



## STANDARD TERMS AND CONDITIONS OF RENTAL

### 1. Definitions

- 1.1 **“Agreement”** means the agreement of lease for the Vehicle, constituted by the (i) completed Lease Schedule, (ii) these Terms and Conditions and (iii) the Vehicle Inspection Report.
- 1.2 **“Charges”** means the fees payable for certain services or benefits utilised by the Lessee or required by the Lessor, being:
  - 1.2.1 delivery fee – as determined by the applicable AA rate, charged per kilometre;
  - 1.2.2 collection fee – as determined by applicable AA rate, charged per kilometre;
  - 1.2.3 insurance claim handling fee – N\$ 450.00 (in the event of an insurance claim arising);
  - 1.2.4 late return fee – N\$ 450.00 per day;
  - 1.2.5 polishing fee – N\$ 3,000.00 (in the event that Vehicle has been scratched);
  - 1.2.6 valet fee – N\$ 1,500.00 (in the event that the Vehicle is returned to the Lessor in an excessively dirty state);
  - 1.2.7 traffic fine handling fee – N\$ 450.00 (in the event of a traffic fine having been issued in relation to the Vehicle during the Leasing Period);
  - 1.2.8 lost key fee – N\$ 1,000.00.
- 1.3 **“Consumables”** means, in relation to the Vehicle, any product or commodity (including, but not limited to fuels, lubricants and water), required to be maintained or be replenished from time to time by the operator of the Vehicle to ensure the Vehicle's proper operation in accordance with or in compliance to its manufacturer's specifications;
- 1.4 **“Damages”** (in relation to the Vehicle) means any and all damages suffered by the Lessor, including, the actual expenditure incurred in towing, transporting and/or storing the Vehicle, repairing any damage (including tyre and rim damage), replacing parts and/or accessories (without allowing for depreciation), payments made to an expert to inspect collision damage and report thereon, or any other damages or charges incurred related to an incident of whatsoever nature, and includes a total loss where applicable. An invoice, job card, quotation or similar document produced by the Lessor shall be deemed to be *prima facie* proof of any such damages, costs or expenditure;
- 1.5 **“Designated Drivers”** means the persons designated to drive the Vehicle, as indicated in the Lease Schedule;
- 1.6 **“Equipment”** means all movable equipment referred to in the Vehicle Inspection Report, in addition to the extras referred to in the Lease Schedule.
- 1.7 **“Lease”** means the letting and hiring of the Vehicle in terms of this Agreement.
- 1.8 **“Lease Location”** means the premises of the Lessor;
- 1.9 **“Lease Period”** means the period of the Lease, as indicated in the Lease Schedule;
- 1.10 **“Lease Schedule”** means the document terms *“Rental Agreement”* to which these Terms and Conditions are annexed;
- 1.11 **“Lessee”** means the person indicated as lessee of the Vehicle in the Lease Schedule;
- 1.12 **“Lessor”** means Namib Trails 4 x 4 Rental Close Corporation (registration number CC2 / 2023 / 03050), a close corporation with limited liability incorporated in terms of the *Close Corporations Act, 1988*;
- 1.13 **“Parties”** means the Lessor and the Lessee, and **“Party”** means either the Lessor or the Lessee, as the context may require;
- 1.14 **“Rental Payable”** means the rental to be paid by the Lessee to the Lessor for the rental of the Vehicle during the Lease Period, as set out in the Lease Schedule;
- 1.16 **“Total Fee”** means the total amount payable by the Lessee to the Lessor upon commencement of the Lease Period, and includes the Rental Period and various other charges, as indicated in the Lease Schedule;
- 1.17 **“Vehicle”** means the motor vehicle leased by the Lessee from the Lessor, as indicated in the Lease Schedule, and includes, for the purposes of the Lease and this Agreement, the Equipment, in the event that the Lessee has opted, in addition to the Vehicle, to lease Equipment from the Lessor; and
- 1.18 **“Vehicle Inspection Report”** means the annexure to the Agreement, which is to be completed before the Vehicle is handed over to the Lessee, and again when the Vehicle is returned by the Lessee to the Lessor.
- 1.19 **“Terms and Conditions”** means this document.

## 2. Interpretation

- 2.1 In this Agreement:
  - 2.1.1 expressions in the singular also denote the plural, and vice versa;
  - 2.1.2 words and phrases denoting natural persons refer also to juristic persons, and vice versa; and
  - 2.1.3 pronouns of any gender include the corresponding pronouns of the other genders.
- 2.2 Any provision of this Agreement imposing a restraint, prohibition, or restriction on the Parties shall be so construed that the Parties are not only bound to comply therewith, but are also obliged to procure that the same restraint, prohibition, or restriction is observed by any third party engaged by, or acting under the authority or with the consent of the Parties.
- 2.3 Clause headings appear in this Agreement for reference purposes only and shall not be employed in the construction of the subject matter.
- 2.4 Where any term is defined within the context of any particular clause in this Agreement, the term so defined, unless it is clear from the clause in question that the term so defined has limited application to the relevant clause only, shall bear the same meaning as ascribed to it for all purposes in terms of this Agreement, notwithstanding that that term has not been defined in this clause 1.
- 2.5 Any provision in a definition conferring rights or imposing obligations shall be construed to constitute substantive provisions under this Agreement.
- 2.6 This Agreement shall be construed in accordance with the laws of Namibia.

## 3. Letting of Vehicle, Deposit and Rental Payable

- 3.1 Subject to the terms and conditions of this Agreement, the Lessor hereby leases the Vehicle to the Lessee, who hereby hires same from the Lessor for the duration of the Lease Period.
- 3.2 The Lessor's obligations under this Agreement are subject to -
  - 3.2.1 the availability of the Vehicle and the Vehicle being roadworthy; and
  - 3.2.2 the Lessee being in possession of a valid driver's license entitling the Lessee to drive the Vehicle.
- 3.3 The Vehicle is leased to the Lessee *voetsloots* and as is. The Lessor does not represent or warrant that the Vehicle is suitable for any particular purpose that may be contemplated by the Lessee, and the Lessee leases the Vehicle as is and at its own risk.
- 3.4 The Parties shall inspect the Vehicle together before the Vehicle is handed over to the Lessee, and, unless the Parties have made an indication in writing on the Vehicle Inspection Report, the Vehicle shall be deemed to have been delivered in order and without any damage to the paintwork, upholstery and fittings, unless the Lessee proves otherwise.
- 3.5 In consideration for the Lease of the Vehicle, the Lessee shall pay the Lessor the Total Fee, as indicated in the Lease Schedule.
- 3.6 The Total Fee is payable in advance, whereby 20% (twenty percent) of the Total Fee shall be payable to the Lessor upon the finalisation of the booking by the Lessee with the Lessor, and the remaining 80% (eighty percent) of the Total Fee shall be payable ten days prior to the commencement of the Lease Period and all Charges or other payments under this Agreement are due on demand, unless otherwise agreed in writing with the Lessor. All amounts under this Agreement shall be payable in cash or credit card, unless otherwise agreed to in writing by the Lessor.
- 3.7 Without derogating from any other term herein, if the Vehicle is not returned to the Lessor at the expiry of the Lease Period, the Lessor shall be entitled at the expiry of the Lease Period to retake the possession of the Vehicle wherever it may be located and from whomever is in possession thereof.
- 3.8 In the event that the Lessee returns the Vehicle after the expiry of the Lease Period, the Lessor shall be entitled to charge, in addition to the Rental Payable (calculated per day that the Vehicle has not been returned to the Lessor at the expiry of the Lease Period), a daily late fee of N\$ 450.00 for each day that the Lessee has failed to return the Vehicle to the Lessor following the expiry of the Lease Period.
- 3.9 Should the Lessee return the Vehicle to the Lessor before the expiry of the Lease Period, the Lessee shall not be entitled to any refund of the Rental Payable.
- 3.10 After the Lessee has returned the Vehicle to the Lessor, the Parties shall inspect the Vehicle and complete a Vehicle Inspection Report. The Lessor reserves the right to only confirm that the Vehicle is in order once the Lessor has caused a full cleaning and mechanical inspection of the Vehicle, and a complete inspection of the Equipment, to be conducted. The Lessee shall be informed within 7 (seven) working days after the Vehicle has been returned to the Lessor about the cost of any damage sustained by the Vehicle or Equipment.
- 3.11 The Lessee will not be entitled to set-off or withhold payment of any amount due in terms of this Agreement to the Lessor for

any reason whatsoever.

- 3.12 If any amount owing by the Lessee in terms of the Agreement is not paid on the date prescribed by the Agreement for such payment, the Lessor may, without prejudice to any rights it may have, charge interest on any such overdue amount at the applicable prescribed legal rate of interest prescribed in terms of the *Prescribed Rate of Interest Act, 1975*.
- 3.13 A certificate of any director, manager or accountant of the Lessor as to any amount owed by the Lessee to the Lessor shall constitute *prima facie* proof that such amount is owing and payable.
- 3.14 The Lessee may cancel a reservation but the Lessor will charge a cancellation fee based on the following criteria.  
If the date of cancellation is more than 90 days prior to arrival date no fees are charged and the full deposit will be refunded to the Lessee.  
If the date of cancellation is more than 60 days, but less than 90 days 25% of the deposit will be charged and 75% will be refunded to the Lessee.  
If the date of cancellation is more than 30 days, but less than 60 days 50% of the deposit will be charged and 50% will be refunded to the Lessee.  
If the date of cancellation is less than 30 days 100% of the deposit will be charged and 0% of the deposit will be refunded to the Lessee.

#### **4. Use of Vehicle**

- 4.1 The Vehicle may only be utilised for the duration of the Lease Period.
- 4.2 The Vehicle may only be driven by the Designated Drivers.
- 4.3 During the Lease Period, the Vehicle may not be used (i) for the conveyance of passengers or goods for reward; (ii) to propel or tow any other vehicle (including any caravan or trailer) unless authorised by the Lessor in writing; (iii) below the high tide water mark along the coast or in any pools or water salt pans; (iv) for any illegal purpose of any nature whatsoever; (v) to transport goods in violation of any customs laws or in any other illegal manner; (vi) in any motor sport or similar high risk activity; (vii) **beyond the boundaries of the Republic of Namibia, unless expressly authorised by the Lessor in writing**; (viii) in any area where there is or may be a risk of incidents of civil unrest, political disturbance or riot or any activity associated with any of the foregoing;  
(ix) crossing any rivers in flood or along a riverbed; (x) for travelling on long distance roads after sunset or before sunrise; (xi) in sandstorms; (xii) on unregistered roads; or (xiii) to Sandwich Harbour, along the Kunene River, from Epupa Falls east along the D3700 or D3701 roads, or on Van Zyl's Pass. In the event that a Vehicle is used under any of the aforementioned circumstances, the Lessor may terminate the Lease forthwith and the Lessee shall redeliver the Vehicle to the Lessor on the Lessor's demand and forfeit all Rental Payable.
- 4.4 The Lessee shall, for the duration of the Lease Period, make adequate provision for the safety and security of the Vehicle and, in particular, but without limiting the generality of the foregoing, when the Vehicle is not in use, the Lessee shall keep the Vehicle properly locked, secured and immobilised. Further, the Lessee shall not leave the Vehicle unattended for excessive periods of time, and shall activate the burglar alarm and vehicle tracking or monitoring system (if any), and will ensure that any anti-theft device in the Vehicle is properly secured and in place.
- 4.5 The Lessee will ensure that the keys of the Vehicle are under the Lessee's control at all times, and shall not leave the keys in the ignition of the Vehicle whilst the Vehicle is not being driven. The Lessee will be liable to pay additional Charges if the Vehicle's keys are lost, as set out in clause 1.2.10 hereof. The expense associated with the delivery of the key to the Lessee will be for the Lessee's own account.
- 4.6 The Lessee shall at all times throughout the Lease Duration keep the tyre pressure in accordance with the Lessor's manual.
- 4.7 The Lessee shall at all times throughout the Lease Duration adhere to the following speed limits (irrespective of any road signs indicating a higher speed limit, and subject to any road sign indicating a lower speed limit) –
  - 4.7.1 a maximum of 80 km/h on any gravel road; and
  - 4.7.2 a maximum of 120 km/h on all tarred public roads.
- 4.8 The Vehicle is equipped with a vehicle tracker and if the Lessee fails to adhere to the speed limits set out in clause 4.7, the Lessor shall be notified, and accordingly all insurances and reduced excesses shall lapse, and become and remain invalid.
- 4.9 When using the Vehicle's 4 x 4 mode, the Lessee shall –
  - 4.9.1 drive a maximum of 80 km/h on high range mode (H4);

- 4.9.2 drive a maximum of 30 km/h on low range made (L4); and
- 4.9.3 switch to four-wheel drive (H4 and L4) only once the Vehicle is stationary and when the clutch is depressed, or, in the case of an automatic vehicle, the vehicle is in neutral.
- 4.10 If the Lessee causes damage to the Vehicle by using the Vehicle's 4 x 4 mode contrary to clause 4.9 or by using the 4 x 4 mode permanently, the Lessee shall be liable for the full costs of any damages that the Lessor has incurred on account thereof.
- 4.11 The Lessee shall take care that the correct type of fuel is used to fill up the Vehicle. If the wrong type of fuel is used, the Lessee shall be liable for the full costs of any damages that the Lessor has incurred on account thereof.
- 4.12 The Lessee shall ensure that the wheel nuts are tightened at all times. If an accident is caused due to loosened wheel nuts, the Lessee shall be liable for the full costs of any damages that the Lessor has incurred on account thereof.
- 4.13 The Lessee undertakes to refrain from –
  - 4.13.1 stepping on the roof or bonnet or any other painted part of the Vehicle; or
  - 4.13.2 leaning against any metal parts of the Vehicle.
- 4.14 Any use of a roof-top tent shall be at the sole and exclusive risk of the Lessee.
- 4.15 The Lessor will at all times remain the owner of the Vehicle.
- 4.16 Any fixtures of the Vehicle - including, but not limited to, the canopy, tent or rails - may not be removed from the Vehicle for whatsoever reason, except if otherwise authorised in writing by the Lessor.
- 4.17 In the event of a breakdown of the Vehicle, the Lessee must contact the Lessor, and the Lessor shall arrange the nearest breakdown service to assist the Lessee in respect of the Vehicle. The Lessee shall be obliged to safeguard the Vehicle until such breakdown service arrives. If the Vehicle cannot be repaired immediately, the Lessor shall provide the Lessee within 24 (twenty-four) hours with a replacement vehicle. If, at a later stage, it is discovered that the breakdown occurred due to the Lessee's own negligence, or the breach of the Agreement, the account for the breakdown service and any repairs to the Vehicle shall be payable by the Lessee, to the extent that the Lessor's insurance does not cover same.

## 5. Various Obligations of the Lessee

- 5.1 The Lessee shall not sub-let or part with possession of the Vehicle.
- 5.2 The Lessee shall return the Vehicle, at the Lessee's expense, to the Lessor at such time and Lease Location or as otherwise agreed to in writing by the Lessor.
- 5.3 The Lessee acknowledges that failure to return the Vehicle in terms hereof shall constitute unlawful possession by the Lessee, and the Lessor may, without prejudice to any other rights which it may have in law, institute legal action to repossess the Vehicle. Any costs incurred by the Lessor to retrieve the Vehicle will be for the account of the Lessee.
- 5.4 The Vehicle shall be returned to the Lessor in the same condition as it was delivered to the Lessee, fair wear and tear excepted.
- 5.5 When the Lessee returns the Vehicle to the Lessor, the Lessee shall –
  - 5.5.1 complete and sign a Vehicle Inspection Report together with the Lessor in terms of which the Lessee enters and the Lessor confirms any damage or loss which has occurred in respect of the Vehicle or its Equipment during the Lease Period, and in the event that the Lessee fails to do so, he shall be deemed to have accepted the contents of the Vehicle Inspection Report completed by the Lessor after the return of the Vehicle; and
  - 5.5.2 hand the keys to the Lessor.
- 5.6 If the Vehicle is returned scratched or excessively dirty, the Lessee will be liable for an additional polishing or valet fee, in the amount as set out in section 1 of this Agreement.
- 5.7 In the event that the Vehicle is not returned in accordance with clause 5.4 above, the sole risk of loss or damage to the Vehicle will remain vested in the Lessee until such time as the Lessor has recorded the return of the Vehicle.
- 5.8 The Lessee warrants in favour of the Lessor that (i) the Vehicle will not at any time during the Lease Period be driven by any person other than a Designated Driver, (ii) the Designated Driver will have a valid licence to drive the Vehicle, and (iii) the Lessee and Designated Driver will at all times comply with all applicable laws and with the provisions of this Agreement. In particular, the Lessor warrants that the Vehicle will not be driven by any person whose alcohol concentration exceeds the limit permitted by any applicable law or regulation, or whilst under the influence of a narcotic drug.
- 5.9 If the Vehicle is driven by anyone other than the Designated Driver, then, without derogating from any rights or remedies which the Lessor may have, the Lessee shall remain liable for all the Lessee's obligations in terms of this Agreement and in particular, the Lessee shall be liable to the Lessor as if the Lessee had been driving the Vehicle.

5.10 If at any time the Vehicle is involved in an accident, is damaged, stolen or lost, the Lessee shall take every reasonable precaution to safeguard the interests of the Lessor, including but without being limited to, the following, where appropriate –

5.10.1 the Lessee shall notify the Lessor immediately or within 3 (three) hours of becoming aware of the occurrence and shall within 24 (twenty-four) hours of the occurrence complete and furnish to the Lessor, the Lessor's insurance claim form together with a copy of the driver's license of the person driving the Vehicle at such time of the particular occurrence;

5.10.2 the Lessee shall obtain the name(s), telephone numbers and addresses of everyone involved in the accident and of witnesses;

5.10.3 the Lessee shall take photos of the damaged Vehicle in such a manner to sufficiently depict the scene in which the collision or accident took place; and

5.10.4 the Lessee shall not admit or claim responsibility or liability, nor 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.

5.11 The Lessee shall report all accidents, theft or damage regardless of the value or nature to the police within 24 (twenty four) hours after its occurrence and the Lessee shall furnish to the Lessor a reference, in the form of a case or docket number.

5.12 The Lessee or the Designated Driver shall co-operate with the Lessor and its insurer in any investigation, the making or instituting of any claim or action and the defense of any prosecution, claim or action relating to any accident, theft or damage (including, *inter alia*, deposing to an affidavit or giving evidence in court if he is requested to do so).

5.13 The Lessee shall within 24 (twenty four) hours of receipt thereof furnish to the Lessor any notice of claim, demand, summons or the like which the Lessee or the Designated Driver may receive in connection with the Vehicle.

5.14 If the Lessee or the Designated Driver was not the driver of the Vehicle at such time of the particular occurrence, the Lessee shall procure that such person complies with clause 5.10 to 5.13 above.

5.15 The Lessee warrants that the information completed in the Lessor's claim form will be complete, true and correct in every respect.

5.16 The Lessee shall be liable for all fines, penalties and like expenses arising out of or concerning the use of the Vehicle during the Lease Period. The Lessee hereby authorises the Lessor to disclose any information required by a relevant authority to process any such fines, penalties and/or expenses which are incurred during the Lease Period, and the Lessee accordingly indemnifies and holds the Lessor harmless against all liabilities in respect of and arising from such fines, penalties and expenses.

## **6. Risk, Damage to and Loss of the Vehicle**

6.1 The Lessee assumes the risk in respect of the Vehicle (fair wear and tear excepted only) from the time that the Vehicle is delivered to the Lessee until such time as the Vehicle and its keys are returned to the Lessor.

6.2 Without derogating from the risk assumed by the Lessee, the Lessee shall be liable for any Damage or total loss sustained to the Vehicle while it is at the risk of the Lessee, should such Damage or total loss be caused by or attributable to the negligence of the Lessee, and such Damage or total loss shall be payable by the Lessee immediately on demand by the Lessor.

6.3 The Lessor shall determine the service provider who shall repair any damage to the Vehicle or provide any parts or service in connection with such repairs or provide any replacements of any lost or damaged item and shall contract with such service provider(s). The Lessee shall not be entitled to object to any such determination by the Lessor.

6.4 Notwithstanding anything contained in this Agreement, the Lessor shall not be obliged to make, institute or proceed with any claim which the Lessor may otherwise have had against a third party for the recovery of any loss or Damages to or in connection with the Vehicle and, accordingly, the Lessor shall be entitled, in its fair and reasonable discretion, to abandon such claim or to settle such claim on any terms.

6.5 Should the Vehicle be involved in an accident or collision (and resulting in Damages), or be stolen, and the Lessee has chosen an excess waiver in the Lease Schedule (the "**Excess Waiver**"), the Lessee shall only be liable to the Lessor in the amount of the chosen Excess Waiver. Such Excess Waiver shall be paid upon return of the Vehicle. If the damages are less than the Excess Waiver paid, the Lessor will refund the Lessee accordingly.

6.6 Should the Vehicle be involved in any incident resulting in Damages, or should the Vehicle be stolen or lost, where the terms of the Agreement have been breached by the Lessee, the Lessee will be liable for all damages, costs and expenses suffered or incurred by the Lessor.

6.7 Should the Vehicle be involved in a single vehicle rollover accident, the Lessee shall be liable for all damages to the Vehicle,

tow-in costs, the cost of the replacement vehicle and will not be refunded for the remaining days on the Vehicle. The Lessor will also not be under any obligation to provide a replacement vehicle.

## **7. Limitation of Lessor's Liability, Waiver and Indemnity**

- 7.1 The Lessor shall not be liable to the Lessee for any losses or damages of whatsoever nature (including, for the avoidance of doubt, any direct or indirect losses or damages, losses of profit or consequential losses), which the Lessee may sustain on account of -
  - 7.1.1 the Vehicle becoming unfit for use for any reason whatsoever;
  - 7.1.2 the
  - 7.1.3 Lessor being required to withdraw the Vehicle from use by the Lessee in terms of this Agreement or otherwise; or
  - 7.1.4 the Vehicle being unavailable to the Lessee on account of any unforeseen circumstances, during the Lease Period, and in such case the Lessee's only remedy against the Lessor shall be an entitlement to a *pro rata* reduction of the Rental Payable in respect of that portion of the Lease Period during which the Vehicle is not available for use by the Lessee.
- 7.2 The Lessor shall not be liable to the Lessee or the Lessee's executors, heirs, legal successors or dependents in respect of -
  - 7.2.1 any injury or death of the Lessee or any passengers accompanying the Lessee;
  - 7.2.2 any losses or damages of whatsoever nature (including, for the avoidance of doubt, any general or special losses or damages, direct or indirect losses or damages, losses of profit or consequential losses), which the Lessee may sustain as a consequence of (i) any defect existing or coming into existence in respect of the Vehicle before or during the Lease Period, or whilst the Vehicle is in the Lessee's possession, or (ii) any negligence of the Lessor or its principals or managers in maintaining the Vehicle.
- 7.3 The Lessee hereby waives, to the fullest extent allowed in law, any claims for losses or damages contemplated in clauses 7.1 and 7.2 against the Lessor.
- 7.4 The Lessee hereby indemnifies and holds the Lessor harmless, to the fullest extent allowed by law, against any claims from any passenger or third party in respect of losses or damages contemplated in clauses 7.1 and 7.2.

## **8. General**

- 8.1. In the event of any party (the "**defaulting party**") committing a breach of any of the terms of this Agreement and failing to remedy such breach within a period of 10 (ten) days after receipt of a written notice from the other party (the "**aggrieved party**") calling upon the defaulting party so to remedy, then the aggrieved party shall be entitled, at its sole discretion and without prejudice to any of its other rights in law, either to claim specific performance of the terms of this Agreement or to cancel this Agreement forthwith and without further notice, claim and recover damages from the defaulting party.
- 8.2. This Agreement constitutes the whole of the agreement between the Parties relating to the matters dealt with herein and, save to the extent otherwise provided herein, no undertaking, representation, term or condition relating to the subject matter of this Agreement not incorporated in this Agreement shall be binding on any of the Parties.
- 8.3. No addition to or variation, deletion, or agreed cancellation of all or any clauses or provisions of this Agreement will, unless otherwise provided herein, be of any force or effect unless in writing and signed by the Parties.
- 8.4. If any provision of this Agreement is found by a court of law to be invalid or void, such provision will be severed from the Agreement, without affecting the remainder of the provisions hereof. Any provision or clause of this Agreement which is or becomes unenforceable in any jurisdiction, whether due to voidness, invalidity, illegality, unlawfulness or for any other reason whatever, shall, in such jurisdiction only, and only to the extent that it is so unenforceable, be treated as *pro non scripto* and the remaining provisions and clauses of this Agreement shall remain of full force and effect. The Parties declare that it is their intention that this Agreement would be executed without such unenforceable provision if they were aware of such unenforceability at the time of execution hereof.
- 8.5. No extension, latitude or other indulgence that may be given or are allowed by any party in respect of performance of any obligation hereunder, and no delay or forbearance in the enforcement of any party arising from this Agreement, and no single or partial exercise of any right of any party under this Agreement, will in any circumstances be construed as implied consent or election by such party or operate as a waiver or a novation of or otherwise affect any party's rights in terms of or arising from this Agreement or stop or preclude any such party from enforcing at any time and without notice, strict and punctual compliance with each and every provision or term hereof.
- 8.6. The Lessee authorises the Lessor to insert any particulars in the Agreement which are not known or are unavailable at the time of signature hereof in order to rectify any *bona fide* errors in any fact, figure or calculation.

- 8.7 This Agreement and all matters or disputes arising therefrom or incidental thereto shall be governed and construed in accordance with the laws of the Republic of Namibia.
- 8.8 The Parties hereby consent and submit to the non-exclusive jurisdiction of the High Court of Namibia or the Magistrates' Courts of the Republic of Namibia, as the case may be, in any dispute arising from or in connection with this Agreement. The Parties agree that any costs awarded will be recoverable on an attorney-and-own-client scale unless the Court specifically determines that such scale shall not apply, in which event the costs will be recoverable in accordance with the applicable Court tariff, determined on an attorney-and-client scale.
- 8.9 The Lessee shall not be entitled to cede any of its rights or assign any of the obligations under this Agreement. The Lessor may cede its rights or assign its obligations in terms of this Agreement without the prior consent of the Lessee.
- 8.10 The Lessee chooses the address specified in the Rental Form as his *domicilium citandi et executandi*, that being the address for service of all legal process and notices under the Agreement.
- 8.11 The Lessee acknowledges that certain vehicles may be fitted with a vehicle management system, which is used to, *inter alia*, record speed and other information relating to the Vehicle. The Lessor shall be entitled to use such information (including in court proceedings) as it deems fit.
- 8.12 The Lessor reserves the right to substitute the Vehicle with a similar vehicle, should the Vehicle not be available at the time of rental.

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