# GENERAL RENTAL TERMS AND CONDITIONS FOR THE MEMBERS OF BOVAG VERHUUR- EN DEELAUTOBEDRIJVEN (BOVAG RENTAL COMPANIES) FOR COMMERCIAL PARTIES

DEFINITIONS

In these terms and conditions, the terms below have the following meaning:

- *vehicle:* the vehicle or other item of property that is the subject of the rental agreement;
- *hirer:* the natural person who concluded a rental agreement within the conduct of a profession or business or the legal person or partnership that concludes the rental agreement as the hirer;
- *lender:* the natural person, legal person or partnership that concludes the rental agreement as the lender;
- *loss of the lender:* the financial loss suffered by the lender directly or indirectly as a result of:
- damage, which includes a condition of the vehicle or parts thereof that is not in line with normal wear and tear, or the loss of the vehicle or accessories or parts thereof, or belonging to other property owned by the lender. This damage includes inter alia the costs of replacing the vehicle, the loss of rental income and the costs of tracking down the vehicle in case it is lost;
- disadvantage caused with or by the vehicle to persons or property for which the lender, the party in whose name a vehicle is registered or the liability insurer of the vehicle is liable;
- *driver:* the actual driver of the vehicle;
- *overhead damage:* damage caused by the lender caused by a collision with the part of the vehicle located at a height of more than 1.90 metres above ground or as a result of a collision with items of property attached to the vehicle located at a height over more than 1.90 metres above ground;
- *deregistering:* a form of handing in the vehicle at a location other than the lender's location in which connection the hirer indicates where and when the vehicle can be collected by the lender;
- *in writing:* in writing or electronically.

**Article 1 - Determination of the rent and the duration of the rental**

1. Rental agreements are concluded for the period and for the rate as stated in the rental agreement or agreed otherwise in writing. The vehicle will be deemed to have been rented for a period of 30 days if the rental agreement does not state an end date. After this period has ended, the rental period will be extended each time for a period of 30 days, unless the hirer has returned the vehicle to the lender.
2. The hirer will only be allowed to return the vehicle to the lender at a moment outside the lender's business hours after the lender has granted its approval. If this is the case, the hirer will remain liable for all damage that arises until the moment at which the lender has actually received and inspected the vehicle or has had this done.
3. The number of kilometres driven is determined on the basis of the odometer. The number of kilometres driven following a defect in the odometer will be determined in the most appropriate manner. The same applies to a PTO, cooling engine and operating hours counter.

**Article 2 - Delivery of the vehicle on location by the lender**

1. In the event the vehicle is delivered on location, the hirer will be obliged to sign for receipt and the condition of the vehicle. The vehicle has the agreed accessories and specifications as well as the equipment that is mandatory in the Netherlands. Note: different equipment may be mandatory abroad. This is therefore the hirer's responsibility, unless agreed otherwise (this includes matters such as mandatory winter tyres, toll devices, environmental badges etc.). If the hirer is unable to sign for this upon delivery, he will have the right to notify the lender of any deviations with respect to the receipt and condition for up to two hours after delivery of the vehicle. If the hirer does not respond or does not do so on time, he agrees to the receipt and condition of the vehicle.
2. If the rental period commences within one hour after the lender's opening time, the lender will have the right to deliver the vehicle for up to at most five working hours before the rental period commences. The rent is payable from the moment the rental period commences.
3. The lender does not deliver the vehicle without transfer to the hirer if no safe and free parking space is available.
4. The lender hands over the key to vehicle only to an authorised person and does not leave the key behind in a letterbox or in another place that is not sufficiently secured.
5. The hirer remains responsible at all times for deliveries that take place on location at its request or at the request of the driver.

**Article 3 - Handing in the vehicle by the hirer**

1. The hirer is obliged to hand in or deregister the vehicle at the time and at the location stated in the rental agreement.
2. In case the vehicle is handed in outside office hours or at a location other than the lender's location, the vehicle must be ready to be collected by the lender at least one hour before deregistration. In the absence thereof, the rental agreement will continue until the next working day.
3. The hirer remains responsible at all times for handing in or deregistering the vehicle on time. The rental period ends at the moment the vehicle has been deregistered correctly. Deregistering with retroactive effect and deregistering for moments in the future are not possible.
4. If the hirer or driver is not present at the moment the lender collects the vehicle, he agrees to the lender's findings concerning the condition of the vehicle.

**Article 4 - Extending the rental period**

The hirer is obliged to return the vehicle to the company and address stated in the rental agreement at the latest on the day and at the time the rental period ends, unless extension of the rental period was agreed before that moment.

**Article 5 - Exceeding the rental period**

The lender will have the right to take back the vehicle immediately if the vehicle has not been handed in to the lender or a third party with the lender's approval within the term stated in the rental agreement, which term may have been extended. The obligations for the hirer arising from this agreement continue to apply until the moment the vehicle is back in the lender's possession, on the understanding that the hirer will owe an amount of €50 per day (exclusive of VAT) on top of the rent until that moment, in which connection a part of a day counts as a day, without prejudice to the hirer's obligation to compensate the loss sustained by the lender.

**Article 6 - Cancellation**

The rental agreement cannot be cancelled, unless a cancellation arrangement has been agreed in writing.

**Article 7 - Payment**

1. The hirer's debts are debts payable at the lender's address. Payment of the rent as well as payment of a deposit prior to the commencement of the rental period may be demanded. If the amount paid in advance exceeds the rent to be paid, it will also serve to pay all other amounts the hirer may owe to the lender. The deposit in connection with the excess will not be refunded until after the vehicle has been handed in. In case of damage, the deposit relating to the excess will not be refunded until after it is clear that the extent of the loss does not exceed the amount of the excess, whereafter at most the deposit relating to the excess less the amount of the loss will be refunded.
2. The lender has the right at all times, both when the rent commences and when it is possibly extended, to demand payment security or a credit card payment order from the hirer. Such authorisation is irrevocable.
3. Unless otherwise agreed, the rent must be paid immediately after the rental period has expired. Other amounts must be paid within fourteen days after the invoice date. The hirer will be in default by operation of law if he does not pay on time. If it has been agreed that amounts will be collected by direct debit and this proves to be impossible, the hirer will be in default from the moment of the failed direct debit attempt. The hirer will owe statutory commercial interest increased by two percentage points on an annual basis as from the moment he is in default, in which connection a part of a month counts as a month.
4. If the hirer fails to pay the rent, the hirer will be obliged to pay collection costs without such requiring a demand for payment. The collection costs consist of a percentage of the principal sum:
   - 15% in collection costs is charged in respect of the first €2,500 (subject to a minimum of €40);
   - 10% is charged in respect of the next €2,500;
   - at most 5% is charged in respect of the next €5,000;
   - 1% is charged in respect of the next €190,000;
   - at most 0.5% is charged in respect of the amount in excess of €200,000 (subject to a maximum of €6,775 in collection costs).

**Article 8 - (Additional) costs**

1. Additional costs: Preparation for the road, delivery and collection costs, petrol costs and contract costs may be charged, as well as the cleaning costs and the costs of removing raw materials for and waste from narcotics or such substances themselves from the vehicle and the costs of removing and destroying these substances.
2. Costs related to the use of the vehicle: costs related to the use of the vehicle during the rental period, such as tolls, the kilometre charge, the costs of a Eurovignette / environmental sticker, the costs of fines that result from offences and the costs of fuel, cleaning and parking are for the hirer's account.

**Article 9 - Obligations with respect to the use of the vehicle**

1. The hirer is obliged to handle the vehicle, the key and other accessories, such as the operation of the alarm installation of the documents belonging to the vehicle, with care and ensure that the vehicle is used correctly and in accordance with its designated use.
2. The renter must refrain from inattentive and careless driving behaviour, serious traffic errors and reckless driving. A number of examples follow below, but this list is not intended to be exhaustive. Driving too fast when visibility is poor, using apps or making calls without using hands-free systems while driving, speeding, not requiring passengers to wear seatbelts or harassing someone in traffic, etc.
3. The hirer is obliged to return the vehicle in clean condition. Cleaning costs subject to a minimum of €25 (excluding of VAT) may be charged if the hirer fails to comply with this obligation.
4. The hirer is obliged to refrain from overloading the vehicle and to secure the load of the vehicle sufficiently and to insure the load against loss or degradation of the condition of the load to be transported. The hirer bears the risk of the use of a cooling/freezing system installed on or in the vehicle during the rental period. In derogation from and supplementary to the provisions of article 12, the lender will not be liable towards the hirer for visible or invisible defects in the cooling/freezing system. The lender is also not liable for direct trading losses the hirer's business may sustain as a result of defects that may occur in the cooling/freezing system.
5. Only persons designated in the rental agreement as driver - possibly also in the capacity of hirer - are allowed to drive the vehicle, provided they hold the qualification and competence required for this purpose and provided they are mentally and physically able to drive the vehicle.
6. The hirer is not allowed to make the vehicle, the key or other accessories available to a person who is not indicated as driver on the front page of the rental agreement.
7. The hirer is not allowed to rent out the vehicle or otherwise allow a third party to use it other than with the lender's written approval.
8. The hirer is not allowed to bind the lender towards third parties or create this appearance.
9. If the lender is obliged to provide information to the authorities concerning the identity of a person who drove or used the vehicle at any time, the hirer will be obliged to provide this identity to the lender with due haste if such is requested.
10. The hirer is not allowed to transport hitchhikers or animals in the vehicle, use the vehicle for driving lessons or use the vehicle for competitions, speed, driving proficiency or reliability tests, unless otherwise agreed in writing.
11. The hirer is not allowed to bring the vehicle outside the national borders of the Netherlands, unless otherwise agreed in writing with the lender.
12. The hirer is obliged to keep all liquids and the tyre pressure at the required level or have this done and must comply with a call-up from the lender to present the vehicle for maintenance. The lender will make such a call-up in such a timely manner that the hirer is reasonably able to comply with it.
13. The hirer is obliged to return the vehicle to the lender in its original condition. Free from contaminations and polluting substances such as narcotics or raw materials therefor or waste resulting therefrom. The hirer is also obliged to undo the changes and additions made by him or on his behalf; the hirer cannot enforce any right to compensation in this connection.
14. The hirer is obliged to fill the vehicle up with suitable fuel with the required additions if required.
15. In case of damage to or defects in the vehicle, the hirer is not allowed to use the vehicle if this could lead to an aggravation of the damage or the defects, or to a reduction of road safety.
16. In case of damage to or loss of the vehicle, including accessories or parts thereof, or any event in respect of which it is very likely that it will result in damage, the hirer will be obliged to:
    - notify the lender thereof immediately by telephone;
    - follow the lender's instructions;
    - notify the local police;
    - provide all information and all documents that concern the event to the lender or its insurer upon request and on his own initiative;
    - submit a fully completed and signed claim form, including a copy of the driver's driving licence if required, to the lender within 48 hours;
    - refrain from admitting guilt in any form;
    - not leave the vehicle behind without having protected it properly against the risk of damage or loss;
    - cooperate fully with the lender and the persons designated by the lender to obtain compensation from third parties or for the purpose of conducting a defence against claims from third parties.
17. The hirer is obliged to inform the lender as soon as possible about:
    - a disruption to the operation of the odometer, the tachograph, the speed limiter or the PTO, cooling engine and operating hours counter.
    - the fact that the fuel system sealing plan has been breached;
    - the fact that the vehicle has become defective or about malfunctions of the vehicle;
    - attachment levied against the vehicle;

    and about other circumstances the lender should reasonably be informed about.
18. The hirer is obliged to impose the obligations and prohibitions of this article on the driver, passengers and other users of the vehicle and to ensure that they are complied with.

**Article 10 - The hirer's liability for damage**

1. The hirer will be presumed to have received the vehicle in undamaged condition if the parties have not drawn up a description of the damage concerning the vehicle.
2. The hirer is liable for all losses sustained by the lender as a result of any event during the rental period or otherwise related to the rental of the vehicle, with due observance of the provisions below.
3. In the event excess was agreed in the rental agreement, the hirer's liability for damage will be limited per claim to the amount of the excess, unless:
   - the damage arose during or as a result of acts or omissions contrary to article 9 or that are otherwise related thereto;
   - the damage arose as a result of the vehicle being used off-road, or as a result of the vehicle being used on land for which the vehicle is clearly not suited, or land in respect of which the hirer or driver was informed that this land is entered at his own risk;
   - the vehicle was rented out to a third party, also in the event the lender consented thereto;
   - the damage arose because the hirer failed to follow the lender's instructions;
   - the damage arose due to or after theft, embezzlement or another manner of removal of the vehicle and the hirer did not hand in the keys, operation of the alarm installation or the documents belonging to the vehicle, such as the vehicle registration certificate and the border documents, to the lender;
   - the damage is the result of the materialisation of the danger inherent in the transport, storage, loading and unloading of hazardous, explosive, flammable, oxidising or toxic substances. If the lender contests the facts asserted by the hirer with respect to the cause of the damage with reasons, the hirer will be obliged to prove his factual assertions.
4. In the event the lender or a third party receives a payment pursuant to an insurance contract against the risk of vehicle damage or against the risk of statutory liability taken out by the lender on a mandatory or other basis, such will not alter the hirer's liability.
5. In derogation from the agreed excess, a high excess of at most €5,000 applies in case of overhead damage and of at most €2,500 in case of damage due to reversing and parking in or out of the parking space.
6. If the damage results from any disadvantage caused with or by the vehicle, the extent thereof is set in advance at the amount of the compensations provided to the person who incurred direct damage, possibly increased by the lender's other losses.
7. The loss that results from the impossibility to rent out the vehicle during the period of repair or replacement is set in advance at the number of days involved in the repair or replacement of the vehicle, multiplied by the rent per day, decreased by 10% in connection with the savings on variable costs.
8. In the event of damage abroad, the costs of repatriation of the vehicle are for the account for the lender with the exception of a circumstance as referred to in the third paragraph of this article.

**Article 11 - Repairs of the vehicle**

1. Repairs must be carried out within the lender's business. If this not reasonably possible, the activities must be carried out by a garage business that is part of the dealer network of the importer of the brand in question or a garage business designated for this purpose by the lender. The hirer is required to obtain the lender's approval to do so before presenting the vehicle for repairs.
2. The hirer will present the vehicle for inspection, repairs or control at the lender's first request.

**Article 12 - Defects in the vehicle and the lender's liability**

1. A shortcoming in the vehicle not related to negligent maintenance cannot apply as a defect between the parties.
2. The lender is only obliged to resolve defects if it was aware or should have been aware of these defects when the rental agreement was concluded, if this is reasonably possible and does not require expenditure that cannot reasonably be expected of the lender given the circumstances.
3. In case of defects, the hirer will only be entitled to a reduction of the rent if the lender was aware or should have been aware of the defects when the rental agreement was concluded.
4. The lender is only liable for losses resulting from defects if the lender was aware or should have been aware of the defects when the rental agreement was concluded.

**Article 13 - ROB-net and ROB-EF submodules**

1. The overdue function in the ROB-system is a signalling function. Failure to accept a request for extension is not equivalent to deregistration. The rental period ends only if deregistration satisfies the requirements.
2. The hirer is required to approve the provisional invoice via ROB-EF, taking account of the number of rental days and the kilometres driven during the period the vehicle was available to the hirer, within 8 working hours after it was drawn up.

**Article 14 - Sanctions and measures imposed by the government**

All sanctions and consequences of measures related to having available or using the vehicle imposed by the government are for the hirer's account, unless they are related to a defect that already existed when the rental commenced. If these sanctions and measurers are imposed on the lender, the hirer will be obliged to compensate the lender at its first request, in which connection the hirer will also owe the judicial and extrajudicial collection costs, subject to a minimum of €25 (excluding VAT). In the event the lender provides information to the authorities in connection with any act or omission on the part of the hirer, such as a traffic offence, the hirer will be obliged to compensate the related costs, subject to a minimum of €10 (excluding VAT).

**Article 15 - Attachment of the vehicle**

In case of attachment of the vehicle under administrative, civil or criminal law, the hirer will remain obliged to comply with the obligations under the rental agreement, including in any event the obligation to pay the rent, until the moment at which the vehicle is back in the lender's possession free from attachments. The hirer is obliged to compensate the lender for all costs resulting from the attachment and the costs related to it.

**Article 16 - Dissolution of the rental agreement**

The lender has the right to dissolve the rental agreement without giving notice of default or judicial intervention and take back possession of the vehicle, without prejudice to its right to compensation of the costs, losses and interest, if it becomes clear that the hirer fails or will fail to comply during the rental period with one or more of the obligations under the rental agreement or fails or will fail to do so on time or fully, if the hirer dies, is placed under guardianship, applies for a suspension of payment, is declared bankrupt, the Debt Restructuring (Natural Persons) Act is declared applicable to him, he relocates his place of business or registered office abroad, an attachment is levied against the vehicle, or if the lender becomes aware of circumstances during the rental period that are such in nature that the lender would not have concluded the rental agreement if it had been aware of these circumstances. The hirer will cooperate fully with the lender in regaining possession of the vehicle. The lender is not liable for losses that result from the dissolution of the rental agreement.

**Article 17 - The hirer's liability for acts or omissions on the part of others**

The hirer is liable for acts and omissions on the part of the driver, the passengers and other users of the vehicle, also if these persons did not have the hirer's approval, in the same way as it is liable for his own actions.

**Article 18 - Mediation scheme**

The mediation scheme applies exclusively in case of disputes concerning the interpretation or performance of these general rental conditions of members of BOVAG Verhuur- en Deelautobedrijven zakelijke markt. In case of a dispute as set out in this article, the hirer will have the right to submit this dispute in writing to BOVAG Bemiddeling, PO Box 1100, 3980 DC in Bunnik, within three months after the dispute arises. BOVAG Bemiddeling will mediate with respect to the dispute and attempt to resolve the dispute amicably. If mediation fails, BOVAG Bemiddeling will notify the parties thereof as soon as possible.

**Article 19 - Processing of personal data of the hirer and the driver**

1. The personal data stated on the agreement are processed by the lender as controller within the meaning of the General Data Protection Regulation (GDPR) in a register of personal data. This processing allows the lender to comply with article 14 of these conditions, perform the agreement, provide the hirer or driver with optimal service and up-to-date product information and make the hirer or driver personalised offers. The personal data may also be transmitted to a bailiff in case the vehicle is filled up without payment. Rental cars may be equipped with track&trace equipment. The hirer and driver have the right to request inspection and correction of the processed personal data and raise objections. If it concerns direct mailing, such an objection shall always be honoured.
2. The data referred to in the first paragraph may also be included in the Rental Car Warning System. BOVAG is responsible on behalf of the rental companies department Verhuur- en Deelautobedrijven, PO Box 1100, 3980 DC, Bunnik, next to the lender for the processing of these data in the Rental Car Warning System. The personal data of the hirer and/or the driver may be included in any event if the vehicle is embezzled, if the rent is not paid or not paid on time and if the vehicle is damaged deliberately. Please visit www.bovag.nl/elena for a complete overview. The abovementioned persons may apply to BOVAG for inspection and correction of the processed personal data and submit a notice of objection.

**Article 20 - Applicable law**

The rental agreement is governed by Dutch law at all times. If the hirer lives or has his place of business outside the Netherlands at the time legal proceedings are initiated, the competent court in the place where the lender has its place of business will have exclusive jurisdiction.

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