

# RENTAL AGREEMENT

The Rental Agreement sets out the terms and conditions of hire entered into between Eastern Rentals 2011 Limited (Owner) and the person and/or company taking possession of the vehicle (Hirer). The owner and the hirer agree:

## 1. Vehicle Description

The owner will let and the hirer will hire the vehicle detailed on the Rental Agreement (Vehicle).

## 2. Credit Card Authorization

The Hirer/Cardholder agrees and irrevocably authorises that if he/she has presented a credit/debit card by way of bond or payment for this Agreement, that any actual or consequential liability arising out of this agreement may be billed directly to this card.

## 3. Persons who may drive the rental vehicle

The vehicle may be driven during the period of hire only by the persons named in the agreement and only if they hold a current driver's license appropriate for the vehicle. The hirer is personally responsible for actions of a driver who is not named in the Rental Agreement.

## 4. Payments by Hirer

4.1 The hirer shall pay the owner for the hire of the vehicle the sum or sums specified in the Rental Agreement and the hirer authorises the owner to charge all amounts payable to the hirer's nominated card.

4.2 Payment for the hire is to be made at the commencement of the hire (Initial Payment). In addition to Initial Payment, a bond of \$350 (Bond) will be charged at the commencement of hire and is refundable (subject to deduction of outstanding charges in relation to the hire) on the completion of the hire.

4.3 In addition to the payment specified in clause 4.2, the hirer shall pay to the owner the sum specified in the Rental Agreement for the insurance cover (whichever is applicable) set out in clause 11 of the Rental Agreement.

4.4 If the vehicle is involved in an incident/accident the hirer agrees to pay rental at the vehicle category utilisation rate for the period the vehicle is off the fleet for repairs. This applies to all insurance categories.

4.5 In addition to the payment specified in clauses 4.1-4.4 above, the hirer acknowledges that the hirer shall be liable at the end of the hire term to pay to the owner any applicable additional charges. These include, but are not limited to:

- (a) charges for distance travelled (as specified in the Rental Agreement);
- (b) charges for fuel. The hirer is responsible for the cost of fuel used during the hire. Should the vehicle not be returned with a full tank, a \$50.00 refueling charge may apply on top of the fuel cost. If wrong fuel is used in the hired vehicle, a further charge of \$850 will apply.
- (c) charges for late return of the vehicle;
- (d) charges for damage to or repair of the vehicle (that are not covered by the Insurance or AA, and are not due to an inherent mechanical fault) and any enforcement charges relating to such damage or repairs (including legal costs);
- (e) charges for cleaning the vehicle if the vehicle is returned in an excessively dirty condition that requires extra cleaning or deodorizing. This includes, but is not limited to, spillage of fluids, food, vomit, other stains, and unpleasant odours including cigarette smoke. A \$50 surcharge applies;
- (f) traffic and/or parking offence infringement fees;
- (g) the administration fees as specified in the Rental Agreement; and
- (h) any surcharges in connection with the use of a debit or credit card by the hirer.

## 5. Infringement

5. Should an infringement or non-payment of road toll notice be received during the period of the hire and the infringement or toll charge not be paid by the hirer, a processing fee of up to \$30 per infringement shall apply in addition to the infringement and or toll fee cost. The hirer agrees to pay and have the processing and infringement fee (at the discretion of the owner) charged to the hirer's nominated credit card for all offences relating to an offence detected by approved vehicle surveillance equipment that is:

- a) A speeding offence; or
- b) An offence in respect of failure to comply with the directions given by a traffic signal; or
- c) A toll offence; or
- d) Parking in any portion of a road or in breach of any bylaw of a road controlling authority or Part 6 of the Land Transport (Road User) Rule 2004.

The owner will elect to apply for transfer of the notice. Should this occur the Issuing Enforcement Authority will forward the notice directly to the hirer who can then respond directly to that Authority upon receipt, and only the processing fee will be deducted on the hirer's Credit Card.

## 6. Use of the vehicle

6.1 The hirer shall not:

- (a) use or allow the vehicle to be used for the transport of passengers for hire or reward unless the vehicle is hired with the owner's knowledge for use in a passenger service licensed under Part 4A of the Land Transport Act 1998 ("the Act");
- (b) allow the vehicle to be used outside his/her authority;
- (c) sublet or hire the vehicle to any other person;
- (d) operate the vehicle or allow it to be operated in circumstances that constitute an offence against any of Sections 56, 57 or 58 of the Act (which relates to driving under the influence of alcohol or drugs);
- (e) operate the vehicle or allow it to be operated in any race, speed test, reliability trial, rally or contest, or operated on any race or rally circuit or in any event as a pace-maker or testing in preparation for any of them;
- (f) operate the vehicle, or allow it to be operated, in breach of the Act, the Land Transport (Road User) Rule 2004, or any other Act, regulations, rules or bylaws relating to road traffic;
- (g) operate the vehicle or allow it to be operated for the transport of more passengers or goods than the maximum specified in the certificate of loading and/or road user charge certificate, whichever is the lesser, for the vehicle;
- (h) drive or allow the vehicle to be driven by any person if at the time of driving the vehicle the driver does not hold a current driver's license appropriate for the vehicle;
- (i) drive or allow the vehicle to be driven on any roads excluded in clause 10.
- (j) of these terms and conditions, or on any beach, driveway, or surface likely to damage the vehicle;
- (k) allow the vehicle to be driven by any person who is not named or described in the Rental Document as a person permitted to drive the vehicle;
- (l) operate the vehicle or allow it to be operated to propel or tow any other vehicle;
- (m) transport any animal in the vehicle (with the exception of guide dogs for visually impaired people);
- (n) operate or allow the vehicle to be used in involvement with any illegal activity; or
- (o) smoke or allow any person to smoke in the vehicle.

## 7. Hirer's and Owner's Obligations

7.1 The hirer or driver shall ensure that:

- (a) The water in the radiator and the battery of the vehicle is maintained at the proper level
- (b) The oil in the vehicle is maintained at the proper level
- (c) The tyres on the vehicle / trailer are maintained at the proper pressure
- (d) The correct grade of fuel is put into the vehicle
- (e) The vehicle/trailer is returned in a clean and tidy condition otherwise a cleaning fee will apply.
- (f) The vehicle warning lights are fully obeyed at all times.
- (g) They generally do all things necessary to keep and maintain the vehicle / trailer in its current state and condition (fair wear and tear accepted).
- (h) They comply with any applicable seat belt and child restraint laws.
- (i) all reasonable care is taken when driving and parking the vehicle;
- (j) reasonable care is taken if any sign of overheating. Reasonable care means stopping the vehicle/trailer immediately to make a determination as to the extent of the problem. This might require calling the owner's roadside assistance provider or the owner's office for further instructions. The hirer who does not take reasonable care when faced with obvious signs of overheating will be held liable for all repairs and consequential loss.
- (k) If the vehicle is fitted with a tail-lift device the hirer acknowledges that they have been given by the owner clear verbal instructions as to its' safe use and limitations and the hirer is liable for damage caused due to usage inconsistent with the instructions given.

7.2 The owner shall supply the vehicle in a safe and roadworthy condition, up to current Certificate of Fitness standards;

7.2 The owner shall be responsible for all ordinary and extraordinary costs of running the vehicle during the term of the hire except to the extent that by the terms of this agreement those costs are payable by the hirer.

## 8. Activation of Warning Lights. Breakdown or Mechanical Repairs

8.1 If any warning light is activated or if the vehicle requires mechanical attention the driver must stop driving and contact AA Roadside Assistance and the Owner.

8.2 The hirer shall not arrange or undertake any repairs or salvage without the owner's authority except to the extent that repairs or salvage are necessary to prevent further damage to the vehicle or to other property.

8.3 If the vehicle becomes unfit to drive due to a breakdown that was not the fault of the hirer, the owner will refund to the hirer the rental charges that relate to the period during which the car could not be used. The owner undertakes to arrange repair or replacement with another vehicle as soon as practicable.

8.4 24 Hour roadside assistance is free for all inherent mechanical faults (as determined by the owner or its authorised repairer) related to the vehicle specified in the Rental Agreement provided the fault does not arise from any unauthorised use of the vehicle in breach of clause 6 and 7. For all other

roadside assistance call outs including refuelling, jump starts, tyre related incidents, lost keys or keys locked in the vehicle, an applicable call-out fee any other associated costs will be charged to the main hirer of the vehicle.

## 9. Accidents

9.1 In the event of an accident the hirer shall:

- (a) Notify the owner of the full circumstances as soon as practicable;
- (b) Notify the NZ Police if the accident involves injury;
- (c) Record full details of all parties, witnesses to and vehicles involved in the accident;
- (d) If possible, prepare a written statement of the facts signed by all parties. If agreement cannot be reached, obtain a copy of the Police report;

9.2 In the event of an accident the hirer shall not:

- (a) Make any admission of liability;
- (b) Arrange or undertake any repairs or salvage without the owner's prior authority except to the extent that repairs or salvage are necessary to prevent further damage to the vehicle or to other property.

9.3 In the event that an accident renders the vehicle unfit to drive, the owner will make no refund for the unused hire period (including Liability Reduction Cover payment if applicable) and the provision of a replacement vehicle shall be at the owner's sole discretion. The owner shall not be responsible for the cost of transporting the hirer and any accompanying passengers away from the accident location. In the event that the owner decides to offer the hirer an alternative vehicle, the vehicle should be collected by the hirer from the branch. The owner reserves the right to provide the replacement vehicle subject to an increased hirer's liability and/or to decline to offer Liability Reduction Cover for the replacement vehicle.

## 10. Insurance

10.1 Subject to the exclusions in clause 10.3 and 10.4, the hirer and any authorised driver named in this agreement is fully indemnified in respect of any liability he or she might have to the owner in respect of the loss of or damage to the vehicle and its accessories and spare parts and any consequential loss of revenue or other expenses of the owner including towing and salvage costs associated with the recovery of the vehicle and its accessories and spare parts.

10.2 Subject to the exclusions in clause 10.3 and 10.4, the hirer and any authorised driver named in this agreement is indemnified to the extent permitted by the policy of the insurance held by the Owner in respect of any liability he or she might have for damage to any property (including injury to any animal) belonging to any other person and arising out of the use of the vehicle. This indemnity does not apply to any property being transported in the vehicle at the time of the accident.

### 10.3 Exclusions

The indemnities above shall not apply where the damage, injury or loss arises when:

- (a) The driver of the vehicle is under the influence of alcohol or any drug;
- (b) When the vehicle is in an unsafe or unroadworthy condition, such condition arising during the course of the hire, that caused or contributed to the damage or loss, and the hirer or driver was aware or should have been aware of the unsafe or unroadworthy condition of the vehicle;
- (c) at any time when a mechanical failure breakdown or breakage occurs and/or an electrical or electronic failure or breakdown occurs that is the result of improper use of the vehicle. This exclusion also applies to damage to the engine or transmission system directly resulting from any mechanical failure breakdown or breakage, but does not otherwise apply to resulting damage to other parts of the vehicle;
- (d) at any time when the vehicle is driven by anyone not named or described in the Rental Document as a person permitted to drive the vehicle (unless the hirer is a body corporate or Department of State and the driver is authorised by them to drive, subject to all other terms and conditions in the Rental Agreement);
- (e) at any time when the vehicle is driven by an unlicensed person;
- (f) at any time when the vehicle is willfully or recklessly damaged or lost by the hirer, a nominated driver, or a person under the hirer's authority or control;
- (g) at any time when the driver commits a traffic offence while driving the vehicle;
- (h) at any time when the vehicle is loaded or is being loaded in excess of the manufacturer's specifications;
- (i) at any time when the vehicle is being loaded or unloaded beyond the limits of a thoroughfare and such loading or unloading is not performed by the driver or attendant of the vehicle;
- (j) at any time when the driver fails to stop or remain at the scene following the occurrence of an accident where required to do so by law;
- (l) to any fine or penalty imposed as a result of prosecution for breach of any law;
- (k) to windscreen damage, any puncture, cut or bursting of any tyre, or damage to any tyre by application of brakes;
- (l) to any wear and tear to the vehicle;
- (m) to any liability for damage caused by vibration or the weight of the vehicle or its load to any: bridge or viaduct; any road or anything beneath a road; any underground pipe line or cable; or any other underground installation provided that the limit of liability in these circumstances will be \$1,000,000;

- (o) to any overhead damage to the vehicle or to the property of any third party resulting from such overhead damage;
- (p) at any time when the vehicle was being driven on any of the following roads: Skipper's Canyon (Queenstown), Ninety Mile Beach (Northland), or any unformed roads and/or roads other than tarseal or metal; including but not limited to beaches, driveways, or any surface likely to damage the vehicle; or
- (q) at any time when the vehicle was operated in contravention of the terms of the Rental Agreement or any agreed extension of the terms of the Rental Agreement.

9.4 The indemnities in clauses 10.1 and 10.2 shall not apply to the amount of the hirer's liability for damage (excess) for which the hirer is fully responsible.

## 11. Hirer's Liability for Damage / Insurance Covers

11.1 Standard Insurance Cover is included free of charge with every hire and is subject to exclusions under clause 10.3. Under the Standard Insurance Cover, the hirer is liable for up to \$2,000 (in relation to a car, van or a minibus hire) and for up to \$3,000 (in relation to trucks) for any damage (including damage caused by natural disasters) up to the full amount of the excess liability specified in the Rental Agreement irrespective of fault (Excess).

11.2 Premium Insurance Cover must be taken when the Initial Payment and/or Bond is paid for by cash.

11.3 Premium and Extra Insurance Covers respectively reduce the hirer's liability for damage under clause 10 to a maximum of \$500 subject to the exclusions in clause 10.3.

None of the Insurance Covers cover damage or loss associated with:

- (a) Cost of recovering a car that has become bogged or immovable;
- (b) Cost of replacement of lost or stolen car keys;
- (c) Cost associated with the incorrect use of or contamination of fuel (diesel or petrol);
- (d) costs associated with vehicle breakdown that determined by AA not be a result of inherent mechanical fault as per clause 8.4; and
- (e) Costs arising under clause 4.

11.5 The hirer shall pay the amount of the insurance excess which applies for the vehicle (as shown on the front of this agreement) for each and every new accident / incident that occurs during the hire period.

11.6 During the hire period the insurance cover can only be used once for the damage that has occurred first. Once the insurance cover is used the insurance excess reverts to Standard Insurance Cover and associated excess.

11.7 The hirer acknowledges and approves that any charges referred to in in this agreement shall be debited to the credit card provided for all payments relating to this agreement and approves the owner to immediately (or at their discretion) charge the card for the applicable insurance excess.

## 12. Return of the Vehicle and Termination

12.1 The hirer shall, at or before the expiry of the term of hire, deliver the vehicle to the agreed rental location described in the Rental Agreement or obtain the owner's consent to the continuation of the hire (in which case the hirer shall pay additional hire charges for the extended term of hire).

12.2 The owner shall have the right to terminate the agreement and repossess the vehicle (and for that purpose enter any premises and remove the vehicle) at any time, without notification to the hirer, and the hirer will pay reasonable costs of repossessing the vehicle, including towing charges, in any of the following circumstances:

- (a) The hirer is in breach of any material term of this agreement;
  - (b) The hirer has obtained the vehicle through fraud or misrepresentation;
  - (c) The payment for the rental is in arrears;
  - (d) The vehicle appears to be abandoned;
  - (e) The vehicle is not returned on the agreed return date;
  - (f) The vehicle is damaged;
  - (g) The owner considers, on reasonable grounds, that the vehicle is endangered or the NZ Police recommend that the owner terminate the hire in the interests of road safety. In the event of such termination or repossession the hirer has no right to a refund of any part of the rental charges. The termination of the hire under this clause shall be without prejudice to the other rights of the owner under this agreement or otherwise.
- 12.3 The owner has the right to terminate the hire and take immediate possession of the vehicle if the hirer fails to comply with any of the terms of the Rental Agreement, or if the vehicle is damaged. The termination of a hire under this clause shall be without prejudice to the other rights of the owner.
- 12.4 Breaches of the rental agreement shall result in the hirer paying for:
- a. All costs to rectify the vehicle/trailer to its original condition or replacement of the vehicle/trailer; and/or
  - b. Loss of rental revenue to the owner; and/or
  - c. Damage to third party property being the hirers full responsibility; and/or
  - d. All reasonable costs for towing, storage and recovery of the vehicle/trailer.

## 13. Release and Indemnity of the Owner

13.1 The hirer releases the owner and its employees and agents from any liability to the hirer, for any loss or damage incurred by the hirer by reason of rental, possession or use of the vehicle.

13.2 The hirer hereby indemnifies and shall keep indemnified the owner and its employees and agents against any claims, demands and expenses (including legal costs) incurred or sustained by the hirer by reason of the hirer's use and/or possession of the vehicle.

#### **14. Claims Against Third Parties**

14.1 The owner is not responsible for pursuing any claims the hirer may have against third parties for any damage or loss including the hirer's liability paid to the owner. The owner will provide an invoice for any amount paid to the owner by the hirer.

#### **15. Default Clause**

15.1 The hirer undertakes to pay any monies owing in full on demand. In default of such prompt payment the hirer undertakes to pay late payment fees of 5% per month, calculated daily on any amount outstanding and to indemnify the owner and pay all costs and expenses on a solicitor if legal action is necessary, and/or any collection agency fees, which the owner may incur in recovering any overdue or outstanding amounts of monies.

#### **16. Retention of Goods and Personal Effects**

16.1 The hirer agrees that if the vehicle is picked up by the owner or the owner's representative when the hirer is in default of the agreement, all personal effects left in/on the vehicle may be held/sold to recover any costs incurred under this agreement whatsoever they may be.

#### **17. Personal Property Securities Act 1999**

17.1 The hirer gives the irrevocable authority to the owner or their representative to enter any premises occupied by the hirer or on which the vehicle is situated at any time after default by the hirer or before default if the owner believes a default is likely and to remove or repossess the vehicle and any other property which has been supplied by the owner. The owner or their representative shall not be liable for any costs, damages, expenses or losses incurred by the hirer or any third party as a result of this action, now liable in contract or in tort or otherwise in any way whatsoever unless by statute such liability cannot be excluded. Where the vehicle/trailer is reclaimed by the owner pursuant to clause 45 the hirer waives the right to receive notice under s.120 of the PPS Act 1999 and to object under s.121 of the PPSA.

17.2 The following shall constitute defaults by the hirer:

- a. Non Payment of any sum by the due date.
- b. The hirer implies that they will not pay any sum by the due date.
- c. The vehicle/trailer is seized by any other creditor of the hirer or any other creditor intimates that it intends to seize the vehicle/trailer.
- d. The hirer is bankrupted or put into liquidation or a receiver is appointed to any of the hirer's assets.
- e. A court judgement is entered against the hirer and remains unsatisfied for seven (7) days.
- f. Any materially adverse change in the financial position of the hirer.

#### **18. Privacy Clause**

18.1 The hirer acknowledges that the information provided on this form ("the information") will be held by the owner and agrees that the information may also be held by owner and any company related to the owner.

18.2 The hirer agrees that the information may also be used for the purposes of considering the market for the owners vehicles and making available to you information relating to the owners services, the owners products and services and the services of any company related to the owner.

18.3 The hirer understands that unless advised in writing to the contrary they have "opted-in" and he or she may request access to the information held by the owner and may request that the information be corrected if the hirer considers the information is wrong or advise that they wish to opt-out.