

Waikiki Moped and Car Rental Agreement Terms and Conditions (“Terms & Conditions”) - Hawaii

1. Definitions. “**Agreement**” means all terms and conditions found in these Terms & Conditions, the Face Page, the Waiver and Assumption of Risk, any addenda and any additional materials we provide and that you sign at the time of rental. “**You**” or “**your**” means the person identified as the renter on the reverse, any person signing this Agreement, any Authorized Driver and any person or organization to whom charges are billed by us at its or the renter's direction. All persons referred to as “you” or “your” are jointly and severally bound by this Agreement. “**We**,” “**our**” or “**us**” means the independent business named on elsewhere in this Agreement. “**Authorized Driver**” means the renter and any additional driver listed by us on this Agreement, provided that each such person has a valid operator's license for the type of vehicle rented and is at least ____ years of age. Authorized Drivers are the only persons permitted to operate the Vehicle. “**Vehicle**” means the motorcycle/scooter/ATV/golf cart identified in this Agreement and any vehicle we substitute for it, and all its tires, tools, accessories, equipment, keys and vehicle documents. “**Loss of Use**” means the loss of our ability to use the Vehicle for our purposes due to Vehicle damage or loss during this rental, including, without limitation, use for rent, display for rent and sale, opportunity to upgrade or sell, or transportation of employees. “**Diminished Value**” means the difference between the fair market value of the Vehicle before total loss of the Vehicle and the value of a replacement vehicle, as calculated by a third-party estimate obtained by us or on our behalf. “**Charges**” means the fees and charges that are incurred under this Agreement. “**Rental Period**” means the period between the time you take possession of the Vehicle until the Vehicle is either returned to or recovered by us and checked in by us.

2. Rental, Indemnity and Warranties. This is a contract for the rental of the Vehicle. We may repossess the Vehicle at your expense without notice to you, if the Vehicle is abandoned or used in violation of law or this Agreement. You agree to indemnify us, defend us and hold us harmless from all claims, liability, costs and attorney fees we incur resulting from, or arising out of, this rental and your use of the Vehicle. **We make no warranties, express, implied or apparent, regarding the Vehicle, no warranty of merchantability and no warranty that the Vehicle is fit for a particular purpose.**

3. Condition and Return of Vehicle. You must return the Vehicle to our rental office or other location we specify, on the date and time specified in this Agreement, and in the same condition that you received it, except for ordinary wear. If you wish to extend the Rental Period, you must return the Vehicle to our rental office for inspection and written amendment by us before the due-in date. If the Vehicle is returned after closing hours, you remain responsible for the loss of, and any damage to, the Vehicle until we inspect it upon our next opening for business, and Charges will continue to accrue. Service to the Vehicle or replacement of parts or accessories during the rental must have our prior approval. You must check and maintain all fluid levels, and return the Vehicle with at least the same amount of fuel as when rented.

4. Responsibility for Vehicle Damage or Loss; Reporting to Police. You are responsible for all damage to or loss or theft of the Vehicle, including damage caused by weather, acts of god or terrain conditions. Subject to the law in the jurisdiction where the Vehicle was rented, your responsibility will include: (a) all physical damage to the Vehicle measured as follows: (i) if we determine that the Vehicle is a total loss, the actual cash value of the Vehicle; or (ii) if we determine that the Vehicle is repairable, the actual cost of labor and parts to repair the Vehicle; or (iii) if the Vehicle is not a total loss and we elect not to repair the Vehicle, Diminished Value or the reasonable estimated cost to repair the Vehicle; (b) Loss of Use, which is a reasonable estimate of the actual income lost from the loss of use of the Vehicle, and which shall be measured by multiplying your daily rental rate either by the actual or estimated number of days from the date the Vehicle is damaged until it is replaced or repaired, which you agree represents a reasonable estimate of Loss of Use damages and not a penalty; (c) actual towing charges and other reasonable incidental and consequential damages; and (e) all costs associated with our enforcement of this Agreement or collection of Charges, including attorneys' fees, collection fees, and costs whether or not litigation is commenced. You must report all accidents or incidents of theft and vandalism to us and the police as soon as you discover them.

5. Prohibited Uses. The following uses of the Vehicle are prohibited and are material breaches of this Agreement. The Vehicle shall not be operated or used: **(a) by anyone who is not an Authorized Driver, or by anyone whose driver's or other operator's license is suspended in any jurisdiction; (b) by anyone under the influence of prescription or non-prescription drugs or alcohol; (c) by anyone who obtained the Vehicle or extended the rental period by giving us false, fraudulent or misleading information; (d) in furtherance of any illegal purpose or under any circumstance that would constitute a violation of law, other than a minor traffic violation; (e) while pushing or towing anything, or in any race, speed test or contest, or while teaching anyone to drive the Vehicle; (f) while carrying dangerous or hazardous items or illegal materiel in or on the Vehicle; (g) outside the geographic limitations indicated elsewhere in this Agreement; (h) if the odometer has been tampered with or disconnected; (i) when the Vehicle's fluid levels are low, or it is otherwise reasonable to expect you to know that further operation would damage the Vehicle; (j) to commit a willful, wanton or reckless act; (k) by anyone who is sending an electronic message, including text (SMS) messages or emails, while operating the Vehicle; or (l) in violation of any "Rules of the Road," vehicle safety and operations training, or other similar materials that we provide to you at the time of rental.**

6. Insurance. You are responsible for all damage or loss you cause to the Vehicle and to others. You agree to provide liability, collision and comprehensive insurance covering you, us, and the Vehicle. We also provide an insurance policy ("**Policy**") that covers automobile liability coverage for bodily injury and property damage to third parties with limits no higher than the minimum amounts stated in the financial responsibility insurance laws of the state whose laws apply to the loss. Any insurance we are required to provide is excess to any other valid and collectible insurance whether primary, secondary, excess or contingent. The Policy contains exclusions, conditions, and limitations applicable to anyone claiming coverage. **You and we reject PIP, medical payments, no-fault, uninsured and under- insured motorist coverage.** To the extent such protection is imposed by operation of law, that protection will be for the minimum limits required by applicable law. You must: (a) report all damage to us and all accidents to us and the police as soon as you discover them and complete our incident report form; and (b) provide us with a legible copy of any service of process, pleading, or notice of any kind related to an accident or other incident involving the Vehicle. Coverage under the Policy is void if you give the Vehicle to an unauthorized driver or otherwise materially breach this Agreement; or if you fail to cooperate in a loss investigation or to file a timely and accurate incident report.

7. Charges. You permit us to reserve or set aside against your credit/debit card ("**Reserve**") or take a cash deposit ("**Deposit**") at the time of rental a reasonable amount in addition to the estimated charges. We may use the Reserve or Deposit to pay all Charges. We will authorize the release of any excess Reserve or refund any excess Deposit upon the completion of your rental. Your debit/credit card issuer's rules will apply to your account being credited for the excess, which may not be immediately released by the card issuer. You will pay us, or the appropriate government authorities, at or before conclusion of this rental or on demand all Charges, including: (a) time and mileage for the period during that you keep the Vehicle, or a mileage charged based on our experience if the odometer is tampered with or disconnected; (b) charges for additional drivers; (c) optional products and services you purchased; (d) fuel, if you return the Vehicle with less fuel than when rented; (e) applicable taxes; (f) tolls ("**Tolls**") and Toll, parking, and traffic fees, fines, and penalties ("**Violations**") assessed against us or the Vehicle; if we are required to pay the charging authority for Tolls or Violations, you will reimburse the amount that we pay, plus our administrative fee of up to \$29 for each such Toll or Violation; (g) all expenses we incur in locating and recovering the Vehicle if you fail to return it or if we elect to repossess the Vehicle under the terms of this Agreement; (h) all costs, including pre- and post-judgment attorney fees, we incur collecting payment from you or otherwise enforcing our rights under this Agreement; (i) a 2% per month late payment fee, or the maximum amount allowed by law (if less than 2%), on all amounts past due; (j) \$50 or the maximum amount permitted by law, whichever is greater, if you pay us with a check returned unpaid for any reason; (k) a reasonable fee not to exceed \$250 to clean the Vehicle if returned substantially less clean than when rented; and (l) a fee of up to \$_____ if you lose the keys to the Vehicle. All Charges are subject to our final audit. If errors are discovered after the close of this transaction, you authorize us to correct the Charges with the payment card issuer.

8. Your Property. You release us, our agents and employees from all claims for loss of, or damage to, your personal property or that of any other person, that we received, handled or stored, or that was left or carried in or on the Vehicle or in our offices, whether or not the loss or damage was caused by our negligence or was otherwise our responsibility.

9. Personal Information. You agree that we may disclose personally identifiable information about you to applicable law enforcement agencies or to other third parties in connection with our enforcement of our rights under this Agreement and other legitimate business functions. Questions regarding privacy should be directed to the location where you rented the Vehicle.

10. Miscellaneous. No term of this Agreement can be waived or modified except by a writing that we have signed. This Agreement constitutes the entire agreement between you and us. All prior representations and agreements between you and us regarding this rental are void. A waiver by us of any breach of this Agreement is not a waiver of any additional breach or waiver of the performance of your obligations under this Agreement. Our acceptance of payment from you or our failure, refusal or neglect to exercise any of our rights under this Agreement does not constitute a waiver of any other provision of this Agreement. You waive all recourse against us for any criminal reports or prosecutions that we take against you that arise out of your breach of this Agreement. Unless prohibited by law, you release us from any liability for consequential, special or punitive damages in connection with this rental or the reservation of a vehicle. If any provision of this Agreement is deemed void or unenforceable, the remaining provisions are valid and enforceable.