

TERMS AND CONDITIONS OF CAR HIRE AGREEMENT

1. IN THIS AGREEMENT

- 1.1 "the Owner" means the proprietor for the time being of the business, and the business name "Backpacker Car Rentals" together with his, her or its (as the case may be) officers, employees and agents and successors in business, transferees and assigns.
- 1.2 "the Hirer" means the person, company, government department or body shown as the Hirer on the face hereof together with any person, company, government department or body which is or becomes vicariously liable at law to third parties for loss or damage caused by the actual driver of the vehicle whether or not the loss or damage was caused with or without the knowledge or consent of such person, company, government department or body. The term "the Hirer" shall also include any person who is a nominated driver on the face hereof, or who agrees to pay charges in relation to this agreement, or who signs this agreement as agent of any other person, and where the Hirer is a natural person, the term "the Hirer" shall include the Hirer's personal representatives, or where the Hirer is a company or statutory body, the term, "the Hirer" shall include the Hirer's successors, transferees and assigns.
- 1.3 "the vehicle" means the vehicle described on the face hereof or any replacement vehicle provided by the Owner to the Hirer.
- 1.4 "damage to the vehicle" includes any loss of or damage to the vehicle whatsoever together with that caused to its tyres, accessories and tools and any other items included in or on the vehicle at the time of hire.
- 1.5 "the Owner's loss" shall include rent lost by the Owner from the date of expiry of the rental period to the date of repossession of the vehicle or of placing the vehicle in a rentable condition, whichever is the latter, together with the costs incurred by the Owner in rectifying damage to the vehicle along with any towage, debt collection, legal or other costs as incurred by the Owner or any other claims made by the Owner against the Hirer or any other person in relation thereto.
- 1.6 "interest" means an additional cost payable by the Hirer to the Owner on outstanding amounts due to the Owner under the Terms & Conditions of this Car Hire Agreement at a rate of 18% per annum from the date of demand to the date of payment.

2. HIRER'S WARRANTIES

The Hirer warrants that:

- 2.1 the Hirer is a holder of a current motor vehicle driver's licence valid in Western Australia at the time of rental and for period thereof and that the licence permits the Hirer to drive a vehicle of the same class as the vehicle.
- 2.2 the Hirer has never been refused motor vehicle insurance either solely or jointly with any other person.
- 2.3 the Hirer has not been convicted of any offence relating to driving a motor vehicle including (but not limited to) offences relating to driving under the influence of liquor or drugs.
- 2.4 Each and every particular shown on the face hereof as to the Hirer's name, date of birth, occupation, driver's licence number and expiry date, address, business and home telephone number, employer (and the employer's address and telephone number) are correct as at the date of hire and that should any particular change the Hirer will notify the Owner within 24 hours thereof.

The Hirer acknowledges that the Owner relies on the truth of the above warranties and that the Owner has agreed to enter into this agreement on the basis that these warranties are correct.

3. THE HIRER AGREES

- 3.1 That the vehicle is in good operating order and condition at the time of hire with the seal of the odometer unbroken.
 - 3.2 The Hirer agrees to return the vehicle in the same clean and roadworthy condition (except for ordinary wear and tear NOT INCLUDING WINDSCREEN OR TYRE DAMAGE) together with all tools, tyres and accessories to the location specified on the front hereof (or any other place nominated by the Owner) within the date/time therein specified or sooner if demanded by the Owner.
 - 3.3 The Hirer agrees that should the vehicle not be returned within the date/time specified on the face hereof then the Owner may take any steps (in its absolute discretion) that it deems necessary to recover possession of the vehicle and the Owner's cost of recovering possession thereof together with the Owner's loss if any.
 - 3.4 Should the vehicle break down or be involved in an accident, to notify the Owner within 24 hours of the time of the break down or accident and to render full assistance to the Owner in rectifying the vehicle, towing it to any place nominated by the Owner (and paying the towing charges thereof) notifying the Police within 24 hours and to further render full assistance to the Owner including (but not limited to) completing the Owner's accident report form, complying with all requests of the Owner for assistance in any litigation (whether actual or contemplated) or investigation relating to the break down or accident and any other requests made by the Owner whatsoever.
 - 3.5 To drive, handle, park, maintain and care for the vehicle in a cautious, prudent and safe manner taking all reasonable care, keeping the vehicle in a safe place securely locked when not in use.
 - 3.6 Not to use the vehicle at any time when the vehicle is in any way damaged or unsafe or when the Owner has instructed the Hirer not to do so.
 - 3.7 Not to use the vehicle for any illegal purpose or in any race or speed test in contravention of any law of Western Australia concerning the use of motor vehicles.
 - 3.8 Not to drive the vehicle under the influence of alcohol or any drugs.
 - 3.9 Not to use the vehicle for the conveyance of passengers for reward.
 - 3.10 Not to use the vehicle off-road or on any road or other area that is not a hard sealed surface and regularly maintained. Further, the Hirer agrees not to use the vehicle for towing or to venture further than 50km (extended to include Mandurah) from the Perth GPO unless otherwise authorised as indicated on the front hereof.
 - 3.11 To pay all fines for traffic, parking or other offences whatsoever committed by the Hirer or the Hirer's agent through the use of the vehicle and to pay all toll levies and other charges imposed by any law or government body in respect thereof and to reimburse the Owner for payment of any of the above mentioned or any fines or costs incurred by the Owner in any way connected with the Hirer's use of the vehicle. An administration fee applies for all infringements handled by the Owner on the Hirer's behalf.
 - 3.12 To indemnify and keep indemnified the Owner against any of the Owner's loss and any liability arising out of a breach of the Hirer's obligations whether expressly contained herein or implied at law or by statute and to pay any such amounts within 7 days of the date of demand by the Owner, failing which the Owner shall be entitled to interest together with the costs of recovery thereof.
 - 3.13 Not to allow or fail to prevent the vehicle to be driven by any person other than the Hirer mentioned on the face hereof unless the written permission of the Owner is first obtained which permission may be withheld by the Owner in its absolute discretion.
 - 3.14 Not to carry in the vehicle inflammable liquids, gases or solids having a true flash point of less than 73°C or any goods, materials or substances of any explosive, corrosive or otherwise dangerous nature.
 - 3.15 Not to deny the vehicle is the property of the Owner and not to cause or fail to prevent any lien being given or arising over the vehicle in favour of any person whomsoever.
 - 3.16 To attend to and be responsible for all the usual running requirements of the vehicle during the period of hire including (but without limiting the generality of the foregoing) keeping sufficient water in the battery, radiator and window washers, keeping engine oil at the proper level, keeping the tyres at the required pressure, and performing the Owner's routine 'Safety Check', all to be done at the Hirer's expense, and the Hirer agrees to make no claim against the Owner in respect thereof. Should the Hirer fail to comply with this clause the Owner shall be entitled to claim losses from the Hirer.
 - 3.17 Not to abandon the vehicle at any time whatsoever. The Hirer remains absolutely responsible for the safety and care of the vehicle until returned to the Owner's premise. The Hirer indemnifies the Owner against the cost of towing (whether Police authorised or not) in the event of the vehicle being parked or abandoned in an unsafe location, regardless of how it came to be in that location or whether deemed to be abandoned by the Hirer.
 - 3.18 To effect the Hirer's own personal accident insurance for the Hirer and the Hirer's passengers and to indemnify and keep indemnified the Owner in respect of any claims made by the Hirer or the Hirer's passengers as regards any personal injuries or property damage and economic loss suffered or arising out of, or caused by, the use of the vehicle.
 - 3.19 That the calculation of distance charges shall be measured by the change in the odometer reading from the time of hire to the time of the return of the vehicle or the recovery thereof by the Owner (whichever reading is the greater), and the Hirer further agrees not to tamper or in any way manually alter the odometer reading at any time. The Hirer further agrees to pay the Owner immediately upon demand such amount as is calculated thereby in respect of the distances so travelled, and/or the period for which the vehicle is out of the possession of the Owner, at the respective rates shown on the face hereof. If the seal of the odometer is broken the persons responsible will be reported to the appropriate authority and the Hirer will be responsible for extra charges based on 500 kms per day at the rate stated on the front hereof.
 - 3.20 To pay a fee of \$33.00 per hour plus \$1.10 per km travelled in the event of a vehicle pick up by the Owner or call out by the Hirer to a breakdown including (but not limited to) a flat battery, key locked in car, lost key, flat tyre, low or no fuel, or similar type event being deemed Hirer fault (which the Owner in its absolute discretion elects to nominate as Hirer's fault). If a third party service is required, the Hirer shall be subject to those charges at cost plus GST. If the Owner is required to open the depot outside its usual trading hours a fee of \$55 applies.
 - 3.21 During the rental period, the Hirer must make additional payments for the charges if the Owner so requires. The Owner's calculations of such hire charges shall be conclusive and should the Hirer fail to pay the amount so calculated to the Owner on demand, then the Hirer shall, in addition to any other amount owing hereunder or otherwise to the Owner, pay interest on the outstanding charges from the date of demand to the date of payment and return the vehicle to the Owner if so requested to do so.
 - 3.22 To be bound by the further terms and conditions of hire as detailed on the face hereof or by any annexure attached hereto including (but not limited to) the Bond Receipt and Vehicle Condition Report.
4. The Owner shall be entitled to terminate the agreement and request return of the vehicle or to repossess the vehicle at any time whatsoever and without notice if the Owner is of the reasonable opinion that the Hirer has breached or may breach any term of this agreement or if the vehicle is damaged or at risk in any way whatsoever.
 5. The Hirer acknowledges that the Hirer will not at any time whatsoever make any claim against the Owner in respect of charges paid or in respect of the condition of the vehicle. No claim is to be brought against the Owner for any loss, damage or expense suffered or incurred by the Hirer or any person covered in the vehicle during the period of hire or any other delay or matter whatsoever and howsoever arising from or incidental to a breakdown of the vehicle or any accident in which the vehicle is involved or the loss of the vehicle, and the Hirer further agrees that if any claim is made against the Owner by any party other than the Hirer then the Hirer will indemnify and keep indemnified the Owner against the costs and any successful claim (including interest) in respect thereof.
 6. In the event of any accident or damage howsoever caused to the vehicle the Hirer shall be liable to pay the damages liability regardless of fault as specified on the face hereof for damage caused to the vehicle and to pay the same to the Owner or the Owner's nominee on demand or within 7 days of the date thereof. Failure to pay the damages liability or meet the other conditions of cover will render the hirer liable for all costs incurred. Cover may be declined under certain circumstances or only a portion of the claim paid under other circumstances. If the Hirer is not at fault, the Hirer may be able to recover costs from the Third Party responsible or their insurer, however the Owner does not become involved in the recovery of those costs.
 7. In the event that any damage is caused to the property or person of any person whomsoever as a result of any accident involving the vehicle whether due to the Owner's negligence or breach of contract or statute or howsoever arising then to the extent that that damage (together with the costs thereof and interest thereon if applicable) is not covered by insurance effected by the Owner in relation to the vehicle (which insurance the Owner in its absolute discretion elects to make a claim upon) then the Hirer agrees to indemnify and keep indemnified the Owner against any claim made by such party for such damage, costs and interest and to pay the same to the Owner within 7 days of the date thereof.
 8. In the case of hiring by more than one Hirer, each Hirer shall be jointly and severally liable in respect of all the terms and conditions of this agreement whether express or implied.
 9. In the event the Hirer has paid by use of credit card or directed the Owner to bill charges to some other person, corporation, firm or organisation who or which fails to make payment when due, the Hirer will immediately pay the full amount due to the Owner upon demand together with any interest charges as applicable.
 10. The Owner shall be entitled to debit any previously nominated credit card, including third party credit cards, provided by the Hirer for the purposes of payment regardless of whether the charges are agreed or not. In the event the Hirer has paid by use of a third party credit card, which payment is subsequently disputed, the Hirer shall indemnify and keep indemnified the Owner against all claims or liability from the use of such nominated credit card and pay all such amounts to the Owner within 7 days of the date of demand by the Owner. Failing which the Hirer shall become directly responsible for handling of the disputed charges and repayment thereof to the third party card holder.