well as toll tariffs and e-toll fee per transaction, incurred in respect of the Vehicle whilst it is at the risk of the Renter;
  - 1.1.16. "Rates" means the rates payable by the Renter for the Rental of a Vehicle in terms of this Rental Agreement;
  - 1.1.17. "Rental" means the renting of a Vehicle by the Renter as contemplated in this Rental Agreement;
  - 1.1.18. "Rental Agreement" means the Rental Form read together with these Terms and Conditions of Rental, the HERO Brochure if applicable, warnings and instructions provided when the keys of the Vehicle are handed to the Renter and all notices sent or provided to the Renter;
  - 1.1.19. "Rental Form" means the printed form to which these Terms and Conditions of Rental are attached;
  - 1.1.20. "Rental Overdue Administration Fee" means the applicable amount charged to the Renter in the event that the Vehicle is not returned by the Renter to the Lessor at the expiry of the Rental Period;
  - 1.1.21. "Rental Period" means the period commencing on the date and at the time at which the Driver completes the Rental Form and terminating on the date and at the time at which the Driver is required to return the Vehicle to the Lessor, and includes an extended period as contemplated in clause 3 below;
  - 1.1.22. "Renter" means the person (including juristic persons) who entered into this Rental Agreement with the Lessor, and includes the Driver and, if applicable, the Additional Driver, jointly and severally;
  - 1.1.23. "Renting Location" means the Lessor's premises from which the Vehicle is rented by the Renter or alternatively any location agreed upon by the Lessor;
  - 1.1.24. "Super Waiver" means that, provided the Waiver is purchased before commencement of the Rental, the Lessor will further reduce the Liability of the Renter, to the liability amount reflected on the Rental Form, in respect of the Collision Damage Waiver or Theft Protection Waiver, save in respect of the circumstances set out in clause 14;
  - 1.1.25. "Theft Protection Waiver" means that, provided the Waiver is purchased before commencement of the Rental, the Lessor will reduce the Liability of the Renter, to the liability amount reflected on the Rental Form, in the event of the theft of the Vehicle, save in respect of the circumstances set out in clause 14;
  - 1.1.26. "Total Loss" means an amount equal to the retail value of the Vehicle as reflected in the Auto Dealer's guide, as published by TransUnion Auto Information Solutions or any replacement publication nominated by the Lessor, or if not reflected therein, the new list price of the Vehicle as supplied by the manufacturer, as at the date of loss, less any salvage, where Damage occurs to the Vehicle to such an extent that the estimated cost of repairs is such that the Vehicle is, in the reasonable assessment of the Lessor, uneconomical to repair in relation to the value of the Vehicle and the condition of the Vehicle, or the Vehicle is stolen;
  - 1.1.27. "Tourism Levy" means an amount charged to the Renter where the Renting Location is in South Africa and paid by the Lessor to the Tourism Business Council of South Africa;
  - 1.1.28. "Valet Fee" means an amount charged if a Vehicle requires valet cleaning;
  - 1.1.29. "Vehicle" means each motor vehicle described in a Rental Form as the motor vehicle which is the subject of a Rental, including without limitation all keys, tyres, tools, Equipment, accessories and documents in and on the Vehicle when the Renter takes delivery of the Vehicle and includes any replacement vehicle; and
  - 1.1.30. "Waiver" means any of the Super Waiver, Collision Damage Waiver, or Theft Protection Waiver, which Waiver shall be purchased before commencement of the Rental.
- 1.2. Words and phrases defined in the Rental Form shall have the same meaning assigned to them in these Terms and Conditions and the other way round.
  - 1.3. No provision herein shall be construed against or interpreted to the disadvantage of a party by reason of such party having or being deemed to have structured, drafted or introduced such provision.
  - 1.4. The words "include" and "including" mean "include without limitation" and "including without limitation". The use of the words "include" and "including" followed by a specific example or examples shall not be construed as limiting the meaning of the general wording preceding it.
  - 1.5. Reference to one gender includes all the genders; and the singular form of a word includes the plural and the plural form includes the singular.

### 2. RENTAL OF THE VEHICLE

The Lessor rents the Vehicle to the Renter, who hires the Vehicle for the duration of the Rental Period, subject to the terms and conditions contained in the Rental Agreement.

### 3. TERM OF THE RENTAL AGREEMENT

- 3.1. This Rental Agreement commences on the commencement date as indicated in the Rental Form and will continue until the return date, unless terminated earlier in accordance with the provisions of this Rental Agreement.
- 3.2. The Renter acknowledges and agrees that:
  - 3.2.1. the return date as set out in the Rental Form is the expiry date of this Rental Agreement; and
  - 3.2.2. this Rental Agreement will not automatically continue after the return date.
- 3.3. The Renter may request an extension of the Rental Period by giving the Lessor at least 24 hours written notice prior to the return date. The Rental Period shall only be extended on acceptance by the Lessor in writing of the proposed extended period by the Lessee, and will be subject to the terms and conditions of this Rental Agreement.
- 3.4. **The Renter may cancel this Rental Agreement before the return date by returning the Vehicle to the Lessor. The Renter will be liable to pay the Lessor:**
  - 3.4.1. all amounts which the Renter owes to the Lessor under this Rental Agreement at that time, which includes the usual Rates and charges applicable to the period for which the Vehicle was actually rented and/or kilometres actually travelled; and
  - 3.4.2. the rates and charges as if the full rental period occurred, at the sole but reasonable discretion of the Lessor.

### 4. INDEMNITY

- 4.1. **The Lessor will not be liable for any loss or damage which may be suffered by the Renter and/or any third party and/or passenger during the Rental of the Vehicle by the Renter, except to the extent that such loss or damage is occasioned by the following:**
  - 4.1.1. the Lessor acted with negligence or fraudulent intent;
  - 4.1.2. the Lessor acted in breach of its obligations in terms of this Rental Agreement; or
  - 4.1.3. the Lessor provided the Renter with an unsafe, hazardous or defective Vehicle, as contemplated in section 53 of the CPA, if applicable.
- 4.2. **The Lessor shall not be responsible for loss or damage which may be suffered by the Renter and/or any third party and/or passenger during the Rental Period of the Vehicle by the Renter as a result of any misuse of Equipment rented from the Lessor.**
- 4.3. **Except to the extent that the Lessor acted with gross negligence, fraudulent intent or in breach of its contractual obligations, the Lessor shall not be liable for any harm, loss or damage caused, whether directly or indirectly, as a result of the operation or use of any Equipment**
- 4.4. **The Renter is liable for damaged or missing Equipment and the Renter's liability will be the lesser of the repair value of the Equipment, if applicable or the current retail value of the Equipment at the time of damage or loss. The option to repair damaged Equipment shall be at the discretion of the Lessor.**
- 4.5. **The Lessor shall not be responsible for the installation of any Equipment**

### 5. DELIVERY OF THE VEHICLE

- 5.1. Delivery of the Vehicle to the Renter shall occur at the time and at the Renting Location at which the Renter takes possession of the keys and/or the Vehicle.
- 5.2. **The Renter, by taking possession of the Vehicle, hereby acknowledges that he has been given a reasonable opportunity to inspect the Vehicle before delivery. The Renter has inspected the Vehicle for damage to paintwork, upholstery and other visible parts of the Vehicle and confirms that:**
  - 5.2.1. save as recorded on the Vehicle inspection report provided to the Renter when the Renter takes delivery of the Vehicle as contemplated in clause 5.1 above, there are no defects or damage to the Vehicle and that on the date of collection the Vehicle was in good repair, running order and in roadworthy condition;
  - 5.2.2. the Vehicle is fit for the purpose for which it is being hired by the Renter;
  - 5.2.3. all wheel caps, the spare wheel, all tools and other accessories (the "accessories") were all present in or on the Vehicle on the date of collection, and in good working order.

### 6. USE OF VEHICLE

- 6.1. During the Rental Period, the Vehicle may only be driven by the Driver and/or the Additional Driver as recorded on the Rental Form.
- 6.2. During the Rental Period, the Vehicle may not be used:
  - 6.2.1. for the conveyance of passengers and/or goods for a reward;
  - 6.2.2. to propel or tow any other vehicle, (including any caravan or trailer) unless authorised by the Lessor in writing;
  - 6.2.3. recklessly or driven in a manner which is unsafe;
  - 6.2.4. for any purpose for which the Vehicle was not intended;
  - 6.2.5. for any illegal purpose of any nature whatsoever, to transport goods in violation of any customs laws or in any other illegal manner;
  - 6.2.6. in any motor sport or similar high risk activity;
  - 6.2.7. beyond the borders of Namibia unless authorised by the Lessor in writing; or
  - 6.2.8. in any area where there is or may be a risk of, or any activity associated with, incidents of civil unrest, political disturbance or riot.
- 6.3. If the Renter uses the Vehicle in breach of his obligations under clause 6, the Renter acknowledges that if it has purchased any of the Waivers in respect of such Vehicle, such Waivers may not apply in respect of any loss, theft of or Damage to the Vehicle.
- 6.4. The Renter shall, for the duration of the Rental Period:
  - 6.4.1. make adequate provision for the safety and security of the Vehicle including keeping the Vehicle properly locked, secured and immobilised when not in use; activating the burglar alarm and vehicle tracking or monitoring system (if any); and ensuring that any anti-theft device in the Vehicle is properly secured and in place; and
  - 6.4.2. take all reasonable steps to ensure that the Vehicle remains in good and safe working order, including regularly checking the oil, water and tyre pressure, immediately ceasing all use of the Vehicle (and contacting the Lessor) should the electronic diagnostics of the Vehicle indicate the presence of a fault or problem in relation to the Vehicle and undertaking reasonable inspections of the Vehicle before and after use.
- 6.5. The Renter will ensure that the keys of the Vehicle are under the Renter's control at all times.

### 7. RETURN OF THE VEHICLE

- 7.1. The Renter must return the Vehicle, at the Renter's expense to the Lessor at such date and time and at the Renting Location indicated in the Rental Form, or, upon demand by the Lessor if the Renter contravenes clause 6.2.3, or as otherwise agreed by the Lessor.
- 7.2. **The Renter acknowledges that failure to return the Vehicle in terms hereof:**
  - 7.2.1. shall constitute unlawful possession by him, and the Lessor may, without prejudice to any other rights which it may have in law, institute legal action to repossess the Vehicle at the cost of the Renter; and
  - 7.2.2. will result in a termination of any Waiver purchased by the Renter in terms of the Rental Form.
- 7.3. The Vehicle must be returned to the Lessor in the same condition as it was delivered to the Renter in terms of clause 5.2, fair wear and tear excepted. The Renter must ensure that the fuel tank of the vehicle is filled at the time of its return. If the fuel tank is not full, the Renter agrees to be liable to the Lessor for an amount equal to the retail fuel price then applicable for the fuel required to refill the fuel tank of the Vehicle, and for an administration charge raised by the Lessor for doing so.
- 7.4. When the Renter returns the Vehicle to the Renting Location, the Renter must:
  - 7.4.1. park the Vehicle in the Lessor's designated parking area;
  - 7.4.2. ensure that the Vehicle is properly locked and secure;
  - 7.4.3. complete and sign a vehicle inspection report together with a duly authorised representative of the Lessor. **If no such report is completed and signed by the Renter, the Renter shall be deemed to have accepted the contents of the vehicle inspection report completed by the Lessor; and**
  - 7.4.4. return the keys to the Lessor.
- 7.5. In the event that the Vehicle is not returned in accordance with clause 7.4 above, the risk of loss or damage to the Vehicle will remain vested in the Renter until such time as the Lessor has recorded the return of the Vehicle.

### 8. DECLARATIONS AND WARRANTIES BY THE RENTER.

- 8.1. **The Renter warrants and declares that:**
  - 8.1.1. the Renter has been given an adequate opportunity to read and understand the terms and conditions of this Rental Agreement and is aware of all the terms thereof, particularly those printed in bold. The Renter understands and accepts its risks and costs as well as its rights and obligations under this Rental Agreement;
  - 8.1.2. the Renter has full power and authorisation to effect and carry out the obligations in terms of this Rental Agreement and, if the Renter is a corporate entity, association, partnership or a trust, that all necessary corporate and/or other actions were taken to authorise the execution of this Rental Agreement;
  - 8.1.3. all the information the Renter provided to the Lessor in connection with the conclusion of this Rental Agreement is true, complete and accurate and the Renter is not aware of any material facts or circumstances not disclosed to the Lessor and which, if disclosed, may adversely affect the decision to enter into this Rental Agreement;
  - 8.1.4. the Renter has the necessary legal capacity to enter into this Rental Agreement and is not subject to an administration order, any sequestration, liquidation or judicial management order or any business rescue proceedings;
  - 8.1.5. the Lessor did not make an offer to the Renter which would automatically have resulted in a Rental Agreement if the Renter had not declined the offer;

- 8.1.6. the Lessor has not induced, harassed or forced the Renter to enter into this Rental Agreement;
- 8.1.7. this Rental Agreement was completed in full at the time of the Renter signing the Rental Agreement;
- 8.1.8. the Vehicle will not at any time during the Rental Period be driven by any person who is not authorised to drive the Vehicle in terms of the Rental Agreement;
- 8.1.9. the Driver and Additional Driver shall be at least 18 years old and will have a valid, unendorsed, licence to drive the Vehicle;
- 8.1.10. the Driver and Additional Driver will at all times comply with all applicable laws and with the provisions of this Rental Agreement;
- 8.1.11. the Renter will inform the Lessor of any physical impairment of a person who wishes to be authorised to drive the Vehicle.
- 8.2. If the Renter fails to notify the Lessor of such physical impairment as contemplated in 8.1.11, the Renter will bear the full liability and responsibility for Damages in the event of an accident involving the Vehicle.
- 8.3. If the Vehicle is driven by anyone other than the Renter, the Driver or the Additional Driver then, without derogating from any rights or remedies which the Lessor may have, the Renter shall remain liable for all his obligations in terms of this Rental Agreement and in particular, he shall be liable to the Lessor as if he had been driving the Vehicle.

## 9. RENTAL RATES AND CHARGES

- 9.1. The Renter, Driver or Additional Driver agrees to pay the Lessor the Rates plus all other charges and fees payable by the Renter as contemplated in the Rental Form or Rental Agreement or any official quote or brochure for the duration of the Rental Period, including but not limited to stamp duty, airport surcharges, Tourism Levy, Valet Fees, Drop Fees, Contract Fees and Loss/Damage Administration Fee.
- 9.2. The Renter, Driver or Additional Driver agrees to pay all fines, penalties, toll tariffs and like expenses as well as the Processing Fee arising out of or concerning the use of the Vehicle whilst the Vehicle is at the risk of the Renter.
- 9.3. Rates, charges and fees will be calculated for the whole of the period during which the Vehicle is at the risk of the Renter at the rates and on the basis set out in the Rental Form, including all taxes levied on any amount payable by the Renter.
- 9.4. In determining Rates applicable to the Rental, distance travelled by the Vehicle shall be determined from the Vehicle's odometer, or if this is not possible for any reason, by the Lessor in its reasonable discretion, and the Renter shall be obliged to furnish all such information and assistance as the Lessor may reasonably require for that purpose. If the odometer has been tampered with, then the Renter shall be deemed to have travelled at least 500 kilometres per Day, or such additional mileage as the Lessor may in its reasonable assessment determine.
- 9.5. In the event that the Renter returns the Vehicle to a Renting Location other than the Lessor's premises from which the Vehicle was rented the Renter shall be liable for an additional charge to be calculated having regard to the distance travelled and fuel consumed to return the Vehicle to the Renting Location.

## 10. PAYMENT

- 10.1. All amounts payable to the Lessor are due and payable on demand, but at latest on the expiry of the Rental Period (unless otherwise agreed in writing by the Lessor). All amounts payable by the Renter are to be paid in the currency of Namibia.
- 10.2. If the Lessor has agreed to accept payment from the Renter by the credit card or charge card specified in the Rental Form, the Renter's signature of this Rental Agreement will constitute irrevocable authority:
- 10.2.1. for the Lessor to obtain authorisation and/or payment; and
- 10.2.2. to debit the card with the total amount due to the Lessor including any damages and/or loss suffered by the Lessor for which the Renter is liable under this Rental Agreement.
- 10.3. The Lessor shall be entitled to levy interest on all overdue amounts (i.e. amounts not paid on the due date as contemplated in 10.1 above) at the maximum interest rate allowed by law. Interest shall be reckoned from the day upon which such amount becomes overdue on the amount concerned until the date of payment, both days inclusive and shall be payable on demand.

## 11. RENTER'S RISKS AND LIABILITIES

- 11.1. The Renter assumes the risk in and to the Vehicle (fair wear and tear excepted) from the time that the Vehicle is delivered to the Renter in terms of clause 5 until such time as the Vehicle is returned to the Lessor in terms of clause 7. Except to the extent that the Lessor acted with gross negligence, fraudulent intent or in breach of its contractual obligations, the Renter shall be liable for any Damage and/or Total Loss sustained to the Vehicle while it is at the risk of the Renter, and such Damage and/or Total Loss shall be payable by the Renter immediately on demand by the Lessor or its duly authorised representative.
- 11.2. The Renter agrees that the Lessor may determine the party who shall repair any damage to the Vehicle and/or provide any parts or service in connection with such repair/s or provide any replacements of any lost or damaged item and that the Lessor may enter into an agreement with such party or parties.

## 12. WAIVER

- 12.1. It is specifically recorded that:
- 12.1.1. the Lessor does not act as agent in procuring the Waiver;
- 12.1.2. the Lessor gives no advice and makes no recommendations regarding the appropriateness or otherwise of any Waiver;
- 12.1.3. the Waiver is not to be regarded as insurance for purposes of the Short Term Insurance Act 1998;
- 12.1.4. the Renter, Driver and Additional Driver must obtain their own professional advice regarding the Waivers.
- 12.2. In the event that the Renter has purchased a Waiver, the liability of the Renter in terms of this Rental Agreement shall be limited to the extent and manner provided in clauses 13 and 14 with regard to such Waiver.
- 12.3. If the Renter purchases a Waiver as indicated in the Rental Form, his acceptance shall constitute an acceptance by him of the benefit of such Waiver and other accompanying arrangements, if any, but subject to all the terms and conditions of that Waiver. The Renter acknowledges that the Lessor shall not under any circumstances have any liability to him under or for any of the benefits under that Waiver.

## 13. WAIVER (REDUCTION) OF LIABILITIES

- 13.1. If the Renter elects to purchase the Collision Damage Waiver, the Waiver will have the effect of reducing the Renter's liability in respect of any Damage which occurs to the Vehicle for the duration of the Rental Period to the extent of the Liability reflected in the Rental Form in force at the time of Rental.
- 13.2. If the Renter elects to purchase the Theft Protection Waiver, the Waiver will have the effect of reducing the Renter's liability in respect of any theft which occurs in respect of the Vehicle for the duration of the Rental Period to the extent of the Liability reflected in the Rental Form in force at the time of Rental.
- 13.3. If the Renter elects to purchase the Super Waiver, the Waiver will have the effect of further reducing the Renter's liability in respect of the Theft Protection Waiver or Collision Damage Waiver, relating to any theft or Damage which occurs in respect of the Vehicle for the duration of the Rental Period, to the extent of the Liability reflected in the Rental Form in force at the time of Rental.
- 13.4. If the Renter elects to purchase the Collision Damage Waiver or the Super Waiver, the Renter will have no liability in respect of third party claims for property damage, up to a sum of NAD1,000,000.00 (one million Namibian Dollar).
- 13.5. Notwithstanding any other provision of this Rental Agreement (including any Waiver), if the Vehicle is involved in any incident resulting in Damage, or if the Vehicle is stolen or lost, where the terms of the Rental Agreement have been breached by the Driver or the Additional Driver, the Renter will be liable for all damages, costs and expenses suffered or incurred by the Lessor.

## 14. LIMITATIONS IN RESPECT OF WAIVERS

- 14.1. The Super Waiver, Collision Damage Waiver and/or the Theft Protection Waiver does not cover:
- 14.1.1. any Damage to tyres, rims and glass;
- 14.1.2. any Damage caused by water;
- 14.1.3. assessing of damages, cost of towing, transporting or storing of the Vehicle;
- 14.1.4. Damage to the undercarriage of the Vehicle;
- 14.1.5. Damage and/or Total Loss suffered:
- 14.1.5.1. as a result of the negligence of the Renter;
- 14.1.5.2. whilst the Renter is in breach of any applicable traffic laws, regulations or ordinance;
- 14.1.5.3. where an incident is not reported to the police within 24 hours of the occurrence ;
- 14.1.5.4. where an 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 by the Renter from the Lessor;

- 14.1.5.5. if at any time the Vehicle is driven by an unauthorised driver;
- 14.1.5.6. when in the reasonable opinion of the Lessor the Vehicle has been driven or used in a manner which prejudices the Lessor's interest or rights;
- 14.1.5.7. where the Driver or Additional Driver was not holding a valid unendorsed drivers licence or was not at least 18 years old at the time the Damage and/or Total Loss was sustained;
- 14.1.5.8. where an extension of the Rental Agreement was not authorised by the Lessor and where the Rental Period has expired;
- 14.1.5.9. as a result of the Vehicle being driven on a road, be it tarred or not tarred, which in the reasonable opinion of the Lessor was not suitable for the Vehicle; and
- 14.1.5.10. where no other vehicle, animal, object or person (in or on the road surface) was involved (i.e. no physical contact was made with any of the aforementioned).
- 14.1.6. If the Lessor accepts a claim for Damage or Total Loss suffered in circumstances contemplated in 14.1.5.9 and 14.1.5.10, the Renter acknowledges and agrees that the Renter may be held liable by the Lessor for four times the Liability which is payable in terms of the relevant Waiver.

## 15. CONSEQUENTIAL DAMAGES

The Renter acknowledges and agrees that (save to the extent that the Lessor acted with gross negligence, fraudulent intent or in breach of its obligations under this Rental Agreement), if the Renter does not purchase any of the Waivers, then the Renter may be held liable by the Lessor for any loss suffered by the Lessor as a consequence of the Lessor being unable to rent the Vehicle due to Damages caused by the Renter or due to the Renter being in breach of the Rental Agreement. The loss for which the Renter may be liable shall be calculated on the basis of the rates indicated on the Rental Form plus 100 kilometres per day that the Vehicle was unavailable for hire subject to a maximum of 30 days.

## 16. BREACH

- 16.1. In the event of any party ("defaulting party") committing a material breach of any of the terms of this Rental Agreement and failing to remedy such breach within a reasonable period of time (having regard to the term of this Rental Agreement as contemplated in clause 3 above and/or the nature of the breach), after receipt of a written notice from the other party ("aggrieved party") calling upon the defaulting party so to remedy, then the aggrieved party shall be entitled, without prejudice to any of its other rights in law, either to claim specific performance of the terms of this Rental Agreement or to cancel this Rental Agreement forthwith, in either case with or without claiming and recovering damages from the defaulting party.
- 16.2. The Renter will be liable to the Lessor for all legal costs incurred by the Lessor, as may be permissible in law, in recovering any amount that the Renter owes to the Lessor.
- 16.3. A certificate signed by a manager of the Lessor specifying the amount owing by the Renter and further stating that such amount is due, owing and payable by the Renter, shall be sufficient (prima facie) proof of the amount thereof and of the fact that such amount is so due, owing and payable for the purpose of obtaining provisional sentence or other judgment against the Renter in any competent court. It shall not be necessary to prove the appointment of the person signing any such certificate.

## 17. ADDRESSES FOR NOTICES

- 17.1. The Renter hereby chooses as the Renter's domicilium citandi et executandi ("domicile address") for all purposes the physical address as set out in the Rental Form. The Renter authorises the Lessor to deliver notices, statements or invoices by hand, e-mail, facsimile or post to the addresses provided in the Rental Form.
- 17.2. For purposes of this Rental Agreement all notices shall be in writing. Any notice given by either party to the other (the addressee):
- 17.2.1. which is delivered by hand shall be presumed to have been received at the time of delivery;
- 17.2.2. if transmitted by telefax, one hour after the time of transmission;
- 17.2.3. if sent by e-mail, on the date received by the addressee's server;
- 17.2.4. if sent by ordinary or pre-paid registered post, 7 days after the date of posting.
- 17.3. A notice actually received by a party shall be an adequate notice to it notwithstanding that it was not delivered to its domicile address.
- 17.4. The Parties may at any time by written notice vary their respective domicile addresses to any address within Namibia.

## 18. RIGHTS TO RETURN

- 18.1. If the Renter returns the Vehicle for a lawful reason other than a product failure or defect, the Renter must do so as soon as reasonably possible after he became aware of such reason. Subject to applicable law, the Lessor retains the right to charge the Renter the Rates as set out in the Rental Form for use of the Vehicle during the time it was in the Renter's possession, and for necessary restoration costs to render the Vehicle fit for re-stocking.
- 18.2. If the Renter wishes to return the Vehicle due to a product failure or defect, the Renter may do so immediately, and the Lessor will replace the Vehicle for the remaining term of the Rental.

## 19. GOVERNING LAW AND JURISDICTION

- 19.1. This Rental Agreement and all matters or disputes arising therefrom or incidental thereto are in all respects governed by the laws of Namibia (inclusive of any dispute arising from the conclusion and/or the implementation and/or the cancellation thereof).
- 19.2. The Renter consents to the jurisdiction of the Magistrates' Courts in Namibia, notwithstanding the amount involved. This does not prevent the Lessor from instituting legal proceedings in a High Court in Namibia that has jurisdiction in such instance.

## 20. CONSENT REGARDING THE PROCESSING OF PERSONAL INFORMATION

- 20.1. By signing this Rental Agreement, the Renter consents to –
- 20.1.1. the processing and further processing of his personal information by the Lessor or any of its operators or agents (who may be situated outside Namibia) on the condition that they will secure the integrity and confidentiality of the renter's personal information;
- 20.1.2. the collection of information by the Lessor from any other source to supplement the personal information which the Lessor has about the Renter;
- 20.1.3. the retention by the Lessor of records of the Renter's personal information (even after the Renter is no longer the Lessor's Renter) for as long as permitted for legal, regulatory, fraud prevention, financial crime and marketing purposes;
- 20.1.4. the Lessor conducting credit enquiries about the Renter with any credit bureau or credit provider from time to time and providing the Renter's personal information, including details of any non-compliance and the manner in which it conducts its account, to credit risk management services (including credit bureaux) and/or crime prevention agencies;
- 20.1.5. and authorises the Lessor to make use of the Renter's personal information provided to the Lessor for purposes of tracking and recovering (which includes triangulation of cellular phones in accordance to the Regulation of Interception of Communications and Provision of Communication-related Information Act 70 of 2002, if applicable) the Vehicle if it is not returned to the Lessor at the agreed time and date reflecting on the Rental Agreement;
- 20.1.6. the Lessor tracking the Vehicle for purposes of monitoring the Renter's use of the Vehicle and recovering the Vehicle and the Lessor disclosing the tracking report to its insurance company, the Renter's employer (if the employer is responsible for payment) and any other third party having a legitimate interest);
- 20.1.7. and authorises the Lessor to disclose the Renter's personal information to the Lessor's agents, the relevant traffic department or government institution for purposes of the redirection, collection or administration of any traffic fines or infringements concerning the use of the Vehicle whilst the Vehicle was at the risk of the Renter;
- 20.1.8. and authorises the Lessor to disclose all necessary and relevant information in respect of the Renter to the relevant road agency or regulator or their agents for the recovery by them of any toll transactions in respect of the use of the Vehicle, if required and if applicable.

## 21. GENERAL

- 21.1. No indulgence, latitude or extension of time which the Lessor may allow the Renter, shall be regarded to be a waiver of rights by the Lessor or a novation of the Renter's liabilities under this Rental Agreement.
- 21.2. If any term or condition of this Rental Agreement becomes unenforceable for any reason whatsoever, that term or condition is severable from and shall not affect the validity of any other term or condition in this Rental Agreement.
- 21.3. The terms and conditions of this Rental Agreement may not be amended, changed or cancelled unless it is reduced to writing and signed by both Parties.