

## Shark Bay Car Hire

This is an agreement between You, the hirer, and any authorised driver identified on the Rental Agreement, and Us to rent the Vehicle described on the Rental Agreement. These Terms and Conditions and the Rental Agreement comprise the overall agreement (Agreement) You have with Us for the rental of the Vehicle.

### 1 Vehicle Condition and Return

- 1.1 The Vehicle that is delivered to You is in good operating condition and of acceptable quality.
- 1.2 You agree to return the Vehicle in the same condition it was in at the commencement of the rental, subject to reasonable wear and tear, together with all of its tools, tyres, accessories and equipment on the date and to the location specified on the Rental Agreement.
- 1.3 We must be notified and agree to any extension of the period of hire beyond that stated on the Rental Agreement in advance of the return date and time or, if the location of the Vehicle is unknown, after making reasonable attempts to contact You, report the Vehicle to the police as stolen.
- 1.4 If the Vehicle is returned to Us early there is no entitlement to a refund.
- 1.5 If the Vehicle is returned more than one hour after the time set for its return in the Rental Agreement the rates specified in the Rental Agreement will not apply and You will be charged additional standard hourly rates up to one full day's standard rental and a further full day's rental for each 24 hour period or part thereof until the Vehicle is returned to Us.
- 1.6 You must return the Vehicle to the rental location stated on the Rental Agreement although one way rentals may be available at an additional fee but must be agreed by Us and noted on the Rental Agreement prior to the commencement of the rental.

### 2 Unauthorised and Prohibited Use

- 2.1 The Vehicle must only be driven by a person:
  - (a) who is identified on the Rental Agreement or has been agreed by Us in writing prior to the commencement of the rental;
  - (b) who is licensed to drive that class of Vehicle;
  - (c) whose driver's licence has not been cancelled or suspended within the last three years; (d) who has held a driver's licence for no less than three years;
  - (e) who is not less than 21 years of age; and (f) who has not given a false name, age, address or driver's licence details.
- 2.2 The Vehicle must never be driven:
  - (a) outside the state in which the Vehicle was rented unless interstate use has been agreed by Us prior to the commencement of the rental in which case additional charges may apply;
  - (b) onto any island including Dirk Hartog Island in Western Australia
  - (c) on any road that is not gazetted and named by a lawful state authority without written permission by Us 14 days prior to hire
- 2.3 The Vehicle must never unless authorised by Us in writing or on the face of the Rental Agreement prior to the commencement of the rental be:

- (a) driven on Unsealed Roads
- (b) driven off road;
- (c) driven on any beach

The Vehicle at all time must never under any circumstances be;

- (a) driven through flood waters or through rivers, streams, creeks or tidal crossings or on any road that has been closed by the police or a government or statutory authority;
- (b) driven above the Snow Line;
- (c) used to carry any dangerous, hazardous, inflammable, explosive or corrosive materials or substances in quantities above that used for domestic purposes; (d) used to propel or tow any vehicle, trailer, boat or other object unless We have authorised such use in writing prior to the commencement of the rental;
- (e) used to carry any greater load and/or more persons than is lawful or use in a manner or purpose other than for which the Vehicle was designed and constructed;
- (f) used for racing, pacemaking, reliability trials, hill climbing or testing in preparation for those purposes;
- (g) driven in a reckless or dangerous manner;
- (h) driven in an unsafe or unroadworthy condition; or
- (i) used for any illegal purpose.

2.4 The Vehicle must never be:

- (a) modified; not make or give any offer, promise of payment, settlement, waiver, release, indemnity or admission of liability;
- (b) damaged deliberately or recklessly; or
- (c) sold, leased, rented or disposed of, and You must not register or claim to be entitled to register any interest in the Vehicle under the Personal Property Securities Act 2009 (Com).

2.5 The Vehicle must never be:

- (a) used to carry persons for hire or for rideshare purposes; or
- (b) used to carry any animal or pet, except assistance animals, unless authorised by Us in writing on the face of the Rental Agreement before the commencement of the rental.

### 2.6 The Vehicle must never be driven by any person:

- (a) who is intoxicated or under the influence of alcohol or drugs;
- (b) who has a concentration of drugs or alcohol that exceeds the limit prescribed by law in the state or territory where the Vehicle is driven;
- (c) in whose breath, blood, urine or oral fluid the concentration of drugs or alcohol is above that concentration where it is an offence to be in control of, or drive, or be in charge of, the Vehicle; or (d) who has failed to undergo any breath, blood, urine or oral fluid test or drug impairment assessment.

2.7 If there is a Substantial Breach of the Agreement We may:

- (a) terminate the Agreement; and
- (b) take immediate possession of the Vehicle.

### 3 Your Obligations

3.1 Joint Hirers are jointly and severally liable under the Agreement.

3.2 At the commencement of the rental and before collecting the Vehicle:

- (a) You must pay Us the anticipated Rental Charges; and
- (b) We will preauthorise Your credit card for an additional amount of up to \$1500 that covers extra charges that may be incurred during Your rental.

3.3 You must take reasonable care of the Vehicle by:

- (a) preventing it from being damaged;
- (b) making sure it is protected from the weather;
- (c) maintaining the engine and brake oils, coolant levels and tyre pressures; and
- (d) making sure that it is not overloaded or overweight.

3.4 At the end of the rental You are liable for and must pay Us:

- (a) the balance of all rental charges specified on the Rental Agreement;
- (b) an amount up to the Damage Loss Liability Charge as required by clause 4.3; (c) for: (i) Overhead Damage; (ii) underbody damage caused by or resulting from an impact with the underbody of the Vehicle other than that caused by a collision with another Vehicle; (iii) reversing damage if the Vehicle is a Commercial Vehicle and was damaged whilst being driven in reverse; and (iv) damage caused by immersion of the Vehicle in water; and
- (d) any additional charges, including additional cleaning of the Vehicle or any refuelling costs.

3.5 You must not smoke in the Vehicle and You must prevent any passenger from doing so and You must pay for the additional cleaning cost if this condition is breached.

### 3.6 You must pay:

- (a) all tolls, speeding and traffic fines and infringements; and
- (b) all parking fines; incurred during the period of the hire or until such later time as the Vehicle is returned to Us and;
- (c) all charges imposed for the release of the Vehicle if it has been seized by a responsible authority; and
- (d) an administration fee of \$50.00 plus GST for processing each violation notice or late toll invoice.

3.7 You must also pay an administration fee of \$50.00 plus GST for the administrative costs of:

- (a) claims administration when there is Damage to the Vehicle, there is a claim for third party loss or the Vehicle has been stolen;
- (b) arranging additional cleaning of the Vehicle; and
- (c) overdue rentals.

3.8 If You do not pay any amount due and payable to Us pursuant to this Agreement within 30 days of the due date, You must also pay Us:

- (a) interest at the rate of 10% on the overdue amount until the full amount is received by Us; and (b) the reasonable costs and charges We incur in recovering any overdue amount including collection fees and commission charged by a debt collection agency and all legal costs; and You acknowledge that if You fail to pay any amount due to Us We may refer that failure to a Credit Reporting Agency.

### 4 Damage Cover and Exclusions

4.1 If You act within the terms and conditions of the Agreement We will grant Damage Cover (including legal costs incurred with Our consent) for Your benefit for:

- (a) Damage to the Vehicle;
- (b) loss of the Vehicle through theft; and
- (c) damage to third party property.

4.2 At the commencement of the rental and at additional cost You may purchase:

- (a) Reduced Liability (RDW) which reduces the Damage Loss Liability Charge to an agreed value but this option is available only on Our Passenger Fleet Vehicles and provides no cover for damage to the Vehicle's wheels, tyres, windows and windscreen;
- (b) Collision Damage Waiver (CDW) which reduces the Damage Loss Liability Charge payable by You to the amount shown in the Rental Agreement but there is no cover for damage to the Vehicle's wheels, tyres, windows and windscreen; and
- (c) Wheel Damage Waiver (WDW) which provides cover for damage to the Vehicle's wheels, tyres, windows and windscreen.

### 4.3 You must pay an amount up to the Damage Loss Liability Charge stated on the Rental Agreement for each separate claim if there has been:

- (a) Damage to the Vehicle;
- (b) theft of the Vehicle; or
- (c) damage to third party property, unless We agree that You were not at fault and the other party's insurance company accepts liability and agrees to pay Us for Our loss.

4.4 We will refund the Damage Loss Liability Charge paid pursuant to clause 4.3:

- (a) in full if We recover the Damage to the Vehicle from a responsible third party or their insurer or successfully reject or defend a claim for third party loss; or
- (b) on a pro rata basis if We recover only a proportion of any amount claimed for Damage.

4.5 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 cost of the Damage to the Vehicle or successful rejection or defence of a claim for third party loss.

4.6 There is no Damage Cover for damage to or loss of property:

- (a) owned by You, or any friend, relative, associate or passenger;
- (b) Your employer or employees; or
- (c) in Your physical or legal control, that occurs during Your rental and any personal property left in the Vehicle at the end of the rental period will be held by Us for one month and if not claimed at the expiration of that period will be destroyed without further notice to You.

4.7 Damage Cover is subject to You not being covered under any policy of insurance.

**4.8 Damage Cover is excluded where:**

- (a) there has been a Substantial Breach of the Agreement;
- (b) You have left the Vehicle unlocked or left the keys or remote control device in the Vehicle;
- (c) You have not kept the Vehicle's keys or remote control device secure and under your personal control;
- (d) there has been an impact with the underbody of the Vehicle not caused by a collision with another Vehicle;
- (e) there is Overhead Damage;
- (f) a Commercial Vehicle is damaged whilst being driven in reverse;
- (g) the Vehicle has been driven off road or on an Unsealed Road without express permission;
- (h) You have driven into, or used the Vehicle in, an area prohibited by the Rental Agreement or outside the area of authorised use shown on the Rental Agreement;
- (i) the Vehicle has been totally or partially immersed in water;
- (j) the interior of the Vehicle has been damaged, when no other Vehicle is involved;
- (k) the tyres of the Vehicle have been damaged other than by normal wear and tear;
- (l) You have refuelled the Vehicle with the wrong type of fuel;
- (m) You have failed to maintain the Vehicle's fluid and fuel levels or failed to immediately rectify or report to Us any defect in the a Vehicle of which You became aware; or
- (n) You have failed to secure properly any load or equipment which leads to loss caused by any part of load or equipment, even if You have paid the Damage Loss Liability Charge.

**4.9 If Damage Cover is excluded You and any authorised driver are liable for:**

- (a) Damage to the Vehicle;
- (b) loss of the Vehicle as a result of its theft; and
- (c) any damage to third party property.

**5 Fuel**

5.1 The Vehicle must be returned at the end of the rental period with the amount of fuel equal to that at the time of the start of the rental.

5.2 If the Vehicle is returned with less fuel, unless prior arrangements have been made and noted on the Rental Agreement, the difference will be charged at a rate, which may include a service component.

5.3 You must use the correct fuel type for the Vehicle and You are liable for any Damage to the Vehicle if the Vehicle is refuelled with the wrong fuel type.

6 Roadside Assistance, Breakdown, Accidents and Damage

6.1 Twenty four hour roadside assistance is provided free of charge and You must contact the service provider on 0422 927 527 to arrange that assistance. Provided there has not been a Substantial Breach Our roadside assistance provider will supply all practical assistance as soon as practicable.

6.2 We are not responsible for and there is no roadside assistance for: (a) damage caused by use of the incorrect fuel type; (b) tyre changing; (c) lost keys; (d) keys locked in the Vehicle; or (e) a flat battery in the Vehicle because you have left the lights or audio equipment on, and extra charges will apply if any of these services are provided at Your request.

6.3 You must: (a) report any Accident involving loss or damage to the Vehicle, its theft or any loss involving the Vehicle, to the rental location from where the Vehicle was hired and within 24 hours of its occurrence; and (b) pay Us up to the Damage Loss Liability Charge stated on the Rental Agreement as required by clause 4.3.

6.4 You must also:

- (a) obtain the name and address, phone number and licence number of the other driver involved in any Accident and the registration number of the other driver's vehicle;
- (b) obtain the name and address and contact details for all witnesses;
- (c) take photographs of damage to all vehicles prior to their movement or salvage by a tow operator, if practicable and safe to do so, as well as of the Accident location;
- (d) report all Accidents to the police if: (i) any person is injured; (ii) the other party leaves the scene of the collision without exchanging names and addresses; or (iii) the other party appears to be affected by drugs or alcohol; (e) not make or give any offer, promise of payment, settlement, waiver, release, indemnity or admission of liability; (f) immediately deliver to Us, every summons, complaint or document in relation to such loss; and (g) provide such information and assistance as may be requested by Us and if necessary, assisting Us in the commencement, defence, maintenance or settlement of legal proceedings against a third party, including attending at a lawyer's office and/or court, but We shall have sole conduct of those proceedings.

**6.5 You must not repair or authorise anyone else to repair the Vehicle if it is damaged unless You have Our prior written authority.**

6.6 Any pre-authorised repairs will only be reimbursed if You supply Us with a tax invoice for the repair and receipt for the payment.

**7 Our Obligations**

7.1 If the Vehicle breaks down because of a mechanical defect We will provide You with all practical assistance, including the provision of a replacement Vehicle of a similar standard to the previous Vehicle if the defect cannot be repaired. Our contact number for assistance is 0422 927 527.

7.2 Subject to the Australian Consumer Law, We are not responsible for: (a) flights that You have missed or are delayed; (b) holiday or travel plans that are disrupted; (c) loss of enjoyment; or (d) economic or consequential loss, unless We are in breach of Our obligations to You under the Agreement.

**8 Privacy Policy**

8.1 We are committed to complying with the Australian Privacy principles and when We collect Your personal information We will do so only for the purpose of providing rental services to You.

8.2 You may choose not to provide this information to Us but We may not be able to provide You with Our rental services.

8.3 We take reasonable steps to make sure that Your personal information is accurate, up to date and complete and that it is protected from misuse, loss or unauthorised access, modification or disclosure.

8.4 We may use GPS tracking or other electronic tools to enable the geographical location of the Vehicle to be tracked or located. By hiring a Vehicle You expressly consent to Us using a GPS tracking device on the Vehicle during the Rental Period and to Us collecting, using and retaining information from that device. Further information is available in Our Privacy Policy.

8.5 Our Privacy Policy can be supplied at time of hire in writing at request. We will at all times respect the privacy of You and not pass personal details to third parties for monetary benefit or otherwise.

**9 Resolving Your Complaints**

9.1 If You have a complaint or dispute about Your rental with Us, including the service You have received from Us or decisions made on a claim, You may refer Your complaint or dispute to Our Internal Disputes Resolution (IDR) process where Your complaint or dispute will be reviewed by our Business Manager or one of the Directors of our Company who has the experience, knowledge and authority to conduct a full review.

9.2 The first step is to contact Us at info@sharkbaycarhire.com.au or by phone to

+61 474 556 296 and Our Business Manager will acknowledge receipt of Your complaint or dispute within 14 working days.

9.3 Provided that We have all the necessary information Our Business Manager will review Your complaint or dispute and respond to You with reasons for Our decision within 15 working days or if further investigation is required within a reasonable time frame that We will endeavour to agree with You.

**10 General Provisions**

10.1 The Agreement is governed by the laws of the state in which the Vehicle is rented and You agree that the courts in that state have non-exclusive jurisdiction to determine any dispute that arises between You and Us.

10.2 The Australian Consumer Law gives You rights that are not affected by the Agreement and all provisions in the Agreement are subject to the implied terms and conditions of that law and the corresponding legislation in each state and territory.

**11 Definitions**

Some words or phrases used in the Terms and Conditions have a specific meaning:

Accident means a single unintended, unforeseen collision between the Vehicle and any other object, including another vehicle that results in damage to the Vehicle or third party loss;

Commercial Vehicle means a Vehicle that is a van, utility, truck, mini-bus or bus that is constructed and used for the carriage of goods or property or the transport of passengers.

Damage to the Vehicle means: (a) loss or damage to the Vehicle that requires repair or replacement, subject to reasonable fair wear and tear; (b) towing and salvage fees; (c) assessing fees; and (d) Loss of Use, and for the removal of doubt, any damage to the Vehicle's windscreen, headlights, indicators, wheels or tyres that makes the Vehicle unroadworthy is not fair wear and tear.

Damage Loss Liability Charge means the amount up to which You must pay Us: (a) for Damage to the Vehicle, including damage caused by hail; (b) loss of the Vehicle through theft; and (c) third party loss. Loss of Use means the daily loss We incur as a result of the Vehicle being unavailable for hire because it is being repaired or has been written off or because it was stolen and We are waiting for it to be replaced.

**Overhead Damage means:**

(a) damage at or above the level of the top of the front windscreen of the Vehicle;

(b) damage to any part of the pantech or box section of a Commercial Vehicle; or (c) third party loss, caused by: (i) 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; (ii) objects being placed on the roof of the Vehicle; or (iii) You or any person standing or sitting on the roof of the Vehicle.

Substantial Breach means a breach of any of clauses 2.1, 2.2, 2.3, 2.4, 2.6, 3.3, 5.3 or 6.5 that causes Damage to the Vehicle, theft of the Vehicle or third party loss. Snow Line means any area within an alpine national park between 1 May and 31 October or any area where snow is likely to fall or has fallen.

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

Vehicle means the vehicle, including a Commercial Vehicle, described in the Rental Agreement and includes its components, accessories, tools, tyres and equipment and any replacement vehicle. We, Us, Our, means Lyons Enterprises Aus Pty Ltd trading as Shark Bay Car Hire Car ACN 621 160 269

You, Your means the person that rents the Vehicle from Us whether it is an individual, a firm or a company and includes any person We have authorised to drive the Vehicle prior to the commencement of the rental.