

TERMS AND CONDITIONS

1. INTERPRETATION

1.1 In this agreement unless the context otherwise indicates :

- 1.1.1 Accessories means all items supplied to the Hirer excluding the handset.
- 1.1.2 Delivery means the delivery of the Telephone by the Lessor to the Hirer on the date specified in the Rental Agreement;
- 1.1.3 Handset means the mobile cellular Telephone described by reference to its IMEI number or serial number on the Rental Agreement, excluding all accessories supplied herewith.
- 1.1.4 Hirer means the person or entity specified as such in the Rental Agreement;
- 1.1.5 Lessor means Rent a Cellular Pty Ltd trading as Rent a Satellite (Reg. No. 2000/031399/07) or its nominees and assignees.
- 1.1.6 Rental Period means the period reckoned from the Delivery of the Telephone to the Return thereof;
- 1.1.7 Return means the return of the Telephone by the Hirer to the Lessor or the repossession thereof by the Lessor, as the case may be;
- 1.1.8 Return Details means schedule of return details set out on the face of the Return Agreement.
- 1.1.9 Rental Agreement means the Rental Agreement entered into between the Lessor and the Hirer in terms of which the Lessor rents the cellular telephone products and/or services as set out on the face of the Rental Agreement to the Hirer.
- 1.1.10 Telephone means the mobile cellular telephone described by its reference to its IMEI number on the Rental Agreement, together with all accessories supplied therewith.

The head notes to the paragraphs hereof are inserted for reference purposes only and shall not affect the interpretation of any of the provisions to which they relate.

Words importing the singular shall include the plural, and vice versa, and words importing the masculine gender and words importing persons shall include partnerships and corporate bodies and vice versa.

2. LETTING AND HIRING

The Lessor hereby lets to the Hirer who hereby hires the telephone for the Rental Period upon the terms and subject to the conditions set out in the Rental Agreement.

3. RENTAL AND PAYMENT

- 3.1 The Hirer shall as Rental for the hiring of the Telephone, pay to the Lessor the aggregate of the following :
 - 3.1.1 a daily charge for the hire of the Telephone as stipulated and published by the Lessor from time to time.
 - 3.1.2 The usage charge for the cellular telephone airtime utilized by the Hirer which shall be determined by multiplying the number of airtime units (as defined by the Lessor from time to time) by the applicable tariffs as stipulated and published by the Lessor from time to time.
 - 3.1.3 An amount in respect of any loss cover taken, the amount of the loss cover excess where applicable or the cost of replacing any items not returned.
 - 3.1.4 An amount in respect of Telephones not returned or damaged.
 - 3.1.5 Value added tax and any other tax which is or may become payable by the Lessor in respect of the amounts referred to in clauses 3.1.1, 3.1.2, 3.1.3, and 3.1.4.
- 3.2 The Hirer shall pay the amount of the deposit as stipulated in the Rental Agreement to the Lessor on account of the Rental referred to in clause 3.1.

- 3.3 The Hirer understands and acknowledges that the Lessor is capable of ascertaining, from time to time during the Rental Period, the amount of the Rental owing by the Hirer to the Lessor in terms of clause 3.1 at each such time and the

Hirer accordingly hereby irrevocably authorizes the Lessor to recover the several amounts comprising the charges in terms of clause 3.1 by debiting the said amount from the Hirer's card as referred to infra.

4. RISK AND OWNERSHIP IN RESPECT OF TELEPHONE

- 4.1 The risk in respect of the Telephone shall pass to the Hirer upon Delivery and shall remain with the Hirer until Returned.
- 4.2 Notwithstanding anything to the contrary which may be contained or implied in the Rental Agreement, the Hirer shall under no circumstances become the owner of the Telephone.

5. DELIVERY AND RETURN OF THE TELEPHONE

- 5.1 The Hirer acknowledges that the Lessor delivered the Telephone to him in good condition and full working order.
- 5.2 The Hirer shall, at his own cost and by no later than the date stipulated therefore in the Rental Agreement, return the Telephone to the Lessor in good condition and full working order at the point of return stipulated in the Rental Agreement.
- 5.3 Should the Hirer not return the Telephone in full compliance with 5.2 the Lessor shall be entitled to take such steps as may be necessary to repossess or restore the Telephone to the original condition and the Hirer shall be liable for any costs incidental there-to.

6. USE OF THE TELEPHONE

- The Hirer shall ;
 - 6.1 use the Telephone solely for the purpose and in the manner for which it is designed and intended.
 - 6.2 not purport to sell, let, loan, pledge or in any way whatsoever otherwise encumber the Telephone.
 - 6.3 not in any way permit any lien or hypothec to arise in respect of the Telephone.
 - 6.4 not part with possession of the Telephone
 - 6.5 not modify, alter, repair or tamper with the Telephone in any way whatsoever.
 - 6.6 Not permit or allow any person, other than the Lessor, to attend to any modification, alteration, repair, correction, adjustment or service of the Telephone.
 - 6.7 not be entitled to cede, delegate, assign or transfer any of his rights or obligations hereunder ;
 - 6.8 not use or allow the use of the Telephone for any improper, immoral or unlawful purpose and ;
 - 6.9 take all reasonable steps to ensure full and timeous compliance with clause 5.2

7. LOSS COVER

For the purpose of this agreement the Hirer accepts and acknowledges that the value of the Telephone to the Hirer is the amount reflected on the Rental Contract.

- 7.1 the Hirer will not incur liability for the loss or destruction of the Telephone or part thereof in the event of the Hirer specifically electing to take up the loss cover option offered to the Hirer by the Lessor at the time of delivery of the Telephone to the Hirer on the terms and conditions set out infra :
 - 7.1.1 a daily and/or weekly and /or monthly loss cover charge as levied by the Lessor and paid by the Hirer, and
 - 7.1.2 in addition to the charges referred to in 7.1.1., the Hirer shall be liable for the applicable loss cover excess as stipulated and published by the Lessor from time to time, this being the accepted and predetermined excess in settling the claim for the loss or destruction of the Telephone.
- 7.2 The Hirer will qualify for the indemnity referred to in 7.1 only in the event of :

- 7.2.1 the Hirer having immediately notified the Lessor of the loss or destruction or damage to the Telephone, which notice shall, within reason, be in writing, or if given telephonically be confirmed by the Hirer by way of written notice to the Lessor clearly indicating the report number furnished by the Lessor to the Hirer and received by the Lessor within 24 hours of such telephonic notice.
- 7.2.2 The Hirer having, in the event of theft of the Telephone reported such theft to the SAPS within 24 hours and is able to produce reasonable proof of such theft and the timeous reporting there-of to the Lessor.
- 7.3 In the event of the Hirer not electing to take up the loss cover option as referred to in paragraph 7.1, the Hirer shall be liable for payment of the full cost of replacing the lost or damaged Telephone as per applicable tariffs as stipulated and published by the Lessor from time to time.
- 7.4 Notwithstanding any provision in the Agreement, the Hirer shall be liable for all charges in respect of the units of airtime utilized by any person other than the Hirer, pursuant to the theft or loss of the Telephone, prior to the Hirer notifying the Lessor of the loss or destruction or damage to the Telephone in accordance with the clause 7.

8. NO LIABILITY OR WARRANTY

- 8.1 Whilst the Lessor shall take all reasonable steps to ensure that the Telephone is in proper working order and repair, the Lessor shall not be liable in any way whatsoever for any loss or damage which may be suffered by the Hirer (including consequential loss) as a result of or in any way arising from any defect, failure or malfunction whatsoever of the Handset or the cellular network system within which the Headset operates, nor shall the Hirer be entitled to any credit whatsoever as a result of result of such defect, failure or malfunction.
- 8.2 The Lessor gives no warranties whatsoever in respect of the quality of the Telephone or its fitness for any particular purpose.

9. CERTIFICATE BY LESSOR

- 9.1 A certificate under the hand of any manager or director of the Lessor for any indebtedness of the Hirer to the Lessor in terms hereof shall be prima facie evidence of such indebtedness and sufficient proof for the purpose of enabling the Lessor to obtain any judgement or order against the Hirer.

10. ASSIGNMENT BY LESSOR

- 10.1 The Lessor shall be entitled, without any notice to the Hirer, to cede, delegate, assign and transfer any or all of its rights and obligations under and in terms of the Rental Agreement.
- 10.2 For the avoidance of doubt, the Hirer shall not have such reciprocal rights.

11. TERMINATION

In the event of :

- 11.1 the Hirer breaching of failing to comply with any of its obligations in terms of the Rental Agreement.
- 11.2 it coming to the attention of the Lessor at any time that the amount owing by the Hirer in terms of clause 3 exceeds the credit limit of the credit card described here under ; or
- 11.3 the Lessor, in its sole and absolute discretion, notifying the Hirer the Telephone should be returned to the Lessor and Hirer fails to do so within 24 (twenty four) hours of such notice ; then, The Lessor shall be entitled, without notice to the Hirer and without prejudice to any of its rights (including right to damages) to cancel this Agreement, repossess the Telephone and claim payment of all amounts due or which may become due by the Hirer to the Lessor.

12. GENERAL

- 12.1 The Hirer hereby chooses domicilium citandi et executandi for all purposes hereunder as his address within the Republic of South Africa as set out in the Rental Agreement and any notice by the Lessor the Hirer posted by prepaid registered post

shall be deemed to have been received by the Hirer on the 5th (fifth) day after the posting thereof and any such notice transmitted per telefax shall, unless the contrary is proved by the Hirer, being deemed to have been received by the Hirer 4 (four) hours after the time of transmission.

- 12.2 The Lessor shall, at its option, be entitled to institute any legal proceedings arising hereunder in any Magistrate's Court Having jurisdiction, notwithstanding the fact that the claim or value of the matter in dispute may exceed the jurisdiction of the Magistrate's Court in respect of the cause of action and in the event of the Lessor instituting legal proceedings against the Hirer in terms hereof, the Lessor shall be entitled to recover all its costs and expenses in this regard including, but not limited to, attorney and own client costs, collection commission and tracing fees.
- 12.3 Should any provision of the Rental Agreement at any time be invalid or unenforceable for any reason whatsoever then such provision shall be deemed to be severable from the rest of the Agreement and such validity of enforceability shall not affect the validity of the enforceability of the provisions of the Rental Agreement other than such provision in any way whatsoever.
- 12.4 Subject only to the provisions in clause n12.8, no variation of this Agreement shall be of force or effect unless it is in writing and is signed by both the Lessor and Hirer.
- 12.5 The Rental Agreement contains all the terms and conditions of the Agreement between the Lessor and the Hirer and the parties accordingly acknowledge and agree that :
- 12.5.1 the Lessor has given no warranties and there are no understandings, representations or terms between them in regards to the hiring by the Hirer of the Telephone other than those contained in the Rental Agreement ; and
- 12.5.2 in the event of any conflict between the provisions of the Rental Agreement and any information which may be contained in any information booklet, leaflet, pamphlet, brochure or the like made available by the Lessor from time to time, the provisions of Rental Agreement shall at all times prevail, be binding upon the parties thereto and be carried into affect.
- 12.6 No act of relaxation on the part of the Lessor in regard to the carrying out of any or all of the Hirer's obligations in terms hereunder shall prejudice or be deemed to be a waiver of any of the Hirer's rights in terms hereof.
- 12.7 In the event of the owner of the credit card described hereunder Being a person or entity other than the signatory hereto, the signatory hereto ;
- 12.7.1 hereby warrants that he is duly authorized to enter into the Rental Agreement on behalf of such person or entity (as the case may be) ; and
- 12.7.2 by his signature hereto, binds himself to the Lessor jointly and severally with such other person or entity (as the case may be) and all the obligations of the Hirer in terms of the Rental Agreement shall accordingly be the joint and several obligations of the signatory and such other person or entity (as the case may be).
- 12.8 Should the Hirer at any time and from time to time during the Rental Period wish to vary any of the terms of the Rental Agreement, the Hirer may request the Lessor to effect such variation. Should such variation be acceptable to the Lessor, the Lessor shall transmit a copy of the duly varied Rental Agreement to the Hirer per telefax utilizing the telefax number stipulated in the Rental Agreement. Should the Lessor not transmit the varied Rental Agreement to the Hirer as aforesaid, the variation requested by the Hirer shall be deemed to not have been acceptable to the Lessor and shall accordingly not be varied in the manner requested.