

**POWER RENTAL CARS**

**CAR RENTAL AGREEMENT**

**TERMS AND CONDITIONS**

This agreement is entered into between the Owner and the Renter.

**PART 1 DEFINITIONS AND INTERPRETATION**

1.1 This **agreement** means these terms and conditions and the application annexed hereto, and any modification made thereto in writing and signed by the parties.

1.2 References in this agreement to **us, we** and **our** are to the Owner, and references in this agreement to **you** and **your** are to the Renter; and references to **you** and the **driver** include any **authorised driver**, as the circumstances require.

1.3 References in this agreement to the **Renter** include the authorised driver (if any) specified in the application.

1.4 The **application** means the rental application to which these terms and conditions are annexed.

1.5 **Collection costs** means our reasonable costs, which may include legal costs, of collecting unpaid rent and/or other money owed by you to us.

1.6 The **date** of this agreement is the day on which the Owner signs and dates the application, signifying the Owner's acceptance of the Renter's application to rent the vehicle.

1.7 **Direct debit dishonour fee** means the amount payable by the renter for any direct debits which are not processed due to insufficient funds or bank errors.

1.8 **GST** is defined in a New Tax System (Goods and Services Tax) Act 1999.

1.9 **Infringement Notice** includes any notice issued for road traffic violations, including toll evasion and illegal parking.

1.10 **Insurance policy** means a policy of comprehensive insurance arranged by you with respect to the vehicle, which must name **Power Rental Cars** as an interested party.

1.11 **Manufacturers specifications** means the specifications of the manufacturer of the vehicle as set out in the vehicle's operations manual.

1.12 **Normal business hours** means the Owner's normal business hours which are 8:30 am to 5:00 pm weekdays and 8:30 am to noon on Saturdays, except for public holidays in Brisbane.

1.13 The **Owner** means SOC Property One Pty Ltd ABN 72 630 589 150 trading as **Power Rental Cars**, of 1015 Ipswich Road, Moorooka, Queensland 4015.

1.14 The **parties** means the Owner and the Renter.

1.15 **PPSA** means the Personal Properties Securities Act 2009.

1.16 **PPSR** means the Personal Property Securities Register.

1.17 The **rent** and means the weekly amount payable by the Renter to the Owner by direct debit arranged by you with EZIDEBIT, as specified in the application.

1.18 **Rental** means the rental of the vehicle by the Renter from the Owner.

1.19 The **Renter** means the person named in the application who has signed and dated the application to rent the vehicle.

1.20 **Roadside Assistance** means the provision of the roadside assistance by RACQ (or its affiliates interstate), which we will arrange on your behalf with respect to the vehicle.

1.21 **The system** means the vehicle immobiliser and GPS system referred to in Part 10.

1.22 **Toll tags** means a device attached to the vehicle by the Renter at his cost for the payment of toll charges.

1.23 The **vehicle** means the vehicle described in the application or another vehicle substituted therefore pursuant to Part 2.

## **PART 2 RENT, SWAP, BUY, RETURN - THE POWER IS YOURS**

### **2.1 Paying the rent**

You agree to pay to us:

(1) the Rental Establishment Fee specified in the application; and

(2) the rent for the vehicle;

in the manner we require, being by 'direct debit' electronic funds transfer via EZIDEBIT, or any other manner reasonably required by us.

Direct Debit dishonours constitute a breach of this agreement. It is your responsibility to make sure there are funds available in your account before the specified Direct Debit date each pay period, so that the Direct Debit will not dishonour. Continuous Direct Debits will result in a warning and if the bank issue is not rectified then it will result in termination of the rental agreement.

### **2.2 Returning the vehicle**

When the vehicle is returned it will be inspected by us and the provisions in Part 6 will apply.

### **2.3 Returning the vehicle if the rent is not paid on time**

You must return the vehicle to us immediately if the rent is not paid by the due date, and upon this happening the rental will come to an end, though the Owner does not waive the right to recover any overdue rent or other money owing to it by the Renter whether or not arising from a breach of this agreement; and the provisions in Part 8 will apply.

### **2.4 The Renter can swap the vehicle for another one**

If the rental of a vehicle has continued for three months or more, and the Renter is not in default, the Renter is able to swap the vehicle by contacting the Owner and arranging for the swap; and this can be done by prearrangement with the Owner during normal business hours. The Renter can swap the vehicle within three months by paying the rental establishment fee specified in the Application.

### **2.5 The Renter may return the vehicle to the owner at any time by prearranging the drop off time**

Subject to, and in accordance with, Part 6, the Renter may return the vehicle to the Owner at any time during normal business hours: There is no 'lock in contract', no termination fees.

### **2.6 The Renter may offer to buy the vehicle**

If the Renter would like to buy the vehicle from the Owner, the Renter may make an offer to the Owner and take advantage of the Owner's depreciation policy, which is to retire rental vehicles after approximately two years; and this is reflected in the depreciation indicator which has been given to the Renter as a guide: The longer the vehicle is rented, the less the vehicle is worth. The Owner is not under any obligation to accept an offer which it considers unreasonable.

### **2.7 The Owner may accept the offer**

If the Owner accepts the Renter's offer to buy the vehicle the Owner shall transfer ownership to the Renter's name and remove the tracker and remove the PPSR only after all outstanding rental fees, dishonours, infringements and admin fees relating to Infringement Notices, and other monies owing to the Owner have been paid. The Renter acknowledges that the vehicle must have a roadworthy certificate and this must be obtained at the cost of the Renter and any repairs that need to be undertaken to obtain the roadworthy certificate will be at the cost of the Renter.

## **PART 3 THE DRIVER**

3.1 You acknowledge and agree that only you and an authorised driver will drive the vehicle and that you and an authorised driver will at all relevant times hold a current and valid driver's licence.

3.2 You are responsible for the acts and omissions of an authorised driver.



## **PART 4 THE USE OF THE VEHICLE**

4.1 You must not:

- (1) Use the vehicle for any illegal purpose;
- (2) Carry more passengers than what may be properly accommodated by seat belt restraints;
- (3) Drive the vehicle whilst under the influence of alcohol or drugs exceeding the legal limit;
- (4) Use the vehicle when it is unsafe to do so, due to damage or any other circumstance; and
- (5) Use the vehicle in contravention of any law.

## **PART 5 SAFETY, SECURITY, CLEANING AND MAINTENANCE**

5.1 You must at your cost maintain the vehicle's engine oils and engine coolant levels to the manufacturer's specifications, comply with applicable child restraint and seat belt laws, keep the vehicle locked when it is unattended, and keep the keys under your personal control.

5.2 You acknowledge that we may from time to time receive telematics data from device equipped vehicles where driver monitoring is enabled, including vehicle location data and vehicle diagnostic information.

5.3 We will arrange to be carried out, at our cost, mechanical repairs to the vehicle at a workshop of our choosing, as necessary, and you must not have repairs done to the vehicle by anyone else unless you get our prior written authorisation.

5.4 If a vehicle is returned with personal belongings these will be disposed of after 72 hours.

## **PART 6 RETURN OF VEHICLE**

6.1 If you wish to return the vehicle and terminate the rental you must return it to our address during normal business hours; and if it is not in the same condition as it was at the commencement of the rental (fair wear and tear excepted), as determined by us, in our reasonable opinion, the following provisions of this Part shall apply.

6.2 If you return the vehicle to us with mechanical malfunctions or panel damage, or if the vehicle in an excessively poor condition, that is, beyond *fair wear and tear*, we may require you to pay the repair costs.

6.3 The cost of any repairs require pursuant to clause 6.2, which may include mechanical repairs, panel repairs and spray painting, and the cost of professional cleaning and/or odour extraction, as determined by us, acting reasonably, as well as a reasonable administrative fee reflecting the cost of making arrangements for repairs, professional cleaning or odour extraction, must be paid by you.

6.4 Part 8 shall apply to clause 6.2.

## **PART 7 LIABILITY FOR LOSS OR DAMAGE**

7.1 You must take out the comprehensive insurance policy for the vehicle before you collect it from us, and we must be named as an interested party on the policy.

7.2 You must provide us with a copy of the insurance policy and policy schedule when collecting the vehicle; and you must also provide us with a certificate of currency relating to the insurance, as and when we request you to do so.

7.3 You must report traffic accidents or theft to the police, the insurer and to us without delay. If you fail to do so the insurer may avoid liability under the insurance policy.

7.4 If there is an insurance claim you must authorize a representative of our company to handle the claim on your behalf.

7.5 If the insurer denies liability, or if you breach clause 7.1, or if you fail to maintain the insurance, you are liable to compensate us for any damage to or loss of the vehicle, including theft, and you are also liable for damage to third party property which is caused by or contributed to by you or any other person allowed to drive the vehicle: That is why you must take out the comprehensive insurance for the vehicle.

7.6 If we accept that damage to the vehicle was not your fault, you will not be liable to compensate us if you provide us with:

- (1) a detailed description of the incident causing damage, including the location;
- (2) the names, residential addresses, contact phone and licence numbers of any person involved, including witnesses;
- (3) the registration numbers of the vehicles involved;
- (4) the names of any attending police officers and the stations at which they are base; and
- (5) the name of the insurer of any third party you believe was responsible for the damage.

## **PART 8 ADDITIONAL CHARGES**

8.1 You authorise us to pay from the credit card you have provided to us (“your credit card”) all fees, charges, fines and repair costs referred to in this Part and elsewhere in this agreement.

8.2 We will pay the fees charged by the RACQ with respect to the vehicle using your credit card.

8.3 If a direct debit transaction fails we will charge you a dishonour fee of \$30.00 each time this occurs and debit your credit card.

8.4 If we incur retrieval costs, agent's fees, legal costs, towing fees, call-out fees, storage fees, or impounded charges we shall be entitled to recover them from you as a debt due and payable on demand and debit your credit card.

8.5 Fines arising from Infringement Notices may be paid by you directly; in the alternative, we will pay the fines using your credit card, plus an administration fee of \$65.00. If we choose not to pay for them we will forward them to you via Statutory Declarator which will also incur a \$65 administration fee for each Infringement Notice.

8.6 If for any reason a payment from your credit card is declined, we may terminate this agreement and you must thereupon return the vehicle to us forthwith.

## **PART 9 PERSONAL PROPERTY SECURITIES ACT**

9.1 By renting the vehicle from us you have granted us a security interest in the vehicle and this agreement constitutes a security agreement for the purposes of the PPSA.

9.2 We may protect our security interest by filing a statement on the PPSR.

9.3 We do not need to give you any notice under the PPSA unless the notice is required by the PPSA and that requirement cannot be excluded.

9.4 You must comply with all reasonable requests made by us to ensure that we can register our security interest with the priority we require and to maintain the registration.

## **PART 10 VEHICLE IMMOBILISER AND GPS SYSTEM**

10.1 You acknowledge that a vehicle immobiliser and GPS system has been installed in the vehicle.

10.2 It is a breach of this agreement if you tamper with, alter, disconnect or remove the system or if you permit anyone else to do so.

10.3 If this occurs you acknowledge that the cost of replacing the system is \$600.00 and we have the right to recover this sum from you as a debt pursuant to Part 8.

10.4 If you do not make a payment when due you will be in default under this agreement and we are then entitled to exercise our rights and remedies which include demobilising the vehicle and taking possession of it.

10.5 Our authorised representatives are the only persons permitted to repair and perform maintenance on the system and you agree to make the vehicle available to us or our authorised representatives to undertake such repairs and maintenance.

10.6 We acknowledge that the cost of maintaining and repairing the system will be borne by us, except for repairs that are caused by tampering with, altering, disconnecting or removing the system.

10.7 You acknowledge and agree that we may immobilise the vehicle if:

- (1) You fail to contact us prior to a payment of rent not being made;
- (2) A rent payment is not made and you are uncontactable;
- (3) In our reasonable opinion the vehicle is at risk;
- (4) You fail to have the vehicle serviced at your own cost, in accordance with the manufacturer's specifications; and
- (5) You have not paid other amounts due under this agreement such as infringement notices and dishonour fees.

## **PART 11 DIRECT DEBIT REQUEST**

11.1 You authorise us to arrange for funds to be debited from your bank account by signing the EZIDEBIT Direct Debit Request.

## **PART 12 TOLL TAGS**

12.1 You must supply and install toll tags for the vehicle and ensure that the toll tags are kept up to date.

12.2 You must provide us copies of documents relevant to the toll tags when the toll tags are installed and when they are updated.

12.3 It is your responsibility to pay your toll. Any unpaid toll notices sent to us will be forwarded to you via a Statutory Declaration and will incur an \$65 administration fee for each one.

## **PART 13 OPENING HOURS**

13.1 Our usual business hours are 8:30 am to 5:00 pm Monday to Friday and 8:30am to noon on Saturday. You acknowledge that we are not available outside these hours.

## **PART 14 MEDIATION**

14.1 If there is a dispute between the parties concerning the terms of this agreement or any other agreement between them, a party may give written notice of the dispute to the other party ("the notice") which shall state that it is a notice under this Part and shall specify full particulars of the dispute concerned ("the dispute").

14.2 If the dispute is not settled by agreement within fourteen days of service of the notice, the dispute shall be referred to mediation by a single mediator arbitrator appointed by agreement of the



parties, or if they fail to agree, by the President of the Queensland Law Society or his or her delegate, acting on the request of a party.

14.3 A mediator shall not be a present or former member, officer, employee or agent of either party.

14.4 The mediation shall be conducted:

(1) at a location to be determined by the mediator; and

(2) in accordance with the directions of the mediator.

14.5 The costs of the mediation shall be borne by the parties in equal shares.

14.6 The procedure set forth in this Part must be exhausted as a prerequisite to a party commencing legal action.

## **PART 15 GOVERNING LAW**

15.1 The law of this agreement is the law of Queensland and the Commonwealth of Australia.

15.2 The parties submit themselves to the jurisdiction of the courts of Queensland and the Commonwealth of Australia for all proceedings arising from this agreement.

## **PART 16 INTERPRETATION**

16.1 This agreement is binding on the parties' respective executors, administrators, successors and assigns, as the circumstances require.

16.2 The singular includes the plural and the plural includes the singular.

16.3 A reference to a gender includes a reference to each other gender.

16.4 A reference to a person includes a reference to a firm, corporation or other corporate body.

16.5 A reference to a statute, regulation or provision of a statute or regulation includes a reference to that statute, regulation or provision as amended or re-enacted from time to time.

16.6 A reference to writing includes a reference to printing, typing and other methods of reproducing words in a visible form.

16.7 Where a word or expression is given a particular meaning, other parts of speech and grammatical forms of that word or expression have corresponding meanings.

16.8 Headings have been inserted for ease of reference and do not affect the construction of this Agreement.

16.9 A reference to currency is a reference to Australian dollars.

16.10 The *ejusdem generis* rule of construction does not apply to this agreement.

16.11 The *contra proferentum* rule of construction shall not be applied to the construction of this agreement.

16.12 An obligation of two or more persons binds them separately and together.

## **PART 13 ENTIRE UNDERSTANDING**

13.1 This agreement contains the entire understanding and agreement between the parties as to the subject matter of this agreement.

13.2 All previous negotiations, understandings, representations, warranties memoranda or commitments about the subject matter of this deed are merged in this deed and are of no further effect.

13.3 No oral explanation or information provided by a party to another affects the meaning or interpretation of this agreement or constitutes any collateral agreement, warranty or understanding.