

#### TERMS AND CONDITIONS OF RENTAL AGREEMENT

##### 1. DEFINITIONS

In this agreement, unless the context indicates otherwise, the following expression shall bear the following meanings:

- 1.1. the LICENSEE  
Means EXPLORER SAFARIS;
- 1.2. the RENTER  
Means the renter names as such overleaf;
- 1.3. the DRIVER  
Means the renter and/or the driver and/or the additional driver described overleaf;
- 1.4. the VEHICLE  
Means the vehicle described overleaf or any other replacement vehicle provided to the renter by the Licensee, (including the car documents, keys, tyres, maps, information guides, tools and accessories supplied with the vehicle);
- 1.5. the RENTAL PERIOD  
Means the period between the "OUT (D/T)" and the "Due Back Date and Time" as specified overleaf or, if such period is extended, the time and date entered on the Licensee's records;
- 1.6. the RATE CARD  
Means the Licensee's rate card published and amended from time to time, applicable to the vehicle rented in terms of this agreement, and which is available at any office of the Licensee;
- 1.7. the EXCESS  
Means the amount referred to as "EXCESS" overleaf and/or in the rate card; and
- 1.8. PERSON  
Includes any natural person or legal entity. Any words importing any gender shall include the other genders and words importing the singular shall include the plural and vice versa.

##### 2. RISK AND DELIVERY

- 2.1. The vehicle shall be at the sole risk of the renter from the date and time of delivery of the vehicle to him until the vehicle is returned to the Licensee. The vehicle shall be returned undamaged, in good order and in roadworthy condition, fair wear and tear expected.
- 2.2. The renter shall return the vehicle at the renter's expense to an authorised representative of the Licensee at the "termination office" described overleaf or such location as agreed to by the Licensee and entered on the Licensee's records. The renter acknowledges that failure to return the vehicle in terms of this agreement shall constitute illegal possession by him.
- 2.3. If the renter or the driver or any person nominated overleaf returns the vehicle to the offices of the Licensee, the renter and/or such person shall:
  - 2.3.1. Park the vehicle in the Licensee's reserved parking;
  - 2.3.2. Ensure that the vehicle is properly locked and secure;
  - 2.3.3. Hand the keys of the vehicle to an authorised representative of the Licensee at the Licensee's office where the Licensee's offices are open for business;
  - 2.3.4. Leave the keys in a drop safe provided at the offices of the Licensee where the Licensee's offices are not open for business.

##### 3. WARRANTIES BY RENTER

The renter warrants that:

- 3.1. All particulars and representations given and made by the renter are true and correct;
- 3.2. The signatory who signs this agreement on behalf of the renter is authorised to act as such;
- 3.3. The driver is not less than the age of 30 (thirty) years, holds a valid driver's license for the vehicle, has not been convicted of any criminal offence which resulted in the endorsement or cancellation of his driving license, will not drive the motor vehicle under the influence of alcohol and has held his driver's license for a minimum period of 5 (five) years;
- 3.4. Neither he nor the driver have defective vision or hearing, suffer from fits, have any physical illness, or have a medical condition in any way or form whatsoever;
- 3.5. No person other than the defined driver shall drive the vehicle;
- 3.6. The driver will lock the vehicle and activate any burglar alarm or protection system installed in the vehicle when the vehicle is not in use and ensure that the keys of the vehicle are properly and safely controlled;
- 3.7. The vehicle shall not be used or driven for the conveyance of persons or property for hire, in contravention of an in-breach of any law, in any race, speed test or contest or to propel or tow any vehicle or trailer or on roads not properly constructed;

- 3.8. The vehicle shall not be used or driven in any way which would constitute a breach of any of the provisions of this agreement;
- 3.9. No insurer or underwriter has ever declined his application for any form of motor insurance, cancelled his policy, refused to renew his policy or imposed special conditions on him or the driver.

#### 4. PAYMENTS

The renter agrees to pay to the Licensee the aggregate of the amounts payable in terms of sub-clause 4.1 to 4.9 inclusive:

- 4.1. The vehicle rental rates as set out herein in terms of the rate card or any other rate agreed in writing between the renter and the Licensee, as the case may be;
- 4.2. Any other fees and/or charges accepted by the renter in terms of this agreement and/or levied in accordance with the rate card;
- 4.3. The cost of fuel supplied for the vehicle by the Licensee;
- 4.4. All fines, taxes, charges, stamp duties, levies and tolls payable by the Licensee to any authority arising out of the use of the vehicle by the renter;
- 4.5. All and any costs, losses or damages incurred by the Licensee in procuring the return of the vehicle to the terminating office described overleaf, or such other location as determined by the Licensee in its sole discretion;
- 4.6. Any damages or losses suffered by the Licensee due to the failure of the renter to return the vehicle on the expiry of the rental period, including but without limiting the generality of the foregoing, all amounts which would have been payable by the renter in terms of this agreement if the rental period had been extended to the actual date of return of the vehicle to the Licensee;
- 4.7. All fines and court costs payable by the Licensee for any legal violation assessed against the vehicle, renter, driver or Licensee;
- 4.8. Any costs, including attorney's fee (on an attorney and client basis), collection commission and tracing charges directly or indirectly incurred by the Licensee in enforcing any of its rights or recovering any amounts in terms of this agreement;
- 4.9. All costs incurred by the Licensee in repairing any damage of any nature whatsoever to the vehicle and any loss of damages suffered by the Licensee as a result of theft, fire or any cause whatsoever;
- 4.10. If a credit card is presented as payment, the Credit Card Holder will be jointly and severally liable as a customer;
- 4.11. The Licensee may use the credit card details for payment of any amount due under the Rental Agreement even if a signed open credit card voucher has been returned;
- 4.12. All credit card transactions are conducted in South African Rand (ZAR).
- 4.13. Due to exchange fluctuations, the amount refunded on return of the vehicle may vary from that initially debited against the credit card. The Licensee accepts no liability for these variances and accepts no claims for payment for variances.
- 4.14. Any cross-border recovery of vehicle/s shall be charged to the renter.

#### 5. EXTENSION OF RENTAL PERIOD

- 5.1. The renter will be entitled at any time during the initial rental period to extend such rental period verbally and the renter agrees that any extension so noted by a representative of the Licensee on the Licensee's records will correctly reflect such extension. Notwithstanding anything contained herein to the contrary of the original rental agreement, the agreement will be regarded as so amended.

#### 6. TERMINATION

- 6.1. Notwithstanding anything to the contrary contained elsewhere in this agreement, the Licensee shall be entitled to terminate this agreement in its sole discretion at any time by notice to the renter and/or driver and/or representative of the renter and/or driver, whereupon the renter shall return the vehicle to the Licensee upon demand;
- 6.2. The obligations of the renter and rights of the Licensee under this agreement shall continue to be in full force and effect until such time as the vehicle has been returned to the Licensee in terms of this agreement and the renter has complied with all his obligations in terms hereof.

#### 7. INSURANCE AND EXCESS

- 7.1. **CDW (Collision Damage Waiver) covers you for accident and specified damage and does not cover for negligence. Your bond will be refunded to you by head office within 14 working days, provided there is no damage to the vehicle or third party property.**
- 7.2. **Standard CDW (Bond ZAR 20 000.00) which applies in the event of any accident damage to either the Explorer Safaris Land Rover or third party property. Irrespective of the fault, liability will be ZAR 20 000.00**

**7.3. The security bond of ZAR 20 000.00 is payable by cash or credit card on vehicle collection.**

**Should the bond be paid by credit card the amount will be debited to your account immediately, any currency fluctuations are not the responsibility of Explorer Safaris.**

**The following option is available to reduce your bond.**

**CDW1 (Super cover)**

**As indicated on the rate chart, a daily levy will reduce the excess in the event of a collision to the amount illustrated on the rate chart.**

**A further theft excess waiver is available as per the rate chart to reduce the excess in the event of vehicle theft to zero.**

**It covers:**

- Replacement and repair of one tyre
- Replacement of one windscreen
- Replacement of radio.

**Exclusions to your CDW**

**The renter will be fully liable for any damage to Explorer Safaris Land Rover or third party vehicle in the following circumstances-**

- Water damage/water submersion(including salt water)
- Fire damage caused as a result of negligence
- Willful damage – any damage caused as result of negligence. Willful damage includes but is not limited to-
  1. Driving under the influence of alcohol
  2. Driving on restricted roads or restricted areas
  3. Sitting or standing on the bonnet or roof of the vehicle
  4. Damaging the gearbox due to incorrect use of handbrake/clutch
  5. Sizing the engine due to incorrect use of the vehicle or supplements
  6. Incorrect use of diff-locks/or transfer cases, i.e. driving on tar roads with diff lock engaged
  7. Failing to stop when a dashboard warning light indicates a problem
  8. Falling asleep or driver fatigue
  9. Driving on the wrong side of the road.
  10. Loss of the vehicle and or damage caused being uneconomical to repair will result in a minimum charge of 15% of the value of the vehicle over and above the normal excess not withholding the right to claim the full replacement of the vehicle in the event of negligence.

#### **8. CIVIL DISTURBANCE**

- 8.1. The driver shall not take the vehicle into any area or on any road where there is a risk that the vehicle may be damaged, stolen or lost through civil disturbance, riot or any act of political unrest;
- 8.2. The renter shall be liable for all damage suffered by the Licensee if this clause is contravened by the driver for any reason whatsoever.

#### **9. INDEMNITY**

- 9.1. The renter indemnifies the Licensee against any claim by any person for any damage of any nature whatsoever suffered as a result of any incident involving the vehicle whether as a result of the Licensee's negligence or otherwise;
- 9.2. The Licensee shall not be liable for any damage arising out of defect in or mechanical failure of the vehicle, nor for any loss of or damage to any property transported in or left in the vehicle, nor for any indirect damages, consequential loss, loss of profits or any other damages which the renter or the driver or any person transported in the vehicle may suffer arising out of this agreement.
- 9.3. Personal injury is not covered by vehicle insurance, personal travel insurance is strongly recommended.

#### 10. RESPONSIBILITY AFTER LOSS OR DAMAGE TO VEHICLE

- 10.1. If the vehicle is involved in any accident or collision, or is lost, or the vehicle or any part thereof is stolen or is involved in any incident which could prejudice the rights of the Licensee, the driver shall take all such steps to safeguard the interest of the Licensee, including, but not limited to the following where appropriate:
  - 10.1.1. He shall obtain the name and addresses of everyone involved and of possible witnesses;
  - 10.1.2. He shall not admit any responsibility or liability, or release any party from any liability or potential liability, nor settle any claim or potential claim against or by any party, nor accept any disclaimer of liability;
  - 10.1.3. He shall notify the police and the Licensee as soon as possible within 24 (twenty four) hours of the occurrence in question;
  - 10.1.4. Within 48 (forty eight) hours of the occurrence in question, he shall complete and furnish to the Licensee the Licensee's standard claim form;
  - 10.1.5. He shall make adequate provision for the safety and security of the vehicle;
- 10.2. He shall co-operate with the Licensee and its insurer in any investigation, the lodging or instituting of any claim or action and the defense or any prosecution, claim or action relating to the above.
- 10.3. If the renter is not the driver, then, without in any way derogating from the renter's obligations in terms of this clause, the renter shall ensure that the driver complies with the provisions of this clause 11. If the renter is not the driver and the driver does not comply with the conditions as set out in clause 11, the renter shall automatically become liable for all damages, including any third party claims.
- 10.4. The renter shall furnish the Licensee any notice of claim, demand, summons or the like, which the renter or the driver may receive in connection with the vehicle. If the renter is not the driver, the renter shall ensure that the driver furnishes to the Licensee the afore-mentioned documents.
- 10.5. The driver shall not be entitled to effect any repairs to the vehicle whether mechanical, structural or otherwise without prior written consent of the Licensee.
- 10.6. Damage costs are established by a quotation of repair from a reputable panel beater and are substantiated by a report from a duly accredited Loss Assessor.
- 10.7. Should the renter require a replacement vehicle to be delivered, then the charges for the delivery of the replacement vehicle will be for the renter's account and will not be covered by the excess reduction insurances offered by the Licensee.
- 10.8. Should the renter be unable or unwilling to take a replacement vehicle, no refunds for early termination of the contract will apply.
- 10.9. No refund of rental days lost will be considered during the period in which a replacement vehicle is being sourced.
- 10.10. Should there be no replacement vehicle available, no refund will be considered.

#### 11. MECHANICAL REPAIRS

- 11.1. Although all vehicles are regularly serviced, minor problems may still be experienced in respect of the vehicles. Repairs up to a maximum value of ZAR1000 paid for by the renter will be refunded to the renter against valid receipt being produced by the renter to the Licensee reflecting the repairs effected.
- 11.2. Notwithstanding the above, faults with the radio, air conditioning or refrigerator, will not be classified as breakdowns, which require repairs in terms of this section and no refunds of any nature whatsoever will be made for repair time on the aforesaid items.
- 11.3. For major mechanical or other repairs in excess of ZAR1000, the renter is required to contact the Licensee for authorization before embarking on any such repairs:  
+27 (0) 82 855 1574
- 11.4. Any problems of any nature whatsoever associated with the vehicle or any accessory attached thereto, including but not limited to equipment failure, must be reported to the Licensee as soon as is reasonably possible in the circumstances.
- 11.5. No claims in respect of any problems as afore-mentioned will be accepted or honoured if the said problem is not reported to the Licensee during the term of the rental.

#### 12. TYRE REGULATIONS

- 12.1. No vehicles may be driven with flat tyres.
- 12.2. The renter is required to check the tyre pressure, including the spare tyre, at regular intervals.
- 12.3. Tyres can blow out due to the extreme heat on roads.
- 12.4. All replacement tyres are required to be of the same brand, size and ply rating as that of the damaged tyre. Reconditioned tyres should not be utilized under any circumstances.
- 12.5. Save for the Exclusive Cover Insurance, the renter is responsible for the repair and/or replacement of a flat or punctured tyre and cost associated therewith.

**13. DRIVING CONDITIONS**

- 13.1. The vehicles are built on light truck chassis and do not have the road handling abilities of a standard car. Please consider the conditions of the roads driven on as well as the weather conditions.
- 13.2. Remember that it is more difficult to control a vehicle on unsealed roads. Keep within a speed limit not exceeding 100 km/h on sealed roads and 60 - 80 km/h on unsealed roads.
- 13.3. Note that it is strongly recommended that the renter/driver avoid night driving, as wandering animals often stray onto the roads.
- 13.4. Overloaded vehicles are un-safe. It is the renter's responsibility to ensure that the vehicle is loaded so as to ensure that the vehicle can be operated in complete safety at all times.

**14. TRAFFIC FINES / NON-REPORTED DAMAGE**

- 14.1. The Licensee reserves the right to charge the renter after completion of the term of the rental for any parking or traffic fines, or non-reported damage.
- 14.2. An additional amount of ZAR250 for administration purposes will be added to the amount of the fine or damage.

**15. GENERAL**

- 15.1. The renter acknowledges that ownership of the vehicle shall at all times remain vested in the Licensee, and that the Licensee may at any time, for any reason whatsoever, retake possession of the vehicle on its own behalf or acting as a duly authorised agent for and on behalf of the true owner of the vehicle.
- 15.2. The renter shall not be entitled to cede or assign any of his rights and obligations under this agreement, or to sublet to part with possession of the vehicle, its tools or equipment or any part of it.
- 15.3. The cost of fuel is not included in the amount of the rental.
- 15.4. Any tampering by the renter with the odometer of the vehicle will be regarded as fraud. The distance driven by the renter shall be measured from the odometer installed in the vehicle. If such calculation is not practical or possible for any reason whatsoever, the calculation shall be done by such other reasonable method as the Licensee in its sole discretion may deem reasonable.
- 15.5. If the renter is not the driver, then without in any way derogating from the renter's obligations in terms of this agreement, the renter and the driver will be liable to the Licensee jointly and severally for any amounts owing under the agreement including but not limited to damages.
- 15.6. The renter declares that he had not been induced to enter into any provision of this agreement upon any representation made by or on behalf of the Licensee with regard to the delivery time, the condition, quality state of repair, performance capability, fitness or suitability for any purpose, of the vehicle, or anything else whatsoever in respect of any of the matters above mentioned for any other purpose under this agreement.
- 15.7. The renter shall pay all amounts payable by the renter under this agreement to the Licensee, on demand, or where credit is expressly given in writing terms of this agreement, within 14 (fourteen) days after the date of the Licensee's invoice. If any payment is not made on the due date, then the Licensee may, without prejudice to any of its rights, charge interest on the amount due at the maximum rate permissible by law.
- 15.8. Save as otherwise stated in this agreement, any addition to or alteration of this agreement shall be null and void unless agreed upon by the Licensee in writing.
- 15.9. Waiver by the Licensee of any breach of this agreement shall not prejudice any rights of the Licensee under his agreement.
- 15.10. Any payment, which the Licensee may receive from the renter or from any other person on behalf of the renter, may be appropriated by the Licensee in its sole discretion to any liability of the renter under this agreement.
- 15.11. The parties consent to the jurisdiction of the Magistrate's Court having territorial jurisdiction over the parties, for all purposes under this agreement, notwithstanding that the subject matter or cause of action involved be otherwise beyond the jurisdiction of the said court. The parties consent to jurisdiction under South African Law.
- 15.12. The renter chooses domicilium citandi et executandi for purposes of this agreement, at the renter's address specified overleaf or in the case of that address not being within the Republic of South Africa, at the driver's local address specified overleaf.
- 15.13. By his signature hereto as the authorised agent of the renter such signatory undertakes personal liability for the renter's obligations hereunder, notwithstanding anything to the contrary contained herein.
- 15.14. The renter agrees that the Licensee has the right to verify that the license supplied by the renter/driver has been validly issued and that the Licensee may refuse to rent a vehicle to the renter, if the license has been suspended, revoked or restricted in any way.

- 15.15. The Licensee reserves the right to substitute a comparable or superior vehicle if the vehicle ordered by the renter is not available due to unforeseen circumstances. The substitution by the Licensee of a vehicle as aforesaid shall not entitle the renter to any refund or to cancel the rental agreement or claim any damages whatsoever.
- 15.16. Whenever the vehicle is stationary or idling for prolonged periods, the air conditioner must be switched off to prevent damage.
- 15.17. The fridge provided in the vehicle is not a normal domestic fridge and therefore may not be as effective in hot conditions. In order for the fridge to operate effectively, you should ensure that the vehicle is level when parked.
- 15.18. Please note that not all Southern African vehicles are insured and it is NOT compulsory under South African law to be insured against 3rd party property. It is therefore at times impossible to recover money from third party drivers, even through the legal system.
- 15.19. The Licensee may repossess the vehicle at any time if it is found illegally parked, being used to violate the law and/or the terms of this agreement, or appears to be abandoned.
- 15.20. If the keys are locked in the vehicle or are lost, the renter must forthwith inform the Licensee thereof, hereafter the Licensee will, as soon as reasonably possible in the circumstances, and at the renter's cost, retrieve or replace the keys. In the event of there being a delay, not attributable to the Licensee, in replacing the keys, the renter agrees to remain liable for the rental payable in respect of the vehicle, until such time as the keys are replaced, notwithstanding that the vehicle may already have been returned to the Licensee.
- 15.21. Personal injury claims are not covered by the rental agreement or the vehicle insurance or the insurance taken out by the renter in respect of the hired vehicle. The Licensee strongly recommends that the renter take out his own Travel Insurance to cover personal injury.
- 15.22. To avoid possible theft, valuables should not be left in the vehicle. The renter is responsible for insurance of personal property.
- 15.23. The renter or driver will complete a vehicle condition report on collection of the vehicle and the vehicle shall be deemed to be in good order, condition and repair and properly filled with oil and water, unless otherwise indicated in the vehicle condition report.
- 15.24. Please note that most accidents occur for the following reasons: driving negligently, driving under the influence of alcohol or drugs, driving too fast, driving on the incorrect side of the road (the driver should keep left at all times), overloading the vehicle, and driving at night.
- 15.25. The Licensee reserves the right at its sole and absolute discretion, to restrict vehicle movement in certain areas due to adverse road or weather conditions or for any reasonable cause whatsoever and howsoever arising.
- 15.26. The vehicles are only insured for Zimbabwe, Namibia, Zambia, Botswana, Mozambique, Lesotho, Swaziland and South Africa. They are NOT allowed into Angola or Malawi.
- 15.27. Please note Namibia is predominantly an arid desert country and the majority of secondary routes utilised are on dusty and/or gravel roads. It is however impossible to make vehicles completely dustproof, and therefore NO REFUNDS will be provided for any dust ingress of any nature whatsoever into vehicles.
- 15.28. Although it is an "off road vehicle" the renter or driver is reminded not to go off the tracks, for their own safety and in the interest of nature conservation. It is illegal in most game reserves to go off the existing pre-made tracks. If it is found that the vehicle was damaged under these conditions, the renter shall be held solely responsible for all damages and consequential damage due to the negligence of the renter.
- 15.29. This document contains the entire agreement between the parties regarding the matters contained herein and the Licensee shall not be bound by any undertakings, representations, warranties, promises or the like not recorded herein.

Signed at.....on.....

As witnesses:

1. ....  
For and on behalf of the Renter

2. ....

1. ....  
For and on behalf of the Licensee

2. ....