

TERMS AND CONDITIONS OF RENTAL

Please note that these are important conditions limiting your rights and should be read carefully

1. DEFINITIONS AND INTERPRETATIONS

In this agreement unless the context indicates otherwise:

“Additional Driver” means such person who, in addition to the Driver, is duly authorised by Hertz to drive the vehicle as reflected overleaf;

“Auto Dealers Guide” means the Mead & McGrouther’s publication containing, *inter alia*, recommended selling prices of motor vehicles;

“Claims Administration Fee” means an administration fee charged in all instances where a claim is processed in respect of damage, loss or theft of the vehicle;

“Contract Fee” means a once-off charge per rental to cater for, *inter alia*, storage fees of Original Documents;

“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 and/or accessories (without allowing for depreciation), remunerating an expert to inspect any incident and report thereon, and reimbursing such expert (an invoice, job card or quotation produced by Hertz to be *prima facie* proof of any such expenditure) or any other charges incurred related to an incident of whatsoever nature;

“Repairer OR Suppliers of our choice” We reserve the right to require any work to be carried out at a repairer of Our choice, or any replacement to be done by a supplier of Our choice.

“Day” means a period of 24 hours (or any part thereof), calculated from the time out as reflected overleaf;

“Driver” means such person who is duly authorised by Hertz to drive the vehicle as reflected overleaf;

“Extend” means any extension of the Rental Period authorised by Hertz;

“First Amount Payable or Excess” means the first amount that the renter is responsible to pay in respect of any incident and/or damages and/or theft and/or loss that may result in a claim.

“Official Rates Brochure” means Hertz’s current official brochure on the rental rates and other general information issued from time to time;

“Hertz” means Alisa Car Rental (Pty) Ltd, trading as Hertz Rent a Car;

“Rental Period” means the period between the date and time out and the termination date and time as specified overleaf or if such period is extended, the time and date entered on Hertz’s records of the rental;

“Renter” means all of the persons, jointly and severally, whose names appear on the rental agreement hereof, including any Additional Driver and/or the Driver;

“Renting Location” means the Hertz location from which the vehicle is rented by the renter, alternatively any location agreed upon by the parties;

“vehicle” means the motor vehicle described on the face hereof including without limitation all keys, tyres, tools, equipment, accessories and documents in and on the vehicle when the renter and/or the Driver takes delivery of the vehicle at the renting location and includes any replacement vehicle which has been officially authorised by Hertz, whether or not such replacement vehicle was authorised or approved by the renter;

“Traffic Fine Administration Fee” means an amount levied by Hertz to administer any traffic fine(s) incurred by the renter and/or Driver and/or Additional Driver whilst renting the vehicle;

“Total Loss” (in relation to a vehicle) means –

(a) Damages where the estimated costs of repairs is such that the vehicle is in the sole and absolute discretion of Hertz 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 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; and

“Waiver” means a reduction of liability/responsibility of the renter in the event of an incident and/theft and/loss of the vehicle or a loss in relation to the vehicle.

The singular shall include the plural and *vice versa*, the masculine gender shall include the feminine gender and *vice versa* and natural persons shall include legal and juristic persons and *vice versa*.

2. RENTAL OF THE VEHICLE

Hertz rents to the Renter, who hires the vehicle subject to the terms and conditions applicable at the time of the rental. The Renter will be bound by these terms and conditions, whether he was driving/responsible or not.

3. DELIVERY OF THE VEHICLE

Delivery and transfer of the risk in and to the vehicle shall occur at the time and place that the Renter or his duly authorised representative, or the Driver or the Additional Driver takes possession of the keys and/or vehicle at the Renting Location.

The vehicle shall be deemed to have been delivered to the Renter or his duly authorised representative or the Driver or the Additional Driver in good order and repair and without any damage to, *inter alia*, the paintwork,

upholstery, tyres, rims and accessories unless such damage is recorded in writing and signed by Hertz and the party referred to in clause 0 accepting delivery of the vehicle. The vehicle will be fully fuelled for the convenience of the customer.

4. USE OF VEHICLE

The vehicle may be utilised by the Renter, the Driver or the Additional Driver for the Rental Period or any extended period as agreed to by Hertz.

The Renter agrees that any extension so noted on Hertz's records would correctly reflect such extended period as agreed to be Hertz.

During the Rental Period, the vehicle may not be used, *inter alia*:- for the conveyance of passengers and/or goods for reward; to propel or tow any other vehicle, (including any caravan or trailer) unless authorised by Hertz in writing; to transport goods in violation of any customs laws or in any other illegal manner; in any motor sport or similar high risk activity; beyond the borders of the Republic of South Africa, unless authorised by Hertz 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 foregoing;

The Renter shall make adequate provision for the safety and security of the vehicle and, in particular, but without limiting the generality of the foregoing, he shall keep the vehicle properly locked and secured and immobilised and the burglar alarm (if any) must be activated and any anti-theft device in the vehicle must be properly secured and in place when the vehicle is not in use.

Should damages and/or loss be sustained as a result of not removing the removable face (if any) of the radio, the Renter shall be liable for such damages and/or loss.

The Renter will ensure that the keys of the vehicle are under the Renter's control at all times.

Hertz will at all times remain the owner of the vehicle.

5. RETURN OF THE VEHICLE

The Renter shall return the vehicle, at the Renter's expense to an authorised representative of Hertz at such time and location agreed to by Hertz.

The Renter acknowledges that failure to return the vehicle in terms hereof shall constitute illegal possession by him, and Hertz may repossess the vehicle wherever same may be found and from whomsoever is in possession thereof. Any costs incurred by Hertz to retrieve the vehicle will be for the account of the Renter.

Should the vehicle not be returned as indicated in 0 above, any Waiver option and/or Personal Accident Insurance cover in terms hereof will become null and void.

Should the vehicle not be returned as indicated in 0above, the vehicle may be reported as stolen to the relevant authorities.

The vehicle shall be returned to Hertz in the same condition as received, that being undamaged, in good order and in a roadworthy condition, fair wear and tear excepted.

When the Renter returns the vehicle to any Renting Location, the Renter shall:

park the vehicle in Hertz's reserved parking; and

ensure that the vehicle is properly locked and secure; and

hand the keys to an authorised representative of Hertz or leave the keys in a drop safe provided at the offices of Hertz, where the offices are not open for business.

In the event that the vehicle is not returned in accordance with clause 0above, the sole risk of loss or damage to the vehicle will remain vested in the Renter until such time as Hertz has recorded the return of the vehicle.

It is the responsibility of the renter to ensure that the vehicle is fully re-fuelled when returning the vehicle, failure to do so will result in Hertz refuelling and charge the renter for the fuel.

6. TERMINATION/CANCELLATION/EXTENSION OF RENTAL

Notwithstanding anything to the contrary contained herein, Hertz shall be entitled in its sole and absolute discretion to terminate this agreement at any time by notice (verbal or in writing) to the Renter, whereupon the Renter shall immediately return the vehicle to Hertz. In the event of such failure to return the vehicle to Hertz, Hertz shall be entitled to recover possession of the vehicle, wherever found and from whosoever has possession thereof. The obligations of the Renter and the rights of Hertz shall continue in full force and effect until the vehicle has been returned to Hertz in terms of this agreement and the Renter has complied with all his obligations. Any costs incurred by Hertz to retrieve the vehicle will be for the account of the Renter.

The Renter shall give Hertz 24 hours notice, prior to the termination of the agreement, of his intention to Extend the Rental Period. The Rental Period shall be extended on acceptance by Hertz of the extended Rental Period proposed by the Renter.

7. THE RENTER/DRIVER

The vehicle may only be driven by the Renter. (definition of renter refer 1.1.13)

The Renter warrants that at all times the vehicle will not be driven by any person authorised in terms of this agreement to drive the vehicle whose blood alcohol concentration exceeds the limit permitted by any applicable law or regulation or whilst under the influence of intoxicating liquor or narcotic drugs or similar substances and that every person authorised in terms of this agreement to drive the vehicle will have a valid licence to drive the vehicle, and that such person will comply with all applicable laws and will comply in all respects with the provisions of this agreement.

The Renter warrants that he will inform Hertz of any physical impairment of a person who wishes to be authorised to drive the vehicle, if that physical impairment may prejudice Hertz in any way if the vehicle has not been adapted to accommodate the physical impairment. Should the Renter fail to notify Hertz of such physical impairment, the Renter will bear the full liability and responsibility for Damages in the event of an accident.

If the vehicle is driven by anyone other than the Renter, then, without derogating from any rights or remedies which Hertz may have, the Renter shall remain liable for all his obligations in terms of this agreement and in particular, he shall be liable to Hertz as if he had been driving the vehicle.; and

The Renter warrants that he is entitled and has the capacity to enter into this agreement, that all particulars given to Hertz and/or recorded on rental agreement are true and correct.

8. RENTAL RATES AND CHARGES

The Renter agrees to pay Hertz the rental rates plus all other charges and fees opted for or utilised by the Renter as contemplated overleaf and up until the vehicle is returned to Hertz, including, but not limited to *miscellaneous charges, airport surcharges, tourism levy, Claims Administration Fee, Contract Fee, Traffic Fine Administration Fee, one way fee, over border charges, delivery fee, collection fee, Collision Damage Waiver Fee (CDW/DW), Theft Loss Waiver Fee (TLW/LW), Personal Accident Insurance (PAI), fuel, additional driver(s) fee.*

Rental rates charges and fees will be calculated for the whole of the rental period (including any extended period as agreed by Hertz) at the rates and on the basis set out overleaf, and/or in the Official Rates Brochure, including all taxes levied on any amount payable by the Renter.

In determining the rental charges, the distance travelled by the vehicle shall be determined from the vehicle's odometer, or if this is not possible for any reason, by Hertz in its sole and absolute discretion, or any other fair and reasonable basis and the Renter shall be obliged to furnish all such information and assistance as Hertz may reasonably require for that purpose. If the odometer has been tampered with, then the kilometres travelled will be deemed to be 500 kilometers per day.

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 Hertz against all such liability. The Renter shall also be liable for all attorney and client costs incurred by Hertz in instructing its attorneys to recover such outstanding expenses not paid by the Renter.

9. PAYMENT

All payments are due on demand, but at latest on expiry of the Rental Period (unless otherwise agreed in writing by Hertz). All charges payable by the Renter shall be payable by credit card or in cash of the Rental Period unless the Renter has a valid account with Hertz and/or Hertz requires all or any of the charges to be prepaid in advance.

In the event where a renter chooses to pay cash for a rental, a cash handling fee will be charged and will be for the Renter's account.

The Renter will not be entitled to set-off or withhold payment of any amounts due in terms of this agreement for any reason whatsoever.

If Hertz has agreed to accept payment from the Renter by credit card or charge card specified on the overleaf, the Renter's signature of this agreement will constitute irrevocable authority for Hertz to obtain authorisation and/or payment. The signature will also constitute irrevocable authority for the issuer of the card to debit him with the total amount due to Hertz including but not limited to any Damages and/or loss suffered by Hertz.

In the event that the Renter returns the vehicle to Hertz prior to the termination of the Rental Period as specified on the reverse hereof, the Renter will pay, at the discretion of Hertz either the usual rates and charges applicable to the Rental Period and/or kilometres actually used, or the rates and charges for the full Rental Period and/or kilometres actually occurred.

In the event of an incident and/or if the vehicle is stolen and/or lost, the amount of the Damages and/or the total loss as suffered by Hertz is payable by the Renter immediately on demand by Hertz or its duly authorised representative.

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. The Renter by signing the rental agreement, accepts full responsibility for the damages incurred for which he is liable. The Renter agrees that if payment is to be made by credit card, his signature on the

rental agreement shall constitute authority to debit his credit card for the total amount due including his full liability for any damages incurred.

If any amount is not paid on due date, Hertz may without prejudice to any rights it may have, charge interest on the overdue amount at the applicable prescribed legal rate or prime as charged by Absa Bank Limited plus 3%, whichever is the higher, and in the sole discretion of Hertz.

A certificate of any director, manager or accountant of Hertz as to any amount owed by the Renter to Hertz shall constitute *prima facie* proof of that amount.

10. RENTER'S RISKS AND LIABILITIES

The Renter shall assume the sole risk of the vehicle (fair wear and tear excepted) from the time that the key and/or the vehicle is handed to the Renter in terms of clause 3 until such time as the vehicle and key is returned in terms of clause 5.

The Renter is liable for all fines and/or penalties incurred during the Rental Period and hereby authorise Hertz to disclose any information required by a relevant authority to process any such fines and/or penalties which are incurred during the Rental Period.

The Renter will not be liable for hail damage to the vehicle where the "Super Cover" or "Total Cover" option has been elected by the Renter.

Should the vehicle be involved in an incident, damaged, stolen and/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 Hertz notwithstanding the fact that waivers were opted for.

The First Amount Payable or Excess and the claims admin fee is not covered by ANY of the waivers and will be for the Renter's own account.

Super Damage and/or Theft (Loss) Waiver does not cover:

any damage to window glass, tyres and rims;

damage to the undercarriage of the vehicle;

damage caused by water as result of the negligence of the Renter;

damage and/or total loss sustained as result of the negligence of the Renter as in the opinion of the claims department of Hertz;

damage and/or total loss sustained whilst the Renter is in breach of any applicable traffic laws or ordinance;

damage and/or total loss sustained where incidents are not reported as contemplated in clause 13 ;

the expenditure in towing, transporting and storing the vehicle as well as remunerating an expert to inspect collision damage and reporting thereon and reimbursing such expert;

Any additional fee, such as but not limit to claims administration fees, contract fees

damage and/or total loss sustained 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 Hertz;

damage and/or total loss sustained if at any time the vehicle is driven by an unauthorised driver;

damage and/or total loss sustained when in the opinion of Hertz the vehicle has been driven or used in a manner which prejudices Hertz's interest or rights therein and/or as prohibited in clause 4;

damage and/or total loss sustained where the Driver or Additional Driver was not holding a valid unendorsed drivers licence at the time the damage and/or loss was sustained;

damage and/or total loss sustained where an extension of the rental agreement was not authorised by Hertz and where the Rental Period had expired;

damage caused as a result of the vehicle being driven on an untarred road or a road that was not suitable for that vehicle.

Any claim arising out of any contractual liability

Any loss or damage where there is misrepresentation, non-disclosure or mis-description of any fact or circumstances in connection with a claim in terms of this rental agreement

Total Damage and/or Theft (Loss) Waiver does not cover: - Applicable only when indicated on the Rental Agreement but Limited to specified Rates

damage and/or total loss sustained as result of the negligence of the Renter as in the opinion of the claims department of Hertz;

damage and/or total loss sustained whilst the Renter is in breach of any applicable traffic laws or ordinances;

damage and/or total loss sustained where incidents are not reported as contemplated in clause 13 ;

the expenditure in towing, transporting and storing the vehicle as well as remunerating an expert to inspect collision damage and reporting thereon and reimbursing such expert;

Any additional fee, such as but not limit to claims administration fees, contract fees

damage and/or total loss sustained 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 Hertz;

damage and/or total loss sustained if at any time the vehicle is driven by an unauthorised driver;

damage and/or total loss sustained when in the opinion of Hertz the vehicle has been driven or used in a manner which prejudices Hertz's interest or rights therein and/or as prohibited in clause 4;

damage and/or total loss sustained where the Driver or Additional Driver was not holding a valid unendorsed drivers license at the time the damage and/or loss was sustained;
damage and/or total loss sustained where an extension of the rental agreement was not authorised by Hertz and where the Rental Period had expired;
Any claim arising out of any contractual liability
Any loss or damage where there is misrepresentation, non-disclosure or mis-description of any fact or circumstances in connection with a claim in terms of this rental agreement

11. WAIVER (REDUCTION) OF LIABILITIES

The acceptance of "Super Cover" or "Total Cover" Waivers will reduce the Renters' liability to the extent of the excess reflected overleaf and/or in the Official Rates Brochure in force at the time of rental, the latter which is deemed to be incorporated herein.

If any of the (*Collision*) Damage Waiver options are accepted by the Renter, the Renter will have no liability in respect of the third party claims for property damage, limited to a sum not exceeding R1 million. If the Renter declines the Damage Waivers (both SDW & TDW) the Renter will have 3rd Party Cover with a limitation in respect of the third party claim for property damage, with the first R30 000 (thirty thousand) of such Third Party claim being for the Renter's account .

Notwithstanding anything in this agreement, Hertz shall not be obliged to make, institute or proceed with any claim which Hertz may otherwise have had against a third party for the recovery of any loss and/or damage to or in connection with the vehicle and, accordingly, Hertz 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)

If the Renter accepts the purchase of personal accident insurance as indicated on the agreement, 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 Hertz 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 Hertz itself shall not under any circumstances have any liability to him under or for any of the benefits under that policy or the accompanying arrangements, if any. Details of the policy and a separate explanatory brochure (and details of the other accompanying arrangements, if any) are available for inspection by the Renter at Hertz's Head Office 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 ACCIDENT INVOLVING THE VEHICLE

If at any time the vehicle is involved in an incident, damaged, stolen and/or lost, the Renter shall take every reasonable precaution to safeguard the interest of Hertz including but without being limited to, the following where appropriate, as failure to adhere to the latter will result in the renter being liable for the full and/or total loss:

The Renter shall notify Hertz immediately or within 3 hours of becoming aware of the occurrence and shall within twenty-four hours of the occurrence complete and furnish to Hertz, Hertz's standard claim form together with a copy of his drivers licence;

The Renter shall obtain the name(s) and addresses of everyone involved and of witnesses;

The Renter shall not admit or claim 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 of liability;

The Renter shall report all incidents and/or theft and/or damage regardless of the value or nature to the police within 24 hours after its occurrence and the Renter shall furnish to Hertz a reference, case or docket number;

The Renter 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;

The Renter shall co-operate with Hertz and its insurer in any investigation, the making or instituting of any claim or action and the defence of any prosecution, claim or action relating to any accident, theft or damage (including, *inter alia*, deposing to an affidavit or giving evidence in court if he is requested to do so).

If the Renter is not the Driver or Additional 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 or Additional Driver complies with the provisions of 0and the Renter warrants that the Driver or Additional Driver shall do so.

The Renter shall within 24 hours of receipt thereof furnish to Hertz (and if the Renter is not the Driver or Additional Driver, the Renter shall also procure that the Driver or Additional Driver does) any notice of claim, demand, summons or the like which the Renter or the Driver may receive in connection with the vehicle.

The Renter warrants that the information completed in Hertz's claim form as referred to in

13.1.1 will be complete, true and correct in every respect.

14. INDEMNITY OF HERTZ BY RENTER

Neither Hertz nor any of its directors, officers, employees, servants or agents shall be liable for any loss or damage (including, without limitation, 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 Hertz 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.

Hertz, its directors, officers, employees, servants or agents 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 them arising from or connected with or pursuant to the renting of the vehicle contemplated in these terms and conditions.

15. GENERAL

This document contains the entire agreement between the parties regarding the matters contained herein and no party shall be bound by any undertakings, representations, warranties, promises or the like not recorded in writing by Hertz, other than Hertz agreeing to extend the agreed return date for the vehicle.

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 agreement, without affecting the remainder of the provisions hereof.

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.

The Renter authorises Hertz to insert any particulars in the agreement which are not known or are unavailable at the time of signature hereof in order to rectify any *bona fide* errors in any fact, figure or calculation.

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.

The Renter further consents to the jurisdiction of the Magistrates Court, should Hertz, 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 Hertz in its sole and absolute discretion may institute any such action or proceedings in any division of the High Court that may have jurisdiction.

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 tyres, tools or equipment or any part of it.

If Hertz 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.

The Renter chooses the address specified overleaf as his domicilium citandi et executandi that being the address for service of all legal process.

Hertz 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 Hertz 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 Hertz shall not be held liable/responsible for any repercussions such disclosure may have on the Renter. Hertz may monitor the applicant renter's payment behaviour by researching their profile at one or more of the credit agencies. Hertz may use new information and data obtained from credit agencies in respect of the applicant renter's future credit applications. Hertz may record the existence of the applicant renter's account with the credit agencies. Hertz may record and transmit details of how the applicant renter has performed and how the account is conducted by the applicant renter in meeting their obligations on the account.

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 to the vehicle rented. Hertz shall be entitled to use such information (including in court proceedings) as it deems fit.

If the Driver and/or Additional Driver (if applicable) is not the same as the Renter, then the Driver and/or Additional Driver shall binds himself/themselves as surety and co-principal debtor in solidum with the Renter in favour of Hertz for the due fulfilment of all of the obligations of the Renter to Hertz in terms of this agreement