

1. DEFINITIONS AND INTERPRETATION

1.1 In this instrument

“Agreement” means this agreement to rent the Vehicle from the Owner by the Renter;
“Cancellation Fee” means the fee payable by the Renter to the Owner for cancelling this Agreement prior of the agreed commencement of the Rental Period or during the same but prior to the expiration of the Rental Period shown in the Particulars calculated as set out in the Particulars.

“Damage to the Vehicle” includes all and any loss of or damage to the Vehicle, its tyres, tools and accessories and costs incurred by the Owner in connection with the loss or damage;

“Dispatch Sheet” is the separate page of this Agreement bearing the same contract number and a true diagrammatic representation of the vehicle and all marks on and damage to the vehicle at the time of dispatch.

“Excess” means the amount (if any) nominated in the Particulars and if no such amount is nominated, the sum of \$1500 and applies to all damage to property except where there is no other identifiable motor vehicle involved in the accident, the excess is \$2500.

“Insurance” means the policy of insurance (if any) arranged by the Owner for the purpose of condition 6 to cover damage to the Vehicle and property other than the Vehicle.

“Owner” means Buses & 4WD Hire Pty Ltd and includes (where the context permits) its officers, employees, servants and agents.

“Particulars” means the particulars set out on the front page hereof.

“Person” includes a physical person, partnership or body corporate or unincorporated.

“Renter” means the Person who signs the Agreement and includes (where the context permits) such Person, his servants, officers, employees, agents, and any other person in charge of the Vehicle with the consent (express or implied) of the Renter;

“Rental Period” means the period commencing on the date shown in the Particulars and ending on the date being the latest of the date shown in the Particulars or when the Vehicle is returned to the Owner (whether by the Renter or otherwise) at the place of business of the Owner shown in the Particulars and if outside the Owner’s business hours then ending at the time the Owner’s business next re-opens, or such other place (if any) stipulated by the Owner or when the Owner receives proper confirmation of the theft or destruction of the Vehicle. If the Renter requests the benefit of the After Hours Vehicle Return and the Owner agrees the terms and conditions of that service as set out in the Notice published and displayed in the Owners place of business shall apply.

“Vehicle” means the vehicle described in the Particulars of any other replacement vehicle provided to the Renter by the Owner and any trailer hired by the Renter.

1.2 The singular includes the plural and the vice versa and words importing any gender include in other genders. Headings have been inserted for convenience of reference only.

1.3 Where the Renter is more than one person, the liability shall be joint and several

- 1.4 Waiver by the Owner of any breach of the Agreement shall not constitute a waiver of any other or subsequent or continuing breach.
- 1.5 The Cancellation Fee shall be payable on the date of cancellation or on demand (at the Owner's discretion).

2. WARRANTIES BY THE RENTER

- 2.1 The Renter (being an individual) warrants that he is over the age of 21 years, holds a current motor vehicle driver's licence valid for the type of Vehicle in the place where the agreement is signed.
- 2.2 In case of the driver being a person other than the Renter then the Renter warrants that the driver is a fit and proper person over the age of twenty one (21) years, a current motor vehicle driver's licence valid for the type of Vehicle in the place where the Agreement is signed.
- 2.3 The Renter warrants that the Particulars are correct and acknowledges that the Owner relies on the truth of these representations.
- 2.4 If the Renter is other than an individual it warrants in the same terms set out in 2.1, 2.2, and 2.3 above in respect of the employee officer or agent of the Renter signing this agreement of being a driver of the Vehicle.

3. USE OF THE VEHICLE

- 3.1 Subject to Condition 7, the Renter is entitled to use and hold the Vehicle for the Rental Period and any authorized extension thereof and the Renter agrees to return the Vehicle at the end of such period between the Owner and the Renter.

4. PAYMENTS BY THE RENTER

- 4.1 The Renter agrees to pay the Owner on demand at the Owner's office as stated in the Particulars, allowing for any prepayments or deposits held by the Owner, the sum total of;
 - 4.1.1 the rental charge for the Vehicle during the Rental Period at the rate shown in the Particulars
 - 4.1.2 any other fees or charges shown in the Particulars;
 - 4.1.3 fuel supplied for the Vehicle by the Owner
 - 4.1.4 all taxes, charges, levies and tolls payable to any authority (including but not limited to stamp duties) in respect of the use of the Vehicle during the Rental Period and any other charges arising from or in connection with the Agreement;
 - 4.1.5 Except when otherwise provided in the Agreement all charges for returning the Vehicle to the address stipulated in the Agreement including but not limited to towing charges, repossession charges and cleaning of the Vehicle (if in the opinion of the Owner the same is in a dirty condition when returned);
 - 4.1.6 Where a telephone is provided the Renter shall pay the hiring charge shown in the Particulars plus the charge per time unit for all calls made or received during the Rental Period as recorded on the telephone.
 - 4.1.7 Where the vehicle is not returned by the time and date stipulated in the Agreement then unless the Owner has previously agreed to the extension of the hire the Renter shall pay the Owner twice the daily rate of hire for every day or part thereof during which the vehicle has not been returned to the Owner.
 - 4.1.8 Where the vehicle is returned damaged and as a result of such damage is unavailable to the Owner for further rental whilst being repaired the sum equal to the daily rental rate on this contract for each day in which the vehicle is unavailable being repaired.

- 4.1.9** Where the vehicle is returned with damage not recorded on the Dispatch Sheet a fee of \$50.00 is payable by the Renter to the Owner for costs associated with the administration of the repair of the vehicle and the Insurance Claim if any.
- 4.2** In calculating the kilometer charge, the kilometers driven shall be measured from the odometer installed in the Vehicle provided that if the odometer has been damaged or in the way interfered with or is defective, the Renter shall pay the Owner 65c per klm at the kilometer rate shown in the Particulars, for each hour the vehicle was in the Renter's possession.
- 4.2.1** Where during the Rental period an Infringement Notice or similar Notice for breach of any parking or other traffic law or regulation issues in respect of the vehicle or the Renter and the Renter does not pay or otherwise discharge the obligations there under resulting in the Owner being required to undertake correspondence or other action the Renter shall pay the owner \$10.00 for administration costs in respect of each Notice.
- 4.3** The Renter authorizes the Owner to complete any documentation for the purposes of the Renter making payment through a credit card system or other credit accommodation extended to the Renter and accepted by the Owner.

5. COVENANTS BY THE RENTER

5.1 The Renter covenants and agrees with the Owner:

- 5.1.1** that no person other than the Renter or other driver shown in the Particulars shall drive the Vehicle;
- 5.1.2** that if the Renter is a company, a partnership, body corporate or governmental department, the Renter's officer, employee or agent may drive the Vehicle if nominated as a driver in the Particulars PROVIDED ALWAYS that the person driving the Vehicle will comply with the warranties set out in condition 2 and all and any of the obligations of the Renter as may be applicable to the driver under the Agreement.
- 5.1.3** that he will be liable to the Owner for any breach or failure by the driver to comply with all the warranties and obligations and each of them set out in this Agreement and applicable to the driver.
- 5.1.4** to report immediately to the Owner any damage to the Vehicle or any accident involving the Vehicle, to complete forthwith alter any such damage or accident (or as soon thereafter as is reasonable in the circumstances) the Owner's Accident Report Form and to comply with all requests of the Owner to provide assistance in any litigation or investigation to such damage or accident;
- 5.1.5** not to make or allow to be made any admission of liability in the case of any damage to the Vehicle or accident involving the Vehicle or make any promise of payment or release to any other party;
- 5.1.6** to drive and maintain the Vehicle and cause the same to be driven and maintained in a cautious and prudent manner and returned to clean and roadworthy condition, fair wear and tear only excepted;
- 5.1.7** to exercise and to cause any driver of the Vehicle to exercise due care and diligence to avoid damage to the interior of the Vehicle;
- 5.1.8** not to use or allow to use the Vehicle for any illegal purpose or in any race or speed test or in contravention of any law concerning the use of motor vehicles or when the Vehicle is in any way damaged or unsafe;
- 5.1.9** not to use or allow the Vehicle to be used for any purpose other than permitted by any statute, rule or regulation applicable to the area in which the Vehicle is driven and (without limiting the generality of the aforesaid) not to carry volatile liquids, gases, explosives, corrosive or inflammable materials;

- 5.1.10** not to drive or allow the Vehicle to be driven by any other person whilst such driver is under the influence of any alcohol or drug or with a blood alcohol level as indicated by analysis of the driver's breath or blood in excess of that permitted by law applicable to the place in which the Vehicle is driven;
- 5.1.11** to use or allow the Vehicle to be used only on properly constructed roads suitable for the type of Vehicle;
- 5.1.12** to pay any fines for offences committed by the Renter or its officer, employee or agent and to pay all charges imposed by any local governmental body and to reimburse the Owner for any fines paid or legal costs incurred by the Owner arising out of the Renter's possession or use of the Vehicle;
- 5.1.13** to reimburse the Owner for any loss (including legal costs) incurred relating to the breach of the Renter's obligations and to indemnify the Owner against any liability arising out of a breach of the Renter's obligations;
- 5.1.14** to pay to the Owner interest at the rate of 1 per centum per calendar month or any part thereof on any amount due to the Owner under the Agreement;
- 5.1.15** to return the Vehicle at the place, date and time specified in the Particulars in the same condition as when received;
- 5.1.16** that by taking the Vehicle the Renter acknowledges that the Vehicle is in good order and condition and suitable for the purpose, use or operation required by the Renter and there has been no reliance on any advice or representation made by the Owner;
- 5.1.17** the Renter will not incur or allow to be incurred any expense or charge in relation to the Vehicle or its repair without the express approval of the Owner; and
- 5.1.18** where the Renter leaves a form of authority signed by the Renter or verbally provides details of an account number for payment by any credit provider eg, Mastercard, American Express, Visa, etc for the purpose of paying the Owner any amount due under this Agreement including any Cancellation Fee the Renter irrevocably authorizes the Owner to complete the authority with the full amount due to the Owner for any amount payable on any account arising from the terms of this Agreement and the hiring of the Vehicle and hereby irrevocably appoints the Owner his attorney with full power to complete on behalf of and in the name of the Renter any obligation of the Renter as appropriate under this Agreement.

6. DAMAGE TO THE VEHICLE

- 6.1** In the event of the damage to the Vehicle or damage arising out of the Renter's use or possession of the Vehicle, then:
 - 6.1.1** If the Renter has not breached the Agreement he shall pay the Excess to the Owner and upon the payment thereof he shall be under no further liability to the Owner for damage to the Vehicle and shall be entitled to indemnity under the insurance provided that if the total amount of the damage to the Vehicle and the damage of any third party arising out of the use of the Vehicle is less than the excess, then the Owner shall refund the difference;
 - 6.1.2** If the Renter has breached any of the conditions of the Agreement he shall not be entitled to indemnity under the insurance and shall be liable to the Owner for all damage to the Vehicle and third party's property howsoever caused.
- 6.2** The Renter's right to claim under the insurance is subject to the terms of the insurance policy, a copy of which is available for inspection at the Owner's place of business and is conditional under the Renter and the Owner not being otherwise entitled to claim under any other insurance policy.

- 6.3** In the event that the damage is not covered or not fully covered under the insurance, the Renter agrees to indemnify the Owner against all claims by any Person for damage suffered as a result of any incident involving the Vehicle whether as a result of the Renter's or the driver's negligence or howsoever caused.
- 6.4** The Renter acknowledges that the Owner shall not be bound by any representation as to the existence or extent of any insurance and that the provisions of the Agreement and the insurance referred to constitute the totality of the agreement between the Owner and the Renter in relation to the insurance.
- 6.5** Notwithstanding anything to the contrary under this condition 6:
- (a) where the Vehicle is a truck, van, minibus or recreational 4 wheel drive, the Renter shall remain liable for any overhead damage. "Overhead damage" means damage to the Vehicle or third party property arising from a collision between the Vehicle and any overhead structure or object at the point above the level of the hood of the driver's cabin.
 - (b) The Owner shall not be under any liability for any property stolen from the Vehicle or damaged while in the Vehicle or left in the Vehicle after its return to the Owner.
 - (c) If there is no other vehicle involved in the accident or the vehicle cannot be identified by the renter, an excess of \$2500 is payable.
- 6.6** The Renter acknowledges that the Owner has dispatched the vehicle in good faith and in good mechanical repair and condition and the Owner shall have no liability to the Renter for any costs or expenses of the Renter incurred directly or indirectly as a result of mechanical or other failure of the vehicle.
- 6.7** The Renter acknowledges that the vehicle was inspected by the Renter prior to taking possession and that the "Dispatch Sheet" bearing this same contract number shows a true representation of all marks on and damage to the vehicle and that there are no marks on or damage to the vehicle at that time that were not recorded on the "Dispatch Sheet".
- 6.8** The Renter acknowledges that the Owner has dispatched the Vehicle in good faith and in good mechanical repair and condition and the Owner shall have no liability to the Renter for any costs or expenses of the Renter incurred directly or indirectly as a result of mechanical or other failure of the vehicle.

7. REPOSSESSION

- 7.1** In the event of breach by the Renter of any term of this Agreement the Owner shall have the right at any time during the Rental Period to repossess the Vehicle at his absolute discretion and without giving to the Renter any reason for so doing.
- 7.2** The Owner may enter personally or by its officers, employees or agents any time any building or premises where the Vehicle for the time being is kept and to break open by force if necessary any such building or premises.
- 7.3** The Renter will indemnify the Owner and/or its officers, employees and agents against any loss or damage suffered by them or any of them whilst exercising or attempting to exercise the rights conferred by this condition 7.
- 7.4** Upon the Owner repossessing the Vehicle, the Agreement shall be deemed to be terminated but without prejudice to any claim or demand the Owner may have against the Renter in respect of any happening, matter or thing prior to the date of such repossession.

8. EXCLUSION OF OWNER'S LIABILITY

- 8.1** The Owner shall not be liable for any loss or damage suffered by the Renter or any Person arising out of the use or operation of the Vehicle, or for the payment to the Renter of the costs

of obtaining a replacement vehicle provided that nothing in this condition 8.1 shall limit or vary any liability which may arise under the Trade Practices Act 1974 or any other applicable legislation except to the extent that any such liability may be limited or varied.

- 8.2** The Renter acknowledges his interest in the Vehicle is that of a bailee of the Owner only and agrees not to part with possession or dispose or encumber or assign any right or interest in the Vehicle and not to create any lien on the Vehicle for repairs or otherwise.