

**Imperial Truck Rental**  
**TERMS AND CONDITIONS OF AGREEMENT OF VEHICLE RENTAL**

**1. DEFINITIONS PERTAINING TO THIS AGREEMENT**

In this agreement, the words hereunder shall bear the meanings assigned thereto, unless the contrary appears clearly from the context:

- 1.1. “*anticipated date of return*” means the latest date upon which the parties agree the vehicle would be returned to the COMPANY;
- 1.2. “*bank credit card*” means a credit card issued in terms of the National Credit Act 34 of 2005, as amended from time to time;
- 1.3. “*contract period*” means the period calculated from the time the agreement is entered into until the anticipated date of return;
- 1.4. “*commencement date*” means the date that the HIRER signs the agreement;
- 1.5. “*day*” on the first day of the contract means the period from the time of collection to no later than 08h00 the following day, unless otherwise specified in this contract, and on the day of return of the vehicle to the COMPANY, it shall mean from 08h00 on that day to any time thereafter on that day;
- 1.6. “*E-toll* – means electronic toll collection;

1.7. “*extended period*” means any day or time or period beyond the contract period for whatever reason which shall be deemed to include:

1.7.1. In the case of damage to the vehicle, the date on which such damage has in fact been repaired and the vehicle returned to service;

1.7.2. in the case of total loss, the date upon which reimbursement in full in respect thereof is received by the COMPANY from any party liable to the COMPANY in that regard; and

1.7.3. in the case of theft or other deprivation, the date on which the COMPANY has in fact received payment of all amounts due to the COMPANY.

For purposes of item 1.7.3, standing/down time will be automatically included in the amounts due in terms of this clause;

1.8. “*extra-ordinary costs*” means the actual cost to the COMPANY in the provision and installation of appliances, accessories and/or improvements (in regard to all of which the HIRER agrees, consents, requests such and accepts that the production of any invoice or account or quotation relating to any such items shall constitute sufficient proof of the nature and the value thereof in the event of any claim, of whatever nature, by the COMPANY);

- 1.9. “Goods in Transit Insurance” means insurance cover taken by the HIRER to cover freight carried/transported (where applicable in this agreement). This insurance will be in accordance with the policy terms, conditions, benefits and limitations as detailed in such policy;
- 1.10. “COMPANY” means Imperial Truck Rental (Pty) Ltd;
- 1.11. “HIRER” means hirer and the operator (as defined in the Act) of the vehicle;
- 1.12. “PAI” means Personal Accident Insurance comprising of a policy of personal injury insurance arranged by the COMPANY, on behalf of the HIRER for the fee reflected on the cover page of this agreement and in accordance with the standard terms, conditions and benefits and limitations as detailed in such policy (where applicable in this agreement);
- 1.13. “signatory to this agreement” means the person binding the contracting parties by his signing thereof;
- 1.14. “SANRAL” – means the South African National Roads Agency;

- 1.15. “*standing time or down time*” means the time calculated from the moment a vehicle becomes unavailable for rental activity in the COMPANY’s normal course of business, if due to damage, until such time as the vehicle again becomes available for rental activity, or if due to theft of the vehicle, until the insurance company (whether the Hirer’s own or the COMPANY’s insurance, whichever is applicable) has paid out for the theft of the vehicle, or if due to damage beyond economic repair, until the date which the COMPANY is reimbursed for the loss;
- 1.16. “*vehicle*” means the vehicle as described in this agreement as being hired, with all its equipment, accessories and appurtenances, unless inconsistent with the context thereof, or any replacement thereof;
- 1.17. “*the Act*” means the National Road Traffic Act 93 of 1996 as amended.
- 1.18. “*high risk area*” means an area where the vehicle may be, based on the information readily available to the public at the time, considered a risk to the vehicle and /or its occupants.
- 1.19. “*he*” whenever used in reference to the HIRER shall in the event of the HIRER being a firm, partnership, corporation, company, trust, voluntary association or club be deemed to refer to such firm, partnership, corporation, company, trust, voluntary association or club.

2. **ACKNOWLEDGEMENTS AND WARRANTIES**

2.1. The HIRER warrants and undertakes that:

2.1.1. Any driver of the vehicle shall be at least 23 years of age;

2.1.2 Any driver of the vehicle shall be duly licensed to drive the vehicle in the Republic of South Africa;

2.1.3 Any driver of the vehicle shall have a Professional Driver's Permit which shall be valid for at least three months after the anticipated return date of the vehicle;

2.1.4 The annexed checklist forms part of this agreement;

2.1.5 A vehicle crossing international borders requires a cross-border permit obtainable from the Cross Border Road Transport Agency;

2.1.6 They are familiar with the requirements and stipulations of the Road Traffic Act, Act 93 of 1996;

2.1.7 They are familiar with the Road Traffic Regulations regulating the transportation of Dangerous Goods.

- 2.2 In the event of the HIRER being in breach of condition, 2.1, the HIRER assumes full liability for any accidental damage/theft, which may occur, and there is no waiver in respect of any collision damage or loss in these circumstances.
- 2.3 The HIRER agrees and undertakes that he will not offer employment, solicit and/or employ whether directly and/or indirectly any of the COMPANY's staff.
- 2.4 Should the HIRER employ a staff member of the COMPANY in breach of clause 2.3 then and in that event, the HIRER agrees and undertakes to pay to the COMPANY on demand an amount equivalent to 15% (fifteen percent) of the annual salary of such staff member as due and liquidated damages which the HIRER acknowledges is a genuine pre-estimate of damages which will be sustained by the COMPANY as a result of such employment.

### 3. **RENTAL**

The COMPANY rents out the vehicle as defined above for the contract period and subject to the terms and conditions herein contained.

### 4. **CHARGES AND PAYMENTS**

- 4.1. The HIRER shall pay the COMPANY the charges for hire, as set out in the schedule of charges on the reverse side of the agreement upon the COMPANY'S agreed terms of payment.

- 4.2. The hire charges are based upon the prevailing rate quoted to the hirer failing which upon the prevailing brochure rate at the time of hire.
- 4.3. In the event of cash transactions all amounts owing by the HIRER shall be payable on demand.
- 4.4. The COMPANY shall be entitled to charge interest, at a rate of 4% plus the prime overdraft rate of the COMPANY'S bankers, on all overdue amounts payable in terms of this agreement from the date upon which such amount became due and payable until date of payment. The HIRER agrees to make such payment.
- 4.5. In the event of the COMPANY having to instruct a tracing agent, collecting agent and/or attorneys to procure payment of any amount, the HIRER shall be liable for all attorney and client costs, tracer's costs and other costs incidental to such proceedings, including collection commission.
- 4.6. The HIRER may not raise any claim, dispute or counterclaim as a reason for deferring payment to the COMPANY and the HIRER may not withhold any payment or set off any claim or counterclaim which it may wish to raise against the amount invoiced by the COMPANY;

4.7. In the event of the contract period being terminated prior to the anticipated date of return, for any reason whatsoever, the COMPANY shall have the right to adjust the applicable rate and the HIRER shall be obliged to make payment according to such adjusted rate.

## 5. **E-TOLLING**

5.1. In order to comply with the provisions of the **National Roads Act No 7 of 1998** ("the Act") and the conditions regarding toll roads, toll tariffs, the **e-tag** and/or the **e-toll** accounting system, the COMPANY shall equip all its vehicles with an **e-tag** and utilise the **Transaction Clearing House** "the TCH" for processing of all toll transactions.

5.2. The HIRER understands and agrees to its liability to incur toll charges which will arise when the vehicle that it rents from the COMPANY passes a tolling point. The HIRER acknowledges that the tolls are calculated when a vehicle that it rents from the COMPANY fitted with, or displaying the **e-tag** supplied by the COMPANY, passes through a tolling point, at which point the information on the **e-tag** is read by the road side equipment.



- 5.3. The HIRER acknowledges that when it uses an **e-road**, the service in respect of its use of such **e-road** is being provided by the Agency as a result of which the COMPANY, by virtue of the fact that its vehicle, as hired by the HIRER, is fitted with an **e-tag**, will be billed for toll transactions by the TCH on behalf of the Agency.
- 5.4. The HIRER shall however be liable for the amount of toll levied at standard rate (as amended), in respect of each toll transaction for every vehicle hired by the HIRER from the COMPANY, in terms of section 27(3)(c) of the Act.
- 5.5. The HIRER shall pay the standard rate of toll levied by the South African National Roads Agency (SOC) Limited ("the Agency"), in respect of each toll transaction for every vehicle hired by the HIRER from the COMPANY, to the COMPANY who shall thereupon settle its debt to the Agency.
- 5.6. The COMPANY shall charge the HIRER a handling fee on all capped toll transactions processed by the COMPANY in respect of vehicles hired by the HIRER.

- 5.7. The HIRER will not use, or permit the use of the COMPANY'S **e-tag**, on any motor vehicle other than the COMPANY'S duly designated vehicle. The HIRER is aware that such conduct would amount to a fraudulent misrepresentation which could give rise to criminal charges.
- 5.8. In the event where the **e-tag** is not returned with the vehicle, and where the vehicle was not driven by an employee of the COMPANY, a penalty of R50,00 will be levied on the transaction for which the HIRER shall be liable.
- 5.9. In circumstances where the **e-tag** is defective, and the HIRER fails to inform the COMPANY of this fact within 24 hours, the COMPANY reserves the right to levy a penalty equal to 30% of the toll transactions over the relevant period for which the HIRER shall be liable.
- 5.10. In instances where the HIRER hires a vehicle for a period of less than a week, the HIRER shall pay a deposit in respect of future toll transactions. Should the toll fees incurred by the HIRER during the period exceed the deposit, the HIRER shall be required to pay the outstanding amount immediately upon termination of the lease agreement.



- 5.11. Should any amount due by the HIRER to the COMPANY as a result of the **e-toll** accounting system not be paid when required for whatever reason, in addition to any other rights of the COMPANY arising from such non-payment, the HIRER will be liable for all additional fees together with legal costs that the COMPANY may incur for recovery of any outstanding debt.
- 5.12. On termination of the lease agreement, any remaining portion of the deposit, less any penalties payable to the COMPANY, will be refunded to the HIRER.
- 5.13. Fees charged shall be deemed to be correct, unless the user is able to demonstrate that they are incorrect.
- 5.14. Disputes or queries in respect of any toll transactions must be reported by the HIRER to the COMPANY within 24 hours after receipt of the daily **e-toll** transaction report ("The report"). Discrepancies or disputes not reported within 24 hours after receipt of the report, will not be considered and no credit will be granted to the HIRER.

6. **ACCOUNTING**

6.1 Without prejudice to any of the COMPANY'S rights or claims herein, the COMPANY shall be entitled at any time, and from time to time to close its books and to account to the HIRER; even though the contract period has not terminated. The COMPANY may then:

6.1.1 estimate the kilometers travelled by the vehicle as at such closing off date from the commencement of the contract period, or previous close-off date, whichever is applicable at the time; and

6.1.2 calculate the total indebtedness of the HIRER as at such provisional close off date and complete the calculations of the HIRER'S indebtedness accordingly;

6.2 The HIRER shall in such event be obliged to make payment to the COMPANY as stipulated on the invoices and/or statement of the COMPANY.

7. **THE ODOMETER**

7.1 The odometer on the vehicle shall be deemed to accurately record the distance covered by the HIRER.

- 7.2 The difference between the odometer reading recorded on the checklist (on the commencement date) and the odometer reading on the date upon which the vehicle is returned, shall be **prima facie** proof of the correctness of the distance covered, provided that:
- 7.2.1 Should it cease to operate efficiently through mechanical fault or breakdown, (the onus of proof of which shall be on the HIRER) the HIRER shall immediately report such defect to the COMPANY with full particulars of the use to which the vehicle has been put. The distance covered shall then be assessed by the COMPANY in its sole discretion (acting as an expert and not an arbitrator) and such assessment shall be final and binding on the HIRER;
- 7.2.2 Should the odometer (or hubodometer, where applicable) cease to operate efficiently for any reason, or be found by the COMPANY to have been damaged, disconnected, tampered with or worked on, the distance covered shall be deemed to be 800 kilometers per day calculated from the commencement of the contract period;
- 7.2.3 Should the vehicle be stolen, be involved in an accident, or be in any other circumstances, which may prevent the accurate reading of its odometer, the contract period shall be deemed to extend to such date as the HIRER is reimbursed for such loss or damage. In such an event the distance covered and charged for shall be calculated according to the formula in 7.2.2.



8. **RETURN OF THE VEHICLE**

8.1 By the latest on the anticipated date of return or earlier termination of the agreement at the discretion of the COMPANY, the HIRER shall:

8.1.1 Discontinue all use of the vehicle; and

8.1.2 Return the vehicle back to the designated address of the COMPANY in good condition and proper running order, in a roadworthy condition with fair wear and tear allowed for.

8.2 Notwithstanding anything to the contrary, the COMPANY in its sole discretion shall be entitled to, without any notice, terminate the rental agreement forthwith and to take immediate possession of the vehicle;

8.3 The COMPANY shall endeavor to supply and, for the duration of the contract period; keep the vehicle, free from defects. In the event of the vehicle becoming faulty or unfit for use during the contract period, the COMPANY may, in its sole discretion, substitute, or replace another vehicle in its place, whereupon this agreement shall continue to apply in all other respects.

9. **DELIVERY AND RISK**

9.1 The COMPANY does not warrant that the vehicle will be available to the HIRER at any stipulated or prearranged hour or date and the HIRER shall have no claims for loss, inconvenience or damage arising from any late delivery. The HIRER hereby indemnifies the COMPANY against all claims instituted by third parties which emanate from such late delivery;

9.2 The COMPANY shall not be obliged to place another vehicle at the disposal of the HIRER in the event of the vehicle being damaged, stolen or rendered unfit for use.

9.3 Notwithstanding that the vehicle is driven by a driver employed by the COMPANY, all risks and responsibilities in regard to the operation of the vehicle are transferred to the HIRER on commencement of the contract period and shall remain in effect until the vehicle is returned to the COMPANY;

9.4 The HIRER hereby acknowledges that the vehicle was delivered to him by the COMPANY:

9.4.1 In good order and repair with all its accessories and appurtenances in working order, and in a roadworthy condition; and

9.4.2 With its radiator, oil reservoirs, and petrol tank properly filled, and the HIRER undertakes that until the vehicle is returned to the COMPANY he will maintain, at his own expense, a sufficient quantity of water and oil in the engine of the vehicle;

9.4.3 Complete with spare wheel, jack, wheel brace and triangles.

9.5 The HIRER indemnifies and holds the COMPANY harmless against all claims of whatsoever nature and howsoever arising which may be made against the COMPANY resulting from the use of the vehicle or the manner in which it is driven while it is in the possession of the HIRER, including claims which may be attributable to acts or omissions of the COMPANY its employees, agents or servants.

9.6 The HIRER hereby absolves the COMPANY from any liability arising from the malfunctioning of the vehicle.

## 10. **OWNERSHIP AND LIENS**

10.1 The ownership of and/or entitlement to the vehicle shall under no circumstances be transferred to the HIRER and/or shall not in any manner be disputed by the HIRER;



10.2 The HIRER shall not retain possession, use or enjoyment of the vehicle beyond the contract period unless there is express permission granted in writing by the COMPANY and, in such circumstances, only to the extent of such granted permission by the COMPANY;

10.3 The vehicle must remain in the possession or under control of the HIRER at all times for the duration of the contract period and or extension thereof with the exception of the provisions below;

10.4 The HIRER shall not:

10.4.1 Sub-contract, sublet or lend the vehicle out without the COMPANY'S written permission;

10.4.2 Allow any lien, attachment or other encumbrance to come into effect in respect of the vehicle. The HIRER shall be obliged to advise his landlord in writing of the fact that he is not the owner of the vehicle.

## 11. **WARRANTIES AND REPRESENTATIONS**

11.1 The HIRER warrants that he has not been unduly influenced to enter into this agreement nor has he relied on any representations made by or on behalf of the COMPANY in regard to the condition, state of repair, capabilities, fitness or suitability for any purpose, the year of the vehicle manufacture, odometer reading or performance of the vehicle;

11.2 The HIRER acknowledges that all warranties, express or implied by law, are specifically excluded or not available to the HIRER.

11.3 The HIRER hereby warrants and represents that all statements contained in this Agreement are true and correct. It is furthermore agreed that all details appearing on the reverse side hereof shall be deemed to form part of this agreement.

## 12. **USE AND CONTROL**

12.1 The HIRER shall not:

12.1.1 Cause or allow the vehicle to be neglected, abused, damaged, modified in terms of its components, be tampered with or removed or the components of the vehicle to be replaced or to be used for any purpose for which it is not designed or intended to or be used in contravention of any law or in circumstances such that there will be increased risk of danger or loss or damage or undue wear thereof or to be overloaded, driven recklessly and/or negligently;

12.1.2 Convey articles in the vehicle which may cause damage to the upholstery or any other part of the vehicle.

- 12.1.3 Allow any person to drive or control the vehicle without such a person being in possession of a valid Professional Driving Permit and/or driving license – (whichever is applicable) such license or permit to be free of any endorsements – or allow any other person to drive or control the vehicle unless similarly licensed or permitted;
  - 12.1.4 Contravene, but instead shall comply with the terms and conditions of every insurance policy issued in respect of the vehicle;
  - 12.1.5 Permit any person to drive the vehicle while under the influence of drugs or medication or alcohol;
  - 12.1.6 Allow the vehicle to be in any area, such as an unrest area, where there is or could be a risk that the vehicle may be damaged, through civil disturbance, social or economic protest or any act associated with the foregoing, including any act by any person in authority taken for purposes of controlling or preventing or suppressing or otherwise dealing with any such occurrences;
  - 12.1.7 Permit any person other than himself or his duly appointed driver to drive the vehicle during the contract period or extended period (if applicable), without first obtaining the written approval of the COMPANY.
- 12.2 The HIRER shall at all times exercise due care during the contract period and any extension thereof :

- 12.2.1 To the extent that the HIRER will take all reasonable precautions at its own expense, to safeguard the vehicle from any loss, harm or damage;
- 12.2.2 Pay all costs of fuel and oil consumed by the vehicle, and, in this regard, the HIRER acknowledges that the fuel tank was full when the vehicle was delivered to the HIRER at the inception of this hire agreement and unless the vehicle is returned with a full tank – the HIRER shall pay the actual cost of filling the tank;
- 12.2.3 Allow the COMPANY, or its servant or agent all reasonable rights and access to the vehicle and if called on to do so, disclose to the COMPANY the vehicle's locality, kilometers on the odometer and state of the vehicle at any time;
- 12.2.4 The HIRER shall ensure that:
  - 12.2.4.1 Whenever the vehicle is left parked or unattended, all doors and windows are locked and/or secured and the gearlock and alarm/immobiliser device, if fitted, is operating and activated;
  - 12.2.4.2 The keys to the ignition, the doors and security lock (where applicable) of the vehicle are, at all times, in the possession of the HIRER;

- 12.2.4.3 In the event of any collision, accident, damage or loss, a written report of the full extent and true circumstances of the event is lodged within 24 hours of the event at the offices of the COMPANY and as detailed below:
- 12.2.4.3.1 A copy of the actual driver's driving license;
- 12.2.4.3.2 A copy of the driver's Professional Driving permit (if applicable);
- 12.2.4.3.3 A copy of the relevant SAPS report and case number;
- 12.2.4.3.4 A duly completed claim form as is required by the relevant insurer;
- 12.2.4.3.5 Clear photographs of the vehicle and/or place and/or surroundings where the event occurred.
- 12.2.4.4 In addition to the aforesaid the HIRER shall furnish all further assistance, details and co-operation as may be required by the COMPANY and/or its insurers to deal with any matters arising from the above said event and/or the recovery of the COMPANY'S losses and/or assessment of its liabilities.



13. **INDEMNITY**

- 13.1 The HIRER or its employee or agent or servant or the driver of the vehicle or operator of the crane or other equipment accompanying the vehicle, shall under no circumstances whatsoever be deemed to be the agent, servant or employee of the COMPANY.
- 13.2 In the event of the COMPANY providing the HIRER with a driver or equipment operator for the vehicle and or crane or other equipment accompanying same, such driver or equipment operator shall be deemed to be in the employ of the HIRER for the period of this Agreement or any extension thereof, and the HIRER hereby indemnifies and holds the COMPANY harmless against any action that may be brought against the COMPANY by any third party as a result of any action whether wilful or negligent of the driver or equipment operator.
- 13.3 The HIRER shall be liable for all actions associated with the hire and operation of the vehicle and indemnifies and holds harmless the COMPANY against any losses, damages or claims by anyone whomsoever and howsoever arising relating to the vehicle and its usage during the contract period and/or extended period and/or arising from or relating to:

- 13.3.1 Any bodily injury to or death of the HIRER, user, driver any occupant or any other third party or person that may in their own right or via dependents in any way, endeavor to seek recourse against the COMPANY;
- 13.3.2 Any claims or acts of any competent governmental or statutory authority or body including any fines, penalties or levies prosecutions or claims made against the COMPANY under any Act;
- 13.3.3 Any and all costs incurred by the COMPANY in considering, investigating or resisting or otherwise dealing with any purported claim by any such other person or authority;
- 13.4 The HIRER agrees that in the event that any of the aforesaid matters occur, the COMPANY shall not be obliged to resist, defend, debate or await judgment or conviction on any alleged claim or contravention but shall be entitled to recover any losses or amount demanded, claimed, levies by such other party or authority directly from the HIRER;
- 13.5 In the event of the vehicle suffering collision or mechanical damage, or becoming a total write-off or loss, or is subjected to fire, theft, hijacking or other disaster during the contract period arising from any cause whatsoever, the HIRER shall pay the COMPANY the damages or costs (including standing or down time incurred and the value in full of the vehicle) – as the case may be;

- 13.6 In the event of negligence or an unlawful act being a relevant factor concerning the HIRER's liability for payment of any amount whatsoever in terms of this agreement, it shall be presumed that the HIRER was negligent until he proves the contrary.
- 13.7 Should the HIRER have subscribed for vehicle damage and theft insurance, such liability as described in 13.6 above will be assessed by the agent of the COMPANY;
- 13.8 The HIRER shall on the commencement date supply proof to the satisfaction of the COMPANY, that adequate insurance cover exists at all times for the duration of this agreement and where applicable for any extensions to the agreement thereafter;
- 13.9 All obligations for payments by the HIRER under this clause shall be due and payable on demand, irrespective of the cause of such loss or damages and the HIRER shall not be entitled to require the COMPANY to effect or attempt to effect recovery from any other party.
- 13.10 The HIRER hereby selects domicilium citandi et executandi for service of all notices and or legal processes arising out of this Agreement at any one of the HIRER's addresses referred to on the face of this Agreement.



14. **REPAIRS TO VEHICLE**

- 14.1 Any repairs, alterations, improvements, maintenance of an electronic or mechanical nature to the vehicle will be done in the sole discretion of and according to the terms specified by the COMPANY. In the event that damages to the vehicle is covered by the INSURER of the HIRER, the HIRER or his INSURER can only have the vehicle repaired at one of the COMPANY's approved Panel Beaters.
- 14.2 In the event of the HIRER effecting any repairs to the vehicle without the prior written authority of the COMPANY the costs of such repairs shall be borne by the HIRER.
- 14.3 The HIRER undertakes to return the vehicle to the COMPANY for lubrication service as per the vehicle's specified service intervals or every 30 days after delivery of the vehicle to him, which occurs first, or alternatively, shall satisfy the COMPANY that such service has been performed. In the event of any service being effected at the instance of the HIRER at a garage other than that of the COMPANY, then the cost of such service and materials used in connection therewith shall be borne by the HIRER.

- 14.4 If it appears upon the return of the vehicle to the COMPANY that it is reasonably necessary to affect mechanical repairs to the vehicle, which need for repairs has arisen by virtue of the HIRER's abuse or negligent use of the vehicle, then the COMPANY shall forthwith cause the repairs to be effected to the vehicle and shall have the right to hold the HIRER liable for the cost thereof.
- 14.5 In such event, or in the event of the vehicle being damaged in a collision as a result of the HIRER's negligence, the hire of the vehicle shall be deemed to continue until the day upon which the repairs are completed.
- 14.6 Similarly, in the event of the vehicle being damaged beyond economic repair, the HIRER shall be obliged to pay to the COMPANY the hire charges from the time of delivery of the vehicle to the COMPANY until the date on which the COMPANY is reimbursed in respect of the loss.
- 14.7 In the event of the vehicle being stolen, the hire of the vehicle shall be deemed to continue until the insurance COMPANY (whether the HIRER's own or the COMPANY's – whichever is applicable) has paid out for the theft of the vehicle.

The calculation for all these incidents in clause 14 shall be based upon the prevailing agreement rates and 200 kilometers per day.

15. **VEHICLE DAMAGE INDEMNIFICATION (VDI)**

15.1 The HIRER acknowledges that although the COMPANY has subject to the terms and conditions hereof, waived own collision damage and/or theft, provided the HIRER has requested and paid for the COMPANY's collision damage and theft loss waiver, the HIRER shall be liable for the payment of the "excess" as stated on the face hereof.

15.2 Please note that the collision damage/theft waiver is in respect of the hired vehicle only and there is no insurance cover in regard to other vehicles or persons other than provided by the Road Accident Fund.

Collision damage/theft waiver shall only apply provided the HIRER is not in breach of any of his obligations in terms of this agreement.

15.3 The HIRER shall be liable for the costs of repairing and/or replacing the windscreen or any other glass fitted to the vehicle should such glass be damaged or broken during the hire of the vehicle.

15.4 The HIRER shall ensure that the vehicle, whilst in the HIRER's possession, is at all times insured.

15.5 Accordingly, should the HIRER elect not to effect such VDI with the COMPANY, the HIRER shall ensure that:

15.5.1 It furnishes the COMPANY with a copy of the HIRER'S policy of insurance before taking delivery of the vehicle which shall be from a reputable insurance Company approved of by the COMPANY;

- 15.5.2 The policy of insurance stipulates that:
- 15.5.2.1 The insurance cover applicable shall cover the vehicle cover the vehicle against all contingent risks stipulated by the COMPANY;
  - 15.5.2.2 Any repairs to the vehicle shall be affected by agents nominated by the COMPANY, but the insurer shall have the right to approve such quotations prior to the repair of the vehicle;
  - 15.5.2.3 Insurance cover shall continue until the HIRER returns the vehicle to the COMPANY;
  - 15.5.2.4 In the event of the vehicle being exchanged for another vehicle, hired from the COMPANY, such exchange vehicle shall similarly be covered, *mutatis mutandis*, in accordance with the above provisions.
- 15.5.3 In the event of an accident, you will have 5 working days from receipt of quote to authorize repairs. Until such time, you will be charged your normal rental rate. Failing compliance with the above provisions, the COMPANY reserves the right, notwithstanding the provisions of this agreement, to cancel the agreement with the HIRER forthwith.
- 15.6 The COMPANY reserves the right to cancel the agreement with immediate effect should the HIRER fail to comply with the terms as specified in Clause 15.



## 16. PERSONAL ACCIDENT INSURANCE (PAI)

Where the HIRER has opted to subscribe for PAI the HIRER agrees and acknowledges that:

- 16.1 The COMPANY acts merely as a broker and accepts no liability in its provision of this role;
- 16.2 It shall be the duty and obligation of the HIRER or its successor-in-title to refer, process and pursue its claim for recovery for any amount/s due thereunder against the insurers.

## 17. GOODS IN TRANSIT (GIT) INSURANCE

Where the HIRER has opted to subscribe for GIT, the HIRER agrees and acknowledges that:

- 17.1 The COMPANY shall not be liable for the loss or damage to any property left or transported in or upon the vehicle, irrespective of whether or not the loss or damage resulted from the negligence of the COMPANY, its agents or employees. The HIRER hereby assumes full responsibility for such loss or damage, and waives all claims against the COMPANY arising therefrom and the HIRER hereby agrees to indemnify the COMPANY in respect of all claims arising therefrom.



17.2 Responsibility for all goods loaded and transported on the vehicle shall at all times be vested with the HIRER unless:

17.3 The HIRER has specifically opted to subscribe to GIT, whereupon the HIRER agrees and acknowledges that:

17.3.1. the COMPANY acts merely as a broker and accepts no liability in its provision of this role;

17.3.2. It shall be the duty and obligation of the HIRER or its successor-in-title to refer, process and pursue its claim for recovery for any amount due thereunder against the insurers.

18. **GENERAL**

18.1. No alterations or variations of any of the terms and conditions of this Agreement or waiver by the COMPANY of any of its rights in terms of this Agreement shall be binding upon the parties unless contained in writing and signed by both the COMPANY and the HIRER.

18.2. No latitude or extension of time which the COMPANY may grant the HIRER with regard to any payment or performance or obligation in terms of this agreement shall in any way prejudice the COMPANY'S rights in terms of this agreement or operate as a novation, waiver or estoppel;

- 18.3. Any indulgence by the COMPANY in regard to the strict compliance by the HIRER, with the terms and conditions of the Agreement, shall in no way be taken as a waiver on the part of the COMPANY of its rights hereunder, and it shall be entitled at all times to call upon the HIRER to comply with all or any of the terms and conditions hereof.
- 18.4 In the event of it being necessary for the COMPANY to institute legal proceedings for the recovery from the HIRER of any amount due in terms hereof, the HIRER in such event shall be liable for the legal costs of such proceedings on the scale as between attorney and client and shall furthermore be liable for collection commission at the rate of 10 per cent on all amounts so recovered.
- 18.5 Where it is a term of the hiring that the COMPANY shall provide or appoint labourers or assistants in connection with the packing, loading, tying, lifting or off-loading or transport of any goods, such persons shall at all times be deemed to be the employees, servants or agents of the HIRER. The COMPANY does not warrant their special skills or abilities to perform any of the above services or functions all of which shall be performed under the direct supervision of the HIRER, and the COMPANY shall be absolved from and indemnified against all and any loss or damage which may be suffered in any way arising from or connected to any of the work so performed;
- 18.6 No employee, driver or agent of the parties shall have any right to waive, amend or abandon the terms and conditions of this agreement;



18.7 A decision by the COMPANY as to which terms hereof are to be severed shall be final and binding, which decision the COMPANY may make, at any time, including during any legal proceedings;

18.8 The HIRER warrants that every fact, term, condition, obligation and warranty committed to by the HIRER in entering this agreement shall be material and essential to this agreement and are specifically intended to be acted on and relied upon by the COMPANY and the COMPANY would not have concluded this agreement without these safeguards;

19. **SIGNING AUTHORITY**

In the event of the HIRER being a firm, partnership, corporation, company, trust, voluntary association or club, then the signatory hereby warrants and undertakes that he has the necessary authority to enter into this agreement. In the event of it transpiring that he did not have the requisite authority or in the event of the HIRER denying that such authority has been issued to him (whether or not such authority was in fact given) then the COMPANY shall be entitled in its sole and absolute discretion to hold such signatory liable in his personal capacity for payment of all amounts owing in terms of this agreement.

20. **SURETY AND CO-PRINCIPAL DEBTOR**

The signatory/ies, having renounced the benefits of excussion and division, hereby binds himself/ themselves jointly and severally as surety and co-principal debtor in





solidum with the HIRER unto and in favour of the COMPANY, its order or assigns, for the due performance by the customer of all its obligations to the COMPANY.