

GENERAL RENTAL TERMS AND CONDITIONS FOR THE MEMBERS OF BOVAG VERHUURBEDRIJVEN (BOVAG RENTAL COMPANIES)

These General Terms and Conditions of BOVAG Rental Companies have been compiled in consultation with the Consumers Association and the ANWB within the framework of the Social and Economic Council's coordination group for self-regulation and are effective as of 1 January 2010.

DEFINITIONS

In these terms and conditions the following words shall have the following meaning:

- Vehicle: the vehicle or other property that is the subject (or forms a part) of the rental agreement;
- Renter: the natural person or legal entity entering into a rental agreement as the party renting the vehicle;
- Rental agency: the natural person or legal entity being a member of the BOVAG Rental Companies and entering into a rental agreement as the party renting out the vehicle;
- Consumer: a renter who is a natural person and is not entering into the rental agreement within the execution of his/her profession or business;
- Rental agency damage: any financial loss suffered by the rental agency as a result of:
 - damage to the vehicle (including the vehicle or its parts being in a condition incompatible with normal wear and tear) or loss of the vehicle or its associated parts (including the keys, alarm installation, and documentation such as registration papers and international motor insurance documents) or any parts of such. This loss shall also include any costs incurred for the replacement of the vehicle (or parts thereof) as well as the loss of rental income;
 - damage inflicted on persons or property by or through the vehicle, for which the rental agency, the party in whose name the vehicle is registered or the liability insurer of the vehicle is liable;
 - Overhead damage: rental agency damage caused by a collision involving any part of the vehicle situated more than 1.90 metres above the ground or by a collision involving property attached to the vehicle at a point more than 1.90 metres above the ground;
 - Driver: the actual driver of the vehicle;

In writing: a document sent on paper or electronically;

WAM: Motor Insurance Liability Act (Wet Aansprakelijkheidsverzekering Motorrijtuigen)

1. GENERAL PROVISIONS

SECTION 1: Applicability
These General Terms and Conditions are applicable to all agreements entered into by the renter and the rental agency in respect of renting and renting out vehicles, including any accessories.

SECTION 2: The offer

1. Depending on the wishes of the renter, the rental agency shall submit an offer either in writing or verbally.
2. The offer shall be irrevocable for 14 days, with the exception of a situation of insufficient availability.
3. The offer shall contain a complete and accurate description of the rental period, the rental sum and the potential additional cost elements. Moreover, the offer shall stipulate the level of any personal excess and the possibility of commuting the personal excess, and detail any requirements regarding a deposit or other means of security.
4. The offer shall give details of the opening times of the rental agency and a telephone number on which it can be reached.
5. The offer shall stipulate the way in which payment is to be made and security provided.
6. If reasonably possible, the offer shall be accompanied by these General Terms and Conditions. If this is not possible, the General Terms and Conditions shall be handed over on conclusion of the agreement.

SECTION 3: The agreement

1. The agreement shall come into effect once the offer has been accepted. A verbal agreement should be confirmed in writing by the rental agency.
2. The rental agreement shall be entered into for the period and at the rate stipulated in the rental agreement or otherwise agreed. The rental agreement shall also stipulate the times/dates of commencement and termination of the rental period.
3. On the grounds of section 9, paragraph 7, and with reference to section 12, paragraph 2, of these General Terms and Conditions, the rental agreement shall, if applicable, stipulate the maximum amount of liability limitation.

SECTION 4: The rental price and price changes

1. The rental sum and any additional cost elements, such as price per kilometre, shall be agreed in advance, as shall any right to make interim price changes. The rental agency shall be responsible for ensuring that the rental sum is clearly stipulated on the rental agreement.
2. If prices should change within three months of the conclusion of the agreement, this shall have no effect on the agreed price. A consumer shall be entitled to dissolve the agreement if the price is raised after a three-month period following the conclusion of the agreement but prior to the commencement of the rental period, unless the rental agreement stipulates that the rental period shall commence later than three months after the conclusion of the agreement.
3. The second paragraph shall not apply to any price changes due to legislative changes, for example changes to the rate of VAT.
4. The number of kilometres driven shall be established on the basis of the odometer, unless the odometer is defective. Any kilometres driven after the odometer becomes defective shall be established in the most obvious way. The provisions relating to the odometer shall be equally applicable to the operational hour meter for the PTO and engine cooling system.
5. Throughout the rental period all the costs associated with vehicle usage, such as tolls, Eurovignette and the costs of fuel, cleaning and parking shall be for the account of the renter.

6. Without prejudice to the obligation of the renter to pay compensation if grounds exist, the renter may not be charged for any costs which have not been agreed.

SECTION 5: The rental period and exceeding the rental period

1. The renter shall be obliged to return the vehicle to the address of the rental agency stipulated in the agreement, or to an alternative address agreed at a later stage, by - at the latest - the date and time stipulated as the end of the rental period. During opening hours, the rental agency shall be obliged to accept the vehicle.
2. Only with the permission of the rental agency may the vehicle be returned to a place other than that agreed and/or returned outside opening hours.
3. Agreements in respect of the early return of the vehicle within the agreed rental period are subject to confirmation.
4. Should the vehicle not be returned in the agreed manner at the end of the rental agreement, or any extension to the agreement, the rental agency shall be entitled to take back the vehicle immediately. The renter's obligation by virtue of the agreement shall remain in force until the rental agency regains possession of the vehicle.
5. If the vehicle is not returned in time, the rental agency shall be entitled to charge the renter 20% of the daily rental price for each hour that the rental period is exceeded. Should the period of non-return exceed 5 hours, 1. times the daily rental price may be charged each day until the vehicle is returned, irrespective of the renter's obligation to compensate the rental agency for any loss it has or may in future suffer. If it is in fact impossible for the renter to return the vehicle, no increased rental price shall be charged. The increase in the rental price shall not be applicable if the renter can demonstrate that the period was exceeded as a result of force majeure.

SECTION 6: Cancellation

1. If an agreement is cancelled, the renter shall be liable for the following cancellation costs:
 - if cancellation is before the 42nd day (exclusive) prior to the day of rental: the down payment, up to a maximum of 20% of the rental sum;
 - if cancellation is between the 42nd day (inclusive) and the 28th day (exclusive) prior to the day of rental: 35% of the rental sum;
 - if cancellation is between the 28th day (inclusive) and the 21st day (exclusive) prior to the day of rental: 40% of the rental sum;
 - if cancellation is between the 21st day (inclusive) and the 14th day (exclusive) prior to the day of rental: 50% of the rental sum;
 - if cancellation is between the 14th day (inclusive) and the 5th day (exclusive) prior to the day of rental: 75% of the rental sum;
 - if cancellation is between the 5th day (inclusive) and the day of rental: 90% of the rental sum;
 - if cancellation is on the day of rental or later: the entire rental sum.
2. Cancellation outside office hours shall be deemed to have occurred on the following calendar day.

SECTION 7: Payment

1. Advance payments of up to 50% of the rental sum may only be requested for rental agreements which have a commencement date within three months. On commencement of the rental period, a deposit may be requested.
2. The deposit shall be returned subject to settlement of any outstanding costs as soon as the vehicle is returned, unless there is a question of rental agency damage. In the case of rental agency damage, the deposit shall be returned to the extent it exceeds the amount for which the renter is liable. This amount shall be returned as soon as it is clear that there is definitely a question of an excess. If there is only a question of damage to the vehicle, the amount shall always be returned within 2 months; if there is (also) a question of third-party damage, it shall be returned within 6 months.
3. If the rental agency damage is caused by third parties and the rental agency has successfully recovered all the damages from these third parties, the deposit shall be returned within 14 days of the damages being recovered. The rental agency shall make every effort to ensure the damage caused by third parties is recovered as quickly as possible and shall keep the renter informed of developments.
4. Unless otherwise agreed, the rent must be paid immediately after the rental period has expired. Other amounts must be paid within ten days after receipt of the particular invoice.

The consumer must pay the amount owed before the payment date has passed. If he fails to do so, after that date has passed the entrepreneur will send a payment reminder which does not involve additional costs and which gives the consumer the opportunity to yet pay the outstanding amount within fourteen days of receiving this payment reminder.

If payment still does not take place after the time period given by the payment reminder has elapsed, the entrepreneur has the right to charge interest from the moment the consumer is in default. This interest is equal to the statutory interest. A party may charge its counterparty any judicial and extrajudicial costs it must incur in order to enforce payment of a debt. The amount of these costs is subject to (statutory) limits. These limits may be deviated from to the consumer's advantage.

SECTION 8: Renter's obligations

1. Without prejudice to the provisions below, the renter must look after the vehicle as befits a good renter and ensure that the vehicle is used in accordance with the purposes for which it is intended. Consequently, the renter shall be prohibited from using the vehicle on an unsuitable circuit or terrain, or on any terrain in respect of which the renter or driver have been informed that entry to the terrain is at their own risk.
2. The renter must return the vehicle to the rental agency in its original state. This means, among other things, that the renter must remove any changes or additions to the vehicle made by him/her, or on his/her behalf, and do so in such a way that the vehicle can be returned to the rental agency in its original state. The renter cannot claim any right to compensation in such situations.
3. The renter must ensure that any loads in or on the vehicle are carefully secured.
4. Only the person (or persons) named as the driver (drivers) in the rental agreement may drive the vehicle. The renter may not make the vehicle available to any person not named as a driver in the rental agreement. The renter shall be responsible for ensuring that all the drivers named in the rental agreement are qualified to drive the vehicle, and are both mentally and physically capable of driving the vehicle.
5. The renter may not rent out the vehicle.
6. The renter may not use the vehicle to give driving lessons or to transport people in exchange for money other than for the benefit of 'carpooling', nor may the renter use the vehicle to participate in competitions, or speed, driving skill or reliability tests.
7. The renter may not take the vehicle outside the national borders of the Netherlands, unless this has been agreed in writing with the rental agency.
8. If the renter is aware or notices that the vehicle is damaged or defective, the renter may not use the vehicle if doing so could worsen the damage or defects, or reduce road safety.
9. The renter is obliged to impose all the obligations and prohibitions in this section on the driver, passengers and other users of the vehicle and to supervise adherence to such.
10. The renter must, among other things, take good care of the vehicle's keys, the operation of the alarm installation and the vehicle's documents (such as the vehicle registration certificate and the international motor insurance documents).

SECTION 9: Instructions for the renter

1. The renter must ensure that the oil level and the tyre pressure are kept at the required levels and accede to any request from the rental agency to submit the vehicle for service. Such requests shall be issued in good time so the renter can reasonably fulfill the request. If the rental period is a month or less, the renter shall not be obliged by the rental agency to submit the vehicle for a routine service.
2. The renter must return the vehicle in a clean state. Failure to observe this obligation could result in the renter being charged for the costs of cleaning, at a minimum charge of € 25 (including VAT).
3. The renter must fill the vehicle with the fuel and, if necessary, any supplements specified as suitable by the rental agency.
4. Should the renter become aware of or notice that the vehicle is defective or damaged or has caused damage, or should the vehicle be missing, the renter shall be obliged to:
 - give notification of this as soon as possible;
 - follow the instructions issued by the rental agency;
 - submit, whether or not on request, all the information and documents which relate to the incident to the rental agency or its insurer;
 - ensure the vehicle is not left behind without being fully protected against the risk of damage or loss;
 - cooperate with the rental agency or a person designated by the rental agency in order to acquire compensation from third parties or to provide a defence against the claims of third parties.
5. In the event of accidents, damage or loss, the renter shall also be obliged to:
 - report the incident to the local police;
 - submit a completed and signed claim form to the rental agency as quickly as possible;
 - refrain from making any form of acknowledgement of guilt.
6. The renter is obliged to impose all the obligations and prohibitions in this section on the driver, passengers and other users of the vehicle and to supervise adherence to such.
7. The renter shall not be permitted to transport goods in the vehicle which have a collective value in excess of € 15,000, unless otherwise agreed.

SECTION 10: Obligations of the rental agency

1. At the time of delivery, the rental agency shall deliver a clean, well-serviced vehicle, plus the agreed accessories and specifications; the vehicle shall also be equipped with all the equipment compulsory in the Netherlands, have a full fuel tank and, as far as the rental agency is aware or could be expected to be aware, it shall be in a good technical state.
2. If it is impossible to deliver a vehicle from the agreed category, then, at the request of the renter, a vehicle from a higher category shall be provided without the renter being charged any extra costs. A request for an upgrade cannot be fulfilled if the agreed vehicle is already in the highest category.
3. Prior to the rental, the renter shall, together with the rental agency, compile a report indicating the damage to the vehicle that already existed.
4. The rental agency shall handover all the required documents to the renter prior to the rental period.
5. The rental agency shall ensure that the vehicle contains instructions in the Dutch language, as well as a list of telephone numbers to which the renter can report incidents both during and outside office hours.
6. The rental agency shall ensure that details of the type of fuel, and any other prescribed supplements, are clearly indicated on the vehicle, preferably near the fuel tank opening.
7. The Dutch instructions should clearly state the oil level and tyre pressure to be maintained.
8. The rental agency shall ensure there is adequate breakdown help both in the Netherlands and abroad. Help shall only be applicable to breakdowns abroad if it has been agreed that the vehicle may be used abroad.
9. At a minimum, adequate help shall be taken to mean that the rental agency can offer a replacement vehicle, as far as possible an equivalent vehicle, if a malfunction in the vehicle necessitates repair work which is expected to take longer than two working days. If the breakdown is attributable to the renter, the costs of the help shall not be reimbursed by the rental agency.
10. Immediately on return, the rental agency shall inspect the vehicle for any damage. This refers to situations when the vehicle is returned to the rental agency from which the vehicle was collected, as well as to situations when it is returned to a different office.

SECTION 11: Liability of the renter for damage

1. For each damage incident, the renter is liable for rental agency damage up to the level of personal excess stipulated in the rental agreement. In the event of overhead damage to vehicles weighing 3,500 kilograms or less, the personal excess is maximised at € 1,500, while all other damage incidents are maximised at € 1,000.
2. If however the damage is caused by any act or omission in contravention of section 8, the renter shall be fully liable for rental agency damage, unless he/she proves that the act or omission was not attributable to him/her or complete compensation is unacceptable on the grounds of reasonableness and fairness.
3. If the vehicle is returned outside the rental agency's opening hours with the permission of the rental agency and/or is to be picked up by the rental agency from an agreed place other than the business premises of the rental agency, the renter shall, in accordance with paragraphs one or two of this section, remain liable for any rental agency damage until the time when the rental agency actually inspects the vehicle, or has it inspected. In the situations described in the previous sentences, the rental agency shall inspect the vehicle at the first opportunity and immediately inform the renter if any damage is discovered.
4. In respect of rental agency damage which consists of financial loss as a result of damage being caused with or by the vehicle to people or property, in respect of which the liability towards third parties is borne by the rental agency, the party in whose name the vehicle is registered or the liability insurer of the vehicle, the provisions in the second paragraph of this section shall only apply if there is no cover by virtue of the conditions of the Motor Liability Act (WAM) insurance agreement.
5. In the event of the vehicle being damaged while it is abroad, the costs of repatriating the vehicle shall be for the account of the rental agency, unless the second paragraph of this section is applicable.
6. The renter shall be liable for the actions and omissions of the driver, the passengers and any other users of the vehicle, even if the renter has not given permission for them to use the vehicle.

SECTION 12: Defects to the vehicle and rental agency liability

1. At the request of the renter, the rental agency shall be obliged to repair any defect, unless this is impossible or the required expenditure cannot, under the given circumstances, be reasonably expected of the rental agency. This obligation shall not be applicable if the renter is liable to the rental agency for the cause of the defect and/or for the consequences of the defect.
2. The rental agency shall not be liable for any vehicular defects causing the goods being transported to be damaged to the extent the total value of the transported goods exceeds € 15,000, unless in accordance with the provisions in section 9, paragraph 7, a higher amount has been agreed. Regarding personal injury, the rental agency shall not be liable if and to the extent the injured party is able to recover his/her damages from a payment by virtue of general insurance or by virtue of other provisions.
3. The provisions in the previous paragraph shall not apply to the extent that it relates to defects of which the rental agency was or should have been aware at the time the agreement was entered into or to matters which are the result of willful misconduct or gross negligence on the part of the rental agency.

SECTION 13: Government measures and information to the authorities

1. Any sanctions and consequences of government measures related to the renter having the vehicle at his/her disposal or making use of the vehicle shall be for the account of the renter, unless these are connected to a defect already present when the rental commenced or the sanctions are related to circumstances within the sphere of control of the rental agency.
2. Should these sanctions and measures be imposed on the rental agency, the renter shall indemnify the rental agency immediately on request, whereby the renter shall also be liable to pay administration costs, the minimum amount being € 25 (including VAT). The rental agency shall do its utmost to minimise these costs. Should the rental agency be obliged to provide information to the authorities due to any act or omission on the part of the renter, such as a traffic offence, the renter shall be obliged to reimburse any associated costs, the minimum amount being € 10 (including VAT).
3. If requested, the renter shall be provided with a copy of the official document imposing the sanction.

SECTION 14: Attachment of the vehicle

1. In the event of administrative, civil or criminal attachment of the vehicle, the renter shall be obliged to fulfil the obligations of the rental agreement, including the payment of the rental sum, until the moment when the vehicle, unencumbered with attachment, is once again in the possession of the rental agency, unless the attachment is related to circumstances which are within the sphere of control of the rental agency.
2. The renter shall be obliged to indemnify the rental agency for any costs resulting from the attachment.

SECTION 15: Dissolution of the rental agreement

1. The rental agency shall be entitled to terminate the rental agreement without notice of default or judicial intervention and to repossess the vehicle without prejudice to its rights to the reimbursement of costs, damages and interest if:
 - during the rental period, it becomes apparent that the renter is not, not fully or not in time fulfilling one or more of the obligations arising from the agreement, unless the failure is such it does not justify dissolution;
 - the renter dies, is placed under guardianship, files for suspension of payments, is declared bankrupt, or has the Debt Management (Natural Persons) Act (Wet Schuldsanering Natuurlijke Personen) declared applicable to him/her;
 - circumstances become apparent to the rental agency the nature of which is such that, had the rental agency been aware of them, it would never have entered into the rental agreement.
2. The renter shall cooperate with the rental agency in every way so that the rental agency is able to regain possession of the vehicle.
3. Should the renter die before commencement of the rental period, the rental agreement shall be dissolved without notice of default or judicial intervention.
4. The rental agency shall not be liable for damages as a result of dissolution on the grounds of this section.

SECTION 16: Complaints and mediation arrangements

1. A complete and clear description of complaints regarding the execution of the rental agreement should be submitted to the rental agency promptly once the renter has discovered the alleged shortcoming. Failure to submit the complaint promptly could result in the renter losing any rights in the matter.
2. Should the rental agency's handling of the complaint lead to a result deemed unsatisfactory by the renter, the renter may submit the complaint to:
 - BOVAG Bemiddeling (Mediation Office), PO Box 1100, 3980 DC in Bunnik (tel. no. 0900 2692268 (35 cents per minute)), if the complaint is about the explanation or implementation of these General Rental Terms and Conditions and relates to a rental agency that is a member of BOVAG Rental Companies. This office shall mediate in the complaint and attempt to solve the problem amicably in accordance with rules of procedure notified to both parties in advance;
 - the Geschillencommissie (Dispute Committee, see section 17).

If the complaint has been submitted to the Mediation Office and the mediation failed to satisfy the renter, the renter may subsequently submit the complaint to De Geschillencommissie.

SECTION 17: Dispute clause

1. Disputes between a renter who is not acting in the capacity of his/her profession or business and a rental agency regarding the conclusion or execution of an agreement pertaining to the goods or services to be provided by the rental agency, may be submitted by either the renter or the rental agency to: the Geschillencommissie Autoverhuur (Dispute Committee Vehicle Rental), Bordewijklaan 46, PO Box 90600, 2509 LP in The Hague (www.degeschillencommissie.nl).
2. A dispute shall only be handled by De Geschillencommissie if the complaint had first been promptly submitted to the rental agency by the renter. A dispute shall be deemed to have arisen if the renter's complaint had not been satisfactorily dealt with by the rental agency and/or solved through the mediation attempts of the BOVAG Mediation Office.
3. If the renter was dissatisfied with the result achieved through mediation, the renter must submit the dispute to the Geschillencommissie within six weeks of having received notice of the outcome of the mediation. A renter who chooses not to go to mediation must submit the dispute to the Geschillencommissie within three months of the dispute arising. In such cases, there is a question of a dispute once the rental agency's handling of the complaint has failed to satisfy the renter.
4. Once a renter submits a dispute to the Geschillencommissie, the rental agency is bound by this choice. If a rental agency wishes to submit a dispute to the Geschillencommissie, it must ask the renter to state within five weeks whether or not this proposal is acceptable. The rental agency should state at the same time that after the expiry of the five week period, it shall deem itself free to submit the dispute to the court.
5. The Geschillencommissie shall deliver judgement in accordance with the provisions of its own prevailing rules of procedure. By virtue of those rules of procedure, the decisions of the Geschillencommissie shall be by means of a binding third-party ruling. On request, the rules of procedure shall be provided. A fee is charged for the handling of a dispute.
6. Only the court or the Geschillencommissie referred to above is authorised by its cognizance of a dispute.

SECTION 18: Performance bond

1. BOVAG shall guarantee the fulfilment of the binding third-party rulings by its members should a rental agency fail to comply with this binding third-party ruling unless, within two months of the binding third-party ruling having been sent, the member decides to submit the ruling to the court for a review, and the resultant court ruling, deciding the binding rules' non-binding, is final.
2. BOVAG's guarantee relates to a maximum amount to be paid out by BOVAG of € 1,000 against assignment of the renter's claim. In respect of amounts in excess of € 1,000 per dispute, BOVAG shall, under the same conditions, pay a maximum amount of € 1,000 to the renter. In the event of an excess, the renter shall be offered the opportunity of assigning its debts to BOVAG, after which BOVAG shall, if necessary, pursue legal proceedings to obtain payment. In such cases, BOVAG undertakes to transfer any money it collects to the renter.
3. The guarantee referred to in paragraph 2 shall not apply if a court has annulled the binding third-party ruling. In the case of bankruptcy, suspension of payments or the cessation of the rental agency's business, BOVAG shall only pay out a maximum amount of € 1,000 per dispute and the guarantee shall only apply if the renter fulfilled all the formal obligations to submit the dispute to the Vehicle Rental Geschillencommissie prior to such a situation arising.

SECTION 19: Registration of the personal details of the renter and the driver

1. The personal details specified in the agreement shall be registered in a register of personal data by the rental agency as the party responsible within the context of the Personal Data Protection Act (Wet bescherming persoonsgegevens). On the basis of this registration, the rental agency may implement section 13 of these Terms and Conditions, execute the agreement, provide an optimal service and up-to-date product information to the renter and the driver and make them personalised offers. The personal details may, moreover, be passed on to a court bailiff if there is a question of filling a fuel tank without paying. Regarding the personal details registered, the renter and the driver may both submit requests for inspection and corrections and raise objections. Regarding direct mailing, any objections shall at all times be honoured.
2. The details referred to in paragraph one may also be included in the Vehicle Rental Warning System (Autoverhuur Waarschuwingssysteem). As well as the rental agency, BOVAG is also responsible for registering these details in the Vehicle Rental Warning System on behalf of BOVAG Verhuurbedrijven, PO Box 1100, 3980 DC Bunnik. The personal details of the renter and/or the driver shall in any event be included if there is any question of a vehicle being misappropriated, if the rental sum is not paid or is not paid in time, and if the vehicle is willfully damaged. For a complete summary please refer to www.bovag.nl/etena.

The persons registered in this system should refer to BOVAG if they wish to inspect the details in the system, request corrections or submit written objections.

SECTION 20: Applicable law

The rental agreement shall be governed by Dutch law, unless on the grounds of mandatory rules of law, the law of another country is applicable.

