

**VINCEMUS INVESTMENTS (PTY) LTD
t/a KEMPSTON TRUCK HIRE and KEMPSTON CAR RENTAL**

STANDARD TERMS OF INDEMNITY

In the event that the hirer of a vehicle from Kempston applies for Vehicle Damage Indemnity (hereinafter referred to as "indemnity") and in the event of Kempston accepting and approving the application then, subject to the hirer of the vehicle (hereinafter referred to as the "hirer") paying the prescribed daily fee referred to on the quotation or agreement / invoice / delivery note, then Kempston hereby indemnifies the hirer against any damages or loss caused to or by the hired vehicle for the duration of the hire, which indemnities are only as set out in this document and are limited to and subject to all the Terms and Conditions set out below.

1. Headnotes

Headnotes are for reference and do not affect the interpretation of the policy.

2. Interpretation

This document and schedule shall be read together with Kempston's Standard Conditions of Contract. Any word or expression given a specific meaning shall have such meaning wherever it appears.

3. Definitions

- 3.1 Hirer means the person who hires from Kempston and who elects to be indemnified in terms hereof and has paid the stipulated premium.
- 3.2 Vehicle means any vehicle designed or adapted for propulsion or haulage on a road by means of fuel, gas or electricity and includes a trailer, caravan or any other implement designed or adapted to be drawn by such vehicle and which is hired to the hirer by Kempston.
- 3.3 Kempston shall mean Vincemus Investments (Pty) Ltd t/a Kempston Truck Hire, Kempston Car Rental or any other division of Vincemus Investments (Pty) Ltd which offers Vehicle Damage Indemnity.

4. Observance of the terms and conditions

The liability of Kempston is conditional on the observance of the terms and conditions herein by any person claiming indemnity or benefit.

5. Prevention of loss

- 5.1 The hirer shall take all reasonable precautions to prevent loss, damage, destruction and/or accidents and shall employ competent employees only and comply with all

statutory regulations in respect of the use of hired vehicles.

- 5.2 The hirer shall effect repairs and emergency repairs to the hired vehicle only as provided for in Kempston's Standard Conditions of Contract.
- 5.3 The hirer undertakes to ensure that the vehicle is securely locked at all times when left unattended and that it is parked in a secure area. Failure to comply with this condition will result in the hirer being responsible for any resulting loss or damage.

6. Claims Procedure

- 6.1 On the happening of any event giving rise to or likely to give rise to a claim under this indemnity, the hirer shall (at his own expense):
 - 6.1.1 Notify Kempston in writing within 24 hours of the event giving rise to a claim.
 - 6.1.2 Notify the South African Police Services within 24 hours and, in the event of the vehicle having been stolen, take all practicable steps to recover the vehicle.
 - 6.1.3 Make no admission, statement, offer, promise, payment or indemnity to any third party unless with the written consent of Kempston first having been obtained.
 - 6.1.4 Furnish Kempston with such proof, information and affidavits as Kempston may require from time to time and co-operate fully with Kempston and its employees, agents or attorneys in this regard.
 - 6.1.5 Furnish Kempston within 24 hours of receiving any documents or details of communication, summons or other legal process in connection with any claim or inquest.
 - 6.1.6 Furnish Kempston with particulars of any other insurance covering the same event.
 - 6.1.7 Co-operate fully in the completion of Kempston's standard accident or theft report form which must be completed within a maximum of 30 days of the event, and to comply with any other reasonable request or instruction from Kempston.
 - 6.1.8 Give all information and assistance required by Kempston to obtain indemnity from other parties.
 - 6.1.9 Produce to Kempston the original driver's licence within a maximum of 10 days of being called upon to do so.
 - 6.1.10 Report any theft or hijacking of a hired vehicle to Kempston within 2 hours of the occurrence and, in the case of a theft of a vehicle, deliver to Kempston the ignition keys for the vehicle.

7. Liability excluded

No claim under this indemnity shall be payable:

- 7.1 Unless the terms of this indemnity cover have been complied with.
- 7.2 Which is in any respect fraudulent.
- 7.3 If the loss, destruction or damage is deliberately caused by the hirer, his servants or agents or any person acting in collusion with him, or any other party.
- 7.4 If the loss, liability or damage to property is related to or caused by:
 - 7.4.1 Civil commotion, labour disturbances, riot, strike or lock-out or public disorder or any act or activity which is calculated or directed to bring about any of the above.
 - 7.4.2 War, invasion, act of foreign enemy, hostilities or warlike operations (whether war be declared or not) or civil war.
 - 7.4.3 Mutiny, military uprising, military or usurped power, martial law or state of siege, or any other event or cause which determines the proclamation or maintenance of martial law or state of siege, insurrection, rebellion or revolution.
 - 7.4.4 Any act (whether on behalf of any organisation, body or person, or group of persons) calculated or directed to overthrow or influence any State or government, or any provincial, local or tribal authority with force, or by means of fear, terrorism or violence.
 - 7.4.5 Any act which is calculated or directed to bring about destruction or damage or bodily injury in order to further any political aim, objective or cause, or to bring about any social or economic change or in protest against any State or government or any provincial, local or tribal authority or for the purpose of inspiring fear in the public or any section thereof.
 - 7.4.6 Any attempt to perform any act referred to in exclusions 7.4.4 and 7.4.5 above.
 - 7.4.7 The act of lawfully established authority in controlling, preventing or suppressing or in any other way dealing with any occurrence referred to in exclusions 7.4.1, 7.4.2, 7.4.3, 7.4.4, 7.4.5 or 7.4.6 above.
- 7.5 If the loss, destruction or damage is caused directly or indirectly:
 - 7.5.1 By or through or in consequence of any occurrence for which a fund has been established in terms of the War Damage Insurance and Compensation Act, 1976 (No 85 of 1976) or any similar Act operative in any of the territories to which this policy applies.

- 7.5.2 By or arising from radioactivity or in the use, existence or escape of any nuclear fuel, nuclear material or nuclear waste.
- 7.6 For consequential loss or damage except as specifically provided.
- 7.7 If the loss, damage or liability is caused outside the territorial limits of the Republic of South Africa.
- 7.8 If the loss, damage or liability is caused whilst the hired vehicle is being driven or used by the hirer, his servants or agents:
 - 7.8.1 Other than is permissible under the hire contract or in any other manner whereby the risk of mechanical failure and/or risk of accident, loss, destruction or damage is increased.
 - 7.8.2 Unless licensed to drive the vehicle in terms of applicable legislation.
 - 7.8.3 Where the hired vehicle is driven by a person with a learner driver's licence.
 - 7.8.4 Whilst under the influence of drugs or alcohol or if the concentration of alcohol in the blood exceeds the statutory limit.
 - 7.8.5 In a condition which does not comply with the provisions and regulations of the Road Transportation Act 74 of 1977, the Road Traffic Act No 29 of 1989, Explosives Act 26 of 1956, Nuclear Energy Act 131 of 1993, Hazardous Substances Act 15 of 1973 or Animal Protection Act 71 of 1962 or any amendment thereof.
 - 7.8.6 In excess of the speed limit.
- 7.9 In circumstances where the hirer fails to comply strictly with any of the provisions of clause 6 above.

8. Defence of settlement of claim

Kempston may take over and conduct the defence or settlement of any claim and has the right to use the hirer's name for this purpose.

9. Liability of Kempston

Kempston shall not be liable for damages arising from the death or bodily injury caused to the hirer, its servants or agents, and/or third parties caused by or arising out of the driving of the hired vehicle.

10. Scope of indemnity

The liability of Kempston in respect of any loss or damage shall be limited in respect of any one accident or series of accidents to a maximum of R600 000.00 (Six Hundred Thousand Rand).

11. First amount payable

- 11.1 In the event of loss or damage to the hired vehicle or property belonging to a third party, the hirer shall be liable for the amount appearing on the face of the agreement / invoice / delivery note or the quotation. If no amount is written on the face of the agreement / invoice / delivery note or the quotation, the first amount payable is the sum of R40 000.00 (Forty Thousand Rand). The hirer shall immediately pay Kempston the applicable amount.
- 11.2 The hirer will be liable for 2.5 times the First Amount Payable if the loss/damage is occasioned under any of the following conditions:
 - 11.2.1 The hired vehicle is declared a total loss.
 - 11.2.2 The hired vehicle is being driven on a gravel road at the time of the accident.
 - 11.2.3 The loss/damage occurs over a weekend or public holiday.
 - 11.2.4 No other vehicle is involved in the accident and the damage to the hired vehicle exceeds R50 000.00 (Fifty Thousand Rand).
- 11.3 The hirer is responsible for the First Amount Payable regardless of whether or not the hirer was the cause of the accident/loss.
- 11.4 The First Amount Payable excludes the assessor's fee, towing, storage and administration fee.

12. More than one policy

If the loss, damage or liability is covered by any other indemnity or insurance, Kempston shall not pay more than its rateable proportion.

13. Cancellation

The indemnity cover stipulated herein may be cancelled or amended by Kempston by giving the hirer 48 hours notice in writing. On cancellation the hirer shall be entitled to claim a proportionate refund.

14. Change in circumstances

Kempston may decline to indemnify or compensate the hirer for any loss, damage, accident or liability if the risk is materially increased without Kempston's consent or in the event of any material misdescription, misrepresentation or non-disclosure.

15. Liability to third parties

- 15.1 In the event of an accident or collision caused by or in connection with the vehicle or attached trailer, caravan, car or goods vehicle, Kempston will indemnify the hirer against

such claims including claimant's costs and expenses which the hirer may become legally liable for, up to the maximum amount of R200 000.00 (Two Hundred Thousand Rand), which is included in the total amount referred to in point 10 above.

15.2 Kempston will pay only those costs and expenses which have been incurred with it's written consent.

15.3 Kempston may arrange for:

15.3.1 Representation at any inquiry.

15.3.2 The defence of criminal proceedings arising from any act related to an indemnifiable event.

15.4 Kempston will:

15.4.1 Indemnify any person who is driving or using the vehicle in the course and scope of his employment with the hirer, provided such person:

15.4.1.1 Is not entitled to indemnity under any other policy.

15.4.1.2 Has not been refused any motor vehicle insurance.

16. Special exclusions

Kempston shall not be liable in respect of towing charges incurred in respect of the hired vehicle, nor for any loss, damage or liability to a hired vehicle:

16.1 Where the indemnity cover charges have not been paid within 30 days.

16.2 Where any amount due to Kempston or any one of it's trading divisions remains outstanding in excess of 30 days.

16.3 Which is in respect of damage to any items of glass, plastic, perspex or rubber, including but not limited to the vehicle's windscreen, reflectors, headlamps, mirrors, upholstery, radio and/or tyres.

16.4 Which occurs in an area designated by Kempston on the face of the quotation / invoice / delivery note or agreement form.

16.5 If the hirer is unable to or has failed to comply with Kempston's Standard Conditions of Contract.

17. Jurisdiction

Kempston may, in it's sole discretion, elect to have any matter arising from this indemnity cover decided by way of arbitration, alternatively by any of the Courts of the Republic of South Africa

having jurisdiction.

18. Care of vehicle

The hirer shall take all reasonable steps to protect and maintain the vehicle.

19. Rights of others

The provision of cover for persons other than the hirer does not give them the right to claim. The hirer may claim for them and his receipt will discharge Kempston.

20. Indemnity to others

If more than one person is entitled to indemnity by this section any limitation applies to the total amount of indemnity and the hirer will receive priority.

21. Prescription of claims

No claim shall be payable:

- 21.1 If three months has elapsed since the occurrence giving rise to the claim and no claim has been lodged with Kempston; or
- 21.2 If the hirer has not complied fully with each of his obligations in terms of clause 6.1.1, 6.1.2, 6.1.3 and 6.1.10; or
- 21.3 If the hirer has not complied fully with each of his obligations in terms of clauses 6.1.4 to 6.1.9 inclusive, and has remained in default for a period of 48 hours after transmission of notice calling upon him to do so.

22. Repudiation

Should Kempston reject a claim then no claim shall be payable unless the hirer claims payment by serving legal process on Kempston within 90 days of the rejection of the claim in writing and pursues such proceedings to finality.

23. General

If Kempston suffers any loss howsoever arising due to the hirer's failure to comply with these Standard Terms of Indemnity or of any special conditions then Kempston shall be entitled to recover such damages as it may have suffered as a result of such act or omission, together with costs on the attorney and client scale.

SIGNED for an on behalf of ; at this day of

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