

## **GENERAL RENTAL TERMS AND CONDITIONS FOR MEMBERS OF BOVAG'S MEMBERS' ASSOCIATION VEHICLE RENTAL DEPARTMENT**

### **Description of concepts**

In these conditions the following words will mean:

vehicle:	the vehicle or the other property that is the subject of the rental agreement;
lessee:	the natural person or legal entity entering into the rental agreement as lessee;
lessor:	the natural person or legal entity entering into the rental agreement as lessor;
consumer:	the lessee is a natural person not entering into the rental agreement in the exercising his profession or enterprise;
lessor damage:	financial damage incurred directly or indirectly by lessor as a consequence of: - damage to (including condition of the vehicle or parts thereof not due to normal wear and tear) or loss of the vehicle or of property or parts thereof, or of other property of the lessor. This damage includes costs of replacing the vehicle and lost rental income; - harm inflicted on person or property with or through the vehicle, for which the lessor, the person in whose name the vehicle registration number is listed or the liability insurer of the vehicle is liable;
driver:	the actual driver of the vehicle.

### **Article 1: Establishing the rental price, other costs and duration of the rental**

1. The rental agreement is entered into for the period and at the rate noted in the rental agreement or otherwise agreed in writing. Solely after permission granted by lessor, is lessee permitted to the return the vehicle at a time outside openings hours of lessor. In that event, lessee remains liable for all damage occurring until the point in time that lessor has received the vehicle and inspected it or caused it to be inspected;
2. Establishment of the number of kilometres driven will take place using the kilometre meter. Should this meter become defect, lessor must immediately be made aware of this.
3. Costs can be invoiced for ensuring the vehicle is ready to drive, picking up or delivering it, filling the tank and drafting the agreement.

**Article 2: Extending the rental period**

Lessee takes it upon himself to return the vehicle to the company at the address mentioned in the rental agreement at the latest on the day and at the time stipulated for the termination of the agreement, unless an extension of the rental agreement has been agreed ahead of time.

**Article 3: Exceeding the rental period**

Should the vehicle not have been delivered to lessor or, with lessor's permission, to a third party, within the period mentioned in the rental agreement, or a possibly extended period, lessor is authorized to take back the vehicle immediately. Lessee's obligations arising from this agreement remain in force until the moment the vehicle is once again in lessor's possession, with the understanding that lessee must pay an amount of EUR50 per day (excluding VAT) in excess of the rental amount until the moment of retrieval, in which a portion of a day counts as a day, without prejudice to the lessee's obligation to reimburse lessor for damage incurred. This additional EUR50 per day will not be imposed if lessee can prove that the rental period was exceeded as a consequence of *force majeure*.

**Article 4: Cancellation**

Cancellation of the rental agreement is not possible, unless cancellation provisions have been agreed in writing.

**Article 5: Payment**

1. Lessee debts are debts to be paid where lessor's company is established. In advance of the rental period, advance rental payment as well as a deposit can be required. Should the amount paid in advance exceed the rental sum to be paid, this amount remaining will be used as payment for all other amounts lessee possibly owes to lessor. The deposit covering excess will not be returned any earlier than the point at which the vehicle is returned. In the event of damage, the deposit covering excess will not be returned any earlier than the point at which it is clear that the size of the damage does not exceed the amount set aside for excess, after which at the most the deposit covering excess minus the damage amount will be returned.
2. Lessor is, at all times, both on entering into the rental and by possible extension thereof, authorized to require payment security or an instruction for payment by credit card from lessee. Authorization of this sort is irrevocable.
3. Payment must, unless agreed otherwise, take place immediately following expiry of the term of the rental. Should lessee not pay on time, he is in default by operation of law. From the date of default, lessee must pay the statutory interest on the outstanding amount, increased by 2% annually, in which a portion of a month counts as a month.
4. Should lessee remain in default, despite being warned to pay the debt, he is additionally obliged to pay the collection costs. Collection costs include all in and out-of-court costs incurred by lessor for the collection of the amount owing, at a minimum of 15% of the amount due, or, if the amount is less than EUR500 (excluding VAT), at a minimum of EUR75 (excluding VAT).

**Article 6: Costs connected to the use of the vehicle**

During the rental period, costs connected to the use of the vehicle, for instance toll payments and the costs of fuel, cleaning and parking are for the lessee.

**Article 7: Use of the vehicle**

1. Lessee must look after the vehicle with care and ensure that it is used in agreement with its designation.
2. Lessee must return the vehicle to lessor in its original state. Lessee must remove any changes or additions to the vehicle made by him or on his behalf; lessee cannot claim any right to remuneration in such event.
3. Lessee must sufficiently secure any load carried in or on the vehicle.
4. All persons indicated in the rental agreement as driver -- possibly also in lessee capacity -- may drive the vehicle. Lessee is not permitted to make the vehicle available to any person not noted as driver on the rental agreement front page.
5. Lessee must ensure that all drivers are qualified and fulfil both physical and mental requirements for driving the vehicle.
6. Lessee is not permitted, other than with written permission of lessor, to subrent the vehicle or make it available for use in any other way to another.
7. Lessee is not permitted to bind lessor for third parties or to make it appear that way.
8. Should lessee lose control of the car, he must make lessor aware of this immediately.
9. Lessee is not permitted to pick up lifters or transport animals in the vehicle, to use the vehicle for driving lessons or for competitions, speed, driving proficiency or reliability tests.
10. Lessee is not permitted to conduct the vehicle outside the national boundaries of the Netherlands, unless otherwise agreed with lessor in writing.
11. Lessee must keep or make sure all fluids and tire pressures are kept at required levels and must submit the vehicle to lessor for regular maintenance.
12. Lessee must return the vehicle clean. By non-performance of this obligation, cleaning costs can be invoiced, at a minimum of EUR25 (excluding VAT).
13. Lessee must fill the vehicle with the appropriate fuel.
14. In event of damage to or defects of the vehicle, lessee is not permitted to use the vehicle if doing so could lead to worsening the damage or the defects, or to reducing road safety.
15. In the event of any occurrence from which damage can arise, lessee is obliged:
  - to make lessor immediately aware of this by telephone;
  - to follow the instructions of lessor;
  - to alert the police on location;
  - to furnish to lessor or his insurance agent, whether requested or not, all information and all documents related to the occurrence;
  - to submit to lessor within 48 hours a completely filled-in and signed agreed statement of facts of motor vehicle occurrence or accident;
  - to refrain from admitting guilt in any way whatsoever;
  - to refrain from leaving the vehicle behind without having protected it properly against the risk of damage or loss;
  - to cooperate in every way with the lessor or persons indicated by the lessor to obtain damages from third parties or to resist claims of third parties.

16. Lessee must impose the obligations and prohibitions of this article on driver, passengers and other users of the vehicle and supervise the performance thereof.

**Article 8: Liability of the lessee for damage**

1. Should no description of damage to the vehicle have been drawn up between parties, lessee is understood to have received the vehicle in undamaged condition.
2. Lessee is liable for all lessor damage that has arisen as a consequence of any occurrence during the rental period or that is connected otherwise with the rental of the vehicle with due regard for the following.
3. Should an excess have been agreed in the rental agreement, lessee liability for damage per damage instance is limited to the amount of the excess, unless:
  - the damage has arisen during or as a consequence of acts or failures to act violating Article 7;
  - the damage has arisen as a consequence of using the vehicle on unmetalled terrain, or use of the vehicle on terrain for which the vehicle apparently is unsuited, or about which the lessee or driver has been informed that entering the terrain takes place at one's own risk;
  - the damage has arisen with the approval of, or through intentional act or omission or gross negligence of the lessee;
  - the vehicle has been rented again to a third party, also if lessor has agreed to this;
  - the damage concerned is third-party damage as a consequence of any harm through or with the vehicle, and the Third-party Liability Insurance concluded for the motor vehicle does not cover this on the grounds that any stipulation in policy terms and conditions has been transgressed. Policy terms and conditions are available for perusal at lessor's company address and will be sent to lessee without cost at his first request;
  - the damage has arisen through loss of the vehicle and/or the vehicle keys belonging to the vehicle or the operation of the alarm installation and/or the documents belonging to the vehicle (such as the vehicle registration certificate and border documents) have not all been returned to lessor;
  - the damage is the consequence of the realization of the danger connected with the transport, storage, loading and unloading of dangerous, explosive, flammable, oxidizable or poisonous substances;
4. Should a payment be made to lessor or to a third party pursuant to an insurance agreement concluded obligatorily or non-obligatorily by lessor to cover the risk of fire, theft and damage or the risk of third-party liability, this has no effect on lessee liability.
5. Deviating from the agreed excess, a high excess applies of
  - a maximum of EUR1500 for the lessee who is a consumer;
  - a maximum of EUR5000 for the lessee that is not a consumer;
 for damage arising as a consequence of damage to, or inflicted by any part of the vehicle at a distance of more than two meters above the ground, or inflicted by any part of the load above this height. Should the vehicle be a delivery, heavy goods or camping vehicle, the above-mentioned high excess applies also to damage arising as a consequence of damage to, or inflicted by, any part of the vehicle, or inflicted by any part of the load at a height of less than one meter and eighty centimetres above the ground within a distance of seventy-five

centimetres of the upper extremity of the vehicle or of the load sticking out above this, provided it can be demonstrated sufficiently that the damage arose from a collision with that part of the vehicle or the load.

6. Should the damage be a consequence of any harm inflicted with or through the vehicle, the size thereof will be determined in advance to be the amount of damages paid directly to the injured party, possibly increased with other lessor damage.
7. The damage as a consequence of the inability to rent the vehicle during the periods of repair or replacement will be determined in advance to be the number of days it takes to repair or replace the vehicle, plus the price of renting the vehicle per day, minus 10% in connection with savings on variable expenses.
8. In the event of damage outside the Netherlands, the costs of repatriating the vehicle are for the lessor, unless there is question of a circumstance in the sense of the third section of this article.

#### **Article 9: Repairing the vehicle**

1. The lessee must pay the costs of small repairs, unless these have become necessary through failures of the lessor to perform its obligation to remedy defects.
2. Repairs must be carried out in the Company of the lessor. Should that not be possible within reason, the activities must be carried out by a garage company belonging to the net of dealers associated with the importer of the vehicle mark concerned. In advance of taking the vehicle in for repairs, lessee must be granted permission to do this by lessor.
3. At the first request of lessor, lessee must submit the vehicle for periodic inspection or check-up.

#### **Article 10: Defects to the vehicle and lessor liability**

1. Parties may not deem a defect a shortcoming of the vehicle not connected to careless maintenance.
2. Lessor is solely obliged to remedy defects if he knew or should have known about these defects at the commencement of the rental agreement, if this is possible within reason and if this does not require spending that cannot reasonably be requested of lessor in the given circumstances.
3. In the event of defects, lessee has solely right to a rental price reduction if lessor at the commencement of the rental agreement knew or should have known of the defects.
4. Lessor is solely liable for damage as a consequence of defects if he, at the commencement of the rental agreement, knew or should have known of the defects.

#### **Article 11: Sanctions and measures prescribed by government**

All sanctions and consequences of measures prescribed by government, connected with having at one's disposal or using the vehicle, unless connected with a defect already present when the rental commenced, are for the account of lessee.

Should these sanctions and measures be imposed on lessor, lessee must indemnify lessor for these at his first request, whereby lessee must in addition pay out-of-court collection costs, at a minimum of EUR25 (excluding VAT).

Should lessor, in connection with any action or failure to act of lessee, such as a traffic infraction, provide authorities with information, lessee must reimburse the costs of doing so, at a minimum of EUR10 (excluding VAT).

#### **Article 12: Attachment of the vehicle**

In the event of administrative, civil or criminal attachment of the vehicle, lessee must continue to perform the obligations of the rental agreement, including those of paying the rental price, until the moment at which the vehicle, unencumbered with attachments, is once more in the possession of the lessor. Lessee must indemnify lessor for all costs arising from the attachment.

#### **Article 13: Dissolution of the rental agreement**

Lessor is authorized to terminate the rental agreement without notice of default or judicial intervention being required and to once again take possession of the vehicle, without prejudice to his rights to remuneration of costs, damage or interest, if it becomes apparent that during the rental period lessee is not, or is not in a timely way or is not fully performing or going to perform his obligations arising from the rental agreement, or has been placed under tutelage, has filed for suspension of payments, has been declared bankrupt, has had the Debt Rescheduling Act for Natural Persons applied to him, has moved his residence or registered office outside the Netherlands, was the lessee of the vehicle when it was encumbered with an attachment, or if during the period of the rental agreement, lessor becomes aware of the existence of circumstances such that, had they come to light earlier, he would never have entered into the rental agreement. Lessee will cooperate in all possible ways with lessor to enable him once again to take possession of the vehicle.

Lessor is not liable for damage as a consequence of dissolution of the rental agreement.

#### **Article 14: Liability of lessee for behaviour or negligence of others**

Lessee is liable for behaviour and negligence of the driver, the passengers and other users of the vehicle, even if these do not have consent of the lessee.

#### **Article 15: Mediation and dispute clause**

1. The mediation and dispute regulation is exclusively applicable to disputes about the explanation or putting into effect of these BOVAG standard stipulations for the *afdeling Autoverhuur Ledenassociatie van BOVAG* [BOVAG's Members' Association Vehicle Rental Department].

2. Mediation clause

Should a dispute arise as described in section 1 of this Article, lessee can submit this dispute in writing to the *BOVAG Bemiddelingsbureau* [BOVAG Mediation Office], *Postbus* [Post Office Box] 1100, 3980 DC, Bunnik, The Netherlands within three months of its coming into existence. This office will mediate the dispute and attempt to settle the dispute by mutual agreement. Should the mediation have no result, the office will inform parties of this as soon as possible.

### 3. Dispute regulation

- a. If the mediation attempt mentioned in section 2 has not been successful, or if lessee has not chosen mediation, lessee can submit the dispute in writing to the *Geschillencommissie Autoverhuur* [Dispute Committee Vehicle Rental], the secretariat of which is carried out by BOVAG (c/o BOVAG, Postbus 1100, 3980 DC, Bunnik).  
In the event that mediation has taken place through the BOVAG mediation office, lessee must submit the dispute to the Dispute Committee within six weeks of receipt of the notice that the mediation has produced no result. If no mediation has taken place through the BOVAG Mediation Office, the lessee must submit the dispute to the Dispute Committee at the latest three months after the dispute has arisen.
- b. The decision of the Dispute Committee Vehicle Rental is legally binding on parties.
- c. BOVAG stands surety with regard to lessee for the performance by BOVAG members of the binding opinion given by the Dispute Committee Vehicle Rental. For this surety, a maximum amount of EUR1000 (excluding VAT) is applicable per binding opinion. In the event of bankruptcy, suspension of payments or closing down of lessor's business, this contract of suretyship is only valid if lessee submitted the dispute to the Dispute Committee Vehicle Rental before there was question of a situation of this nature. The contract of suretyship never applies to consequential damage.
- d. The fact that mediation has taken place does not prevent referral to the court of normal jurisdiction for arbitration of the dispute. If lessee has also submitted the case to the Dispute Committee Vehicle Rental, the only possibility remaining to parties is to submit the decision of the Dispute Committee to the court of normal jurisdiction for restrictive review.

#### **Article 16: Registration of personal data of lessee and driver**

1. Personal data mentioned in the agreement will be registered by lessor as the responsible party in the sense of the Data Protection Act, in a register of persons. Using this register, lessor can perform Article 11 of these conditions, perform the agreement, render lessee and driver optimal service and up-to-date product information and make personalized offers to lessee and driver. Lessee and driver can lodge objections to registration of their data by lessor for purposes of direct mailing and these objections will be honoured.
2. The data can also be included in the *Autoverhuur Waarschuwings Systeem* [Vehicle Rental Warning System]. BOVAG is responsible for registering this data in the Vehicle Rental Warning System on behalf of the *Autoverhuur Ledenassociatie, Postbus 1100, 3980 DC Bunnik* [Members' Association Vehicle Rental Department, Post Office Box 1100, 3980 DC, Bunnik]. The personal data of lessee and driver will in any case be registered if the vehicle is not returned, if criminal offences or infringements are committed with the vehicle, if through actions or failures to act of lessee or driver, damage is repeatedly inflicted on the vehicle and if the price of renting the vehicle is not or not timely paid. Lessee or consumer can approach the responsible employee to request registered personal information and the term of its registration or protest against it to him in writing.

**Article 17: Applicable law**

The law of the Netherlands will at all times govern the rental agreement. Should the case be brought before any other judge than the judge of the Subdistrict Court Section, then the only judge competent is the one in the place where lessor's company is established, unless lessee, within a month of lessor invoking the stipulations of this article in writing, makes apparent in writing that he chooses settlement by the court which has jurisdiction according to the law.

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Issued for certified translation by the undersigned,



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OSTJ, FIL, NGTV

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