



## **Terms and Conditions**

### **Agreement to Hire a Rental Vehicle**

This document is an agreement made between Motoka Rentals Limited trading as Thrifty Car Rental (Thrifty) as owner and the Hirer whose particulars are entered on the front of this Agreement (Hirer). This Agreement consists of the front of this document and the terms and conditions contained below.

### **VEHICLE DESCRIPTION AND TERM OF HIRE**

1. Thrifty will let and the Hirer will take the motor vehicle, details of which are set out on the front of this Agreement (the vehicle), for the term of hire as described in this Agreement.

### **PERSONS WHO MAY DRIVE VEHICLE**

2. The vehicle may be driven during the period of hire only by (i) the person or persons described on the front of this Agreement and (ii) such other person(s) as may be agreed by Thrifty at the time of hire or subsequently, and in each case only if each such person holds a current driver's licence (particulars of which are to be given to Thrifty at the time of hire, whether on the front of this Agreement or otherwise or at the time Thrifty agrees to that person being a driver) appropriate for the vehicle at the time they are driving the vehicle.

### **HIRER'S OBLIGATIONS**

3. The Hirer shall ensure that:

- (a) the water in the radiator and battery of the vehicle is maintained at the proper level;
- (b) the oil in the vehicle is maintained at the proper level;
- (c) only the correct fuel type specified for the vehicle will be used;
- (d) the tyres on the vehicle are maintained at their proper pressure;
- (e) all reasonable care is taken in handling and parking the vehicle and that it is left securely locked when not in use;
- (f) the distance recorder and speedometer are not interfered with;
- (g) no part of the engine, transmission, braking or suspension systems is interfered with;
- (h) should a warning light be illustrated or the Hirer believes the vehicle requires mechanical attention, he/she stops driving it and advises Thrifty immediately;

- (i) every driver of the vehicle carries his or her driver's licence in the vehicle at all times and will produce it on demand to any police, traffic or other enforcement officer;
- (j) every driver is aware of and complies with the terms of this Agreement;
- (k) no driver or passenger smokes in the vehicle;
- (l) any accessories (such as, but not limited to, ski racks and snow chains) are fitted correctly so as not to cause damage to the vehicle or any person or property;
- (m) children are appropriately restrained in the vehicle.

## **INSURANCE**

4. Thrifty is obliged to offer to arrange motor vehicle insurance for the benefit of the Hirer, and the following provisions shall apply:

(a) The Hirer may decline that offer and make their own insurance arrangements if they wish, but these must be approved by Thrifty. If Thrifty is not satisfied that the Hirer's insurance is comparable to the insurance arrangements under the policy arranged by Thrifty to be taken out with an unrelated third party insurance provider (the Policy) then Thrifty may decline to hire the vehicle to the Hirer.

(b) If the Hirer elects to take advantage of the Policy then the Hirer and any driver named in this Agreement as a person permitted to drive the vehicle will be covered against the losses and damage described in paragraph (c) below. That cover is however subject to the excess (if any) payable by the Hirer as noted in paragraph (e) below and to the exclusions set out in clause 5.

(c) If the Hirer elects not to take advantage of the Policy then, subject to paragraph (b) above, the Hirer is liable for each of the following:

(i) any loss of, or damage to, the vehicle and its accessories;

(ii) any loss of, or damage to, vehicles and other property of third parties and any loss or damage arising from personal injury; and

(iii) all consequential or indirect damage, loss or costs incurred by Thrifty, which shall include, but not be limited to, salvage costs, costs of retrieving the vehicle and the loss of ability to rehire the vehicle and any loss of revenue,

in each case arising out of any act or omission occurring during the hire term.

(d) Where the Hirer accepts the Policy then the Hirer is covered by the Policy, up to \$150,000 in aggregate in relation to subparagraphs (i) and (iii) in paragraph 4(c) and up to \$3,000,000 in aggregate in respect of any one loss under subparagraph (ii) of paragraph 4(c), but subject always to paragraph (b) above.

(e) If the Hirer elects to take advantage of the Policy then the excess payable by the Hirer is as specified on the front of this Agreement and is payable for each and every incident involving the vehicle. If however the damage giving rise to the claim under the Policy is excluded under clause 5

below then the excess will be considered part payment toward the total damage costs payable by the Hirer and any additional costs will be charged to the Hirer pursuant to clause 19 below.

(f) The Hirer acknowledges that the exclusions to insurance cover referred to in clause 5 below apply irrespective of whether or not the Hirer has elected to have a reduction in the excess for the Policy as specified by the Hirer initialing its acceptance of AER (Accident Excess Reduction) on the front of this Agreement.

## **EXCLUSIONS**

5. The insurance cover under the Policy shall not apply where the damage, injury or loss:

(a) arises when the driver of the vehicle is under the influence of any alcohol or any drug;

(b) arises when the vehicle is in an unsafe or unroadworthy condition that arose during the course of the hire and 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) arises when a breakdown or breakage occurs due to a mechanical, electrical or electronic failure or breakdown including any damage to the engine or transmission system which results directly from a mechanical, electrical or electronic failure, breakdown or breakage, in each case which is the result of the improper or unauthorized use of the vehicle;

(d) arises when an accessory is incorrectly fitted to the vehicle and causes damage to the vehicle, or the vehicle is loaded, or is in the course of being loaded, to a degree which is in excess of the manufacturer's specifications, or when the vehicle is being loaded or unloaded outside the boundary limits of a road or other thoroughfare and the loading or unloading is done by someone other than the driver or a person authorised by the Hirer;

(e) arises when the weight of the vehicle or its load causes damage to any bridge, road or viaduct, or anything beneath the road, including any underground pipeline, cable or other installation;

(f) arises when there is overhead damage to the vehicle or to the property of any third party resulting from the overhead damage;

(g) consists of damage consisting of any puncture, cut or bursting of any tyre, or from damage to any tyre caused by application of the vehicle's brakes;

(h) arises when the vehicle is operated in any race, speed test, trial, rally or contest;

(i) arises when the Hirer is not a body corporate or department of state and the vehicle is driven by any person not permitted by clause 2;

(j) arises when the vehicle is wilfully or recklessly damaged or lost by the Hirer, a nominated driver, or a person under the Hirer's authority or control;

(k) consists of wear and tear to the vehicle in the ordinary course;

(l) arises when the driver commits a traffic offence while driving the vehicle (and for the avoidance of doubt any penalty or fine imposed as a result of prosecution for breach of any law shall not be covered by the Policy);

(m) arises when the vehicle is operated outside the term of hire or any agreed extension of that term [or in any other circumstances notified by Thrifty to the Hirer]; or

(n) arises when the vehicle is operated on Skippers Canyon Road, Queenstown, or Ninety-Mile Beach, Northland or on any unformed road including any beach.

6. Section 11 of the Insurance Law Reform Act 1977 shall apply to clauses 4 and 5 as if this Agreement were a contract of insurance.

### **THRIFTY'S OBLIGATIONS**

7. Thrifty shall supply the vehicle in a safe and roadworthy condition up to current Certificate of Fitness standards.

8. Thrifty 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.

### **MECHANICAL REPAIRS AND ACCIDENTS**

9. If the vehicle is damaged or requires repair or salvage, whether because of an accident or breakdown, the Hirer shall advise Thrifty of the full circumstances immediately.

10. The Hirer shall not arrange or undertake any repairs or salvage without Thrifty's authority except to the extent that the repairs or salvage are necessary to prevent further damage to the vehicle or to other property. This extends to purchasing any replacement tyre without approval of Thrifty.

11. Thrifty has arranged 24 hour roadside assistance should there be a need for it due to repair or accident. The costs of the provider of that assistance are payable by the Hirer directly to that provider, and these include call-outs relating to refueling, jump starting, tyre related incidents, lost keys and keys locked in the vehicle. Where assistance is required in respect of an inherent mechanical, electrical or electronic fault in the vehicle (as determined by Thrifty or its authorised agent) then the cost of the assistance will be borne by Thrifty.

12. If for any reason the vehicle requires repair or replacement then the decision as to whether or not another vehicle should be supplied to the Hirer is at Thrifty's sole discretion.

### **USE OF THE VEHICLE**

13. The Hirer shall not:

(a) use or permit the vehicle to be used for the carriage of passengers for hire or reward unless the vehicle is hired with Thrifty's knowledge for use in a passenger service licensed under Part 4A of the Land Transport Act 1998 (the Act);

(b) sublet or hire the vehicle to any other person;

- (c) permit the vehicle to be operated outside their authority;
- (d) operate the vehicle, or allow it to be operated, in circumstances that constitute an offence against Sections 56, 57 or 58 of the Act (which relate to driving under the influence of drugs or alcohol) or under any other act or regulation or allow the vehicle to be used in connection with any illegal activity;
- (e) operate the vehicle or permit it to be operated in any race, speed test, trial, rally or contest;
- (f) operate the vehicle or permit it to be operated in breach of the Act, the Land Transport (Road User) Rule 2004, or any other act, regulations, rules or bylaws to road traffic;
- (g) operate the vehicle or allow it to be operated for the transport of more than the number of passengers or more than the weight of goods specified in the certificate of loading for the vehicle and/or RUC certificate, whichever is the lesser for the vehicle;
- (h) drive or allow the vehicle to be driven on any roads excluded in clause 5(n) of this Agreement, or on any beach, or any driveway or other surface likely to damage the vehicle;
- (i) operate the vehicle or allow it to be operated to tow or push any other vehicle;
- (j) allow any animal to be in the vehicle apart from guide dogs for visually impaired people;
- (k) carry hazardous or dangerous goods in or on the vehicle.

14. Without limiting the obligations of the Hirer under this Agreement, the Hirer will be liable to compensate Thrifty for all costs and losses suffered as a result of the wrong fuel type being used in a vehicle (including petrol being put into a diesel vehicle, and vice versa) while it is on hire to the Hirer.

#### **RETURN OF VEHICLE**

15. The Hirer shall, at or before the expiry of term of hire, deliver the vehicle to Thrifty or its agent at the location specified on the front of this Agreement and if it wishes to extend the period of hire it shall seek Thrifty's consent to the continuation of hire (in which case the Hirer will pay additional rental charges for any agreed extension of the hire). If the Hirer does not comply with this clause the Hirer may be liable for charges for the late return of the vehicle or for returning it to a location other than the agreed one.

16. Hirers are obliged to keep the keys to the vehicle with them at all times during the term of hire of the vehicle and to return them with the vehicle at the location referred to in clause 15 above at the expiry of the term of hire. A failure to return the keys at that time with the vehicle means that the vehicle has not been validly returned to Thrifty, and as a result the Hirer may be liable for costs and losses associated with the failure to return the keys at the specified location at the scheduled expiry of the term of the hire (including where keys are lost or damaged during the term of hire). These costs and losses may include loss of income to Thrifty while it is not able to rehire the vehicle, courier costs for couriating the spare set of keys to the location of the vehicle, and the cost of replacement keys if the keys are lost or destroyed. The cost of replacement keys is likely to be at least \$200 plus GST.

17. The Hirer shall remove all personal belongings from the vehicle prior to returning the vehicle. Thrifty is not responsible for any items that are left in the vehicle upon return. Where a valuable item is left in the returned vehicle Thrifty will attempt to contact the Hirer, and any costs of return of the item or for its storage will be borne by the Hirer. Where the Hirer cannot be satisfactorily located within one month and in the case of items of little value, Thrifty shall be entitled to dispose of such items as it sees fit, and should any be sold then the net proceeds of sale will be paid to a charity selected by Thrifty.

#### **IMMEDIATE RETURN OF VEHICLE WHERE DEFAULT OR DAMAGE**

18. Thrifty shall have 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 this Agreement in a manner or an extent which Thrifty considers material, or if the vehicle is involved in an accident or damaged. The termination of the hire under the authority of this clause shall be without prejudice to the other rights of Thrifty and the rights and obligations of the Hirer under this Agreement or otherwise. No hire charges shall be payable by the Hirer in relation to the period after the date the vehicle is returned to or repossessed by Thrifty.

#### **PAYMENTS BY HIRER**

19. The Hirer agrees to pay on demand all of the following charges (whether or not charges are detailed on the front of this Agreement): as payment for the hire of the vehicle all charges at the rates detailed on the front of this Agreement for each 24-hour period (or part thereof) commencing from vehicle check-out time as specified in this Agreement;

(a) a fee to cover additional drivers;

(b) a surcharge for drivers under the age of 25;

(c) any applicable additional charges for distance driven as specified on the front of this Agreement;

(d) any road user charges if specified on the front of this Agreement;

(e) charges for late return of vehicle;

(g) charges resulting from the loss of or damage to the keys to the vehicle;

(h) the sum specified for the insurance cover (ADE), Total Protection Package (TPP), Accident Excess Reduction (AER) and any other item detailed on the front of this Agreement;

(i) the cost of all fuel (but not oil) used in the vehicle during the period of hire;

(j) where the Hirer breaches any of their obligations under this Agreement (without limiting any other right Thrifty has) such sum as is necessary to compensate Thrifty for loss or damage as determined by Thrifty acting reasonably;

(k) any charges for cleaning the vehicle interior where the vehicle is returned in a condition that Thrifty considers excessively dirty requiring extra cleaning or deodorising. This includes stains, spillage of fluids, food or vomit, and extends to odours including tobacco smoke;

- (l) all fees and penalties for traffic and parking offence infringements and unpaid toll charges;
- (m) any damage or other administration fees and charges as specified on the front of this Agreement;
- (n) all applicable goods and services tax (GST) and any other government taxes or duties that may apply;
- (o) where the Hirer makes credit or debit card payments, a surcharge of such amount (+ GST) of the purchase amount as specified by Thrifty at the time of hire;
- (p) the sum to cover any damage incurred to or by the vehicle during the period of the hire (to the maximum value of any applicable insurance excess where the Hirer has taken advantage of the Policy) regardless of whether the damage was reported to Thrifty upon or before vehicle return. Final charges will be determined after a final inspection by Thrifty's representative which will be made as soon as practicable after return to, or recovery by, Thrifty of the vehicle.

#### **TRAFFIC OFFENCES**

20. Under section 9.5(1) of the Land Transport Rule: Operator Licensing 2007 Thrifty is entitled to debit the Hirer's credit card or charge their account for any infringement fee for an offence where the offence was committed during the period of hire and:

- (a) was a speeding offence, a toll offence or an offence in respect of failure to comply with the directions given by a traffic signal, in each case where that offence was detected by approved vehicle surveillance equipment; or
- (b) was an offence for parking in any portion of a road in breach of any bylaw of a road controlling authority or an offence against Part 6 the Land Transport (Road User) Rule 2004.
- (c) was an offence under section 20(1) of the Freedom Camping Act 2011 involving the use of the vehicle.

21. Thrifty is authorised by the Hirer to make payment of the infringement fee to the enforcement authority once it is satisfied that it has received payment from or on behalf of the Hirer as a result of charging the fee to the Hirer's credit card or their account.

22. Thrifty may also charge an administration fee in addition to the infringement fee. The administration fee will not exceed the amount specified on the front of this Agreement.

23. Thrifty will send the Hirer a copy of any infringement notice and any reminder notice as soon as practicable. The Hirer has the right to challenge, complain about, query or object to the alleged offence to the issuing enforcement authority, and seek a court hearing (within 56 days from the date of issue of the infringement notice or 28 days from the date of issue of the reminder notice).

24. Generally Thrifty will contact the relevant enforcement agency and will request that all dealings and actions relating to the infringement be dealt with directly by the enforcement agency with the Hirer rather than with Thrifty. All Hirers are taken to have consented to Thrifty providing all such information (including personal information relating to drivers) to relevant enforcement authorities.

## **PAYMENT OF CHARGES**

25. The Hirer hereby irrevocably and unconditionally authorises Thrifty to charge to their credit card and/or to charge to their account (as nominated respectively under "Payment Information" on the front of this Agreement or in the credit card authority) all charges and other sums payable by the Hirer under this Agreement.

26. If the Hirer fails to make full payment of any charge due to Thrifty, the Hirer shall pay to Thrifty:

(a) if required by Thrifty, interest on all outstanding charges at a rate of 12% per annum (or such other rate as Thrifty may specify) but only if the sum unpaid remains unpaid for at least 14 days. Payments received will be credited firstly against any accrued but unpaid interest;

(b) Thrifty's costs of recovering or attempting to recover from the Hirer outstanding charges, including any agent's costs, and legal costs on a full indemnity basis;

(c) an administration fee of up to \$75 plus GST to cover Thrifty's costs in dealing with the non-payment or late payment.

27. Hirers are entitled to query any charging or debiting by Thrifty of any sum to the Hirer's credit card or account pursuant to the terms of this Agreement, and Thrifty shall treat any such query in good faith with a view to resolving any misunderstandings amicably and promptly.

## **PRIVACY**

28. Any personal information sought from the Hirer by Thrifty is to enable Thrifty to assess the request to hire a vehicle. The Hirer need not supply that information but if they do not, then Thrifty will be unable to hire the vehicle to the Hirer. The Hirer acknowledges that Thrifty will collect, hold and use all personal information relating to the Hirer or its nominated drivers for purposes related to the hire of the vehicle and the provision of related services, which may include direct marketing and the assessment of customer satisfaction with products and services provided by Thrifty. Thrifty may disclose all such information to debt collection agencies if the Hirer defaults in the payment of any moneys due under this Agreement, and may disclose the information to other parties where there has been an accident involving the vehicle during the period of hire. Those parties may be involved in the accident but may also include other vehicle rental companies where relevant. Information may also be disclosed to enforcement agencies or other organisations responsible for handling traffic or parking related infringements. Personal information may also be disclosed to operators of petrol stations where fuel for the vehicle is unpaid or alleged to be unpaid, or to parking companies or agencies in relation to parking fees and charges which are unpaid or alleged to be unpaid, and in any event will be provided to police on request of the police for any reason. The Hirer consents to all such disclosures for all those purposes.

## **GPS DEVICES AND OTHER ACCESSORY ITEMS**

29. The Hirer is liable for all damage to or loss, whether from theft or otherwise, of any GPS unit (including any accessories to any GPS unit), any snow chains, roof racks, tow bars or other accessories installed or contained in any vehicle. The amount payable by the Hirer will not exceed the cost of replacement of the damaged or lost item. The Hirer is also liable to Thrifty for any

handling or freight free charged by Thrifty where any such item (including without limitation any accessory to a GPS unit) is damaged or lost or is not returned to Thrifty.

NOTE TO HIRER: THRIFTY MUST GIVE YOU AT LEAST ONE COPY OF THIS AGREEMENT. A COPY MUST BE KEPT IN THE VEHICLE THROUGHOUT THE TERM OF THE HIRE AND PRODUCED ON DEMAND BY ANY POLICE OFFICER, TRAFFIC OFFICER OR OTHER AUTHORISED EMPLOYEE OF THE LAND TRANSPORT SAFETY AUTHORITY.

January 2017