

# 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 the person who, in addition to the driver, is reflected on the Rental Agreement as being duly authorised by the company to drive the vehicle;
- 1.1.2 "Auto Dealers Guide" means: Mead and McGrouther's publication containing, amongst other information, the recommended selling prices of motor vehicles;
- 1.1.3 "Claims Administration Fee" means: An administration fee of R500 will be charged in all instances where a claim needs to be processed in respect of any damages whatsoever, loss of or theft of the vehicle, as reflected in the note to the Rental Agreement.
- 1.1.4 "Company" means B Mobile (Pty) Ltd, Registration Number 2011/101786/07, duly authorised in terms of the laws of the Republic of South Africa and includes its licensees, sub-licensees and agents.
- 1.1.5 "Contract Fee" means: a once-off charge of R50 per rental which is used to cover various expense including storage fees of original documents reflected in the rental agreement;
- 1.1.6 "Damage(s)" (in relation to the vehicle and/or Third Party Damage) means the actual costs in towing, transporting and storing the vehicle, repairing any damage (including tyre and rim damage), replacing parts or accessories (without allowing for depreciation), paying an expert to inspect collision damage and report thereon, and reimbursing such expert (an invoice, job card or quotation produced by the company will be seen as 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 "Driver" means such person who is reflected on the Rental Agreement as being authorised by the Company to drive the vehicle;
- 1.1.9 "Fuel Costs" means the costs incurred to refuel the vehicle to the same level as it was when the vehicle was rented;
- 1.1.10 "Liability" means and includes both the amounts reflected in the Rental Agreement relating to the amounts due and payable (non-waiver able amount) in the event of damage, loss and/or theft and any third party loss or damage where waivers are declined;
- 1.1.12 "Rental Agreement" means the entire Rental Agreement issued by the Company to the Renter including the damage report form and these standard terms and conditions. Once the Renter has signed the Rental Agreement it will have the effect of a legal binding agreement between the parties for a maximum of 30 days;
- 1.1.13 "The rental period" means the period between the date when 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 whose names appear on the Rental Agreement as Renter, Driver or Additional Driver and who have produced a valid unendorsed driver's license to the Company's rental agent and if and where required, their identity/passport documents;
- 1.1.15 "The renting location" means: the Company's premises from which the vehicle is rented by the Renter alternatively any location agreed upon by the Company;
- 1.1.16 "Third Party Damage" means any claims made by a third party in respect of Damages or loss that the Renter has actually or is alleged to have caused to the property or vehicle of a third party;
- 1.1.17 "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;
- 1.1.18 "Total loss" (in relation to a vehicle) means – (a) Damages (see clause 1.16.) where the estimated costs of repairs is such that the vehicle is in the sole and absolute discretion of the Company uneconomical to repair; 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 price of a new vehicle, as supplied by the manufacturer by the manufacturer, as at the date of loss, less any salvage;
- 1.1.19 "Traffic Fine Administration Fee" means: an amount levied by the company as determined by it to administer any traffic fine(s) incurred by the Renter whilst renting the vehicle as set out in the note to the Rental Agreement; R150.
- 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. DELIVERY OF THE VEHICLE

- 2.1 Delivery of the vehicle takes place at the time the Renter or his representative takes possession of the keys and/or vehicle at the renting location.
- 2.2 The vehicle shall be deemed to have been delivered in good order and repair and without any damage to amongst other things the paintwork, upholstery and accessories (unless such damage is recorded in writing and signed by both parties under "vehicle condition" on the Rental Agreement or the "rental vehicle condition report"). Any damage not so recorded will be for the account of the Renter.

## 3. RETURN OF THE VEHICLE

- 3.1 The Renter shall return the vehicle, at the Renter's expense to an authorised representative of the Company on the agreed return date, time and at the agreed renting location reflected on the rental agreement.
- 3.2 The Renter acknowledges that failure to return the vehicle in terms of the agreement shall constitute unlawful possession by him, and the Company may repossess the vehicle wherever it may be found and from whomsoever is in possession thereof. Any costs incurred in recovering the vehicle as well as the cost of any additional rental days, will be for the account of the Renter.
- 3.3 Should the vehicle not be returned as indicated in 3.1 above, any waiver option and/or PAI cover become null and void for the entire contract period.
- 3.4 Should the vehicle not be returned as indicated in 3.1 above, the vehicle may be reported as stolen to the relevant authorities.
- 3.5 The vehicle shall be returned undamaged, in good order and in roadworthy condition, fair wear and tear excepted.
- 3.6 If the Renter returns the vehicle to any renting location of the company, the renter shall:
  - 3.6.1 Park the vehicle in the Company's reserved parking; and
  - 3.6.2 Ensure that the vehicle is properly locked and secure;
  - 3.6.3 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.
- 3.7 The vehicle and all risk relating to the vehicle will remain the responsibility of the Renter until the Company has recorded the return of the vehicle.
- 3.8 If the vehicle is returned by the renter and the vehicle smells of smoke. The renter will be liable for an Auto Valet to the amount of R400.
- 3.9 When the renters vehicle is ready for collection or the renter has received payment for his stolen or written off vehicle. Bmobiles' vehicle must be returned on the same day. If the vehicle is not returned to the Bmobile premises then the renter will be liable for R300 per/day until returned.

## 4. PAYMENT

- 4.1 All payments are due on demand, but at the 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 or the Company requires all or any charges to be prepaid in advance.
- 4.2 The Renter will not be allowed to deduct or withhold payment of any amounts due in terms of this agreement for any reason whatsoever;
- 4.3 The Renter remains liable for payments of any and all amounts due which are not paid or settled in full by the issuer of the card.
- 4.4 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 on the agreement will constitute authority for the Company to obtain authorisation 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).
- 4.5 In the event that the Renter returns the vehicle to the Company before the date due on the rental agreement, the Renter shall pay either the usual rates and charges applicable to the period and/or kilometres actually used, or the rates and charges as if the full rental period and/or kilometres occurred, at the sole but reasonable discretion of the Company.
- 4.6 In the event of an accident and/or if the Vehicle is stolen and/or lost, the amount of the damages, the total loss as suffered by the Company or the amount reflected on the Rental Agreement is payable on such terms as imposed by the Company at its sole but reasonable discretion.
- 4.7 If any amount is not paid on due date, the Company may without prejudice to any rights it may have and subject to the provisions of the National Credit Act charge interest on the overdue amount at the applicable prescribed legal rate or prime plus 3% as charged by Standard Bank Limited., whichever is the higher, and in the sole discretion of the company.
- 4.8 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.
- 4.9 In the event of any damages to the rented vehicle, traffic fines, fuel levy or any other cost's which effect Bmobile Car Rental (Pty) Ltd. Any amount whatsoever can be debited/charged to the renter without having a written, signed and dated Cardmember Acknowledgment of Responsibility. A charge for capital damages may be debited off the card of the renter once an assessment has been done for the amount. The card member will also be billed for Loss of Use of vehicle during repairs at R300 per/day.

## 5. RENTAL OF THE VEHICLE

The company rents the vehicle 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 the vehicle or not.

## 6. USE OF VEHICLE

- 6.1 The vehicle may only be utilized for the rental period.
- 6.3 The vehicle may only be driven by the Renter, Driver or Additional Driver.
- 6.4 During the rental period, the vehicle may not be used: (1) for the conveyance of passengers and/or goods for payment; (2) to propel or tow any other vehicle (including any caravan or trailer unless authorised by the company in writing); (3) to transport goods in violation of any customs laws or in any other illegal manner; (4) in any motor sport or similar high risk activity; (5) beyond the borders of South Africa unless authorised by the company in writing; or (6) in any area where there is or may be a risk or incidents of civil unrest, political disturbance or riot or any activity associated with any of the mentioned;
- 6.5 The Renter, Driver and/or Additional Driver shall make adequate provision for the safety and security of the vehicle including but not limited to that, the vehicle (1) shall be kept properly locked; (2) secured and immobilized; (3) the burglar alarm (if any) activated and (4) any anti-theft device in the vehicle properly secured and in place when the vehicle is not in use.
- 6.6 The Renter will make sure that the keys of the vehicle are under his/her control at all times.
- 6.7 The Company will at all times remain the owner of the vehicle.

## 7. TERMINATION/CANCELLATION OF RENTAL AGREEMENT

7.1 Irrespective of anything to the contrary stated in this Rental Agreement, the Company shall be entitled to end this agreement without any explanation at any time by notice (oral or in writing depending on the situation) to the Renter, and when this happens the Renter shall return the vehicle to the Company immediately. If the Renter fails 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 vehicle is monitored by a tracking device for speed and geographic location. The obligations of the Renter and the rights of the Company under this Rental Agreement shall remain in force until the vehicle has been returned to the Company in terms of this Rental 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.

## 8. THE RENTER/DRIVER

- 8.1 Irrespective of what else this Rental Agreement states, the vehicle may not be driven for the duration of the Rental by any person under the age of 21 and/or who has not been in possession of a valid driver's license for 1 year.
- 8.2 The Renter and/or Driver warrants that at all times (1) the vehicle will never be driven by any person whose blood alcohol concentration exceeds the limit permitted by any law or regulation, (2) or whilst under the influence of intoxicating liquor or of a narcotic drug or similar substance (3) every driver of the vehicle will have a valid driver's license to drive the vehicle, (4) will comply with all applicable laws and (5) will comply with all of the provisions of this Rental Agreement.
- 8.3 If this vehicle is driven by anyone other than the Driver and/or Additional Driver (irrespective of which other rights or remedies the Company may have), the Renter shall remain liable for all of his obligations in terms of this Rental Agreement as if he has been driving the vehicle; and
- 8.4 The Renter and/or Driver warrants that (1) he is entitled and authorised to enter into this Rental Agreement, (2) that all particulars are given to the Company and/or recorded on the Rental Agreement are both true and correct.

## 9. RENTAL RATES AND CHARGES

9.1 Notwithstanding anything to the contrary contained in this agreement. The Company will levy a young driver surcharge reflected on the rental agreement where the Rental/Driver is younger than 25 years of age. The young driver surcharge is subject to change without notification.

## 10. RENTER'S RISK AND LIABILITIES

10.1 The vehicle is at the sole risk if the Renter and/or Driver (fair wear and tear excepted) from the moment the key and/or vehicle is handed to the Renter until such time as the vehicle and key is returned in terms of clause 3.

10.2 The Renter shall be liable for any damage and/or total loss sustained to the vehicle, however 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 subjected 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 liability amount 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.

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.

10.6 Standard and/or Super, (Collision) Damage and/or Theft (Loss)

10.6.1 Any damage to tyres rims and glass

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 12;

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 6;

10.6.10 Damage and/or total loss sustained where the driver was not holding a valid unendorsed driver's 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 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 reasonable discretion, to abandon such claim or to settle such claim on any terms.

10.9 If the Renter's claim is repudiated on his own vehicle, then he will be liable for the rental of the vehicle at a cost of R300 per day. This excludes other costs which may be charged at the discretion of Bmobile (Pty) Ltd. If the vehicle was delivered or collected then an additional R250 will be added for each.

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 kilometres per day for the period that the vehicle was inoperative, limited to a maximum of 30days.

## 12. PROCEDURE IN THE EVENT OF AN INCIDENT INVOLVING THE VEHICLE

12.1 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:

12.1.1 he/she shall notify the company immediately or within 3 hours of becoming aware of the occurrence and shall within 24 hours of the occurrence in question complete and furnish to the company, the company's standard claim form together with a copy of his/her driver's license;

12.1.2 he/she shall obtain the name(s) and addresses of everyone involved and of possible witnesses;

12.1.3 he/she 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;

12.1.4 he/she shall notify the police within 24hours of the occurrence in question and furnish the company with an accident case number;

12.1.5 he/she shall make adequate provision for the safety and security of the vehicle and will not abandon the vehicle under any circumstances;

12.1.6 he/she shall co-operate with the company and its insurer in the investigation, the making of 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/she is requested to do so).

12.2 If the Renter is not the driver, then without in any way derogating from the Renter's obligation in terms of this clause 12, the Renter shall procure that the driver complies with the provisions of 12.1 and the Renter warrants that the driver will do so.

12.3 The Renter shall within 24hours 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.

12.4 The Renter and/or Driver warrants that the information completed in the company's claim forms as referred to in 12.1.1 will be complete, true and correct in every respect.

## 13. INDEMNITY OF THE COMPANY BY THE RENTER

13.1 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 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 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.

13.2 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.

## 14. 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.

## 15. GENERAL

15.1 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 a provided herein.

15.2 If any provision of the rental agreement is found by a court of law invalid or void, such provision will be severed from the remaining provisions, without affecting the remainder of the provisions hereof.

15.3 No extensions, 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.

15.4 The Renter authorises the company to insert any particulars in the agreement that are not known or are unavailable at the time of signature.

15.5 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.

15.6 The Renter further consents to the jurisdiction of the Magistrates Court, should the company, at its election, bring legal proceedings in the 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.

15.7 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.

15.8 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.

15.9 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)

15.10 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 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.

15.11 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.

15.12 It is recorded that this agreement is exempt from the provisions of the Usury Act (until repealed by the National Credit Act, where after the latter will apply) and shall be limited to a maximum period of 90days and are not subject to further renewal.

Excess

### Memorandum

1. For every occurrence (or series of occurrences arising out of one event giving rise to a claim.) (10% of agreed loss or damage subject to following minimums: Vehicle value < R200 000) – R3000

2. Whilst the vehicle is being driven by or is for the purpose of being driven by any person who

2.1.1 Is under 25 years of age – ADDITIONAL R3500

2.1.2 Or if driver's license is less than 2years – ADDITIONAL R3500

NB 2.1.1 and 2.1.2 is not cumulative

2.3 If the vehicle is stolen or hijacked but not recovered – ADDITIONAL 5% of agreed loss subject to a minimum of R6000

The amounts to be borne by the Insured will be the amounts specified in items 2.1 to 2.3 above which apply independently to each vehicle and are cumulative.

It is noted that the insurable interest extends to include the registered users of the vehicle who may also be the directors, their family, the shareholders or employees of the business.