

STANDARD TERMS AND CONDITIONS OF RENTAL

THESE ARE IMPORTANT CONDITIONS LIMITING YOUR RIGHTS AND SHOULD BE READ CAREFULLY

1. DEFINITIONS AND INTERPRETATION

- 1.1 In this agreement unless the context indicates otherwise:
- 1.1.1 "Additional driver" means such person who, in addition to the driver, is reflected on the rental agreement as being duly authorized by the company to drive the vehicle;
- 1.1.2 "Auto Dealers Guide" means: Mead & McGrouther's publication containing, inter alia, recommended selling prices of motor vehicles;
- 1.1.3 "Claims Administration Fee" means: An administration fee, reflected on the rental agreement, charged in all instances where a claim needs to be processed i.r.o. any damage whatsoever, loss of or theft of the vehicle.
- 1.1.4 "Company" means Barloworld Motor (Pty) Ltd t/a Avis Rent A Car, Registration Number 1946/021661/07, duly registered in terms of the laws of the Republic of South Africa;
- 1.1.5 "Contract Fee" means: a once-off charge per rental to cater for inter alia storage fees of Original Documents reflected on the rental agreement;
- 1.1.6 "Damages" (in relation to the vehicle) means the actual expenditure in towing, transporting and storing the vehicle, repairing any damage (including tyre and rim damage), replacing parts or accessories (without allowing for depreciation), remunerating an expert to inspect collision damage and report thereon, and reimbursing such expert (an invoice, job card or quotation produced by the company to be prima facie proof of any such expenditure) or any other charges incurred related to an incident of whatsoever nature, and includes a total loss when applicable;
- 1.1.7 "Day" means a period of 24 hours (or any part thereof), calculated from the time out as reflected on the rental agreement ;
- 1.1.8 "Rental Agreement" means the rental agreement issued by the company to the renter and signed by the renter and which will have the effect of a legal binding agreement between the parties and includes these standard terms and conditions;
- 1.1.9 "Liability" includes the amounts reflected in the rental agreement, or on the rates information brochure pertaining to the non-waiverable amount chargeable in the event of damage, loss and/or theft;
- 1.1.10 "Driver" means such person who is reflected on the rental agreement as being duly authorized by the company to drive the vehicle;
- 1.1.11 "Extended period" means any extension of the rental period beyond the agreed return date reflected on the agreement and authorised by the company;
- 1.1.12 "The official rates brochure" means the company's current official brochure on rental rates and other general information issued from time to time;
- 1.1.13 "The rental period" means the period between the date the vehicle is taken by the renter and the termination date and time as specified on the rental agreement or if such period is extended, the time and date entered on the company's records;
- 1.1.14 "The renter" means: all of the persons, natural or juristic, jointly and severally, whose names appear on the rental agreement;
- 1.1.15 "The renting location" means: the company's location from which the vehicle is rented by the renter alternatively any location agreed upon by the company;
- 1.1.16 "The vehicle" means: the vehicle described in the rental agreement including all keys, tyres, tools, equipment, accessories and documents in and on the vehicle when the renter takes delivery of the vehicle at the renting location and includes any replacement for the vehicle which has been officially authorised by the company, whether or not such replacement was authorised or approved by the renter;
- 1.1.17 "Traffic Fine Administration Fee" means: an amount levied by the company as determined by it from time to time to administer any traffic fine(s) incurred by the renter whilst renting the vehicle;
- 1.1.18 "Total loss" (in relation to a vehicle) means -
- (a) damages (see clause 1.1.7) where the estimated costs of repairs is such that the vehicle is in the sole and absolute discretion of the company uneconomical to repair in relation to the value of the vehicle and condition of the vehicle for the time being; or
- (b) when the vehicle is stolen and/or lost;
- The amount of the total loss will be the retail value as reflected in the Auto Dealers Guide (Clause 1.1.2) or if not reflected therein, the new list price of the vehicle, as supplied by the manufacturer, as at the date of loss less any salvage;
- 1.1.19 "Waiver" means a reduction of liability of the renter in the event of an accident /theft/and or loss of the vehicle.
- 1.2 The singular shall include the plural and vice versa, pronouns of any gender shall include those of the other gender and natural persons shall include legal and juristic persons and vice versa.

2. RENTAL OF THE VEHICLE

The company rents to the renter, who hires the vehicle subject to the terms and conditions as set out herein. The renter will be bound by these terms and conditions, whether he was driving or not.

3. DELIVERY OF THE VEHICLE

- 3.1 Delivery of the vehicle takes place at the time the renter and/or driver and/or his representative takes possession of the keys and/or vehicle at the renting location.
- 3.2 The vehicle shall be deemed to have been delivered in good order and repair and without any damage to inter alia the paintwork, upholstery and accessories (unless such damage is recorded in writing and signed by both parties under vehicle condition in the rental agreement or the rental vehicle condition report). Any damage not so recorded will be for the account of the renter.

4. USE OF VEHICLE

- 4.1 The vehicle may only be utilised for the rental period or any extended period.
- 4.2 The renter and/or driver agree that any extension so noted on the company's records would correctly reflect such extended period.
- 4.3 The vehicle may only be driven by the driver or the additional driver.
- 4.4 During the rental period, the vehicle may not be used: - for the conveyance of passengers and / or goods for reward; to propel or tow any other vehicle, (including any caravan or trailer unless authorised by the company in writing ; to transport goods in violation of any customs laws or in any other illegal manner; in any motor sport or similar high risk activity; beyond the borders of South Africa, unless authorised by the company in writing; or in any area where there is or may be a risk of incidents of civil unrest, political disturbance or riot or any activity associated with any of the foregoing;
- 4.5 The renter and/or driver shall make adequate provision for the safety and security of the vehicle and, in particular, but without limiting the generality of the foregoing, he shall keep the vehicle properly locked and secured and immobilised and the burglar alarm (if any) activated and any anti-theft device in the vehicle properly secured and in place when the vehicle is not in use.
- 4.6 The renter and /or driver will make sure that the keys of the vehicle are under the renter's and /or driver's control at all times.
- 4.7 The company will at all times remain the owner of the vehicle.

5. RETURN OF THE VEHICLE

- 5.1 The renter and/or driver shall return the vehicle, at the renter's expense to an authorised representative of the company on the agreed return date and at the agreed renting location reflected on the rental agreement.
- 5.2 The renter and/or driver acknowledges that failure to return the vehicle in terms of this agreement shall constitute unlawful possession by him, and the company may repossess the vehicle wherever same may be found and from whomsoever is in possession thereof. Any costs incurred in recovering the vehicle will be for the account of the renter.
- 5.3 Should the vehicle not be returned as indicated in 5.1 above, any waiver option and/or PAL cover become null and void for the whole of the contract period.
- 5.4 Should the vehicle not be returned as indicated in 5.1 above, the vehicle may be reported as stolen to the relevant authorities.
- 5.5 The vehicle shall be returned undamaged, in good order and in roadworthy condition, fair wear and tear excepted.
- 5.6 If the renter and/or driver returns the vehicle to any renting location of the company, the renter shall:
- 5.6.1 park the vehicle in the company's reserved parking; and
- 5.6.2 ensure that the vehicle is properly locked and secure; and
- 5.6.3 hand the keys to an authorised representative of the company or leave the keys in a drop safe provided at the offices of the company, in the event that the offices are not open for business.
- 5.7 The sole risk of loss or damage to the vehicle will remain vested in the renter until such time as the company has recorded the return of the vehicle.

6. TERMINATION/CANCELLATION OF RENTAL AGREEMENT

- 6.1 Notwithstanding anything to the contrary contained in this agreement, the company shall be entitled to terminate this agreement without any explanation at any time by notice (oral or in writing depending on the situation) to the renter and/or driver, whereupon the renter shall return the vehicle to the company forthwith. In the event of failure to return the vehicle to the company, the company shall be entitled at any time to retake possession of the vehicle, wherever found and from whomsoever has possession thereof. The obligations of the renter and the rights of the company under this agreement shall continue in full force and effect until the vehicle has been returned to the company in terms of this agreement and the renter has complied with all his obligations. Any costs incurred in recovering the vehicle will be for the account of the renter.

7. THE RENTER/DRIVER

- 7.1 Notwithstanding anything else to the contrary in clause 4.3 above, the vehicle may not be driven by any person under the age of 21, and/or who has not been in possession of a valid drivers licence for 1 year.
- 7.2 The renter and/or driver warrants that at all times the vehicle will not be driven by any person whose blood alcohol concentration exceeds the limit permitted by any applicable law or regulation or whilst under the influence of intoxicating liquor or of a narcotic drug or similar substance and that every driver of the vehicle will have a valid license to drive the vehicle, will comply with all applicable laws and will comply in all respects with the provisions of this agreement.
- 7.3 If the vehicle is driven by anyone other than the driver and/or additional driver, then, without derogating from any rights or remedies which the company may have the renter shall remain liable for all his obligations in terms of this agreement and in particular, he shall be liable to the company as if he had been driving the vehicle; and
- 7.4 the renter and/or driver warrants that he is entitled and duly authorised to enter into this agreement, that all particulars given to the company and/or recorded on the rental agreement are true and correct.

8. RENTAL RATES AND CHARGES

- 8.1 The renter agrees to pay the company the rental rates plus all other charges and fees opted for or utilised by the renter reflected on the rental agreement up and until the vehicle is returned, including but not limited to miscellaneous charges, airport surcharges, tourism levy, Claims Administration Fee, Contract Fee, Traffic Fine Administration Fee, one way fee, over border charges, delivery fee, collection fee, Collision Damage Waiver Fee (CDW/DW), Theft Loss Waiver Fee (TLW/ LW), Personal Accident Insurance (PAI), fuel, additional driver(s) fee and/or all taxes due and payable on rental rates, other charges and fees.
- 8.2 In determining the rental charges, the distance traveled by the vehicle (where required) shall be determined from the vehicle's odometer, or if this is not possible for any reason, by the company in its sole discretion, on any other fair and reasonable basis and the renter shall be obliged to furnish all such information and assistance as the company may reasonably require for that purpose. If the odometer has been tampered with, then the kilometers traveled will be deemed to be 500 kilometers per day.
- 8.3 The renter and/or driver shall also be liable for all fines, penalties and like expenses including but not limited to parking, traffic and other offences, arising out of or concerning the use of the vehicle during the rental period and the renter accordingly indemnifies the company against all such liability;
- 8.4 Notwithstanding anything to the contrary contained in this agreement, The Company will levy a young driver surcharge reflected on the rental agreement where the renter/driver is younger than 25 years of age. The young driver surcharge is subject to change without notification.

9. PAYMENT

- 9.1 All payments are due on demand, but at latest on expiry of the rental period (unless otherwise agreed in writing). All charges payable by the renter shall be paid by credit card or in cash on the termination of the rental period unless the renter has a valid account with the company and/or the company requires all or any of the charges to be prepaid in advance;
- 9.2 The renter will not be allowed to set-off or withhold payment of any amounts due in terms of this agreement for any reason whatsoever;
- 9.3 The renter remains liable for payment of all amounts due until the company is paid in full by the issuer of the card.
- 9.4 If the company has agreed to accept payment from the renter by credit card or charge card specified on the rental agreement, the renter's signature of this agreement will constitute authority for the company to obtain authorization and/or payment. The signature will also constitute authority for the issuer of the card to debit him with the total amount due to the company (including but not limited to any damages or loss suffered by the company).

- 9.5 In the event that the renter returns the vehicle to the company prior to the due date on the rental agreement, the renter shall pay, at the discretion of the company either the usual rates and charges applicable to the period and/or kilometers actually used, or the rates and charges as if the full rental period and/or kilometers occurred.
- 9.6 In the event of an accident and/or if the vehicle is stolen and/or lost, the amount of the damages or the total loss as suffered by the company is payable on demand.
- 9.7 If any amount is not paid on due date, the company may without prejudice to any rights it may have, charge interest on the overdue amount at the applicable prescribed legal rate or prime plus 3% as charged by Nedbank Limited, whichever is the higher, and in the sole discretion of the company.
- 9.8 A certificate of any Director, Manager or Accountant of the company, whose capacity need not be proved, as to any amount owed by the renter to the company shall constitute prima facie proof of the amount.

10. RENTER'S RISKS AND LIABILITIES

- 10.1 The vehicle is at the sole risk of the renter and/or driver (fair wear and tear excepted) from the moment the key and/or the vehicle is handed to the renter until such time as the vehicle and key is returned in terms of clause 5.
- 10.2 The renter shall be liable for any damage and/or total loss sustained to the vehicle, howsoever the damage and/or total loss is caused and whether or not it is attributable to his fault or negligence (including but not limited to hail damage).
The above liability may be reduced by the renter opting to purchase one or more of the company's non compulsory Collision Damage or Theft Loss Waiver products which are subject to the terms stated below. The acceptance or decline of the options referred to are contracted for and indicated on the rental agreement. The liability amount applicable for each option is also reflected on the rental agreement.
- 10.3 If contracted for, the renter will only be liable for the amount indicated as the applicable excess as stated in the rental agreement (provided there was no breach of any conditions).
- 10.4 The company, in its sole and absolute discretion, reserves the right to, in the event of loss or damage which has occurred in a situation where no physical contact is made with another vehicle or animal or object or person (in or on the road surface), charge the renter either the actual amount of the loss or damage suffered or double the liability amount reflected on the agreement (notwithstanding the fact that waivers were opted for).
- 10.5 Should the vehicle be damaged, stolen or lost in a situation where there was a breach of any of the terms and conditions as contained herein, the renter will be liable for the total loss and/or damage suffered by the company (notwithstanding the fact that waivers were opted for).
- 10.6 Standard and/or Super, (Collision) Damage and / or Theft (Loss) Waiver do not cover:
- 10.6.1 any damage to glass, tyres and rims;
 - 10.6.2 damage to undercarriage;
 - 10.6.3 damage caused by water;
 - 10.6.4 damage and/or total loss sustained as result of renter and/or driver negligence.
 - 10.6.5 damage and/or total loss sustained whilst the renter and/or driver is in breach of any applicable traffic laws or ordinances;
 - 10.6.6 damage and/or total loss sustained where incidents are not reported as contemplated in clause 13;
 - 10.6.7 damage and/or total loss sustained where the incident takes place outside the country in which the vehicle was rented unless prior written authority for the vehicle to be taken outside such country has been obtained;
 - 10.6.8 damage and/or total loss sustained if at any time the vehicle is driven by an unauthorized driver;
 - 10.6.9 damage and/or total loss sustained when in the opinion of the company the vehicle has been driven or used in a manner which prejudices the company's interests or rights therein and/or as prohibited in clause 4;
 - 10.6.10 damage and/or total loss sustained where the driver was not holding a valid unendorsed drivers license at the time the damage or loss was sustained;
 - 10.6.11 damage and/or total loss sustained where an extension of the rental agreement is not authorised by the company and where the rental period has expired;
 - 10.6.12 damage and/or total loss caused as a result of the vehicle being driven on a road that was not suitable for that vehicle as determined in the sole discretion of the company.
 - 10.6.13 the vehicle (at the time of damage or total loss) was being driven by any person whose blood alcohol concentration exceeded the limit permitted by any applicable law or regulation or whilst under the influence of intoxicating liquor, narcotic drug or similar substance
- 10.7 The renter and/or driver is liable for all fines and/or penalties incurred during the rental period and hereby authorises the company to disclose any information required by a relevant authority to process it.
- 10.8 Notwithstanding anything in this agreement, the company shall not be obliged to make, institute or proceed with any claim which the company may otherwise have had against a third party for the recovery of any loss or damage to or in connection with the vehicle and, accordingly, the company shall be entitled, in its fair and reasonable discretion, to abandon such claim or to settle such claim on any terms.

11. CONSEQUENTIAL DAMAGES (Waivers declined).

In the event the renter and/or driver does not opt for any of the waivers offered by the company, the renter will be liable, in addition to any other amount provided for in the rental agreement, for damages suffered by the company in consequence of it being unable to rent the vehicle, which damages will be calculated on the basis of the contracted daily rate on the rental agreement or on the official rates brochure plus 100 kilometers per day for the period that the vehicle was inoperative, limited to a maximum of 30 days.

12. PERSONAL ACCIDENT INSURANCE (PAI)

If the renter accepts the purchase of personal accident insurance as indicated on the rental agreement, his acceptance shall constitute an acceptance by him of the benefit of the personal accident insurance policy and other accompanying arrangements, if any, procured by the company for his benefit but subject to all the terms and conditions of that policy and the other accompanying arrangements, if any, and the renter acknowledges that the company itself shall not under any circumstance have any liability to him under or for any of the benefits under that policy or the accompanying arrangements, if any. Details of the policy and a separate explanatory brochure (and details of the other accompanying arrangements, if any) are available for inspection by the renter at the company's Head Office and the renter shall in any event be deemed to be aware of and accept all the terms and conditions of the policy and the other arrangements, if any.

13. PROCEDURE IN THE EVENT OF AN INCIDENT INVOLVING THE VEHICLE

- 13.1 If at any time the vehicle is damaged, stolen or lost, the renter and/or driver shall take every reasonable precaution to safeguard the interest of the company including but without being limited to, the following where appropriate:
- 13.1.1 he shall notify the company immediately or within 3 hours of becoming aware of the occurrence and shall within twenty-four hours of the occurrence in question complete and furnish to the company, the company's standard claim form together with a copy of his drivers license;
 - 13.1.2 he shall obtain the name(s) and addresses of everyone involved and of possible witnesses;
 - 13.1.3 he shall not admit any responsibility or liability nor release any party from any liability or potential liability nor settle any claim or potential claim against or by any party nor accept any disclaimer of liability;
 - 13.1.4 he shall notify the police within twenty-four hours of the occurrence in question and furnish the company with an accident case number;
 - 13.1.5 he shall make adequate provision for the safety and security of the vehicle and will not abandon the vehicle under any circumstances;
 - 13.1.6 he shall co-operate with the company and its insurer in the investigation, the making or instituting of any claim or action and the defence of any prosecution, claim or action relating to the incident (including the making of an affidavit if he is requested to do so).
- 13.2 If the renter is not the driver, then, without in any way derogating from the renter's obligations in terms of this clause 13, the renter shall procure that the driver complies with the provisions of 13.1 and the renter warrants that the driver will do so.
- 13.3 The renter shall within 24 hours of receipt thereof furnish to the company (and if the renter is not the driver, the renter shall also procure that the driver does) any notice of claim, demand, summons or the like which the renter or the driver may receive in connection with the vehicle.
- 13.4 The renter and/or driver warrants that the information completed in the company's claim form as referred to in 13.1.1 will be complete, true and correct in every respect.

14. INDEMNITY OF THE COMPANY BY RENTER

- 14.1 Neither the company nor any of its directors, officers, employees, servants or agents shall be liable for any loss or damage (including any loss or damage to property left or transported in the vehicle, any loss of life or any loss or damage arising from the installation or condition of a child seat or any other accessory in and/or on the vehicle), whether direct, indirect, consequential or otherwise arising from the rental by the renter of the vehicle, including, without limitation, any defect in and/ or mechanical failure of the vehicle (howsoever arising and of whatever nature) or the failure of the company to detect defects in or mechanical problems with the vehicle and whether such loss or damage results from breach of contract or delict (including negligence or gross negligence) or otherwise, which may be suffered by the renter and/or any third party and/or passenger.
- 14.2 The company, its directors, officers, employees, servants or agents ("it") are accordingly indemnified by the renter or his estate against any claim of any nature whatsoever and howsoever arising for any damages or loss which might be instituted against it arising from or connected with or pursuant to the renting of the vehicle contemplated in these terms and conditions.

15. JOINT AND SEVERAL LIABILITY OF SIGNATORIES, RENTER AND/OR DRIVER

The renter and every person whose signature appears on the car rental contract shall be liable jointly and severally for payment of all amounts due to the company in terms of or pursuant to the rental agreement.

16. GENERAL

- 16.1 The rental agreement is the entire agreement between the parties regarding the matters contained herein and neither party shall be bound by any undertakings, representations, warranties, promises or the like (other than the company extending the agreed return date) not recorded by the company except as provided for herein.
- 16.2 If any provision of the rental agreement is found by a court of law to be invalid or void, such provision will be severed from the remaining provisions, without affecting the remainder of the provisions hereof.
- 16.3 No extension, latitude or other indulgence that may be given or are allowed by any party in respect of performance of any obligation hereunder, and no delay or forbearance in the enforcement of any right of any party arising from this rental agreement, and no single or partial exercise of any right by any party under this rental agreement will in any circumstances be construed as implied consent or election by such party or operate as a waiver or a novation of or otherwise affect any party's rights in terms of or arising from this rental agreement or stop or preclude any such party from enforcing at any time and without notice, strict and punctual compliance with each and every provision or term hereof.
- 16.4 The renter authorises the company to insert any particulars in the agreement that are not known or are unavailable at the time of signature.
- 16.5 This agreement and all matters or disputes arising there from or incidental thereto shall be governed and construed in accordance with the laws of the Republic of South Africa.
- 16.6 The renter further consents to the jurisdiction of the Magistrates Court, should the company, at its election, bring legal proceedings in a Magistrates Court, notwithstanding the fact that the amount involved exceeds the jurisdiction of the Magistrates Court. The renter agrees, however, that the company in its sole and absolute discretion may institute any such action or proceedings in any division of the High Court that may have jurisdiction.
- 16.7 The renter shall not be entitled to cede any of his rights or assign any of his obligations under this agreement or to rent or part with possession of the vehicle, its tools or equipment or any part of it.
- 16.8 If the company institutes any legal proceedings against the renter to enforce any of its rights under this agreement it shall be entitled to recover from the renter all the legal costs it incurs to its own attorneys in accordance with their then usual charges and assessed as between attorney and own client including but not limited to collection commission and tracing agent charges.
- 16.9 The renter chooses the address specified on the rental agreement as his domicilium citandi et executandi (i.e. address for service of all legal process)
- 16.10 The company shall be entitled to carry out a credit check on a renter with one or more credit agencies who may retain a record thereof and the company shall be entitled to record any default by the renter with any credit agency. Such records may be made available by the credit agency to third parties, in which case the company shall not be held liable/responsible for any repercussions such disclosure may have on the renter. The renter agrees that the company may disclose any information obtained by it as a result of the conclusion and/or breach of the rental agreement, including personal and additional information, to any person, including a credit bureau.
- 16.11 The renter acknowledges that certain vehicles may be fitted with a vehicle management system, which is used to inter alia, record speed and other information relating to the vehicle rented. The company shall be entitled to use such information (including in court proceedings) as it deems fit.
- 16.12 It is recorded that this agreement is exempt from the provisions of the Usury Act (until repealed by the National Credit Act, whereafter the latter will apply) and shall be limited to a maximum period of 90 days and are not subject to further renewal.