

TERMS AND CONDITIONS

1. INTRODUCTION

- 1.1 These are the terms and conditions of the rental agreement being part and parcel of the Rental Agreement (hereinafter referred to as "The Agreement") between the renter who signs the rental agreement (HEREINAFTER REFERRED TO AS "THE RENTER") and ASCO CAR HIRE CC, trading as ASCO CAR HIRE (HEREINAFTER REFERRED TO AS "ACH"). 'The Renter' includes, jointly and severally, any person or juristic person on whose behalf the agreement is signed. The Renter warrants that all the details provided on the rental agreement are true and correct.
- 1.2 This agreement contains all of the express provisions agreed upon. Any variation/s including any extensions to the rental period must be reduced to writing and signed by both The Renter and ACH before becoming effective and binding. (If this agreement is not validly extended, the waivers in terms of clause 9 will immediately lapse upon expiry of this agreement).
- 1.3 The Renter chooses the physical address furnished on the rental agreement as the *domicilium citandi et executandi* for the service of all notices and/or legal processes. The Renter consents to the jurisdiction of the Magistrate's Court, Windhoek notwithstanding the fact that ACH is entitled to institute action in any other competent court that has jurisdiction.

2. THE MOTOR VEHICLE

- 2.1 The motor vehicle(s) hired by The Renter (hereinafter referred to as "the vehicle") is described in The Agreement (which description includes any substitute vehicle/s which may replace the original vehicle) and includes all tools, spares, accessories and equipment in and on the vehicle.
- 2.2 Any costs incurred due to but not restricted to towing, transport and storing the vehicle, repairing of damage, replacement of parts or accessories (without allowing for depreciation), replacing the vehicle, remunerating an assessor to inspect and report on collision damage, as well as any legal costs incurred shall hereinafter be referred to as "damage/s".
- 2.3 The Renter warrants that the driver/s specified in the rental agreement (hereinafter referred to as "the driver/s"):-
- 2.3.1 Shall inspect the vehicle and shall satisfy him/herself that it is in a good working condition before accepting the vehicle;**
- 2.3.2 After receipt of the vehicle shall, at the expense of him/herself, properly provide all necessary water, oil and petrol for the running of the vehicle, failing which The Renter shall be liable for any loss or damage as a result;
- 2.3.3 Shall inspect the fitting of the baby seat and satisfy him/herself that it has been properly fitted, if ACH has been requested to provide a baby seat with the vehicle;
- 2.3.4 Shall not lease, lend or otherwise dispose of the vehicle;
- 2.3.5 Shall not transport or load any articles/items which may cause damage to the vehicle or its upholstery;
- 2.3.6 Shall park the vehicle safely and securely or in a secure parking garage when it is not being driven.

3. THE DRIVER

- 3.1 The Renter warrants that the driver/s (including additional driver/s) specified in the rental agreement:
- 3.1.1 Shall be the only person who drives the vehicle and that (s)he shall keep the vehicle keys in a safe place at all time.
- 3.1.2 Is over the age of 24 years, in possession of an unendorsed valid driving license (which (s)he can produce if ACH requires to see it) and has never been denied car hire facilities or refused motor insurance.
- 3.1.3 Does not suffer from any physical infirmity, defective vision or hearing and is neither addicted to nor under the influence of alcohol or any habit-forming or illegal drug.
- 3.1.4 Shall not use the vehicle for racing, towing or a competition of any kind.
- 3.1.5 Shall not use the vehicle for conveyance of passengers for reward.

4. USE AND RETURN OF THE VEHICLE

- 4.1 The vehicle must be used and maintained in a proper and reasonable manner and shall be used on suitable roads and may only be used for the purpose for which it is intended, and must be returned in the same condition that it was received in, fair wear and tear excepted. ACH will deliver the vehicle with a full tank of fuel and on return of the vehicle it shall be refilled at the expense of The Renter.
- 4.2 The vehicle shall not be taken outside of the Republic of Namibia without the prior written consent of ACH which is subject to the terms and conditions of the Letter of Authority for Crossing the Namibia border, as issued by ACH. The Renter must acquaint him/herself with the additional CDW, TLW, excesses and extra border crossing charges.
- 4.3 Unless agreed in writing, if the vehicle is not returned to any ACH depot by the agreed time and date, The Renter shall be liable to pay the applicable daily rate as specified in The Agreement plus a 20% late return surcharge thereon for every late day. Furthermore, if the vehicle is not returned timeously, ACH may demand the immediate return of the vehicle and claim any damages that it may suffer as a result of the late return.
- 4.4 ACH reserves the right on return of the vehicle to decide in its sole discretion whether it is necessary to carry out any repairs or replacements to the vehicle, including valet cleaning, and may carry out such repairs and hold The Renter liable for such costs, which must be paid on demand.**
- 4.5 The Renter shall be liable for all fines, penalties and offences in terms of the Road Traffic and Transport Act 22 of 1999 and Regulations, as amended from time to time, and any other relevant Ordinances or Acts. This includes but is not limited to parking fines, traffic violations and other offences arising out of or concerning the use of the vehicle during the rental period and The Renter indemnifies ACH against all such liability.
- 4.5.1 The Renter hereby authorises ACH to disclose to any relevant authority any information in terms of 4.5, which may be required by such authority.
- 4.6 A day is a period of 24 hours or part thereof, calculated from the time recorded under "time out" in The Agreement. The minimum rental period is six (6) days and any extensions to the rental period must be in days.
- 4.7 The vehicle monitoring system shall not be tampered with and if tampered with, The Renter shall be liable for all direct, indirect and consequential damages and The Renter shall forfeit all rights to insurances or waivers.
- 4.8 The Renter is under no circumstances allowed to convey hitchhikers and/or any persons unknown to The Renter, in the vehicle.
- 4.9 The Renter is not allowed to drive the vehicle below high-tide watermark at all, or through any wet salt pans, water pools or rivers.

5. RATES AND CHARGES

- 5.1 It is The Renter's duty to acquaint him/herself with and pay on demand the rental rates as agreed, as well as any applicable additional charges including, *inter alia*, delivery, collection, one-way drop-off, baby seat/s, fuel, valet cleaning, repairs, replacements, airport surcharges, contract fee, additional driver charge, incident claim handling fee, traffic fine handling fee, collision damage waiver and/or theft loss waiver and/or personal accident insurance.
- 5.2 Unless The Renter or his/her authorised travel agent has an approved account with ACH, payment must be made by one of the following credit cards: Visa, Master Card or Diners Club.
- 5.3 Despite the method of payment chosen, The Renter consents to ACH making any enquiries it deems necessary with any credit bureau/x and obtaining from and disclosing to any credit bureau/x, or any other person with whom The Renter has had financial dealings, any information concerning The Renter's credit profile and payment history.
- 5.4 ACH may charge interest on overdue amounts at a rate equivalent to the prime overdraft rate applicable at the time.
- 5.5 The Renter shall be personally liable for any rental in the event the tour operator or agent fails to pay any payment in terms of this rental agreement within 60 days.
- 5.6 It is agreed that the rental period shall not be interrupted should the rented vehicle become unusable as a result of an accident, damage/s, or a case of theft during the rental period. Under the aforesaid circumstances, ACH is also under no obligation to replace the unusable vehicle with another and/or to return The Renter to the renting location. Recovery costs of a vehicle shall also be for the account of The Renter.

6. CANCELLATION AND REPOSSESSION OF THE VEHICLE

- 6.1 If The Renter has furnished any incorrect information in this agreement and/or commits a breach of any of these terms or conditions and/or permits any person to drive the vehicle who in ACH's opinion is an incompetent driver, and/or commits an act of insolvency and/or fails to satisfy any judgement within 7 days of being granted, then ACH may forthwith cancel this agreement and immediately retake possession of the vehicle without prejudice to its rights to claim the full rental charges and/or damages for breach of contract.
- 6.2 **ACH may claim from The Renter all costs and expenses arising from any breach** by The Renter of this agreement, including costs on an attorney and own client scale.
- 6.3 **ACH reserves the right to take possession of the vehicle at any time for any reason, whatsoever. If this occurs, The Renter shall only be liable for rental charges up to the time ACH regaining possession of the vehicle.**
7. **ACCIDENTS AND REPAIRS**
- 7.1 The Renter must immediately notify ACH of any accident or break down and advise if it is necessary to effect any repairs to the vehicle. ACH will attend to the towing and repair of the vehicle and The Renter **shall not effect any repairs or allow any repairs to be effected to the vehicle without the prior written consent of ACH, failing which The Renter shall be liable for the cost of such repairs and any damages incurred or arising as a result thereof.**
- 7.2 In the event of a collision or accident, The Renter shall be responsible for the driver obtaining details of the parties involved and any witnesses, and warrants that the driver shall not admit liability or guilt; shall not abandon the vehicle without making sure that it is adequately safeguarded and secured; shall immediately notify ACH and the police and shall obtain a case reference number from the police and provide this to ACH within 24 hours of the accident (please see clause 9.5) regardless of any waiver taken out.
8. **THEFT OF THE VEHICLE**
Despite clause 9, The Renter must ensure that the driver hands the original keys to the vehicle to ACH within 24 hours of the vehicle being stolen and produce a police report and in the event of a hijacking, a police report and/or medical proof of a hijacking trauma must be produced, failing which The Renter shall be liable for all related charges as determined by ACH's Claims Department and the Company Directors in their sole discretion.
9. **COLLISION DAMAGE WAIVER (CDW) AND/OR THEFT LOSS WAIVER (TLW)**
- 9.1 ACH retains ownership of the vehicle at all times, but all risks in the vehicle transfers to The Renter from the time the driver receives the keys until the time the vehicle and the keys are returned to ACH.
- 9.2 The Renter may elect to take out a **Collision Damage Waiver** and/or **Theft Loss Waiver** ('CDW and TLW') against any damage to or loss of the vehicle and/or theft of the vehicle (excluding personal property in or on the vehicle).
- 9.3 **CDW shall cover any damage or loss to the vehicle (but not any other vehicle), incurred in a collision with another vehicle on a National or Municipal road while the vehicle is under the driver's control, less any excess payable if applicable. TLW shall cover any loss of the vehicle through the theft of the vehicle, less any excess payable if applicable.** TLW shall not cover any personal property, which may have been in or on the vehicle.
- 9.4 The Renter acknowledges liability for an additional charge for CDW and/or TLW as reflected in the rental agreement. *Unless Executive CDW and Executive TLW*, cover is taken, The Renter shall be liable for the excesses as specified in the rental agreement and the rates schedule and which are subject to clause 9.5.
- 9.5 Regardless of whether any form of CDW or TLW has been taken, The Renter shall regardless of fault, be liable for any damage/s to or loss of the vehicle in the following circumstances:
- 9.5.1 **If there has been any breach of the terms and conditions of this agreement all of which are material;**
- 9.5.2 **If such damage/s or loss is as a result of negligence in complying with any road traffic regulations or road traffic warnings;**
- 9.5.3 **If the vehicle was driven on unsuitable roads, or if such damage/s or loss occurred while there was no other car, or animal, involved;**
- 9.5.4 **If the vehicle was NOT driven by The Renter or another authorized driver nominated on the rental agreement;**
- 9.5.5 **If any damage/s or loss is as a result of any other form of negligence as determined by ACH's Claims Department and Company Directors in their sole discretion.**
- 9.5.6 The chosen excess amount/s, do/es not cover for any cost stated/indicated in clause 2.2 of the rental agreement.
- 9.6 **The Renter indemnifies ACH against any claims for loss, damages (direct or consequential) and costs (including attorney and own client costs) that may be incurred as a result of or arising out of a breach of The Agreement and/or an act or omission by The Renter or any person that The Renter allows to access the vehicle.**
- 9.7 ACH shall not be liable for: any damage arising out of any defect in or mechanical failure of the vehicle, including but not limited to any loss or damage to any property transported or left in the vehicle; for any damages, consequential loss, loss of profits or special damages of any kind of any breach of this agreement, or arising out of any cause whatsoever, including but not limited to loss resulting from the negligence of ACH, its agents or employees. ACH accepts no liability for delays in consequence of break down or any other circumstances.
- 9.8 The vehicle is insured in terms of the provisions of the Motor Vehicle Accident's Fund, Act No. 4 of 2001 (08/10/2001) as amended, for any loss or damage that a person suffered as a result of any bodily injury and/or death and subject to compliance with the provisions of the Act.
- 9.9 **The waivers mentioned in 9. do not cover or apply to: claims arising from injuries received by passengers of the vehicle; damage or destruction of property owned by, rented to or goods The Renter or driver is in charge of or transported by The Renter or driver; damages to the vehicle's undercarriage; damages resulting from sandblast; damages to tyres, any damages resulting from the wrong use of the 4x4 device and/or damages resulting from abuse or wrong usage of the clutch. No repaired tyres are accepted.**
- 9.10 **The damages stated in clause 9.9 will be charged to The Renter's credit card. If The Renter or driver has been negligent, The Renter shall pay the real value of the vehicle. In the case of theft or an accident where only the vehicle stated in this contract is involved, The Renter shall be liable for recovery costs of the vehicle and also be liable for the full payment of the rental period as initially agreed on in this contract.**
- 9.11 **The Renter agrees to sign the "Damage Report In" when returning the vehicle or, in case the vehicle is replaced by another vehicle, agrees to sign the "Damage Report In" of the vehicle to be replaced, before receiving another rental vehicle.**
- 9.12 **In case of damages to the vehicle The Renter accepts the assessment of any Official Dealer of that make of rental vehicle and/or the assessment of any Independent Assessing Services/Loss Adjuster, even when the "Damage Report In" has not been signed by The Renter for whatsoever possible reason (dispute, unattended vehicle return...)**
10. **CONDITIONS OF HIRE**
- 10.1 All rates do not include fuel, tyres and windscreens and headlamps.
- 10.2 ACH reserves the right to replace the vehicle/s with a similar vehicle in the event the original vehicle become immobilised.
- 10.3 The Renter shall be liable for fuel usage and stamp duty and for all extras requested by international or local authorities.

Date: _____ Signature: _____ Name in PRINT: _____