DUAL CONTROL CAR RENTALS QLD

ABN 50 642 699 447

RENTAL TERMS AND CONDITIONS

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RENTAL TERMS AND CONDITIONS

1 Introduction

1.1 Rental Contract

(a) Your contract to hire a Vehicle from Us (**Rental Contract**) comprises:

(i) the agreement (**Rental Agreement**) You have signed to hire the Vehicle from Us;

(ii) the Handover Inspection Report; and

(iii) these rental Terms and Conditions (**Terms and Conditions**),

(b) These documents comprise the Rental Contract and create binding and enforceable legal obligations and Your signature on the Rental Agreement confirms Your acceptance of those legal obligations and that You are bound by them.

1.2 Driver Training

Your rental of the Vehicle is for the sole purpose of driver training of unlicenced learner drivers and it is not to be used for any other purpose.

1.3 Relevant law

The Rental Contract is governed by the laws of the Commonwealth of Australia and the state of Queensland and You agree that Queensland courts have non-exclusive jurisdiction to determine any dispute that arises between You and Us.

1.4 The Australian Consumer Law

You have consumer rights conferred by The Australian Consumer Law and neither this clause nor any other provision of the Rental Contract excludes, restricts or modifies:

(a) Part 2-3 of The Australian Consumer Law relating to unfair contract terms; or

(b) any implied terms, guarantees or rights You may have under The Australian Consumer Law or any other Federal, State or Territory legislation.

1.5 Electronic signatures

We may use electronic signatures as a means of entry into the Rental Contract. When You insert an electronic signature, You consent to the use of this means of acknowledgment and acceptance of these Terms and Conditions and Your obligations under the Rental Contract.

1.6 Amending these Terms and Conditions

We may amend these Terms and Conditions by providing You with 30 days' notice in writing. If You do not accept the amendments or replacement, You **must** return the Vehicle prior to the end of the 30 day period.

1.7 Time is of the essence

Time is of the essence in respect of all of Your obligations under the Rental Contract.

2 Who may drive the Vehicle?

IMPORTANT NOTICE

A breach of any part of this clause 2 is a Major Breach of the Rental Contract that excludes Your entitlement to Damage Cover and may allow the Vehicle to be repossessed. See clauses 14 and 15.1 for further details.

2.1 Authorised Drivers

(a) Only You or an Authorised Driver, who each meet all of the requirements of this clause 2, and a learner driver under instruction, can drive the Vehicle.

(b) Allowing anyone who is not an Authorised Driver or a learner driver under instruction to drive constitutes a Major Breach of the Rental Contract that excludes You and any Authorised Driver from all entitlement to Damage Cover indemnity under clause 7 of these Terms and Conditions.

2.2 Age limits

You and any Authorised Driver **must** be at least 21 and not over 75 years of age and have no less than 12 months driving experience, unless We have agreed to a variation of that restriction before the Start of the Rental and it is shown in the Rental Agreement.

2.3 Licence requirements

(a) You and any Authorised Driver **must** have a current valid full licence to drive the Vehicle.

(b) Your licence **must** be:

(i) issued in an Australian state or territory or an international licence written in English, or if not in English is accompanied by either:

(A) a valid International Driving Permit; or

(B) an accurate translation of Your licence into English, issued by the National Accreditation Authority for Translators and Interpreters (NAATI) that includes a full explanation written in

English of any condition to which Your licence is subject and the category of vehicle for which Your licence was issued;

(ii) valid for the state or territory in which the Vehicle is driven if the licence was issued in a different state or territory or an overseas country;

(iii) appropriate for the class of the Vehicle; and

(iv) not subject to any restriction or condition.

(c) You and any Authorised Driver **must** ensure an unlicensed learner driver has in their possession their digital learner permit, learner permit card or receipt when under instruction and that such permit, card or receipt are available for inspection to any authorised officer during the period of instruction.

2.4 Driver training qualifications

As a driver trainer You **must** hold current and correct "Driver Training" qualifications and public liability and professional indemnity insurance. The Australian Driver Trainers Association (**ADTA**) can arrange for the appropriate insurance if required.

2.5 Cancelled and suspended licences

The Vehicle **must not** be driven by You or an Authorised Driver if Your licence or that of the Authorised Driver:

(a) is cancelled or suspended, including as a result of an accumulation of demerit points; or

(b) has been cancelled or suspended, within three (3) years of the date of the Rental Agreement.

2.6 Prior insurance history

The Vehicle **must not** be driven by You or an Authorised Driver if either You or the Authorised Driver has been refused motor vehicle insurance or had a policy of motor insurance cancelled or declined by an insurer at any time prior to entering into the Rental Contract.

3 Prohibited use

IMPORTANT NOTICE

A breach of any part of this clause 3 is a Major Breach of the Rental Contract that excludes Your entitlement to Damage Cover and may allow the Vehicle to be repossessed. See clauses 14 and 15.1 for further details.

3.1 Prohibited driving

(a) Whilst undergoing driver training of an unlicensed driver in the Vehicle, You, an Authorised Driver and a leaner driver under instruction **must** have:

(i) a zero blood alcohol concentration (BAC); and

(ii) a zero level of drugs,

present in blood, urine or oral fluid.

(b) When not undergoing driver training, the Vehicle **must not** be driven whilst You or an Authorised Driver is under the influence of drugs or alcohol or with a blood alcohol content or level of drugs present in blood, urine or oral fluid that exceeds the limit set by law.

(c) The Vehicle **must not** be driven by You, an Authorised Driver or a learner driver under instruction:

(i) recklessly or dangerously; or

(ii) whilst there is Damage to the Vehicle that makes it unroadworthy or unsafe.

3.2 Prohibited conduct

You and any Authorised Driver **must not**:

(a) fail or refuse to undergo any breath, blood, urine or oral fluid test or drug impairment assessment by the police or an authorised licensing authority; or

(b) use the Vehicle:

(i) for any illegal purpose;

(ii) to move or carry dangerous, hazardous, biohazardous, infectious, or inflammable, goods or substances that pollute or contaminate, in quantities above that used for domestic purposes;

(iii) to propel or tow another vehicle, trailer or boat;

(iv) to carry any water skies, surfboards, bicycles, or canoes either inside or on the roof of the Vehicle;

(v) to carry or transport illegal drugs or substances;

(vi) in connection with the motor trade for experiments, tests, trials or demonstration purposes;

(vii) in racing, rallies, reliability trials, speed or hill climbing tests, or for testing in preparation thereof; or

(viii) in an unsafe or unroadworthy condition.

3.3 Mobile phones

You, an Authorised Driver and a learner driver under instruction **must not** use a mobile phone in the Vehicle whilst it is moving or stationary (unless it is parked):

(a) to make or receive a phone call;

(b) to send a text message, video message, or email;

(c) to perform any audio function; or

(d) as a navigational device,

unless the body of the phone is securely mounted in the Vehicle and its operation does not involve entering information, text, numbers or symbols, except if that operation can be performed using voice controls only or scrolling on the device.

3.4 Prohibited actions

(a) You and any Authorised Driver **must not**:

(i) damage the Vehicle deliberately, intentionally, maliciously or recklessly or allow anyone else to do so;

(ii) modify the Vehicle in any way or make any alteration or addition to it and no branding or logos may be applied or removed from the Vehicle;

(iii) sell, rent, lease or dispose of the Vehicle; or

(iv) register or claim to be entitled to register any interest in the Vehicle under the Personal Property Securities Act 2009.

(b) You and any Authorised Driver **must not** use the Vehicle to carry:

(i) passengers for hire, fare or reward except for the purposes of driver training of unlicensed drivers;

(ii) more than the number of passengers for which the Vehicle is licenced; or

(iii) any load that exceeds the limits for which the Vehicle was designed, constructed, registered or licenced.

4 Prohibited areas of use

IMPORTANT NOTICE
A breach of any part of this clause 4 is a Major Breach of the Rental Contract that excludes Your entitlement to Damage Cover and may allow the Vehicle to be repossessed. See clauses 14 and 15.1 for further details.

4.1 Prohibited roads

The Vehicle **must never** be driven:

(a) on an Unsealed Road;

(b) Off Road; or

(c) on any road where snow has fallen or is likely to fall.

4.2 Prohibited areas

The Vehicle **must not** be used in any area that is prohibited by Us. Prohibited areas include:

(a) roads that are prone to flooding or are flooded;

(b) beaches, sand dunes, streams, rivers, creeks, salt lakes, dams and any area exposed to saltwater;

(c) onto any island that is off mainland Australia; and

(d) any road:

(i) where the police or an authority has issued a current warning;

(ii) that is closed; or

(iii) where it would be unsafe to drive the Vehicle.

4.3 Interstate use requires prior approval

The Vehicle **must never** be driven, used or taken interstate **unless** We have given Our written permission prior to the Start of the Rental and it is noted on the Rental Agreement.

5 Rental obligations

IMPORTANT NOTICE
A breach of clause 5.1 or clause 5.3, is a Major Breach of the Rental Contract that excludes Your entitlement to Damage Cover and may allow the Vehicle to be repossessed. See clauses 14 and 15.1 for further details.

5.1 No false and misleading information

(a) You and any Authorised Driver **must** take all reasonable steps to ensure that the information supplied to Us at the Start of the Rental is accurate, complete and up-to-date and is not false or misleading.

(b) In entering into the Rental Contract with You We have relied upon the information You and any Authorised Driver have provided to Us and:

(i) the wilful supply of false or misleading information, including false name, age, address, occupation or driver's licence details; or

(ii) acting in collusion with any other person to supply such false or misleading information,

is a Major Breach of the Rental Contract.

5.2 Start of the Rental

(a) At the Start of the Rental and before collecting the Vehicle You **must:**

(i) present Your driver's licence and that of any Authorised Driver and permit copies of the drivers' licences to be made and kept by Us;

(ii) pay the Rental Charges for short term rentals and pay the first week's Rental Charges in advance for Longer Term Rentals (clause 5.3);

(iii) pay the Security Deposit; and

(iv) fully inspect the Vehicle to ensure that the condition of the Vehicle and any pre-existing damage is accurately noted and shown in the Handover Inspection Report and if there is any discrepancy You **must** notify Us within one (1) hour of leaving the Rental Depot.

(b) To avoid any disputes regarding pre-existing Damage We recommend that at pick-up You photograph (at a minimum) the front, rear, sides and interior of the Vehicle and if taken, those photos **must** be made available to Us if there is a dispute about pre-existing Damage.

5.3 Payment of the Rental Charges for Longer Term Rentals

(a) The Rental Charges for Longer Term Rentals **must** be paid weekly, no less than seven (7) days in advance, by direct credit to Our account.

(b) You **must** promptly pay the Rental Charges on or before the date they are due and overdue payments incur a late fee of $11.

(c) Any weekly payment of Rental Charges that is overdue for 14 days or more is a Major Breach of the Rental Contract allowing Us to terminate the Rental Contract and repossess the Vehicle unless within that period:

(i) You have sought relief; and

(ii) We have agreed with You on a payment plan to rectify the default within a reasonable period.

(d) The Vehicle **must** be returned to the Rental Depot immediately a notice of termination under clause 5.3(c) is served upon You.

5.4 Security Deposit

(a) The Security Deposit will be retained by Us as a security for the performance of any of Your obligations and liabilities under the Rental Contract and is fully refundable to You ten (10) Business Days after the End of the Rental provided that:

(i) all amounts due to Us under the Rental Contract have been paid, including toll road charges and refuelling costs;

(ii) the Vehicle has been returned to the Rental Depot at the date and time set in the Rental Agreement;

(iii) there is no Damage (except for reasonable wear and tear) or Third Party Loss or if there is Damage or Third Party Loss, the Damage Excess has been paid;

(iv) the exterior and interior of the Vehicle are clean;

(v) the Vehicle has a full tank of fuel; and

(vi) there has not been a Major Breach of the Rental Contract.

(b) If at the End of the Rental You fail to pay any of the amounts in clause 5.4(a) for which You are liable, We will apply the Security Deposit against those outstanding amounts.

5.5 During Your rental

During the Rental Period:

(a) You **must**:

(i) inspect the Vehicle regularly, and no less than weekly, for oil, water and fuel leaks and Damage and also check the tyre pressures; and

(ii) adhere to any mileage instructions displayed in the Vehicle or set by the Rental Depot.

(b) You **must not:**

(i) use the Vehicle for transporting any pets or animals, with the exception of accredited or trained assistance animals, **unless** specifically approved by Us;

(ii) smoke in the Vehicle (including the use of e-cigarettes) and You **must** take reasonable steps to prevent passengers from doing so. It is an offence in some Australian states to smoke in a vehicle where there are passengers of less than 18 years of age; or

(iii) use the Vehicle to move infectious, biohazardous or biomedical waste.

Additional cleaning, disinfection and deodorising charges of up to $110 will apply.

5.6 Driver training

You **must** ensure:

(a) leaner ("L") plates are displayed on the front and rear of the Vehicle that are visible from at least 20 metres;

(b) Your driver training business name and address and phone number are shown; and

(c) a passenger side internal rear view mirror is fitted.

5.7 Seat belts and child restraints

(a) You **must** comply with all mandatory:

(i) seat belt laws and fines may be imposed by the police on any driver or passenger who does not have a seat belt properly adjusted and fastened; and

(ii) child restraint laws and ensure that for all children under the age of seven years the restraint has been fitted correctly according to the weight and age of the child and that the restraint is properly installed, fitted, adjusted and fastened.

(b) We are not authorised to install child restraints so We are unable to assist You with their installation or answer any questions You may have regarding their installation or adjustment.

6 Care of the Vehicle

IMPORTANT NOTICE
A breach of any part of this clause 6 is a Major Breach of the Rental Contract that excludes Your entitlement to Damage Cover and may allow the Vehicle to be repossessed. See clauses 14 and 15.1 for further details.

6.1 Vehicle to be locked and keys kept in Your possession

(a) You and any Authorised Driver **must** make sure that the Vehicle is locked when not in use or unattended and the keys, keyless start or remote door control device **must** be kept in Your possession, or that of any Authorised Driver, at all times and never left in the ignition or in the Vehicle when it is unattended.

(b) In the event of a theft of the Vehicle, You **must** be able to produce the keys, keyless start or remote door control device to Us **unless** You can provide a reasonable explanation for being unable to do so.

6.2 Reasonable care

You and any Authorised Driver **must** take reasonable care of the Vehicle by:

(a) preventing it from being damaged or stolen;

(b) making sure it is protected from inclement weather or floods;

(c) using any security device fitted to, or supplied with, the Vehicle;

(d) properly securing any goods, property or equipment carried in the Vehicle;

(e) maintaining the engine and brake oils and coolant level and tyre pressures;

(f) using the correct fuel type; and

(g) making sure it is not overloaded by the number of persons or by the weight of goods carried.

6.3 Maintenance and inspection for Longer Term Rentals

(a) If the Rental Period is longer than 30 days You **must** contact Us to arrange for the Vehicle to be returned to the Rental Depot or taken to Our nominated service centre for it to be serviced or exchanged when:

(i) the next scheduled service is due, as noted on the sticker on the inside of the windscreen;

(ii) a service indicator is illuminated on the dashboard; or

(iii) the Vehicle has travelled 10,000 kilometres since the Start of the Rental or since it was last serviced,

whichever comes first.

(b) We will pay for the service, parts, tyres and any other issues with the Vehicle providing that these issues were not caused by You or any Authorised Driver.

(c) If You fail to have the Vehicle serviced You will be liable for any Damage caused to the Vehicle.

(d) We also reserve the right:

(i) to request that the Vehicle be returned to the Rental Depot monthly for its condition to be inspected; or

(ii) alternatively, to require You to supply the Vehicle's current odometer reading and provide details of the Vehicle's condition, including the provision of photos of the Vehicle's showing its condition and any Damage.

6.4 Notification of Vehicle fault

(a) You **must** inform Us immediately if:

(i) the Vehicle breaks down;

(ii) any warning lights or messages becoming illuminated or displayed in the Vehicle;

(iii) You see or become aware of low engine or brake oils, or engine coolant levels; or

(iv) the Vehicle develops any fault during the Rental Period.

(b) If You fail to notify Us and continue to use the Vehicle You will be responsible for any Damage or Third Party Loss.

7 Rental Period, costs and charges

7.1 Your Rental

(a) Your hire of the Vehicle from Us is for the Rental Period and at the rate shown in the Rental Agreement.

(b) For Longer Term Rentals:

(i) the minimum Rental Period is one (1) month;

(ii) the Rental Charges are payable weekly in advance (see clause 5.3); and

(iii) the full month's Rental Charges are payable if the Rental Contract is terminated before the minimum Rental Period has elapsed.

7.2 Extending the Rental Period

(a) We understand that circumstances change and that You may require the Vehicle for longer than the Rental Period. If so, You **must** notify Us **no less** than 24 hours prior to the expiration of the Rental Period.

(b) If You request an extension, the Rental Charges for the extended Rental Period **must** be paid on that day. By requesting the extension, You agree these Terms and Conditions continue to apply to the extended Rental Period.

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(c) If You fail to notify Us at least 24 hours before the expiration of the Rental Period that You require an extension, and fail to return the Vehicle on the scheduled date and at the time shown in the Rental Agreement, We may:

(i) terminate the Rental Contract; and

(ii) recover the Vehicle (see clause 13.8).

7.3 Cancellation and 'No Show'

(a) You will be charged the Rental Charges for the Rental Period as booked if:

(i) Your booking is cancelled within 24 hours prior to the Start of the Rental; or

(ii) You fail to notify Us of Your intended cancellation prior to the Start of the Rental and fail to pick up the Vehicle;

unless We are able to rent the Vehicle to another renter for an equivalent term and rate.

(b) A cancellation is not effective until acknowledged and confirmed by Us.

(c) If We cancel Your reservation, You will be fully reimbursed any sums You have paid to Us for the booking.

7.4 Fines and infringements

(a) You and any Authorised Driver **must** pay:

(i) fines or charges imposed for parking;

(ii) infringements and fines imposed for speeding and other driving offences; and

(iii) fines or charges imposed for release of the Vehicle if it has been seized by a regulatory authority.

(b) An administrative fee applies if We are required to nominate You as the responsible driver if any fine or infringement is unpaid.

(c) If We have paid any amount for which You are liable under this clause 7.4, You will be charged that amount plus an administrative fee.

7.5 Tolls

(a) You and any Authorised Driver **must** pay all tolls.

(b) If an electronic tag (**e-tag**) is fitted for use of the Vehicle on toll roads:

(i) the e-tag **must not** be removed from the Vehicle; and

(ii) all toll charges will be debited from Your nominated credit card within a reasonable time after We receive an invoice from the toll road operator and prior to refund of the Security Deposit.

(c) If an e-tag is not fitted to the Vehicle:

(i) it is Your responsibility to fit an e-tag to the Vehicle or purchase a day pass for payment of tolls when using the Vehicle on toll roads; and

(ii) If You fail to do so and We are required to nominate You as the responsible party We will charge You an administrative fee of $55 for each nomination.

(d) If We have paid any amount for which You are liable under this clause 7.5, You will be charged that amount plus an administrative fee of $55.

7.6 Daily 200 kilometre limit

(a) A daily limit of 200 kilometres applies unless You have Our prior written approval to have this limit waived and it is noted on the Rental Agreement.

(b) For each day You exceed that limit (calculated over the Rental Period) You will incur an additional fee of thirty five cents (35c) per excess kilometre.

7.7 GST

(a) Unless otherwise indicated, all fees and charges are inclusive of GST.

(b) If GST is stated as not inclusive, You are liable for any GST payable.

8 Damage Cover

8.1 Damage Excess

(a) Standard Damage Cover is included in the Hire Charges.

(b) Subject to these Terms and Conditions, We will indemnify You, an Authorised Driver and a learner driver under instruction for any Damage to the Vehicle, its theft and Third Party Loss but You must pay up to the Damage Excess for each Accident or theft claim.

(c) The Damage Excess payable ranges from $850.00 to $3,500.00, depending on the age of the person driving the Vehicle at the time of the Accident or theft.

8.2 When is the Damage Excess payable?

(a) Unless You have expressly authorised a charge to Your credit card at an earlier time an amount up to, but not exceeding, the Damage Excess will be charged to Your credit card as follows:

(i) for single vehicle Accidents:

(A) if the Vehicle has substantial Damage and We reasonably believe the cost of repairs or replacement cost will exceed the Damage Excess amount, the full Damage Excess; or

(B) if the Damage is not substantial, the amount We have reasonably estimated to be the cost of repair, but not more than, the Damage Excess;

(ii) if the Vehicle has been stolen, after We have made reasonable enquiries and in Our opinion it is unlikely the Vehicle will be recovered, the full Damage Excess; and

(iii) for Accidents in which there is also Third Party Loss, after We have made an estimate of Your total liability but not more than the full Damage Excess.

(b) Supporting documents and particulars of a claim for Damage and Third Party Loss will be forwarded to You as soon as practicable.

8.3 Additional Damage Excess for younger drivers under 24 years of age

(a) An additional Damage Excess applies to You, an Authorised Driver and all learner drivers under instruction who are aged under 25 years.

(b) Once a learner driver has successfully passed their licence test they become a fully licenced driver and in the event of an Accident whilst driving the Vehicle, they will be deemed to be a fully licenced driver and the additional excess that applies to all drivers aged between 21 to 24 years will apply

Note: We strongly recommend that the student driver does not drive the Vehicle after successful completion of the driving test.

8.4 Exemption from paying the Damage Excess

You will not have to pay the Damage Excess shown in the Hire Agreement for a claim for Damage or Third Party Loss if all of the following apply:

(a) You have fully completed an Incident Report Form with:

(i) the name, residential address, contact phone, email address and licence number of any person involved (**Third Party**);

(ii) the registration number of all vehicles involved;

(iii) an accurate written and diagrammatic description of the Accident and location; and

(iv) the names and addresses of all attending police officers and the stations at which they are based;

(b) You have taken all necessary steps to assist Us in Our investigation of the Accident or theft claim;

(c) We believe You were not at fault for an Accident involving a Third Party;

(d) You have supplied or We have established the name of the insurer of any Third Party You believe was at fault and the insurer will agree to pay Us for the Damage; and

(e) You are an Australian citizen and You hold an Australian driver's licence.

8.5 Loss of Use

(a) The Damage Excess payable for Damage and Third Party Loss does not include Loss of Use.

(b) Claims arising from a serious Accident may therefore result in an amount payable that exceeds the Damage Excess.

8.6 Refund of Damage Excess paid

(a) We will refund any amount You have paid for the Damage Excess as soon as practicable:

(i) in full, if We recover the Damage from a responsible third party or their insurer or successfully reject or defend a claim for Third Party Loss;

(ii) in part, if the repair cost to the Vehicle is less than the amount You have paid;

(iii) in part, if a claim for Third Party Loss is rejected or defended for an amount less than the Damage Excess; or

(iv) on a pro rata basis if We recover only a proportion of any amount We have claimed against a Third Party for Damage.

(b) In making a refund We may take into account all reasonable administrative, collection agency and legal costs incurred in connection with the recovery of the Damage cost or rejection or defence of a claim for Third Party Loss.

8.7 Claims Administration fee

All Accident, attempted theft and theft claims will incur a claims administration fee of $220 in addition to the Damage Excess liability. This fee is to compensate Us for the labour and associated costs with processing Your claim.

9 Damage Cover Exclusions

9.1 General exclusions

Even if You have paid the Damage Excess, there is no Damage Cover, and You and any Authorised Driver are liable for:

(a) Damage and Third Party Loss arising from:

(i) a Major Breach of the Hire Contract;

(ii) any deliberate, intentional, malicious or criminal act by You, an Authorised Driver or any person who is acting with Your express or implied consent; or

(iii) the use of the Vehicle by any driver who is not an Authorised Driver or who is less than 21 or more than 75 years of age;

(b) Loss of Use;

(c) Overhead Damage;

(d) Underbody Damage;

(e) Damage caused by:

(i) immersion of the Vehicle in water, including salt water; or

(ii) use of the incorrect fuel type;

(f) damage to the tyres or rims of the Vehicle, other than by normal wear and tear;

(g) damage to the windscreen and windows of the Vehicle, including any breakages, chipping, scratches and cracks, other than by normal wear and tear

(h) the full cost of replacing or repairing any accessories supplied by Us including, but not limited to GPS units, lost keys, keyless start and remote door control devices tool kits, spare tyres and first aid kits;

(i) Damage caused by use of the incorrect fuel type;

(j) Damage or Third Party Loss caused or contributed to by You where You leave the scene of the Accident prior to the attendance of the police or reporting the Accident to the police;

(k) any loss, damage or deterioration of any goods or property carried in or on the Vehicle and You agree to fully indemnify Us for any loss, damage or deterioration of those goods or property unless it arises as a result of Our negligence; and

(l) Third Party Loss resulting from goods or property falling from the Vehicle.

9.2 Lack of co-operation exclusion

Your entitlement to Damage Cover will be reduced to the extent We are prejudiced as a result of any delay or failure by You or any Authorised Driver to comply with Your obligations under clause 11 of these Terms and Conditions.

9.3 Exclusion for personal items

There is also no Damage Cover for personal property in the custody of or owned by:

(a) You;

(b) Your relative, friend or associate who ordinarily resides with You or with whom You ordinarily reside;

(c) any relative, friend or associate of an Authorised Driver; or

(d) Your employees,

that is stolen from the Vehicle, lost or damaged during the Hire Period or left in the Vehicle after the Vehicle is returned to the Depot.

10 Breakdowns

10.1 Roadside assistance

(a) We will provide You with a Vehicle that is of acceptable quality and in good working condition taking into account the age of the Vehicle but breakdowns do occur.

(b) Twenty-four-hour roadside assistance is provided free of charge for breakdowns (but not for Accidents) and if the Vehicle breaks down during the Rental Period You **must** contact the roadside assistance provider (365 Roadside Assist) on **1300 302 500** to arrange assistance. If the fault cannot be repaired on site We will recover and repair the Vehicle as soon as possible but if it cannot be repaired, We will use Our best endeavours to provide a replacement Vehicle where one is available.

10.2 Assistance not covered

(a) We are not responsible for:

(i) a flat battery;

(ii) wheel changing for a flat tyre;

(iii) lost keys, keyless start or remote door control device; or

(iv) keys, keyless start or remote door control device locked in the Vehicle.

Extra charges will apply if any of these services are required.

(b) The replacement cost for lost keys, keyless start or remote door control devices range from $550 to $1,100 which will be deducted from the Security Deposit or billed to Your credit card.

(c) Roadside assistance does not apply if:

(i) the incorrect fuel type is used; or

(ii) the breakdown is caused by a Major Breach,

and You are liable for all additional costs incurred or Damage caused.

10.3 Consequential and other loss

Subject to the Australian Consumer Law, We are not responsible for flights You have missed, holiday plans that have been disrupted, loss of enjoyment, or consequential or economic loss caused either directly or indirectly as a result of events which are outside Our reasonable control and not caused by Our negligence, including:

(a) floods, cyclones, hailstorms, earthquakes, bushfires, or pandemics;

(b) industrial action; and

(c) commercial flight disruptions.

11 Accidents

IMPORTANT NOTICE
A breach of clause 11.2 is a Major Breach of the Rental Contract that excludes Your entitlement to Damage Cover and may allow the Vehicle to be repossessed. See clauses 14 and 15.1 for further details.

11.1 Staying with the Vehicle after an Accident

You **must not** leave the Vehicle unattended following an Accident and before the arrival of a tow or salvage operator unless:

(a) You or a passenger have been injured and require medical attention; or

(b) You are directed to do so by the police or emergency services.

11.2 Accident reporting

If the Vehicle is involved in an Accident or if it is stolen You **must** contact Us on **0437 014 718** to report the Accident or theft as soon as practicable (see clause 12 for Your reporting obligations).

11.3 Repair without authority prohibited

If there is Damage the Vehicle You **must not:**

(a) make any repairs to the Vehicle;

(b) let anyone else repair or work on the Vehicle; or

(c) tow or salvage the Vehicle,

without Our prior written authority.

11.4 Repair with authority

(a) Where We have given You Our prior authority to repair the Vehicle as the result of a breakdown or Vehicle fault, You **must** keep and produce to Us the original tax invoices and receipts for any repairs, towing or salvage and You will be reimbursed only if these expenses have been authorised by Us.

(b) There is no entitlement to reimbursement if the breakdown or fault was caused by an Accident or is the result of a Major Breach of the Rental Contract.

11.5 Replacement Vehicle following a major Accident

Acting reasonably, We reserve the right not to replace the Vehicle if it is involved in a major Accident or there has been substantial Damage to it and a replacement vehicle is always subject to availability.

12 Accident and theft reporting

IMPORTANT NOTICE
A breach of any part of this clause 12 is a Major Breach of the Rental Contract that excludes Your entitlement to Damage Cover and may allow the Vehicle to be repossessed. See clauses 14 and 15.1 for further details.

12.1 Reporting an Accident or theft to Us

(a) If You or an Authorised Driver has an Accident or if the Vehicle is stolen You **must**:

(i) contact Us on **0437 014 718** to report the Accident or theft as soon as practicable, but in no case more than 24 hours of it occurring; and

(ii) subsequently fully complete an Incident Report Form.

(b) The Incident Report Form should include as much information as is reasonably practical, including:

(i) the information listed in clause 12.3 regarding the contact details for the other driver and witnesses and an accurate written and diagrammatic description of the Accident and its location; and

(ii) the circumstances under which the Accident or theft occurred.

(c) The Incident Report Form **must** be submitted to Us:

(i) within seven (7) days of the Accident or theft, or upon the return of the Vehicle if it is returned to Us within that seven (7) day period; or

(ii) if the Vehicle is stolen, immediately the theft of the Vehicle is reported to the police.

12.2 Reporting an Accident or theft to the police

If the Vehicle is stolen or if You or an Authorised Driver of the Vehicle has an Accident where:

(a) any person is injured;

(b) the other party has failed to stop or leaves the scene of the Accident without exchanging names and addresses; or

(c) the other party appears to be under the influence of drugs or alcohol,

You or the Authorised Driver **must** also report the theft or Accident to the police as soon as:

(i) the theft is discovered; or

(ii) it is practical to do so after an Accident.

12.3 Steps You must take following an Accident

If You or an Authorised Driver have an Accident You and the Authorised Driver **must**:

(a) make the Vehicle secure;

(b) exchange names and addresses, phone numbers and email addresses with the other driver;

(c) obtain the name of the other driver's insurance company;

(d) take a photo of the other driver's licence;

(e) take the registration numbers of all vehicles involved;

(f) take as many photos as is reasonable showing:

(i) the position of the Vehicles before they are moved for towing or salvage;

(ii) the Damage to the Vehicle;

(iii) the damage to any third party vehicle or property; and

(iv) the general area where the Accident occurred, including any road or traffic signs; and

(g) obtain the names, addresses, phone numbers and email addresses of all witnesses.

12.4 Subsequent assistance

Subsequent to the Accident or theft You and any Authorised Driver **must:**

(a) forward all third party correspondence or court documents to Us within seven (7) days of receipt;

(b) co-operate with Us in the investigation of any Accident or theft claim and supply such further information as We or Our investigator may reasonably request within seven (7) days of receipt of such a request; and

(c) co-operate with Us in the prosecution of any legal proceedings that We may institute or the defence of any legal proceedings which may be instituted against You or Us as a result of an Accident, including attending:

(i) Our lawyer's office; and

(ii) any Court hearing.

12.5 What You must not do

You and any Authorised Driver **must not**:

(a) make any admission of fault;

(b) make any offer or promise to pay or settle any claim for Third Party Loss; or

(c) agree to indemnify, waive, or release any other party from liability to pay for Damage as a result of an Accident, theft of attempted theft.

12.6 Consequences of lack of co-operation

Your entitlement to Damage Cover will be reduced, including to nil, according to the extent We are prejudiced as a direct result of any delay in complying with:

(a) the reporting obligations in clauses 12.1 and 12.2; and

(b) the obligations in clause 12.4 to forward third party correspondence and court documents to Us within seven (7) days and to co-operate with Us in the investigation of any Accident or theft claim and the prosecution or defence of any legal proceedings.

13 End of the Rental

13.1 Return of the Vehicle

(a) You **must** return the Vehicle:

(i) to the Rental Depot;

(ii) on the date and by the time shown in the Rental Agreement;

(iii) in a reasonable state of cleanliness;

(iv) in the same mechanical condition, it was in at the Start of the Rental, fair wear and tear excepted; and

(v) with a full tank of fuel.

(b) If You return the Vehicle:

(i) with less than a full tank of fuel a refuelling charge of $55 plus the cost of the fuel, will apply;

(ii) earlier than the date shown in the Rental Agreement there is no entitlement to a refund;

(iii) more than one hour after the date and time set for its return in the Rental Agreement, We will charge You $25 per hour up to one full day's rental and a further full day's rental at the standard rate for each 24 hour period or part thereof until the Vehicle is returned to Us; or

(iv) at any time outside Our normal business hours, You **must** pay for the daily Rental Charges and all Damage until the Rental Depot next opens for business **unless** We have agreed to an after business hours drop off and it is shown on the Rental Agreement.

13.2 End of the Rental payments

At the End of the Rental, You **must** pay:

(a) the balance of the Rental Charges, including any charges for excess kilometres (if any);

(b) the Damage Excess if there is Damage or Third Party Loss as a result of an Accident or the Vehicle is stolen;

(c) any costs We incur, including:

(i) refuelling costs; and

(ii) extra cleaning and deodorising costs;

(d) for all Damage and Third Party Loss arising from a Major Breach of the Rental Contract; and

(e) for all Damage and Third Party Loss for which Damage Cover is excluded pursuant to clause 9.1 or reduced pursuant to clause 9.2.

13.3 Credit card authority

By signing the Rental Agreement, You authorise Us to debit Your credit card within a reasonable time after the End of the Rental for any amount that is due to Us or remains unpaid, including:

(a) the Rental Charges;

(b) tolls;

(c) speeding and traffic fines and infringements;

(d) fines or charges imposed for parking;

(e) administrative charges for unpaid tolls, fines or infringements;

(f) extra cleaning and deodorising costs;

(g) refuelling costs;

(h) the Damage Excess; or

(i) any amount due to Us as a result of a Major Breach.

13.4 Default in payment

(a) By entering into the Rental Contract You have agreed to pay all of the amounts owed to Us under the Rental Contract.

(b) Acting reasonably, We may decline all future hires if there is any default in payment of amounts due under the Rental Contract that exceeds a period of 14 days.

(c) If You default in the payment of any moneys owed to Us under the Rental Contract:

(i) You **must** pay Us interest on that overdue amount calculated at the rate of 10% per annum and starting seven (7) days after the date that overdue amount became payable to Us and ending on the date of payment of all amounts due;

(ii) We may engage a mercantile agent or debt collector and You **must** pay the reasonable costs and charges We incur in recovering or attempting to recover that overdue amount, including mercantile or debt collection fees, commission and any legal costs; and

(iii) You authorise Us to provide information of that default to a credit reporting body and to obtain an up-to-date consumer credit report on You. Personal information may be used and disclosed by the credit reporting body in accordance with the Privacy Act to create or maintain a credit information file containing information about You, including defaults in excess of 60 days and the debt owed to Us.

13.5 Deleting Personal Information and data

(a) Before returning the Vehicle, You **must** delete any Personal Information or data, such as mobile phone numbers, stored addresses, or navigation history, that may have been used during the Rental Period.

(b) If You have added the Vehicle to the Vehicle manufacturer's app to Your mobile phone or other device so that You can remotely lock and unlock the Vehicle, check its location and access other functions, at the end of the Rental Period You **must** remove or delete the Vehicle from that app.

(c) Where You have failed to sign out of an application or remove or delete any Personal Information, data or mobile phone numbers from the Vehicle, We are not responsible for:

(i) removing Your Personal Information, data or mobile phone numbers;

(ii) any future use of Your account by third parties subsequently renting the Vehicle; or

(iii) access by a third party to, or disclosure of, any Personal Information collected by the Vehicle.

13.6 Personal items left in the Vehicle

If personal items are left in the Vehicle at the End of the Rental, they will be kept safely for a period of 14 days during which time they may be reclaimed, but if not reclaimed they will be dealt with according to state or territory legislation or donated to a suitable charity.

13.7 Post rental inspection procedure

(a) We will take reasonable steps to conduct a post rental inspection in Your presence; and

(b) If You do not wish to wait for the full inspection, We will use reasonable endeavours to conduct the inspection within one (1) Business Day and if Damage is detected, We will notify You as soon as it is reasonably practical to do so.

13.8 Failure to return the Vehicle on time or to the Rental Depot

(a) If You fail to return the Vehicle on the scheduled date and at the time shown in the Rental Agreement:

(i) We may terminate the Rental Contract;

(ii) if the location of the Vehicle is known, We may recover it by lawful means or if it is unknown, after making reasonable attempts to contact You, We will report the Vehicle to the police as having being stolen; and

(iii) You **must** pay any towing or recovery fees incurred in the Vehicle's recovery.

(b) If the Vehicle is left at any other place than the Rental Depot from which it was hired:

(i) the termination of the Rental Contract will take effect only after the Vehicle has been collected by Us and an inspection for Damage has occurred; and

(ii) You are responsible for Damage to the Vehicle up until this time of the collection and inspection.

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14 Major Breach

14.1 What is a Major Breach?

You and any Authorised Driver commit a Major Breach of the Rental Contract if:

(a) there is a breach of any of the following:

(i) clause 2 (who may drive the Vehicle);

(ii) clause 3 (prohibited use);

(iii) clause 4 (prohibited areas of use);

(iv) clause 6 (care of the Vehicle); or

(v) clause 11.3 (repair without authority),

that causes Damage, theft of the Vehicle or Third Party Loss;

(b) there is a breach of:

(i) clause 5.1 (false and misleading information);

(ii) clause 5.3 (payment of the Rental Charges for Longer Term Rentals);

(iii) clauses 11.2 and 12 (Accident and theft reporting) that prevents Us from properly investigating a claim arising from an Accident or theft or from prosecuting or defending any Accident or theft claim; or

(iv) clause 17.2(c) (tampering with, or removal of, the Tracking Device);

(c) the Vehicle is stolen by You or an Authorised Driver or by any person acting for You, at Your direction or on Your behalf; or

(d) You or an Authorised Driver have acted dishonestly or fraudulently.

14.2 No Damage Cover

If You or any Authorised Driver:

(a) commit a Major Breach of the Rental Contract; or

(b) drive the Vehicle in a reckless manner so that a substantial breach of road safety legislation has occurred,

You and any Authorised Driver have no Damage Cover and are liable for:

(i) Damage, theft of the Vehicle and Loss of Use;

(ii) Third Party Loss; and

(iii) all additional costs or expenses We incur in recovering the Vehicle and any storage costs.

15 Termination of the Rental Contract

15.1 Termination and repossession

Acting reasonably, We may terminate the Rental Contract and take immediate possession of the Vehicle if:

(a) there has been a Major Breach;

(b) there has been a breach of clause 14.2(b);

(c) the Vehicle has been illegally parked for longer than 24 hours; or

(d) the Vehicle is apparently abandoned.

15.2 Our rights on termination

If the Rental Contract is terminated:

(a) it will not affect Our right to receive any money We are owed under the Rental Contract;

(b) You give Us permission to access and enter Your premises to repossess the Vehicle without using unreasonable force or causing damage; and

(c) You **must** pay any towing or recovery fees incurred in the Vehicle's repossession.

15.3 Termination of the Rental Contract through bankruptcy or insolvency

We may terminate the Rental Contract if:

(a) You become bankrupt, insolvent, convene a meeting with Your creditors or propose or enter into an arrangement with creditors, or make an assignment for the benefit of Your creditors; or

(b) a receiver, manager, liquidator (provisional or otherwise) or similar person is appointed in respect of You or any of Your assets.

16 Personal Property Securities Act 2009 (Cth)(PPSA)

16.1 Interest is as bailee only

You have no right to, or interest in, the Vehicle other than as a bailee and You **must not** endeavour to obtain any other right or interest by Yourself or Your nominee.

16.2 Security Interest

You acknowledge that:

(a) the Rental Contract may create a security interest (**Security Interest**) (as that term is defined in the PPSA) in the Vehicle;

(b) We have a Security Interest in the Vehicle and the Vehicle will at all times remain subject to that Security Interest; and

(c) We may register the Security Interest on the Personal Property Securities Register.

17 Privacy

IMPORTANT NOTICE

A breach of clause 17.2(c) is a Major Breach of the Rental Contract that excludes Your entitlement to Damage Cover and may allow the Vehicle to be repossessed. See clauses 14 and 15.1 for further details.

17.1 Personal Information

(a) We are committed to respecting Your privacy and will not collect, use or disclose Your Personal Information where doing so would be contrary to law.

(b) When We collect Your Personal Information, We will do so only for the purpose of providing rental services to You. If You choose not to provide this information to Us, We may not be able to provide those rental services to You.

(c) We take reasonable steps to make sure Your Personal Information is accurate, up to date and complete and that it is protected from misuse, loss or unauthorised access, modification or disclosure.

17.2 Tracking Device

(a) To maintain and protect the Vehicle We may fit a Tracking Device to the Vehicle to enable Us to monitor the condition, performance and operation of the Vehicle and to track the Vehicle's geographical location and movements.

(b) Information from the Tracking Device may be used during and after the Rental Period. When You sign the Rental Agreement, You expressly consent to Us:

(i) using the Tracking Device on the Vehicle during the Rental Period; and

(ii) collecting, using and retaining information from the Tracking Device for the purposes referred to in clause 17.2(a).

(c) You **must not** tamper with the Tracking Device or remove it from the Vehicle.

18 Definitions and interpretation

18.1 Definitions

In these Terms and Conditions:

Accident means an unintended, unexpected and unforeseen incident, including:

(a) a collision between the Vehicle and another vehicle or object, including animals and roadside infrastructure;

(b) rollovers; and

(c) weather events, including hail and cyclones,

that results in Damage or Third Party Loss.

Authorised Driver means any driver of the Vehicle who is approved by Us and who is recorded on the Rental Agreement prior to the Start of the Rental.

Business Day means a day which is not a Saturday, Sunday, public holiday or bank holiday in Brisbane, Queensland.

Damage means:

(a) any loss or damage to the Vehicle including its engine, parts, components and accessories, including the GPS unit, however caused that is not fair wear and tear;

(b) towing, recovery and salvage costs; and

(c) assessing, Investigation, appraisal and assessment fees;

and for the removal of doubt, any Damage to the windscreen, headlights, lights or tyres that makes the Vehicle unroadworthy is **not** fair wear and tear.

Damage Cover means the cover You and an Authorised Driver have for Damage, theft, attempted theft and Third Party Loss under clause 8, subject to the Damage Cover Exclusions in clause 9.

Damage Excess means the amount, including GST, up to which You **must** pay Us in the event of an Accident or attempted theft that causes Damage or Third Party Loss or the Vehicle has been stolen and not recovered and includes the additional amount for younger drivers that is payable pursuant to clause 8.3.

End of the Rental means the date and time shown in the Rental Agreement when the rental ends and by which date and time the Vehicle **must** be returned to Us.

GST means the goods and services tax imposed by *A New Tax System (Goods and Services Tax) Act 1999* (Cth).

Handover Inspection Report means the document that shows the condition of the Vehicle and lists any Damage at the time of the inspection.

Incident Report Form means the document You **must** complete and submit to Us if there is Damage to the Vehicle or it has been stolen.

Longer Term Rental means a rental where the Rental Period is one (1) month or more.

Loss of Use means Our loss calculated on a daily basis at the daily rate shown in the Rental Agreement because the Vehicle is being repaired or replaced if it is written off as a result of an Accident or it has been stolen and not recovered

and is additional to Your Damage Excess liability in the event of an Accident or theft and is additional to your Damage liability if there has been a Major Beach.

Major Breach means a breach of any of the clauses listed in clause 14.1.

Off Road means an area, surface or terrain that is not a sealed or Unsealed Road and includes but is not limited to unformed roads, fire trails, tracks, river and tidal crossings, creek beds, beaches, streams, dams, rivers, flood waters, sand, deserts, rocks, fields and paddocks.

Overhead Damage means Damage to the Vehicle or Third Party Loss caused by:

(a) contact between the part of the Vehicle that is at or above the level of the top of the front windscreen with objects overhanging or obstructing its path;

(b) objects being placed on the roof of the Vehicle; or

(c) You or any person standing or sitting on the roof of the Vehicle.

Personal Information has the same meaning as in the *Privacy Act 1988* (Cth).

PPSA means the *Personal Property Securities Act 2009* (Cth).

Rental Charges means the charges payable for renting the Vehicle from Us together with GST and any other taxes or levies which are all fully set out in the Rental Agreement.

Rental Depot means the location from which the Vehicle is rented, as shown on the Rental Agreement.

Rental Period means the period commencing at the time shown in the Rental Agreement and concluding at the End of the Rental.

Security Deposit means the amount shown on the Rental Agreement We collect from You at the Start of the Rental as security for the Rental Charges and other fees and charges incurred during Your rental and the amount is fully refundable subject to clause 5.4.

Start of the Rental means the date and time that the rental commences as shown in the Rental Agreement.

The Australian Consumer Law means Schedule 2 of the *Competition and Consumer Act 2010* (Cth).

Third Party Loss means loss or damage to third party property, including other motor vehicles and any claim for third party loss of income.

Tracking Device means a GPS or other device that is fitted to the Vehicle that has electronic tracking capabilities to determine its location and other data including speed, braking and fuel levels.

Underbody Damage means any damage to the Vehicle caused by or resulting from contact between the underside of the Vehicle and any part of the roadway or any object or obstruction, including kerbs, gutters, speed or road humps, barriers or wheel stops and does not arise as a result of an impact with another vehicle.

Unsealed Road means a road, other than a road that is undergoing temporary roadworks, that has been formed and constructed but is not sealed with a hard material such as tar, bitumen or concrete.

Vehicle means the Vehicle described in the Rental Agreement and includes its parts, tools, components, accessories, keys, keyless start or remote door control device, audio equipment, GPS Tracking Device, child restraints, spare tyre and first aid kit (if fitted) and includes any replacement Vehicle.

We, Us, Our, means Dual Control Car Rentals Australia Pty Ltd trading as Dual Control Car Rentals Qld ABN 50 642 699 447.

You, Your means the person, whether it is an individual, a firm or company or government agency that rents the Vehicle from Us and whose name is shown in the Rental Agreement.

18.2 Interpretation

In these Terms and Conditions, **unless** the context otherwise requires:

(a) headings are for convenience only and do not form part of the Terms and Conditions or affect their interpretation; and

(b) where You comprises two or more persons each is bound jointly and severally.