

# TERMS & CONDITIONS OF THE RENTAL AGREEMENT

## 1. DEFINITIONS AND INTERPRETATION

- 1.1. In this agreement, unless the context indicates otherwise, the following expression shall have the following meanings:
- 1.1.1. "Additional Driver(s)" means any person(s), in addition to the driver, whom the company has expressly authorised to driver/operate the vehicle, and who is so recorded on the rental agreement;
- 1.1.2. "Company" means Bushbundu 4X4 Rental and Adventures CC, with registration number: CC/2022/02062, inclusive of its duly authorised representatives, agents and employees.
- 1.1.3. "Damage(s)" means including but not limited to the actual expenditure in towing, transporting, storing the vehicle, repairing any damage (including tyre and rim damage), replacing parts or accessories (without allowing for depreciation), remunerating an expert to inspect collision damage and report thereon, and reimbursing such expert (an invoice, job card or quotation produced by the company to be prima facie proof of any such expenditure) or any other pecuniary obligations arising from incidents relating to the vehicle, and includes a total loss when applicable;
- 1.1.4. "Day" means a period of 24 hours (or any part thereof), commencing from the time expressly indicated on the rental agreement;
- 1.1.5. "Driver" means the specific individual identified and authorised by the company in the rental agreement to drive/operate the vehicle;
- 1.1.6. "Insurer" refers to the registered insurance entity under the Namibian Short-Term Insurance Act of 1998, or other subsequent applicable legislation, responsible for providing standard insurance coverage to the vehicles rented under this rental agreement;
- 1.1.7. "Equipment" means ancillary items which may accompany the vehicle during the rental, including, but not limited to, off-road and camping gear, navigational tools, and child safety equipment. Such equipment shall only be provided when expressly enumerated in this agreement and in terms of a duly completed equipment inspection sheet;
- 1.1.8. "Excess" means the amount blocked on the renter's credit card by the company and deducted upon the lodgment of an insurance claim due to damages sustained to the vehicle and/or the equipment during the rental period;
- 1.1.9. "Excess Limitation Options" refers to the packages or options presented by the company as per clause 12.4 to the renter, aiming to limiting the excess payable by the renter in the event of a valid insurance claim.
- 1.1.10. "Extended Period" means any period that extends beyond the initial rental period as recorded on the rental agreement;
- 1.1.11. "Liability" means the amount payable by the renter in respect of the damages to the vehicle which shall include total loss, where applicable;
- 1.1.12. "Loss/Damage Administration Fee" means an administration fee charged by the company, per incident, for the processing of claims relating to the damage or loss incurred in respect of the damage or theft of the vehicle;
- 1.1.13. "Parties" collectively refers to all entities entering this rental agreement, while "Party" may refer to any one of them individually;
- 1.1.14. "Processing Fee" means a fee which is charged, per incident, for the processing of parking, speeding or other notices of infringement, per transaction, incurred in respect of the vehicle whilst it is in the possession of the renter;
- 1.1.15. "Rates" means the rates payable by the renter for the rental of a vehicle in terms of this rental agreement;
- 1.1.16. "Rental" means the formal act and arrangement of the renter procuring the vehicle and if specified, the equipment, under the terms and conditions of the rental agreement;
- 1.1.17. "Rental Agreement" means the rental agreement issued by the company to the renter and signed by the renter, together with these terms and conditions of rental, the vehicle inspection sheet and, where applicable, the equipment inspection sheet – which shall have the effect of an agreement between the parties.
- 1.1.18. "Rental Overdue Administration Fee" means the applicable amount charged to the renter in the event that the vehicle and where applicable, equipment, is not returned by the renter to the company at the expiry of the rental period without any arrangement as to the extension of the rental period as per these terms and conditions of rental.
- 1.1.19. "Rental Period" means the period commencing from the date and pick-up time specified on the rental agreement and concluding on the specified date and return time as similarly indicated in the rental agreement;
- 1.1.20. "Renter" means the person (including juristic persons) who enter into a rental agreement with the company, and includes the driver and if applicable, the additional driver, jointly and severally;
- 1.1.21. "Renting Location" means the company's principal place of business or any other mutually agreed-upon location where the vehicle is to be procured by the renter;
- 1.1.22. "Total Loss" means where the vehicle has sustained damages of any kind where the estimated costs to repair such damage are such that the vehicle is in the sole and absolute discretion of the company uneconomical to repair in relation to the condition and market value of the vehicle at the time of the damage, or, when the vehicle is stolen and or lost;
- 1.1.23. "Valet Fee" means an amount charged when the returned vehicle necessitates an extensive cleaning regimen beyond standard protocols;
- 1.1.24. "Vehicle" means each motor vehicle described in a rental agreement as the motor vehicle which is the subject of a rental, including without limitation all keys, tyres, tools, accessories and documents in and on the vehicle when the renter takes possession of the vehicle and includes any replacement vehicle. For the purposes of this agreement any reference to "vehicle" shall automatically include any "Equipment" provided with the vehicle as part of this rental agreement; and
- 1.2. the masculine gender shall include the feminine gender and vice versa and the natural person shall include the legal and juristic person vice versa.

## 2. RENTAL OF VEHICLE (AND EQUIPMENT)

- 2.1. The company lets to the renter who hereby hires the vehicle, which may include equipment as detailed in the equipment inspection sheet, subject to the terms and conditions contained in this rental agreement.
- 2.2. The renter acknowledges receipt of the vehicle in good order and condition, as detailed in the vehicle inspection sheet and, if applicable, equipment inspection sheet.
- 2.3. The renter shall clearly state if equipment is needed with the vehicle, specifying the equipment required by completing the equipment inspection sheet. If equipment is not mentioned in the rental agreement, the company shall not be obliged to provide any equipment to the renter.
- 2.4. The terms and conditions related to the vehicle's rental equally apply to equipment, unless stated otherwise.
- 2.5. The renter agrees to pay the company the rates for the rental, as specified in the rental agreement. See clauses 9 and 10.
- 2.6. The rental period for which the renter shall have possession of the vehicle shall be as specified in the rental agreement. See clause 3, clause 4 and clause 5.
- 2.7. The renter shall ensure that the vehicle is returned to the renting location on or before the expiry of the rental period. Should the renter wish to retain possession of the vehicle beyond the specified rental period, the renter must first obtain the written consent of the company and agree to any additional rates for such extended period. See clause 3.
- 2.8. The renter acknowledges that any equipment provided along with the vehicle is similarly rented, and the renter is responsible for returning such equipment in the same condition as received, save for ordinary wear and tear. See clause 5.
- 2.9. The vehicle shall be returned with the same amount of fuel as at the commencement of the rental period, failing which the renter will be charged for the difference at prevailing market rates. See clause 6.
- 2.10. If the vehicle is not returned to the specified renting location, the renter agrees to pay any additional fees associated with the return of the vehicle to its original renting location. See clause 6.
- 2.11. The renter agrees to immediately notify the company in the event of any damage to the vehicle, theft or loss of the vehicle, or in the event that the vehicle is involved in an accident. See clause 17.

2.12. The renter agrees to bear the liability in respect to damages to the vehicle. See clauses 11 to 13.

### 3. COMMENCEMENT, DURATION, TERMINATION AND EXTENSION OF RENTAL AGREEMENT

3.1. The rental agreement shall become effective and binding from the date and time when the renter takes possession of the vehicle as specified under date/pick-up time in the rental agreement.

3.2. The rental agreement shall remain in force up to and including the return date and time specified in the rental agreement, unless otherwise terminated or extended in accordance with the terms and conditions of this rental agreement.

3.3. The renter acknowledges that the stipulated return date in the rental agreement marks the termination of this rental agreement. The rental agreement will not extend beyond this date without prior and express written agreement between the parties.

3.4. The renter may request an extension of the rental period by providing the company with a written notice at least 48 (forty-eight-) hours before the initially stipulated return date. Any extension shall be granted solely at the discretion of the company and will only be effective upon written confirmation from the company. Such extension shall be subject to the terms and conditions of this rental agreement, and any additional terms that the company may deem necessary.

3.5. The renter has the right to terminate this rental agreement prior to the initial return date by returning the vehicle to the company. In such cases, the Renter is obliged to pay:

3.5.1. All outstanding amounts, including any charges and rates accrued for the actual period the vehicle was in possession of the renter; and

3.5.2. Any early termination fees or charges, if applicable, determined at the sole, yet reasonable discretion of the company. Notwithstanding an early return of the vehicle by the renter, all rates, additional fees, or other charges applicable for the entire rental period as agreed upon, shall be non-refundable. The renter acknowledges and accepts that returning the vehicle before the end date specified in this rental agreement does not entitle them to any refunds or rate adjustments.

3.6. If the renter fails to return the vehicle by the stipulated return date and time without obtaining a written extension from the company, such action will be deemed a breach of the rental agreement. As a consequence, the renter may incur penalties as specified elsewhere in this agreement.

### 4. DELIVERY AND TRANSFER OF RISK OF VEHICLE (AND EQUIPMENT)

4.1. Delivery of the vehicle to the renter shall be deemed to have taken place at the moment the renter takes possession of the keys of the vehicle, the vehicle, and stipulated equipment at the renting location, as specified under date/pick-up time in the rental agreement.

4.2. By accepting delivery, the renter acknowledges that:

4.2.1. They have been afforded a reasonable opportunity to inspect the vehicle and equipment, if applicable, prior to taking possession.

4.2.2. The vehicle inspection sheet and, if applicable, equipment inspection sheet were provided during the delivery process.

4.2.3. The details and defects, if indicated, on the vehicle inspection sheet and equipment inspection sheet (if provided) are true and accurate reflections of the state of the vehicle at the time of delivery.

4.2.4. Except for any defects or damages specifically indicated on the vehicle inspection sheet and the equipment inspection sheet, the vehicle is free from defects, in good repair, roadworthy, and in proper running order.

4.2.5. The vehicle, including its integral parts and any equipment is fit for the purpose for which it is intended;

4.2.6. All vehicle and equipment accessories, including but not limited to wheel caps, the spare wheel, tools and other related items, are present, accounted for, and in good working condition.

4.2.7. Upon taking delivery of the vehicle, the risk associated with the vehicle transfers to the renter. This risk remains with the renter for the duration of the rental period. If the rental period is extended, the risk continues until the vehicle is returned to the company, in accordance with the terms and conditions set out in this rental agreement.

### 5. USE OF VEHICLE AND EQUIPMENT

5.1. During the rental period, the vehicle may only be driven by the driver and or the additional driver(s) as recorded on the rental agreement.

5.2. During the rental period, the vehicle may not be used:

5.2.1. To transport or otherwise convey passengers and or goods for a pecuniary benefit;

5.2.2. To propel or tow any other vehicle, (including any caravan or trailer) unless pre-authorized by the company in writing;

5.2.3. Recklessly or driven in manner which is unsafe or illegal;

5.2.4. For any purpose for which the vehicle was not intended;

5.2.5. For any illegal purpose of any nature whatsoever, to transport goods in violation of any customs laws or in any other illegal manner;

5.2.6. In any motor sport or similar high-risk activity;

5.2.7. Beyond the borders of the Republic of Namibia unless pre-authorized by the company in writing; or

5.2.8. In any area where there is, or may be a risk of, or any activity associated with, incidents of civil unrest, political disturbance or riot.

5.2.9. To drive the vehicle in excess of:

5.2.9.1. 120km/h on tarred national highways;

5.2.9.2. 80km/h on gravel roads; and

5.2.9.3. 40-60km/h in towns or cities.

Notwithstanding the above, where a lower speed limit is prescribed by law, the renter must adhere to the applicable prescribed speed limit.

5.2.10. To operate or drive the vehicle through:

5.2.10.1. Salt-pans;

5.2.10.2. Marsh lands or swamps;

5.2.10.3. Deep-standing water; or

5.2.10.4. Flowing rivers.

5.2.11. To perform any sand dune driving or trips to Sandwich Harbour in the Erongo Region of Namibia.

5.3. If the renter uses the vehicle in breach of these obligations under clause 5, the Renter acknowledges that if he has purchased any of the waivers in respect of such vehicle, then such waivers may not apply in respect of any loss, theft or damage to the vehicle.

5.4. The renter shall for the duration of the rental period:

5.4.1. Make adequate provision for the safety and security of the vehicle including keeping the vehicle properly locked, secured and immobilized when not in use; activating the burglar alarm and vehicle tracking or monitoring system (if any);

5.4.2. Ensure that any anti-theft device in the vehicle is properly secured and in place; and

5.4.3. Take all reasonable steps to ensure that the vehicle remains in good and safe working order, including regularly checking the oil, water and tyre pressure, immediately ceasing all use of the vehicle (and contacting the company) should the electronic diagnostics of the vehicle indicate the presence of a fault or problem in relation to the vehicle and undertaking reasonable inspections of the vehicle before and after use.

5.5. The renter will ensure that the keys of the vehicle are under the renter's control at all times.

5.6. During the rental period, equipment, if provided, should be used solely for its intended purpose detailed in the rental Agreement and not subjected to misuse or excessive wear. Equipment designed for specific conditions or uses, such as off-road equipment, shall not be used in any manner that exceeds its specified limitations.

5.7. The equipment may not be tampered with, modified or used recklessly or in a manner which may cause damage.

5.8. The renter should regularly inspect the equipment of any defects or malfunctions and immediately report any issues to the company.

5.9. The renter should familiarise themselves with equipment usage, if unfamiliar, the renter shall request instruction from the company. The renter shall not operate any equipment without necessary competency and understanding.

5.10. The equipment shall not be sub-leased or loaned to a third-party by the renter.

- 5.11. The renter shall adhere to safety precautions when using the equipment. The company shall not be liable for accidents or damages arising from equipment misuse by the renter.
- 5.12. Equipment that requires a power source or batteries should be used and stored appropriately to prevent damage or malfunction.
- 5.13. When equipment such as camping gear is rented:
  - 5.13.1. The renter should ensure that they are set up securely and in appropriate locations to prevent damage from environmental factors like strong winds, flooding and fire.
  - 5.13.2. All camping gear should be returned clean, dry and free from damage. Wet or damp tents can develop mold and must therefore be dried before storage.
  - 5.13.3. Cooking or use of open flames inside or near the tents is strictly prohibited to prevent fire hazards.
- 5.14. For off-road equipment:
  - 5.14.1. The renter must ensure they are familiar with the operation and safe use of the equipment before use.
  - 5.14.2. Off-road equipment should be securely fastened and stored when not in use to prevent damage during transit.
  - 5.14.3. The renter should avoid using off-road equipment in conditions that may pose a high risk of damage, such as extreme weather conditions or hazardous terrains, unless the equipment is explicitly designed for such scenarios.
  - 5.14.4. After use, off-road equipment should be cleaned of any mud, dirt, or debris and checked for damages or wear and tear.
- 5.15. The renter acknowledges and agrees:
  - 5.15.1. Not to tamper with, switch-off or remove the vehicle tracking system;
  - 5.15.2. That any attempt to tamper with, switch off or remove the vehicle tracking system may result in immediate termination of the rental agreement as provided in other clauses of this agreement and could result in penalties, charges or legal consequences;
  - 5.15.3. That the company reserves the right to monitor the location of the vehicle through the vehicle tracking system to ensure the terms of the rental agreement, including the aforementioned speed limits and restricted areas, are adhered to.

## 6. RETURN OF VEHICLE AND EQUIPMENT

- 6.1. The renter must return the vehicle, along with any equipment, to the renting location as indicated in the rental agreement. The return of the vehicle along with any equipment shall be performed at the renter's expense and on or before the date and time specified in the rental agreement.
- 6.2. Upon return, the vehicle and equipment should be in the same condition as at the commencement of the rental period, subject only to reasonable wear and tear. Any damages or missing parts not indicated during the initial inspection (indicated on the vehicle inspection form and, if applicable, equipment inspection form) will be the renter's responsibility. Any loss or damage to the vehicle and equipment not covered by the waivers shall be reported immediately, and the renter shall bear the full cost of replacement or repair.
- 6.3. Should the renter misuse the vehicle or equipment in violation of clause 5, or any other provision of this rental agreement, the company reserves the right to demand the immediate return of the vehicle and equipment. In such cases, the renter must comply promptly and bear all associated costs incurred in the return of the vehicle. No refunds whatsoever shall be provided to the renter in such cases.
- 6.4. Any change in the return location, date or time must be explicitly agreed upon by the company in writing. Without such agreement, the renter may be subject to penalties and a rental overdue administration fee.
- 6.5. The Renter acknowledges that failure to return the vehicle or equipment in terms hereof:
  - 6.5.1. Shall constitute unlawful possession by him, and the company may, without prejudice to any other rights which it may have in law, institute legal action to repossess the vehicle and any equipment at the cost of the renter; and
  - 6.5.2. Shall result in a termination of any waiver purchased by the renter in terms of the rental agreement.
- 6.6. When the renter returns the vehicle to the renting location, the renter must:
  - 6.6.1. Park the vehicle in the company's designated parking area;

- 6.6.2. Ensure that the vehicle is properly locked and secure;
- 6.6.3. Complete and sign a vehicle return inspection report and or vehicle damage report together with a duly authorised representative of the company. If no such report is completed and signed by the renter, the Renter shall be deemed to have accepted the contents of the vehicle inspection report completed by the company; and
- 6.6.4. Return the keys to the company.
- 6.7. In the event that the vehicle is not returned in accordance with clause 6.6 above, the risk of loss or damage to the vehicle will remain vested in the renter until such time the company has recorded the return of the vehicle.
- 6.8. If the renter fails to return the vehicle by the return date and time as specified in the rental agreement and does not communicate or provide any prior written notice to the company regarding any delays or changes, the vehicle shall be deemed stolen.
- 6.9. The company reserves the right to report the vehicle as stolen to the respective authorities and take any necessary legal actions to recover the vehicle and any associated costs.
- 6.10. The renter shall be held responsible for all consequences, legal repercussions, and costs arising from the failure to return the vehicle, including but not limited to legal fees, recovery charges, and loss of income to the company due to the unavailability of the vehicle for subsequent rental commitments.
- 6.11. In the event that the vehicle is returned by the renter prior to the end date of the rental period specified in this rental agreement, no rates, additional fees, or other charges will be subject to a refund to the renter. All charges shall remain due and payable in full.

## 7. INDEMNITY

- 7.1. Notwithstanding any other provision of this rental agreement, the company shall not be held liable for any loss, injury, damage, or harm of any kind suffered by the renter, any passenger, or any third-party arising out of or in connection with the use, misuse, or possession of the vehicle or equipment, regardless of the cause, unless such loss or damage is directly and solely attributable to:
  - 7.1.1. The willful misconduct or gross negligence of the company; or
  - 7.1.2. A breach by the company of the express provisions of this rental agreement.
- 7.2. The renter acknowledges and accepts that driving or using the vehicle and equipment in the Republic of Namibia exposes the renter to inherent risks, including but not limited to adverse weather conditions, unexpected obstacles, and unpredictable road conditions. The renter assumes all such risks and the company shall not be liable for any damages or injuries resulting from these risks or any other risks associated with in-country driving.
- 7.3. The company assumes no responsibility and shall not be liable for any harm, loss, or damage caused directly or indirectly by the renter's misuse, improper handling, or failure to adhere to the stipulations of this rental agreement concerning the vehicle and equipment.
- 7.4. The company is not responsible for any harm, loss, or damage caused directly or indirectly by the use or operation of any navigation or third-party devices, unless such harm or damage is directly attributable to the company's gross negligence, willful misconduct, or an explicit breach of this rental agreement.
- 7.5. To the maximum extent permitted by applicable law, the renter waives any right of recovery against the company for indemnities, damages, losses, or claims arising from the use of the vehicle and equipment, except for those directly resulting from the company's gross negligence or willful misconduct.
- 7.6. The renter agrees to indemnify and hold harmless the company, its agents, affiliates, and employees against all losses, liabilities, damages, injuries, claims, demands, costs, and expenses arising from or in connection with the renter's possession or use of the vehicle and equipment, unless directly and solely resulting from the company's gross negligence or willful misconduct.

## 8. DECLARATION AND WARRANTIES

- 8.1. The renter warrants and declares that:
  - 8.1.1. The renter has been given an adequate opportunity to read and understand the terms and conditions of the rental agreement and is aware of all the terms thereof. The renter understands and accepts its risks and costs as well as his or her rights and obligations under this rental agreement;
  - 8.1.2. The renter has full power and authorisation to effect and carry out the obligations in terms of this rental agreement and, if the renter is a corporate entity, association, partnership or a trust, that all

necessary corporate or other actions were taken to authorise the execution of this rental agreement;

- 8.1.3. All the information the renter provided to the company in connection with the conclusion of this rental agreement is true, complete and accurate and the renter is not aware of any material facts or circumstances not disclosed to the company and which, if disclosed, may adversely affect the decision to enter into this rental agreement;
  - 8.1.4. The renter has the necessary legal capacity to enter into this rental agreement;
  - 8.1.5. The renter understands the inherent risks associated with operating a motor vehicle, including risks due to weather conditions, other drivers and road conditions;
  - 8.1.6. The vehicle will only be used for lawful purposes and will not be used for any illegal activities, racing, or dangerous activities not in line with normal vehicle usage;
  - 8.1.7. The renter acknowledges that any use of the vehicle which breaches the terms of his rental agreement may result in immediate termination of the rental agreement at the discretion of the company, without any refunds;
  - 8.1.8. The company did not make an offer to the renter which would automatically have resulted in a rental agreement if the renter had not declined the offer;
  - 8.1.9. The company has not induced, harassed or forced the renter to enter into this rental agreement;
  - 8.1.10. This rental agreement was completed in full at the time of the renter signing this rental agreement;
  - 8.1.11. The vehicle will not at any time during the rental period be driven by any person who is not authorised to drive the vehicle in terms of the rental agreement;
  - 8.1.12. The driver and additional driver(s) shall be at least 23 years old and not older than 70 years old;
  - 8.1.13. The driver and additional driver(s) shall issue to the company a valid, unendorsed, license to drive the vehicle, which license must be at least three years valid before the date of the commencement of the rental period;
  - 8.1.14. The driver and additional driver(s) will at times comply with all applicable laws and with the provisions of this rental agreement;
  - 8.1.15. The renter will inform the company of any physical impairment of a person who wishes to be authorised to drive the vehicle.
- 8.2. If the renter fails to notify the company of such physical impairment as contemplated in clause 8.1.15, the renter will bear the full liability and responsibility for damages in the event of an accident involving the vehicle.
- 8.3. If the vehicle is driven by anyone other than the renter, the driver or the additional driver then, without derogating from any rights or remedies which the company may have, the renter shall remain liable for all his obligations in terms of this rental agreement and in particular, he shall be liable to the company as if he had been driving the vehicle.
- 8.4. The renter understands and agrees that any early return of the vehicle does not warrant a refund of any rates or additional fees already levied. All such rates and fees remain fully payable as if the vehicle was retained for the entire rental period.

## **9. PAYMENT / RENTAL CHARGES**

- 9.1. The renter, driver or additional driver agrees to pay the company the rates plus all other charges and fees payable by the renter as contemplated in the rental agreement or any official quote or brochure for the duration of the rental period.
- 9.2. The renter, driver or additional driver agrees to pay all loss/damage administration fees, fines, penalties and similar expenses as well as the processing fee arising out of or concerning the use of the vehicle whilst the vehicle is at the risk of the renter.
- 9.3. Rates, charges, and fees will be calculated on the entirety of the agreed-upon rental period during which the vehicle is at the risk of the renter, as set out in the rental agreement. The renter acknowledges and accepts that returning the vehicle before the end date specified in this rental agreement does not entitle them to any refunds or rate adjustments for any unused days. All deposits paid will be adjusted against these rates, charges and fees.
- 9.4. In the event that the renter returns the vehicle to a renting location other than the company's premises from which the vehicle was rented the renter shall be liable for an additional charge to be calculated having regard to the distance travelled and fuel consumed to return the vehicle to the renting location.

- 9.5. For terms relating to cancellations and the respective refund policy, please refer to clause 21.

## **10. PAYMENT**

- 10.1. All amounts payable to the company are due and payable immediately and shall be paid in full on or prior to the date of commencement of the rental period.
- 10.2. If the company has agreed to accept payment from the renter by way of credit card or charge card specified in the rental agreement, the renter's signature of this rental agreement will constitute irrevocable authority:
  - 10.2.1. for the Company to obtain authorisation and/or payment; and
  - 10.2.2. to debit the card with the total amount due to the company including any damages and/or loss suffered by the company for which the renter is liable under this rental agreement.
- 10.3. The company shall be entitled to levy interest on all overdue amounts at a rate of 20%. Interest shall be reckoned from the day upon which such amount becomes overdue of the amount concerned until the date of payment, both days inclusive, and shall be calculated on a compounded basis on the amount owing at the end of each month and payable on demand.
- 10.4. In the event of a cancellation prior to the commencement of the rental period, refund amounts will be calculated in accordance with clause 21.

## **11. RENTER'S RISKS AND LIABILITIES**

- 11.1. The renter assumes full responsibility and liability for any damage, loss or theft of the vehicle, any fines, penalties or administrative fees incurred during the rental period, subject to the provisions of this rental agreement and any applicable laws.
- 11.2. The renter's liability as set out in clause 11.1 may be mitigated or modified to the extent of the vehicle's insurance coverage, as delineated in clause 12, applies. The renter understands that the insurance policy's specific terms, including exclusions and limitations, will define the extent and nature of this mitigation.
- 11.3. The renter agrees that the company may determine the party who shall repair any damage to the vehicle and/or provide any parts or service in connection with such repair/s or provide any replacements of any lost or damaged item and that the company may enter into an agreement with such party or parties.

## **12. VEHICLE INSURANCE COVERAGE**

- 12.1. The vehicle is covered under a comprehensive insurance policy, which provides protection against certain instances of damage to the vehicle, theft of the vehicle, and third-party liability. Specific details regarding the limits of coverage, exclusions, and deductible/excess amounts can be found in the insurance policy document, a copy of which is available upon request. A copy of the insurer's policy shall be available on request.
- 12.2. Prior to the commencement of the rental period and at the delivery of the vehicle, the renter shall allow the company to block an amount equivalent to the respective excess payable on the renter's credit card as security (the "Excess Amount"). The standard total excess amount, unless otherwise agreed upon and subject to clause 12.4, is set at N\$ 40,000.00.
- 12.3. Handling of the excess amount in the event of an incident:
  - 12.3.1. In the event of an incident during the rental period necessitating an insurance claim and resulting in any damages, the renter authorises the company to deduct from his or her credit card the cost of any damages and any ancillary costs to lodge a claim with the insurer thereby reducing the excess amount blocked on the renters credit card.
  - 12.3.2. The balance of the excess amount will continue to serve as security while the insurance claim process is underway.
  - 12.3.3. If the insurance claim is validated, and an excess amount is to be paid to the insurer, then such excess amount will be deducted from the excess amount. In the event that no excess amount is payable to the insurer, then the block on the balance of the excess amount will be removed from the renter's credit card.
  - 12.3.4. If the insurance claim is invalidated, the excess amount will be retained by the company as security for the partial settlement of any valid claims lodged against the renter by the company due to the incident.
  - 12.3.5. The retention of the excess amount by the company as security does not absolve the renter of any additional liabilities or financial obligations that may arise due to the incident. Furthermore, it does

not prejudice or restrict the company's rights to institute any actions, proceedings, or claims against the renter to recover any additional monies or damages for losses incurred as a result of the incident.

- 12.4. To accommodate varying needs and preferences, the company offers the renter three distinct options to limit the excess payable:
- 12.4.1. Option A: Standard excess – N\$40,000 excess at no additional fee;
- 12.4.2. Option B: Reduced excess 1 – N\$20,000 excess at a daily rate of N\$250;
- 12.4.3. Option C: Reduced excess 2 – N\$3,000 excess at a daily rate of N\$450.
- 12.5. It is specifically recorded that the company does not act as an agent or intermediary in offering the excess limitation options. Furthermore, the company provides no advice, recommendations, or endorsements regarding the suitability or appropriateness of any specific excess limitation option for the renter.
- 12.6. The excess limitation options presented by the company are not, under any circumstance, to be construed as insurance coverage between the company and the renter as per the Short-term Insurance Act 4 of 1998. Neither should they be regarded as a financial service product under any other applicable legislation.
- 12.7. It is imperative for the renter, driver, and any additional driver to seek independent professional advice regarding the excess limitation options, their implications, benefits, and potential liabilities.
- 12.8. The insurance coverage's specifics, including terms, exceptions, and limitations, are delineated in the insurer's policy, and are hereby incorporated into this rental agreement by reference. A copy of the insurer's policy is available on request and captures the material exclusions and limitations of the insurance coverage applicable to this rental agreement.
- 12.9. Should any discrepancies, conflicts, or ambiguities between this rental agreement and the insurer's policy arise at any time, the terms of the latter shall prevail.
- 12.10. By entering into this rental agreement, the renter expressly acknowledges and agrees that the vehicle's insurance coverage operates strictly under the insurer's policy terms and conditions. The renter also accepts the responsibility to thoroughly familiarize themselves with said policy to ensure clear understanding of the coverage scope, its exclusions, and inherent limitations.

### 13. AGREEMENT TO FURNISH ADDITIONAL SECURITY

- 13.1. Notwithstanding what has been said in clause 12, in the event of a collision or accident, the renter agrees that as soon as the damages to the vehicle have been assessed and confirmed by an independent loss adjuster / independent assessing service or official dealer the renter shall, within 24 hours, furnish the company with the following:
- 13.1.1. Proof of an asset owned by the renter and located in the jurisdiction of Namibia with a value of not less than the assessed damages of the vehicle; or
- 13.1.2. Transfer of an amount of money into a trust bank account designated by the company equal to the assessed damages of the vehicle;
- 13.2. The Renter agrees that:
- 13.2.1. Any asset identified by the renter in terms of clause 13.1 of this agreement shall immediately be placed in the possession of the company and shall remain in the possession of company; and
- 13.2.2. Any amount of money transferred to the company by the renter shall remain invested in the trust account designated for that purpose until such time a court of competent jurisdiction including any appeal to a higher court, has decided on the liability of the renter for the damages suffered by the company as a result of the collision or accident. Should such a court find that the renter is liable to pay the damages to the company, the assets or monies shall serve as security for the recovery and satiation of these damages.
- 13.3. Any failure by the renter to perform either of the obligations set out in paragraphs 13.1.1 or 13.1.2 hereof shall be understood to mean that the renter does not have sufficient realizable assets in Namibia to satisfy any claim for damages resulting from the accident or collision. In the event that the renter does not have such assets, the renter herewith agrees that:
- 13.3.1. The amount of damages so assessed shall constitute *prima facie* proof of the amount of damages suffered by the company as a result of the accident / collision; and
- 13.3.2. The renter irrevocably consents to the company debiting from the credit card (Visa or Master Card) an amount of money equal to the

amount of damages suffered by the company as so assessed upon the company furnishing the applicable bank with proof of the assessed damages and this agreement.

### 14. BREACH

- 14.1. In the event of any party ("defaulting party") committing a material breach of any of the terms of this rental agreement and failing to remedy such breach within a reasonable period of time (having regard to the term of this rental agreement as contemplated in clause 3 above and/or the nature of the breach), after receipt of a written notice from the other party ("aggrieved party") calling upon the defaulting party so to remedy, then the aggrieved party shall be entitled, without prejudice to any of its other rights in law, either to claim specific performance of the terms of this rental agreement or to cancel this rental agreement forthwith, in either case with or without claiming and recovering damages from the defaulting party.
- 14.2. The renter will be liable to the company for all legal costs incurred by the company, as may be permissible in law, in recovering any amount that the renter owes to the company.

### 15. JOINT AND SEVERAL LIABILITY OF SIGNATORIES

- 15.1. The renter, driver and additional driver(s) whose signature appears on the rental agreement shall be joint and severally liable for payment of all amounts, fees and charges due to the company in terms of or pursuant to this rental agreement.

### 16. TERMINATION / CANCELLATION OF RENTAL AGREEMENT

- 16.1. Notwithstanding anything to the contrary contained in this rental agreement, the company may terminate this agreement without any explanation at any time by notice (oral or in writing subject to the circumstances) to the renter, whereupon the renter shall immediately return the vehicle to the company, without any refund.

### 17. PROCEDURE IN THE EVENT OF AN INCIDENT INVOLVING THE VEHICLE

- 17.1. In the unfortunate event that the vehicle is damaged, lost, stolen, or otherwise involved in any incident during the rental period, the renter shall promptly take all necessary steps to protect the interests of the company. These measures include, but are not limited to:
- 17.1.1. Immediately notifying the company upon becoming aware of the incident, but in no event later than 3 hours following the incident. Additionally, the renter must complete and provide the company with its official claim form within 24 hours of the incident. The renter shall obtain the name(s) and addresses of every person or entity involved or related to the incident and possible witnesses;
- 17.1.2. Gathering and recording the names and contact details of all parties involved in the incident and any potential witnesses.
- 17.1.3. Refraining from admitting any form of liability or responsibility. The renter must not release any party from potential liability, settle any claims, or accept any disclaimers without the express written consent of the company. Any admissions may affect the validity of the insurance claim as per clause 12;
- 17.1.4. Reporting the incident to the police within 24 hours and subsequently providing the company with the official police case or docket number.
- 17.1.5. Assisting and cooperating fully with the company and its insurance representatives in all matters related to the investigation of the incident. This may include participating in legal actions or providing affidavits if requested.
- 17.2. The renter shall not affect any repairs to the vehicle without the prior written consent of the company, failing which the renter shall be solely liable for the respective costs incurred and any other costs, including further replacement or rectification costs incurred to the vehicle.
- 17.3. If the renter is distinct from the driver, the renter still retains all obligations outlined in 17.1. Additionally, the renter must ensure that the driver adheres to all the provisions detailed in clause 17.1.
- 17.4. The renter is required to provide the company with any official documents such as claims, demands, summons, or similar notifications related to the vehicle incident within 24 hours of receiving them. If the renter is not the driver, the renter is responsible for obtaining and delivering these documents from the driver to the company in the stipulated time frame.

### 18. CONSENT REGARDING THE PROCESSING OF PERSONAL INFORMATION

- 18.1. By signing this rental agreement, the renter consents to:

- 18.1.1. The processing and further processing of its personal information by the company or any of its operators or agents on the condition that they will secure the integrity and confidentiality of the renter's personal information.
- 18.1.2. The collection of information by the company from any other source to confirm and supplement the personal information which the company has about the renter;
- 18.1.3. The retention by the company of records of the renter's personal information for as long as required for legal, regulatory, fraud prevention and financial crime purposes.
- 18.1.4. The company conducting credit enquiries about the renter with any credit bureau or credit provider from time to time and providing the renter's personal information, including details of any non-compliance and the manner in which it conducts its account, to credit risk management services and or crime prevention agencies;
- 18.1.5. And authorises the company to make use of the renter's personal information provided to the company for purposes of tracking and recovering the vehicle if it is not returned to the company at the agreed time and date reflecting on the rental agreement;
- 18.1.6. The company tracking the vehicle for purposes of monitoring the renter's use of the vehicle and recovering the vehicle and the company disclosing the tracking report to its insurance company, the renter's employer (if the employer is responsible for payment) and any other third party having a legitimate interest;
- 18.1.7. And authorises the company to disclose the renter's personal information to the company's agents, the relevant traffic department or government institution for purposes of the redirection, collection or administration of any traffic fines or infringements concerning the use of the vehicle whilst the vehicle was at the risk of the renter.

**19. GOVERNING LAW**

- 19.1. This rental agreement and all matters or disputes arising there from or incidental thereto are in all respects governed by the laws of the Republic of Namibia (inclusive of any dispute arising from the conclusion and/or the implementation and/or the cancellation thereof).

**20. GENERAL**

- 20.1. No indulgence, latitude or extension of time which the company may allow the renter, shall be regarded to be a waiver of rights by the company or a novation of the renter's liabilities under this rental agreement.
- 20.2. If any term or condition of this rental agreement becomes unenforceable for any reason whatsoever, that term or condition is severable from and shall not affect the validity of any other term or condition in this rental agreement.
- 20.3. The terms and conditions of this Rental Agreement may not be amended, changed or cancelled unless it is reduced to writing and signed by both parties.
- 20.4. The renter acknowledges the insurance coverage provided as per clause 12 and agrees to comply with all the requirements and conditions stated therein.

**21. CANCELLATION AND REFUND POLICY**

- 21.1. If the renter wishes to cancel the rental agreement prior to the commencement of the rental period, the following refund structure will apply based on the timing of the cancellation:
  - 21.1.1. 22 to 28 days prior to commencement: renter will be liable to pay 25% of the total amount due, with 75% being refunded;
  - 21.1.2. 15 to 21 days prior to commencement: renter will be liable to pay 50% of the total amount due, with 50% being refunded;
  - 21.1.3. 8 to 14 days prior to commencement: renter will be liable to pay 75% of the total amount due, with 25% being refunded;
  - 21.1.4. 7 days or less prior to commencement: renter will be liable to pay 100% of the total amount due with no refunds applicable.
- 21.2. Any amounts to be refunded as per the above structure will be processed by the company within a reasonable time after the cancellation is confirmed.
- 21.3. This clause shall be read in conjunction with other payment-related clauses of the rental agreement and any amounts owed to the company as a result of cancellation will be deducted from any payments already made by the renter.

**22. DEPOSIT TO SECURE A BOOKING**

- 22.1. To secure a booking for the rental of a vehicle, the renter is required to pay an initial deposit amounting to 25% of the total rental charge. This deposit confirms the renter's intention to rent the vehicle and ensures the availability of the said vehicle for the stipulated rental period.
- 22.2. An additional deposit of 25% of the total rental charge must be paid by the renter 28 days prior the commencement of the rental period. This brings the total deposit payable to 50% of the rental charge before the rental period commences.
- 22.3. Failure to pay the additional deposit within the stipulated period may, at the company's discretion be considered a breach of the rental agreement, and the company may either:
  - 22.3.1. Treat the rental agreement as cancelled by the renter, in which case the cancellation provisions as set out in clause 21 for cancellation refunds shall apply; or
  - 22.3.2. Charge an interest fee of N\$ 150.00 for each day until payment is received.
- 22.4. All deposit amounts paid by the renter will be adjusted against the final rental charges, fees, insurance excess if applicable and other applicable charges due at the end of the rental period.
- 22.5. In the event of a cancellation, the deposit amounts will be subjected to the cancellation refund terms as outlined in clause 21.

**23. REPLACEMENT VEHICLE**

- 23.1. In situations where the renter requires a replacement vehicle due to breakdown, malfunction, accident or any circumstances during the Rental Period:
  - 23.1.1. The renter must sign a new rental agreement for the replacement vehicle. This agreement will stipulate the terms and conditions for the use of the replacement vehicle, which may differ from the initial agreement.
  - 23.1.2. The renter will be charged a new rental fee for the remaining days of the initially stipulated rental period or for the duration the replacement vehicle is used, whichever is longer. This fee will be determined based on the company's prevailing rates for the type and model of the replacement vehicle provided.
- 23.2. Upon receipt of the replacement vehicle:
  - 23.2.1. The renter must choose a new excess option as per the options outlined in Clause 12.4 of this agreement.
  - 23.2.2. The chosen excess amount will be reserved on the renter's credit card, in line with Clause 12.2, and will be subject to the terms mentioned in Clause 12.3 concerning handling, validation, and invalidation of insurance claims.
- 23.3. Upon signing the new rental agreement for the replacement vehicle, the initial rental agreement for the original vehicle will be deemed terminated. All rights, obligations, and liabilities under the initial rental agreement will cease, and the renter's rights, obligations, and liabilities for the replacement vehicle will be governed solely by the new rental agreement.
- 23.4. The renter is responsible for ensuring the original rented vehicle, if in a condition to be moved, is returned to the company or left in a secure location as agreed upon with the company. If the original vehicle is not in a movable condition due to an accident or any other reason, the renter must inform the company promptly to make arrangements for its recovery.
- 23.5. Nothing in this clause shall be deemed to waive any rights or remedies the company may have against the renter under this agreement, especially those related to damages, loss, or any liabilities arising from the use of the original vehicle.

I, the undersigned renter and/or driver of the vehicle, hereby confirm that I have thoroughly read and understand the terms and conditions of this rental agreement and fully understand the contents and implications of these said conditions.

**RENTER'S SIGNATURE.....Date.....**

**DRIVER'S SIGNATURE.....Date.....**

**DRIVER'S SIGNATURE.....Date.....**

# DPO PAYGATE MINIMUM TERMS AND CONDITIONS

## 1. DETAILED DESCRIPTION OF GOODS AND/OR SERVICES

Bushbundu 4x4 Rental and Adventures CC is a business in the car rental industry that offers four-wheel drive vehicles for rental.

## 2. DELIVERY POLICY

Subject to availability and receipt of payment, requests will be processed within 2 days and delivery confirmed by way of email notification.

## 3. RETURN AND REFUNDS POLICY

The provision of goods and services by Bushbundu 4x4 Rental and Adventures CC is subject to availability. In cases of unavailability, Bushbundu 4x4 Rental and Adventures CC will refund the client in full within 30 days. Cancellation of orders by the client will attract a 5 % administration fee.

## 4. CUSTOMER PRIVACY POLICY

Bushbundu 4x4 Rental and Adventures CC shall take all reasonable steps to protect the personal information of users. For the purpose of this clause, "personal information" shall be defined as detailed in the Promotion of Access to Information Act 2 of 2000 (PAIA). The PAIA may be downloaded from: <http://www.lawsofsouthafrica.up.ac.za/index.php/current-legislation>.

## 5. PAYMENT OPTIONS ACCEPTED

Payment may be made via Visa and MasterCard, or by bank transfer into the Bushbundu 4x4 Rental and Adventures CC bank account, the details of which will be provided on request.

## 6. CARD ACQUIRING AND SECURITY

Card transactions will be acquired for Bushbundu 4x4 Rental and Adventures CC via DPO Group who are the approved payment gateway for Namibian Acquiring Banks. DPO uses the strictest form of encryption, namely Secure Socket Layer 3 (SSL3) and no Card details are stored on the website.

## 7. CUSTOMER DETAILS SEPARATE FROM CARD DETAILS

Customer details will be stored by Bushbundu 4x4 Rental and Adventures CC separately from card details which are entered by the client on DPO's secure site.

## 8. MERCHANT OUTLET COUNTRY AND TRANSACTION CURRENCY

The merchant outlet country at the time of presenting payment options to the cardholder is Namibia. Transaction currency is Namibian Dollar (NAD).

## 9. RESPONSIBILITY

Bushbundu 4x4 Rental and Adventures CC takes responsibility for all aspects relating to the transaction including sale of goods and services sold on this website, customer service and support, dispute resolution and delivery of goods.

## 10. COUNTRY OF DOMICILE

This website is governed by the laws of Namibia. Bushbundu 4x4 Rental and Adventures CC chooses as its domicilium citandi et executandi for all purposes under this agreement, whether in respect of court process, notice, or other documents or communication of whatsoever nature Unit 54 Hyper Motor City, Maxwell Street, Windhoek, Namibia.

## 11. VARIATION

Bushbundu 4x4 Rental and Adventures CC may, in its sole discretion, change this agreement or any part thereof at any time without notice.

## 12. COMPANY INFORMATION

This website is run by Bushbundu 4x4 Rental and Adventures CC based in Namibia trading as Bushbundu 4x4 Rental and Adventures CC and with registration number CC/2022/02062 and two Members.

## 13. BUSHBUNDU 4X4 RENTAL AND ADVENTURES CC CONTACT DETAILS

Company Physical Address: Unit 54 Hyper Motor City, Maxwell Street, Windhoek, Namibia

Email: [info@bushbundu.com](mailto:info@bushbundu.com)

Telephone: +264 81 4404894