

**FleetPartners Group, FleetPartners includes; Fleet Holding (NZ) Limited, Truck Leasing Limited (TLL), FleetPartners NZ Trustee Limited as trustee for the FleetPartners NZ Trust**, duly incorporated Companies having registered offices at Level 30, Vero Centre, 48 Shortland Street, Auckland.

## 1. Terms and Conditions Only

This agreement supersedes and replaces all Motor Vehicle Leasing Terms and Conditions executed prior to the date of this document between the parties referred to above. This agreement sets out the terms and conditions on which FleetPartners will lease vehicles to the Lessee, but nothing in this agreement shall oblige FleetPartners to lease any vehicle to the Lessee. If the Lessee wishes to lease a vehicle, the Lessee will complete a Vehicle Order and deliver the same to FleetPartners. If FleetPartners agrees to lease to the Lessee the motor vehicle described in the Vehicle Order, FleetPartners will acquire the vehicle on the Lessee's behalf at which point the Lessee shall become obligated to lease the vehicle described in the Vehicle Order and at the time of delivery of the vehicle the Lessee agrees to sign a completed Delivery Receipt (in a form specified by FleetPartners from time to time) specifying the key dates of the lease and incorporating these terms and conditions and the conditions contained in the Vehicle Order.

## 2. Commencement Date of Each Lease

- i) The term of the lease shall commence on the date the Lessee is advised in writing by FleetPartners that the vehicle concerned is available for delivery and failing any such advice, on the date on which the vehicle is delivered to the Lessee and shall continue for the number of months specified in the Vehicle Order.
- ii) Notwithstanding acceptance of a Vehicle Order by FleetPartners, the Lessee agrees that FleetPartners shall not be liable to the Lessee for any loss or claim or damages of whatsoever nature which may be incurred or made by the Lessee in respect of any delay between the date of acceptance of the Vehicle Order and the date upon which the Lessee is advised the vehicle is available for delivery or the date upon which the vehicle is delivered to the Lessee.

## 3. Delivery of Vehicle

Subject as hereinafter provided the vehicle shall be available for the Lessee at such time and place as directed by FleetPartners and at the time of delivery FleetPartners shall present to the Lessee or his representative a Delivery Receipt. The Lessee or his representative shall acknowledge inspecting the vehicle and certify by signing such Delivery Receipt that the particulars so recorded are correct and that the Lessee accepts the terms and conditions in the Vehicle Order. Except in the case of manifest error a Delivery Receipt so certified shall thereafter for all purposes be conclusive evidence of the facts it records.

## 4. Rental

- i) Subject to (iii) below the Lessee shall pay to FleetPartners as rental the amount described in the Vehicle Order in the manner and form therein provided.
- ii) All payments shall be made to FleetPartners one calendar month in advance from the specified contract commencement date or one month in advance of an agreed nominated common billing date at its address herein or at such other address as may be notified from time to time to the Lessee by FleetPartners, payment to be made by Bankers Order, or as mutually agreed.
- iii) In the event of the manufacturer's retail price of the vehicle being increased or a price change as the result of variation in specification as at the date of delivery from the price in force as at the date of vehicle order written notification, or where the interest rate at the date of delivery has increased from the rate in force at the date of the vehicle order, the Lessee shall accept the vehicle and pay rental based on the amended price of the vehicle and interest rate as at the delivery date.
- iv) Where any bond is required as a term of the vehicle order such bond shall be payable by the Lessee to FleetPartners on the commencement date of each lease.
- v) Upon the failure of the Lessee to deliver up the vehicle to FleetPartners on the expiration of the term of the lease, to pay a daily sum equal to one thirtieth of the monthly rental charge, for the purposes of this calculation only, the monthly rental charge used shall be determined by taking the sum of all lease instalments charged for all consecutive leases of the vehicle concerned and then dividing that sum by the total number of months of the same leases.

## 5. Return of the Vehicle

- i) The Lessee undertakes at the expiration or sooner determination of the Lease:
  - a) To return the vehicle to FleetPartners at such address as FleetPartners may nominate;
  - b) To return the vehicle to FleetPartners in as good mechanical working order repair condition and appearance as it was when delivered to the Lessee, fair wear and tear only excepted. For the purposes of this Agreement the expression "fair wear and tear" shall be defined in the "What's Fair in Wear and Tear" booklet and without limiting such definitions contained in this booklet shall mean such deterioration in the mechanical order of the vehicle as is reasonably consistent with its careful maintenance while in the Lessee's possession and such deterioration or blemishes in the appearance of the vehicle as is reasonably consistent with the careful use thereof by the Lessee.
  - c) The Lessee acknowledges it has read and understood the definitions of "Fair Wear and Tear" as defined in the "What's Fair in Wear and Tear" booklet and agrees to be bound by those definitions.
- ii) To return the vehicle to FleetPartners without any patent or visible signs of having been involved in an accident.
- iii) The Returned Vehicle Inspection Report (RVIR) will be completed by FleetPartners, or a person acting on FleetPartners's behalf and will note any deterioration of or damage to the vehicle will be completed by FleetPartners as soon as possible after receiving the vehicle in its premises. This report shall be binding on both parties as to the extent of the damage and/or deterioration and the Lessee shall remain liable to FleetPartners for the care of and any damage or deterioration to the vehicle until such inspection has been completed. FleetPartners will serve the Lessee in accordance with clause 39(ii) with a copy of the RVIR within 2 working day of its completion. The Lessee gives consent to FleetPartners to repair any damage identified on the RVIR in excess of fair wear and tear and FleetPartners acknowledges that any repairs the Lessee may be liable for will commence at least 2 full working days after the date of the RVIR and the Lessee acknowledges such repairs may occur without the requirement for FleetPartners to further notify the Lessee and any objection by the Lessee must be received by FleetPartners before the commencement of such repairs and FleetPartners will acknowledge receipt of such objection in writing. The Lessee agrees that it will pay on demand to FleetPartners the costs of repairing any such deterioration or damage. The Lessee agrees that it must pay the amounts under this clause as compensation to FleetPartners for the diminution in value of the vehicle as a result of the deterioration or damage and that FleetPartners is under no obligation to have the vehicle repaired.
- iv) Tyres on return
  - a. Any tyres that do not meet Warrant of Fitness standards or are retreads or the structure of which has been compromised or that do not match the brand and specification provided when the vehicle was delivered shall be replaced; and
  - b. The Lessee shall pay to FleetPartners an amount equivalent to the purchase price paid by FleetPartners for any tyres that are replaced under this clause where such replacement including any tyres already used during the term of the lease exceeds the number of tyres provided for in the allowance specified in the Vehicle Order.

## 6. Lease Expiry

- i) At the expiration or sooner termination of the Lease, the Lessee shall deliver up the vehicle to FleetPartners at such address as FleetPartners shall nominate in such good order repair and condition as described in clause 5.

ii) The Lessee shall pay to FleetPartners on demand on the termination of the Lease, an excess kilometre charge at the rate shown in the Vehicle Order in respect of the number of kilometres the vehicle shall have travelled as described in clause 32 where such kilometres travelled are in excess of the number of kilometres allowed for over the Lease term as shown in the Vehicle Order and any kilometres travelled by any free replacement or free relief vehicles provided for the temporary use of the Lessee pursuant to the Vehicle Order shall be aggregated with those of the vehicle and the Lessee shall receive a pro rata allowance for any earlier or later termination; and if at any time the estimated kilometres causes FleetPartners to form the reasonable belief that the kilometers travelled will vary by more than 15% from the allowance as described in the Vehicle Order, FleetPartners may, at its discretion, vary the monthly payment amount in the Vehicle Order.

## 7. Operation of Vehicle

The Lessee shall at all times use care and diligence in the operation of the vehicle, and shall neither abuse nor misuse it and use every reasonable precaution to avoid any loss or damage to it or to third persons or their property. Persons who hold a current licence to drive that type of vehicle valid in New Zealand shall drive only on formed roads and the vehicle.

Without prejudice to the generality of the foregoing the Lessee covenants and agrees:

- i) The vehicle shall not be used for any illegal purpose, in any race, speed test or contest or in preparation therefore or to convey, propel or tow any load in excess of the manufacturers specifications or that for which the vehicle was constructed, and
- ii) The vehicle shall not be used for the carriage of inflammable liquids or solids or of any goods materials or substances of an explosive or corrosive nature except with the written consent of FleetPartners, and
- iii) The Lessee must notify FleetPartners immediately if the vehicle is confiscated or impounded for any reason by the police or any other governmental or semigovernmental authority

## 8. Vehicle out of Operation

- i) Where a relief vehicle is included in the Vehicle Order in the event of a mechanical breakdown or accident then after the number of hours specified for stand down in the vehicle order the Lessee shall be eligible for a temporary replacement vehicle delivered to Lessee at the Lessee's expense for a period not exceeding 28 days and will be subject to the availability of FleetPartners stock. The Lessee will return the temporary vehicle to FleetPartners at the Lessee's expense upon completion of relief period.
- ii) In the event the Lessee takes a vehicle prior to the completion of the stand down period referred to above and/or keeps the vehicle in excess of the 28 days provided the Lessee shall be responsible for a daily charge at the rate specified in the relief vehicle agreement and in the event a relief vehicle charge was not confirmed in writing this daily charge will be calculated at one fifteenth of the monthly rental described in clause 4.
- iii) Subject to subclause iv) below, where a provision for Downtime is included in the Vehicle Order, in any occasion where the vehicle is out of operation as a result of mechanical breakdown and proving such breakdown is solely as a result of wear and tear and the vehicle is out of operation for a period exceeding 96 hours a credit will be provided for the rental that would otherwise have been due for the period the vehicle was out of operation. This Downtime Credit will be calculated for the first 28 days by taking one thirtieth of the monthly rental charge described in clause 4 and multiplying that figure by the number of full days the vehicle was out of operation and then for each day after the first 28 days shall be calculated at one thirtieth of the monthly rental charge less the finance cost of the vehicle for the same period.
- iv) In any event above the Lessee shall continue to be liable for the monthly rental charges as they fall due on the vehicle and where the Lessee is offered a relief vehicle and is eligible for Downtime no credit will be provided for any period under which the Lessee has a relief vehicle available.

## 9. Registration

- i) Subject to any reimbursement due as hereinafter mentioned where the provision of registration is included in the Vehicle Order, FleetPartners shall arrange for the registration of the vehicle in the name of the Lessee and the payment of registration fees.
- ii) The Lessee shall reimburse to FleetPartners (upon demand) any increases in registration fees and Government or Local Authority taxes and levies for vehicles, over the cost of registration and taxes and levies applying at the date of the Vehicle Order.
- iii) Where the provision of Registration is not included in the Vehicle Order, the Lessee shall comply with all relevant Acts regulations and by-laws relating to the registration or licensing of the vehicle and shall pay promptly all requisite fees and charges.
- iv) The Lessee shall forward to FleetPartners and FleetPartners will be entitled to retain the Certificate of Registration issued in the name of the Lessee pursuant to the Transport (Vehicle and Driver Registration and Licensing) Act 1986. The Lessee shall be responsible for displaying the registration label and any costs or fines incurred for failure to do so.

## 10. Maintenance and Repair

- i) Subject to the obligations set out in clause 10(ii), the Lessee must:
  - a) keep and maintain the vehicle in good working order repair and condition and neither abuse or misuse the vehicle and carry out all maintenance and repairs in accordance with the highest standards of good workmanship and the manufacturer's requirements as set out in the service booklet issued by the manufacturer and shall pay all expenses in connection with its repair and maintenance including replacement of parts and servicing including greasing and oil changes; and
  - b) at the Lessee's expense and at such intervals as notified by FleetPartners or in the absence of such notification in accordance with the manufacturers specified service intervals deliver the vehicle to a garage approved by FleetPartners for inspection and servicing; and
  - c) at the Lessee's expense wash and polish the vehicle and keep it safely parked when not in use; and
  - d) not permit any interchange of parts, tyres or accessories to be made between the vehicle and any other vehicle or any additions alterations or adjustments to be made to the vehicle without first obtaining the consent of FleetPartners and will ensure that any such additions alterations or adjustments are made by an authorised representative of the manufacturer of the vehicle and shall reimburse FleetPartners in respect of any damage resulting from work done by an unauthorised representative of the manufacturer or without the consent of FleetPartners; and
  - e) at the Lessee's expense and at all times keep the clutch and brake cylinder fluids at the proper levels recommended by the manufacturer and shall pay for all fuel; and
  - f) comply with the "Driver Information Kit" which may be furnished by FleetPartners from time to time concerning the care, repair maintenance and operation of the vehicle and shall reimburse FleetPartners for the cost of repairs attributable to the failure of the Lessee to comply therewith.
    - ii) Where the provision of Maintenance is included in the Vehicle Order, the Lessee will satisfy its obligations to maintain the vehicle in accordance with clause 10(i) above and the cost of such maintenance excluding fuel and delivery costs shall be the obligation of FleetPartners, any repairs required including repairs required as a result of damage, neglect or wear and tear will be authorised by FleetPartners on the Lessee's behalf and the Lessee shall be liable to FleetPartners for reimbursement where such maintenance and/or repair is required as a result of damage or neglect. The Lessee shall not make or permit to be made any repairs or adjustments to the vehicle other than routine service checks at such intervals as notified by FleetPartners or as set out in the manufacturer's service booklet (unless the total cost of such repair or adjustment is less than \$100.00, the Lessee will provide a GST invoice for the Lessor to facilitate reimbursement) without the prior approval of FleetPartners.
    - iii) The Lessee shall at its cost deliver the vehicle to such a place as FleetPartners may nominate to provide tyres for the vehicle required as a result of fair wear and tear and where an allowance for tyres is included on the Vehicle Order such replacement shall be at expense of FleetPartners and in the event of exceeding the tyre replacement allowance specified in the Vehicle Order for the vehicle the Lessee shall be liable to FleetPartners for reimbursement with respect of the cost of such replacement.

## 11. Warrant of Fitness or Certificate of Fitness

The Lessee shall at their cost obtain a Warrant of Fitness or Certificate of Fitness (as required by the Land Transport Act 1998) and shall ensure that at all times the vehicle is in a safe and warrantable condition and any documents required by law for the operation of the vehicle are current and where the provision of Maintenance is included in the Vehicle Order the direct cost incurred by the Lessee of obtaining the Warrant of Fitness or Certificate of Fitness shall be payable by FleetPartners to the Lessee. The Lessee

hereby agrees that any repairs, replacements or adjustments required to obtain either a Warrant of Fitness or Certificate of Fitness will be authorised by FleetPartners and carried out without the need for FleetPartners to contact the Lessee and where any such repair, replacement or adjustment is required as a result of damage or neglect such repair, replacement or adjustment will be payable by the Lessee to FleetPartners immediately.

## 12. Insurance

- i) The Lessee shall insure the vehicle or any temporary replacement vehicle at its own expense and keep the same insured during the continuance of the Lease in their full insurable value against loss or damage by accident, fire, theft, windscreen damage and such other risks as FleetPartners may from time to time require under a comprehensive policy of insurance with an insurance office of repute to be approved by FleetPartners and shall immediately upon effecting such insurance supply full details thereof to FleetPartners and the Lessee shall inform the insurers that the vehicle is the property of FleetPartners and will instruct the insurers that FleetPartners's name shall be endorsed on the policy as the owner.
- ii) The Lessee shall punctually pay all premiums and other sums required to keep the insurance effective and shall produce the policy of insurance (if not held by FleetPartners) and all receipts for the premiums to FleetPartners or its authorised agent at any time on demand in default of which FleetPartners shall be entitled to effect and maintain such insurance itself and any sums paid by it either as initial or renewal premiums shall be repaid by the Lessee on demand.
- iii) The Lessee shall not make use of the vehicle whilst uninsured or in contravention of the terms and conditions of the insurance policy or do any act or thing which may invalidate such insurance.
- iiii) The Lessee shall advise FleetPartners forthwith and in any case not more than twenty-four (24) hours after the event in writing of the loss or damage to the vehicle howsoever caused and of any event which might lead to a claim under the said policy and furnish within a reasonable time such statements information and assistance as FleetPartners may reasonably require in respect thereof.
- iv) In the event of any claim being made against the insurers FleetPartners may at its absolute discretion conduct any negotiations and effect any settlement with the insurers and the Lessee agrees to abide by any settlement or arrangement with the insurers made by FleetPartners. Any moneys payable by the insurers shall be paid to FleetPartners or as FleetPartners shall direct.
- v) In the event of the vehicle being adjudged by FleetPartners as a total loss or in the event of theft of the vehicle the Lessee will reimburse (after allowance to the Lessee of any moneys received by FleetPartners of the said insurance) to FleetPartners, the current market value of the vehicle at the time of the loss or theft and any other loss suffered by FleetPartners as a result thereof. The rental charges hereunder shall continue to be payable until such a time as FleetPartners has received the full amount due under this clause.
- vi) In the event that the Lessee shall not be liable for the whole or any part of any loss of or damage to the vehicle, and such loss or damage is covered by a policy of insurance:
  - a) The Lessee in his own name and at the request of the FleetPartners shall bring, defend, enforce or settle any legal proceedings (of which FleetPartners or the said insurer or some person appointed by FleetPartners or the said insurer shall have the sole conduct as the agent of the Lessee) as FleetPartners or the insurer may reasonably require;
  - b) The Lessee shall complete and furnish to FleetPartners or the said insurer such statements; information and assistance as FleetPartners or the said insurer may require and otherwise comply with all policy conditions.

## 13. Signage, Corporate Colours and Accessories

The Lessee may at the expense of the Lessee affix to the vehicle any proper advertisement, accessory or insignia indicating that it is being used in the service of the Lessee and upon the termination of the Lease for any reason whatsoever the Lessee shall at his own expense remove all evidence of the same and make good any damage caused by such affixation and removal. The exterior paintwork shall be restored in a proper and workmanlike manner to its original colour and condition by the Lessee and where the exterior of the vehicle is in a colour used to identify the vehicle as being in the possession of or operation of the Lessee the exterior paintwork must be returned to a neutral colour approved by FleetPartners at the expense of the Lessee or failing such restoration by FleetPartners at the Lessee's expense.

## Miscellaneous provisions:

### 14. Mutual set off

Except as required by law, where any amount is payable by FleetPartners to the Lessee whether under this Agreement or otherwise, FleetPartners may set-off partially or fully that amount in reduction of any other amount that the Lessee may be liable to pay to FleetPartners under this agreement.

### 15. Indemnity

The Lessee agrees to indemnify FleetPartners against all actions, claims, demands, proceedings costs or expenses damages and liability whatsoever arising in respect of or out of the use of the vehicle of in consequence of the Lease.

### 16. Warranty

It is hereby agreed that no condition warranty or stipulation of any kind is given by FleetPartners in respect of the vehicle and all conditions warranties and stipulations express or implied statutory or otherwise as to the state quality description or otherwise of the vehicle or as to its fitness for any purpose are hereby expressly excluded. FleetPartners shall not in any event be liable for any loss of any kind whatsoever suffered by the Lessee as a result of the vehicle or any part of it being unusable out of order or unserviceable or unsuitable.

### 17. Title

Nothing contained in the Lease shall confer on the Lessee any right of property or interest in or to the vehicle and the Lessee shall be bailee thereof only, the transactions governed by the Lease being a bailment for a period exceeding six months.

### 18. Assignment

The Lessee will not without the written consent of FleetPartners assign transfer dispose of mortgage charge or in any way encumber the vehicle or any interest of the Lessee therein or create permit or suffer to be created any lien over the vehicle for repairs or otherwise or sublet or part with possession of the vehicle or in any way attempt to do or permit or suffer any of the foregoing.

### 19. Inspection and Access

- i) The Lessee agrees to allow FleetPartners access at any time to the vehicle to inspect it and irrevocably authorises FleetPartners to enter into and upon any premises where it is or is reasonably presumed to be for any purpose incidental to or arising out of the Lease.
- ii) The Lessee will at the request of FleetPartners immediately produce the vehicle for inspection and testing.
- iii) The Lessee will not conceal the vehicle or alter it or any identifying number or mark affixed thereto.
- iv) The Lessee will not take the vehicle or allow it to be taken outside New Zealand without the consent of FleetPartners.

### 20. Authority to Sign

The Lessee authorises one or more of its directors or officers from time to time to execute the Vehicle Order and Delivery Receipt on its behalf.

### 21. Payment by FleetPartners

If the Lessee shall be in default under any of the provisions of the Lease FleetPartners may at its option and without prejudice to any other right or remedy there under do all things and pay all money necessary to make good such a default to the satisfaction of FleetPartners and any money so paid shall be deemed to be a debt due by the Lessee to FleetPartners payable on demand.

## 22. Additional Goods and Services

FleetPartners may from time to time supply goods and services supplemental to the lease agreements executed under this document and any such supply may be provided without need for FleetPartners to obtain any form of signed document from the Lessee confirming the same. Where the Lessee accepts, uses or transfers in part or in whole any good or service provided by FleetPartners under this clause such action shall form an acceptance of the good or service in full and of the terms and conditions set by FleetPartners from time to time. Where FleetPartners and the Lessee have agreed in advance that FleetPartners will provide a good or service the Lessee shall be responsible for that good or service from the time the good or service was delivered to the Lessee providing FleetPartners took reasonable care to ensure the good or service was delivered in way likely to come to the attention of the Lessee or it's agent. Where FleetPartners had provided any good or service not specifically provided for in this agreement the Lessee shall be liable to pay FleetPartners the amount of the good or service plus FleetPartners's standard fee for the same on demand. FleetPartners is required to provide to the Lessee a copy of these conditions and charges on demand and notify the Lessee in advance of any applicable changes to these terms and conditions. FleetPartners may at it's discretion cancel any such service or recover any such good it has provided as it sees fit providing such cancellation or recovery does not contravene any term and condition entered into between the Lessee and FleetPartners regarding that good or service

## 23. Costs

All expenses reasonably and properly incurred by FleetPartners in obtaining possession of the vehicle will be paid by the Lessee to FleetPartners on demand. Such expenses shall include, fees to recover the vehicle from the possession or control of any person, company or authority, costs of dismantling or reassembling the vehicle, the cost of repair or renovation of damage occasioned to premises incidental to the removal of the vehicle there from and all other payments reasonably payable to enable FleetPartners to obtain possession of the vehicle. All costs and expenses incurred by FleetPartners in enforcing this agreement including solicitor, client solicitor costs or collection charges shall be payable by the Lessee to FleetPartners on demand.

## 24. Loss or Damage to Property

The Lessee shall be responsible to FleetPartners for and hereby indemnifies FleetPartners against loss of the vehicle howsoever caused and all damage whatsoever caused by or to the vehicle and against any claim, costs, damages or demands whatsoever and howsoever caused in respect of any injuries to or the death of any person or any damage of property and shall furnish within a reasonable time such statement, information and assistance as FleetPartners may reasonably require in respect of such loss, claims, costs, damages and demands.

## 25. Covenants Additional by Lessee

The Lessee further covenants and agrees with FleetPartners:

- i) That the Lessee has no authority to pledge the credit of FleetPartners or to involve FleetPartners in any liability.
- ii) That no waiver by FleetPartners of any breach hereof shall be deemed a waiver of any continued recurring or other breach.
- iii) To make all payments to the office of FleetPartners or elsewhere as directed by FleetPartners and in such manner as FleetPartners may direct in writing.
- iv) To comply with all current laws and ordinances, rules, regulations or by-laws of New Zealand or of any public authority or government or semi-government department or municipality relating to the vehicle and the use thereof including the use by any unauthorised driver. To provide FleetPartners with the Lessee's audited annual consolidated Financial Statements (including statements of financial performance, statement of financial position and cash flow), together with a copy of the applicable auditor's report, and such other financial information as FleetPartners may require, when requested by FleetPartners.
- v) To notify FleetPartners in writing before departing from New Zealand where the Lessee shall be absent from New Zealand for a period in excess of thirty days and in such circumstances to advise FleetPartners of the address of the premises at which the vehicle will be garaged or stored during the Lessee's absence.
- vi) FleetPartners shall be bound only by the terms and conditions set out herein and in the Vehicle Order notwithstanding any proposal representation or arrangement that may have been made or suggested either before or at the signing hereof by any person whatsoever or in any advertisement or advertising matter or otherwise and no variation of the terms or conditions of this Agreement shall be binding on FleetPartners without its previous consent in writing.
- vii) The Lessee irrevocably appoints FleetPartners its attorney to execute all such documents and do all such things as may be required on the part of the Lessee to give effect to the provisions of this Agreement and in particular without derogating from the generality of the foregoing the Lessee irrevocably appoints FleetPartners its attorney for the purpose of effecting the return of the vehicle to FleetPartners under clause 5 and to execute any notice of change of ownership of the vehicle and to take possession of the vehicle and for that purpose the Lessee hereby irrevocably gives FleetPartners leave and license by its officers and agents without the necessity of giving any notice to enter into any building occupied by the Lessee where the vehicle may or may be supposed to be and as the attorney of the Lessee to enter upon any other land buildings or premises which the Lessee might enter upon the premises where vehicle may or may not be supposed to be and to search for remove and take possession of the vehicle without being liable in any way to the Lessee or to anyone claiming under him for so doing.

## 26. Interest

The Lessee agrees to pay interest calculated at a rate of eighteen (18) per cent per annum on any moneys payable hereunder which may from time to time be overdue from the due date for payment of such moneys until payment thereof.

## 27. Tax Indemnity

The Lessee warrants that the vehicle will be used for the purpose set out in the Vehicle Order and indemnifies FleetPartners against any liability or additional liability or loss of deduction FleetPartners may incur under the Income Tax Act 1994. In the event that FleetPartners's liability for tax is increased or is payable earlier because:

- i) a deduction at the depreciation rates and methods adopted are not for any reason allowed in full at the times it would normally have been allowed; or
- ii) payments made by the Lessee are made at times different from the due date provided on the invoices; or
- iii) a Termination Charge has become due and payable under clause 30; or
- iv) the rate or time of payment of income tax for FleetPartners shall be changed from the rate or time applying at the date of acceptance of the Vehicle Order by FleetPartners, then the Lessee shall pay to FleetPartners on demand such amount (the "tax compensation amount") as will result in the after tax yield to FleetPartners being the same as it would have been but for such increase in liability or acceleration of taxation payment.

## 28. Vehicle unsuitable for use

In any case where FleetPartners has evidence that the maintenance costs on the vehicle are significantly above typical maintenance costs for a similar vehicle FleetPartners may by written notice demand the return of the vehicle within 28 days. For the purposes of this clause significantly above typical maintenance costs shall mean maintenance costs on the vehicle that over any 6-month period exceeds the wear and tear profile for a similar vehicle over the same distance by more than 100%. If FleetPartners executes its rights under this clause no amount will be payable under clause 30 of this agreement unless FleetPartners offers a replacement similar vehicle for the balance of the lease term and remaining contracted distance at the same lease rate in which case the Lessee must accept the replacement vehicle.

## 29. Termination by reason of Default

Where an Event of Default occurs in relation to any lease, then FleetPartners may immediately thereupon or at any time thereafter and with or without notice to the Lessee enter upon any lands or premises where the vehicles may be and retake possession of any and/or all vehicles leased by the Lessee from FleetPartners and/or terminate the Leases but without releasing the Lessee from any liability in respect of the breach or non-observance of any of the provisions herein contained or implied which may then have occurred and without prejudice to FleetPartners's right to claim damages in accordance with the following clause.

## 30. Early Termination

- i) In the event of termination of the Lease for any reason whatsoever other than its due fulfilment by the Lessee or with the express consent of FleetPartners in writing and subject to clause ii) below, then without prejudice to its other rights under this agreement or at law or in equity, FleetPartners may at anytime thereafter demand immediate payment of an Early Termination Charge calculated by using the early termination percentage specified in the Vehicle Order as a percentage of the sum of all rental that would have fallen due between the date of termination and the expiry of the lease period specified in the Vehicle Order and where the termination percentage is not stipulated the termination percentage used shall be 100%.

- ii) In the event the vehicle is adjudged a total loss and payment has been made to FleetPartners in accordance with clause 12 and the vehicle adjudged a total loss had a retail value when it was new including any accessories or fittings and modifications carried out before or during the lease whether or not such fittings and modifications were carried out at the expense of FleetPartners of less than \$60,000 in total any Early Termination Charge will be waived.

### 31. Fines, Stamp Duty and Fees

The Lessee shall pay to FleetPartners upon demand:

- i) An amount equal to all fines, penalties, taxes, levies, Road User Charges and whatsoever paid or payable by FleetPartners as owner and/or Lessor of the vehicle and which are assessed levied or imposed by any governmental or semi-governmental authority except when it was in the exclusive possession, use and control of FleetPartners;
- ii) All stamp duty payable in respect of or in any way arising out of the lease;
- iii) Any bank fees incurred by FleetPartners in relation to any payments made by the Lessee that attract an international transaction fee.
- vi) Any Goods and Services Tax at the applicable rate together with all other taxes or charges imposed by law in relation to any term under this agreement.

### 32. Determination of Distance Travelled

For whatever purposes which may be required, the distance travelled by a Vehicle in any period shall be determined by readings taken by FleetPartners from whichever of the relevant Vehicle's odometer, hubodometer, hour meter or the records kept by the Lessee pursuant to the Road Users Charges Act 1977 FleetPartners considers to be most appropriate. For the purpose of this clause, the Lessee agrees to allow FleetPartners access to each leased Vehicle from time to time in order to determine the above readings, and to provide copies to FleetPartners of all returns made by the Lessee under the Road Users Charges Act 1977, on demand. In the event the appropriate recording device proves faulty or fails, the distance travelled will be calculated from the average daily distance traveled between the first and most recent reliable reading provided to FleetPartners multiplied by the number of days the vehicle was leased.

### 33. Lessee has no Right to Purchase

It is expressly agreed and acknowledged and declared by the parties that neither the Lessee nor any other person or persons on his behalf is entitled to be or become the purchaser of the vehicle.

### 34. Address

The Lessee shall advise FleetPartners immediately in writing of any change in the Lessee's address or of any change in the domicile of the vehicle from that stated in the Vehicle Order.

### 35. Severability

FleetPartners and the Lessee hereby expressly agree that if for any reason any clause or any provision of a clause of this Agreement shall be void or unenforceable such clause or provision shall be severable from all other clauses and provisions of this Agreement which shall be unaffected by such avoidance or unenforceability.

### 36. Quiet Enjoyment

FleetPartners agrees that if the Lessee shall pay the rent made payable under the Lease on the days provided for payment and otherwise performs and observes the terms covenants and conditions of the Lease on his part to be performed and observed the Lessee shall have the use and enjoyment of the vehicle for the term of the lease without any interruption or disturbance from FleetPartners or from any other person lawfully claiming through or under FleetPartners.

### 37. Registration

The Lessee agrees that FleetPartners may register the Lease under the provisions of the Personal Property Securities Act 1999 (PPSA) and its security interest in the vehicle under the provisions of the Act in protection of its interest hereunder.

### 38. PPSA Waiver

The customer waives the need for FleetPartners to forward it a copy of any verification statement in respect of any financing statement of financing change statement registered under the "PPSA" by FleetPartners in connection with any agreement. Unless otherwise advised, the contact person for the purposes of the PPSA will be the person who is the first signatory below.

### 39. Interpretation

- i) Time shall be the essence of the Agreement in respect of the obligations of the Lessee.
- ii) Without prejudice to any other means of service any notice required to be served hereunder by either party shall be deemed to have been properly served if left at or posted in a prepaid letter addressed to the other party at the address identified on the first page of this agreement or any other such address as notified to the each party in writing or by facsimile to such number as may be recorded in the telephone directory at the time of transmission providing however such service by post shall be deemed to have been effected when the letter containing such notice would be delivered in the ordinary post.
- ii) Words importing the masculine gender shall include the feminine or neuter gender and vice versa; words importing persons shall extend to and include corporations and words importing the singular shall include the plural number and vice versa;
- iii) Clause headings are included for guidance only and in the construction or interpretation of this Agreement shall not be deemed to form any part of the contract;
- iv) Where there are two or more Lessees they shall be bound jointly and each of them severally by all the terms, covenants and conditions of the Lease; and
- v) FleetPartners shall be deemed to include Truck Leasing Limited, Mutual Leasing Limited and its successors and assigns and the attorney servant or agent thereof.

### 40. Administrator

The Lessee acknowledges and agrees that FleetPartners may from time to time appoint any other person as agent or administrator to act on its behalf under any lease entered into under these terms and conditions. Any notice, document or demand given or made to or by any such administrator shall be deemed to be validly given or made to or by FleetPartners and any act or omission of any such administrator shall be binding on FleetPartners.

### 41. Definitions

Unless otherwise required, the following terms have the following meanings:

**Vehicle Order** means a document in such form, as FleetPartners shall from time to time designate to the Lessee, by which the Lessee orders a motor vehicle to be leased by FleetPartners to the Lessee.

**Delivery Receipt** means the receipt in the form designated by FleetPartners to be signed by the Lessee on delivery of the vehicle to the Lessee.

**Essential Term** means any term of the Lease relating to the:

- (a) payment of money;
- (b) care, preservation, maintenance or repair of a Vehicle;
- (c) insurance of a Vehicle; and
- (d) use, alteration or return of a Vehicle.

**Event of Default** means any of the following events:

- (a) the Lessee breaches an Essential Term;
- (b) any other default or breach on the part of the Lessee occurs and the same is not remedied within 14 days of notice from FleetPartners in writing requiring it to do so;
- (c) any representation, warranty or statement by or on behalf of the Lessee is or proves to be untrue or misleading in any respect when made or repeated;

- (d) if the Lessee is a company, an order is made or a resolution is effectively passed for the winding up of the Lessee (except for the purposes of reconstruction or amalgamation with the written consent of FleetPartners which consent will not be unreasonably withheld);
- (e) if the Lessee goes into liquidation or makes an assignment for the benefit of or enters into an arrangement or composition with its creditors or stops payments or is unable to pay its debts within the meaning of the Companies Act 1993;
- (f) if execution is levied against the Lessee and not discharged within 30 days; or
- (g) if the Lessee (being a natural person) shall die or become subject to any legal incapacity, is adjudged bankrupt or insolvent or commits an act of bankruptcy.

**Financial Statements** has the meaning set out in Section 8 of the Financial Reporting Act 1993.

**Lease** means in respect of each motor vehicle leased to the Lessee by FleetPartners, these Motor Vehicle Leasing Terms and Conditions, the Vehicle Order and

**Delivery Receipt** relating to such motor vehicle and references to terms of the Lease shall be construed as references to the terms of each and all such documents.

**Lessee** shall be deemed to include the successors assigns executors and administrators of the Lessee and the attorney servant or agent of the Lessee.

**Termination Date** means the date upon which the Lease terminates, whether by expiry of the period set out in the Vehicle Order or otherwise.

**Vehicle** includes motor vehicle, truck, trailer, tractor, or any other machinery, which is the subject of the Lease and includes all tyres tools accessories and equipment, affixed thereto or contained therein and shall include any substitute or temporary vehicle.

**Kilometre** shall be deemed to include hours, miles or other form of measure used to record the amount use of any vehicle subject to a lease agreement.

**Odometre** includes hubodometer and hour metre.

**Fuel** shall include Petrol, Diesel, Gas, electric or any other consumable resource used in the operation of a vehicle.

Similar vehicle shall include any two vehicles capable of carrying the same load by number of people, volume and weight and with a manufacturers claimed power rating within 10% and all accessories and operational features functionally the same.

**Distance travelled or Distance** shall include hours elapsed or hours.

**Downtime** (when included on a Vehicle Order) is when a single mechanical repair job is carried out on a fully maintained operating lease asset, and the total time taken to rectify that single repair job exceeds 96 consecutive hours, then FleetPartners will reimburse the Lessee for the total number of hours that the vehicle is off the road. Reimbursement will be based on the current monthly lease rental converted to an hourly figure.