

1. DEFINED TERMS

1.1 In these Terms and Conditions:

“**Administration Fee**” means the fee detailed on the Cover Page to cover the Company’s administration and processing costs.

“**Agreement**” means this Agreement between You and the Company and includes the Cover Page, these Terms and Conditions, the Vehicle Report and any annexure that is attached.

“**Corporate Account**” means a company, association or group who has a credit facility or payment account or any other arrangement with the Company.

“**Company**” means the company hiring the Vehicle to You as identified on the Cover Page.

“**Cover Page**” means the first page of this Agreement.

“**Credit Card Fee**” means the additional payment required where payment of any Charge is made by credit card as indicated on the Cover Page.

“**Deposit**” means the amount indicated on the Cover Page.

“**Driver’s Licence**” means an unexpired driver’s licence for the particular class of the Vehicle, issued in Australia.

“**Fuel Level**” is the amount of fuel contained in the Vehicle.

“**Fuel Prepayment**” means the amount indicated on the Cover Page for the right to hire the Vehicle with a full tank of fuel and to return it with less than a full tank of fuel but not have to pay the Fuel Service Fee.

“**Fuel Service Fee**” means the fee per litre charged when You return the Vehicle with less fuel than when You hired it as indicated on the Cover Page.

“**International Driver’s Licence**” means an unexpired, unrestricted driver’s licence issued by a government authority of any country allowing the holder to drive in Australia, provided the authority to drive in Australia is written in English.

“**Off-Road**” means an unsealed road and includes beaches, 4WD tracks, dirt tracks, grass plains and sand tracks but does not include unsealed roads that are in a caravan park, bed and breakfast establishment or any other property which has the primary use of paid accommodation.

“**Rental Period**” means the period commencing at the date and time shown on the Cover Page and ending at the time and on the date that You return the Vehicle to the Company.

“**Repairs**” means any mechanical or panel beating repairs and includes any towing, recovering and storing of the Vehicle.

“**Sealed Road**” means a road sealed with a hard material such as tar, bitumen or concrete.

“**Terrorist Act**” has the meaning in section 100.1 of the Criminal Code Act 1995 (Cth) as at 1 March 2018;

“**4WD**” (four wheel drive) means any vehicle whose class is indicated as 4WD on the Cover Page.

“**Vehicle**” means the Vehicle described on the Cover Page (or any substitute Vehicle).

“**Vehicle Report**” means the Report accepted by You at the commencement of this Agreement detailing the condition of the Vehicle and is attached to and forms part of this Agreement.

“**Vehicle Transport Fee**” means the amount shown on the Cover Page being a reasonable fee charged by the Company in consideration of its:

- (a) costs to relocate the Vehicle to the place of hire; and
- (b) loss of use, in the event that an arrangement for an alternate drop-off point has not been previously arranged with the Company in writing.

“**You**” or “**Your**” refers to the person(s) identified as “the Hirer” and any Authorised Driver identified on the Cover Page.

2. CONDITION OF THE VEHICLE

2.1 You acknowledge receiving the Vehicle from the Company:

- (a) in a good and clean condition except as otherwise specified in the Vehicle Report; and
- (b) with all items specified in the Vehicle Report or in this Agreement.

3. DRIVERS

3.1 The following persons must not drive the Vehicle (without the prior written consent of the Company):

- (a) a person who is not:
 - (i) listed on the Cover Page; or
 - (ii) Your employee or employer if the use of the Vehicle relates to Your business activities and the Vehicle has been hired under a Corporate Account;

- (b) a person who does not hold a current Driver’s Licence or International Driver’s Licence;
- (c) a person who holds a learner’s permit;
- (d) a person whose blood alcohol or drug concentration exceeds the legal limit in the State or Territory in which the Vehicle is driven; or
- (e) a person who has given the Company false details of any kind.

3.2 The Company reserves the right to refuse the hire of the Vehicle where the age of the driver is outside the scope of the Company’s insurance policy.

4. USE OF VEHICLE

4.1 Your use of the Vehicle is restricted by the limitations on the Cover Page including the Authorised Area of Use.

4.2 You must not use the Vehicle on Off-Roads.

4.3 You must not use or permit the Vehicle to be used for any of the following:

- (a) any illegal purpose;
- (b) racing or performance testing of any kind;
- (c) to tow, push, or propel anything;
- (d) driving without tolls, permits and other licenses required for driving in any areas;
- (e) to consume food or liquid in the Vehicle at any time or carried in the Vehicle when not in a properly sealed container;
- (f) sublet or let the Vehicle on hire to any other person;
- (g) to carry more passengers than may be properly accommodated by the seat belt restraints provided in the Vehicle;
- (h) to carry a greater load than that for which it was built;
- (i) to carry passengers for payment or reward;
- (j) use the Vehicle when it is damaged or unsafe;
- (k) drive the Vehicle after an accident or hitting an object (including an animal) until You have obtained the Company’s prior written consent to do so or unless it is reasonable and necessary in the circumstances;
- (l) smoke (including e-cigarettes) within the Vehicle or allow any other person to smoke within the Vehicle at any time;
- (m) use the Vehicle to transport goods without all necessary approvals, permits, licences and government requirements (to be obtained at Your cost) and in accordance with the Vehicle manufacturer’s recommendations;
- (n) carry any flammable, explosive, or corrosive substances;
- (o) operate or permit the Vehicle to be operated in breach of any legislation, regulations, rules or by-laws relating to road traffic and use;
- (p) to be jumpstarted or to jumpstart another vehicle;
- (q) without the Company’s prior written consent, attach any wedding ribbon or similar embellishment; or
without the Company’s prior written consent, transport any animal inside the Vehicle.

4.4 You will be responsible for any damage whatsoever caused to the Vehicle which arises from use of the Vehicle is restricted or prohibited by this clause 4.

5. WHERE YOU CAN AND CANNOT DRIVE THE VEHICLE

5.1 You must only use the Vehicle on a road which is properly formed and constructed as a sealed or metalled road.

5.2 You must not, unless authorised in writing by the Company, drive or take the Vehicle:

- (a) outside the State of New South Wales;
- (b) above the snow line in:
 - 1. New South Wales (being Jindabyne); and/or
- (c) on beaches or through streams, dams, rivers or flood waters.

6. SECURITY, SAFETY AND CARE OF THE VEHICLE

6.1 You must:

- (a) maintain all of the Vehicle’s engine and brake oils and engine coolant levels to the manufacturer’s specifications and ensure that the tyres are maintained at the manufacturer’s recommended pressure as provided in the Vehicle manual;
- (b) keep the Vehicle locked and the keys under Your personal control;
- (c) be able to produce the keys if the Vehicle has been stolen;
- (d) comply with any applicable seat belt and child restraint laws; and
- (e) generally do all things necessary to keep and maintain the Vehicle in its current state and condition.

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7. PAYMENT OF TOLLS, FINES AND OTHER DRIVING FEES

7.1 You must:

- (a) pay all tolls, fines, entrance fees, parking and any other fees associated with using the Vehicle; including entering any area that incurs a fee; and
- (b) settle all road tolls prior to returning the vehicle, any toll fees, late payment and associated administration fees will be charged to You upon receipt of the notice by us from the relevant authority.

7.2 All speeding fines, red light and other traffic infringements shall remain Your responsibility. Upon receipt of any infringement notice or fine by the Company, the Company will advise the relevant authority of the Your details. Any query regarding a notice received by You should be directed to the relevant authority.

7.3 Parking and entrance fees to parks, etc. will remain Your responsibility and You will ensure that permits, entrance tickets parking tickets etc. are displayed in accordance with the instructions regulations or rules of the area where the Vehicle is located. Any fines associated with a breach of this clause will be charged to You.

7.4 By signing this Agreement you irrevocably authorise us to charge your credit card, charge account or deduct from your Deposit any charges, fines, penalties etc. incurred during the Rental Period as set out in clauses 7.1 and 7.2. Should You wish to confirm or verify any charges made to your credit card charge account or deducted from Deposit please contact the Company.

8. RETURN OF VEHICLE

8.1 You must return the Vehicle to the Company:

- (a) to the place, on the Return Date and by the Return Time shown on the Cover Page unless extended by agreement;
- (b) in the same condition as detailed in the Vehicle Report.

8.2 If You return the Vehicle before the Return Date, You may be entitled to some rebate of fees and charges.

8.3 If You fail to return the Vehicle by the Return Date, and fail to notify the Company to extend the Rental Period, the Vehicle may be reported as stolen.

8.4 If You return the Vehicle to any place other than a Company location, or if the Vehicle is returned outside the hours of operation, You will be deemed to have returned the Vehicle to the Company only when the Company takes possession of the keys to the Vehicle during its hours of operation. The rental charges will continue and You will be responsible for the Vehicle until such time as the Vehicle is deemed to have been returned. The hours of operation are detailed on the Cover Page.

8.5 If You return the Vehicle to a location other than the Return Location shown on the Cover Page, the Vehicle Transport Fee may apply.

8.6 Subject to clause 8.7 if You return the Vehicle with less fuel than it had when You rented it, You must pay the Fuel Service Fee. The Fuel Level is indicated in the Vehicle Report.

8.7 If You elect the Fuel Prepayment option at the commencement of the Rental Period, You will not be charged the Fuel Service Fee in any circumstance. You will not receive credit for fuel left in the tank at the time of the return.

8.8 The Company may request the immediate return of the Vehicle, or the Company may recover the Vehicle without notice, if the credit limit on Your method of payment would:

- (a) be exceeded by the debiting of the Rental Charges for a requested extension of the rental of the Vehicle or if a 'one-way fee' becomes payable by You;
- (b) the Rental Period expires without satisfactory arrangements having been made by You with the Company; or
- (c) The Company reasonably suspects that:
 - (i) the Vehicle may be used for an unlawful purpose;
 - (ii) damage to the Vehicle, or injury to persons or property, is likely to occur; or
 - (iii) the Vehicle will be involved in an industrial dispute.

9. VEHICLE BREAKDOWN – YOUR RIGHTS

9.1 If the Vehicle breaks down due to a mechanical fault and You have used the Vehicle in accordance with clauses 4, 5, 6 and 7 at all times, the Company will supply You with a replacement Vehicle where possible or refund the remaining portion of your rental period (calculated on a pro-rata basis). The decision under this clause 9.1 is at the sole discretion of the Company.

9.2 The Company will not charge You any rental during the period in which You do not have use of the Vehicle due to a breakdown under clause 9.1.

10. LOSS AND DAMAGE TO THE VEHICLE

10.1 Except to the extent the Company is negligent or otherwise liable at law, You are liable:

- (a) for the loss of, and all damage to, the Vehicle;

(b) any damage to a third party and third party property caused by the Vehicle;

(c) the cost of towing, recovering and storing the Vehicle; and

(d) any administration costs incurred by the Company arising under clauses 10.1(a)-(c).

10.2 Your liability under clause 10.1 will be limited to the Deposit except where the damage or loss:

(a) arises from theft, where the Vehicle is left unlocked or unsecured or You have not kept the keys secure;

(b) is caused by storm damage or damage resulting from immersion in water;

(c) is to the tyres or windscreen;

(d) is to the under body or overhead damage including to the roof, bonnet or boot not resulting from a collision;

(e) is caused by You driving the Vehicle with less than the manufacturer's recommended level of radiator fluid, oil or tyre pressure;

(f) is caused by food, liquid or other product being spilt in the Vehicle;

(g) is caused by You driving the Vehicle in a reckless or dangerous manner; or

(h) is caused while using the Vehicle in breach of clauses 4,5, 6 or 7 of this Agreement.

10.3 In the event of loss or damage to the Vehicle, You agree to pay on demand by the Company:;

(a) the cost of repair or reinstatement of loss or damage where such loss or damage is not limited under clause 10.2 to the Deposit; and

(b) any loss incurred by the Company because the Company is not able to use the Vehicle to generate rental income as a result of Your fault.

10.4 You must not arrange or undertake any Repairs to the Vehicle without the written authority of the Company except to the extent that the Repairs are necessary to prevent further damage to the Vehicle or other property in which case You must first attempt to contact the Company and obtain approval for the Repairs.

10.5 The Company will only reimburse You for the cost of any authorised Repairs if You produce to the Company the original receipts for those Repairs.

11. LIABILITY FOR LOSS OR DAMAGE TO OTHER PROPERTY

11.1 Except to the extent the Company is negligent or otherwise liable at law, You are liable:

(a) for all damage to the property of any person:

(i) which is caused or contributed to by You; or

(ii) which arises from Your use of the Vehicle; and

(b) for any loss of, or damage to, any property stolen from the Vehicle or otherwise lost or damaged during the Rental Period.

11.2 Subject to clause 11.1 You indemnify the Company for any loss of, or damage to, any property stolen from the Vehicle or otherwise lost or damaged during the Rental Period.

11.3 The Company shall not be responsible for the state and condition of any property found in the Vehicle after the Rental Period.

11.4 Any person claiming the return of any property found in the Vehicle after the Rental Period is required to furnish the Company satisfactory proof of ownership.

11.5 You have rights conferred under consumer legislation and neither clause 11.1 nor any other provision of this Agreement is intended to exclude, restrict or modify any non-excludable terms or rights You may have.

12. LEGAL PROCEEDINGS AND CLAIMS

12.1 Where Your use of the Vehicle results in an accident or claim, or where damage or loss is sustained to the Vehicle or other property or if the Vehicle has been stolen, You must:

(a) promptly report such incident to the local police;

(b) promptly report such incident in writing to the Company by accurately completing the applicable Company forms;

(c) not make or give any offer, admission of liability, promise of payment, waiver, release, indemnity or settlement without the Company's written consent;

(d) allow the Company or its insurers at its own cost to conduct or settle any legal proceedings against a third party;

(e) allow the Company to claim in Your name under any applicable vehicle insurance and You must do everything that may be reasonably required to assist the Company in making such a claim, including assigning the benefit of any applicable insurance to the Company;

(f) complete and furnish to the Company within a reasonable time any statement, information or assistance which the Company or its

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insurer may reasonably require, including attending at a lawyer's office and at Court to give evidence for which You will be paid reasonable costs including associated travel costs and any necessary accommodation costs ; and

- (g) forward to the Company any claims or correspondence from third parties within seven (7) days of receipt.

12.2 Failure to do what is required under clause 11.1 may result in You being responsible for any resulting costs incurred by the Company.

13. TERMINATION

13.1 The Company reserves the right to terminate this Agreement at any time following any material breach by You and take immediate possession of the Vehicle.

13.2 Termination under clause 13.1 will result in You paying for:

- (a) all reasonable costs for towing, storage and recovery of the Vehicle;
- (b) all reasonable costs to return the Vehicle to its condition at the start of the Rental Period or replacement of the Vehicle;
- (c) all reasonable administration costs of the Company;
- (d) damage to third party property caused by You;
- (e) the Administration Fee; and
- (f) any loss incurred by the Company because the Company is not able to use the Vehicle to generate rental income as a result of Your fault pursuant to Clause 9.3(c) of this Agreement.

13.3 You will be entitled to terminate this Agreement if the Company materially breaches its obligations.

13.4 If this Agreement is terminated by you within 24 hours of commencement of the Rental Period for any reason other than a breach by us, you agree to pay rental charges that reflect the actual duration of the rental.

14. APPLICABLE LAW

14.1 The laws of New South Wales govern the Terms and Conditions of this Agreement.

15. PRIVACY

15.1 The Company is committed to protecting and maintaining the privacy of Your personal information.

15.2 By executing these terms and conditions you consent to the collection of your personal information by the Company and the use and disclosure

by the Company of that information as it may require in connection with the Company's business and this agreement.

16. GPS TRACKING

16.1 The Company's vehicles may be fitted with a GPS tracking device which transmits data to us of the Vehicle's location and speed in real time. This information may be used by the Company and You acknowledge and agree that the Company may rely on this information to assess and determine whether the Vehicle has or is being used during the Rental Period in accordance with your obligations as set out in this Agreement and to determine at our sole discretion whether the Vehicle requires a full service, engineering check and/or repairs and to assess whether the Vehicle has suffered abnormal wear and tear after the Rental Period.

16.2 You further acknowledge and agree that if the vehicle is damaged during the Rental Period that the Company entitled to rely upon the GPS tracking data to determine and conclude that such damage was caused by You if the GPS tracking data indicates that you have breached the terms of this Agreement during the Rental Period.

16.3 If the GPS tracking device is disabled or tampered with, You accept and agree that the Company may assume at our sole discretion that the Vehicle has been used in breach of your obligations as set out in this Agreement.

17. PAYMENT OBLIGATIONS

17.1 You authorise us to charge all moneys due and payable to us under this Agreement to your credit card or charge account.

17.2 The Company will refund, within a reasonable time, any refund due to you by such method as the Company may reasonably choose. Please note that refunds can usually take between 2 weeks and 4 weeks to be processed.

17.3 If You fail to pay any money due under or in connection with this Agreement within 14 days of the date by which you were required to pay the money, You will be required to pay us:

- (a) interest at 12% (compounded daily) on the money due from the expiry of 14 days from the date on which you were required to pay the money due to the date of payment; and
- (b) on demand all money which the Company has paid to recover any moneys outstanding under this Agreement and all other expenses including without limitation legal costs that the Company has incurred on a full indemnity basis.

17.4 You acknowledge and accept that all charges and moneys are payable to the Company.

Signed by the Hirer