

SAMA TOURS

TERMS AND CONDITIONS: Motorcycle Rental

DEFINITIONS

In this agreement, unless the context indicates otherwise, the following expression shall bear the following meanings:

- "the LICENSEE"

Means SAMA TOURS cc (2003/034953/23)

- "the RENTER"

Means the name in which the motorcycle is hired as well as the passenger

- "the RIDER"

Means the renter and or the rider and or the additional rider as stated

"the MOTORCYCLE"

Means the motorcycle described on the rental agreement or any other replacement motorcycle provided to the renter by the Licensee, (including the documents, keys, tyres, tools and accessories supplied with the motorcycle)

- "the RENTAL PERIOD"

Means the period between the time of collection and the return of the motorcycle as specified on the rental agreement, or if such period is extended, the time and date entered on the Licensee's records;

- "the RENTAL RATE CARD" Means the Licensee's rental rate form published and amended from time to time, applicable to the motorcycle rented in terms of this agreement, and which is available on request.

- "the EXCESS or SECURITY DEPOSIT"

Means the amount referred to as "EXCESS" on the rental agreement

NOTES

- All prices include comprehensive insurance on motorcycle
- All prices include unlimited mileage
- It is recommended that all riders have medical rescue insurance.
- A deposit at least equal to the insurance excess is required before collection of the motorcycle.

RISK AND DELIVERY

1.1 The motorcycle shall be at the sole risk of the renter for the RENTAL PERIOD. The motorcycle shall be returned undamaged, in good order and in roadworthy condition to the satisfaction of the LICENSEE, fair wear and tear excepted.

1.2 The renter shall return the motorcycle at the renter's expense to an authorized representative of the Licensee at the SAMA TOURS offices or such location as agreed to by the Licensee and entered on the Licensee's records. The renter acknowledges that failure to return the motorcycle in terms of this agreement or at all shall constitute illegal possession by him.

WARRANTIES BY RENTER

The renter warrants that:

2.1 All particulars and representations given and made by the renter are true and correct;

2.2 The signatory who signs this agreement on behalf of the renter is authorized to act as such.

2.3 The rider holds a valid motorcycle rider's license for the motorcycle, has not been convicted of any criminal offence which resulted in the endorsement or cancellation of his license, will not drive the motorcycle under the influence of alcohol or drugs and has held his motorcycle license for a minimum period of 5 (five) years;

2.4 Neither he nor the rider have defective vision or hearing, ever had a fit, have any physical infirmity, or is infirm in any way whatsoever.

2.5 No person other than the rider shall drive the motorcycle.

2.6 The Rider will lock the motorcycle and activate any burglar alarm or protection systems installed on the motorcycle when same is not in use and ensure that the keys of the motorcycle are properly controlled.

2.7 The motorcycle shall not be used or driven for the conveyance of persons or property for hire, in contravention of any in breach of any law, in any race, speed test or contest or use on roads not properly constructed such as bush tracks, enduro tracks or any single track route where there is no official road; (Please note that the Gravel Secondary roads of Lesotho are Acceptable)

2.8 The motorcycle shall not be used or driven in any way which would or could constitute a breach of any of the provisions of this agreement;

2.9 No insurer or underwriter has ever declined his or the rider's application for any form of motor insurance, cancelled his policy, refused to renew his policy or required an increased premium or imposed special conditions on him or the driver.

2.10 Any accident will be reported forthwith to the nearest police station and the LICENSEE (who must also be provided with the police reference number) within 24 (twenty four) hours of the accident.

PAYMENTS

The renter agrees to pay to the Licensee the aggregate of the amounts payable in terms of sub clause 3.1 to 3.10 inclusive on the dates/within the time frame specified in the rental agreement or on demand.

3.1 The motorcycle rental rates as set out on the rental agreement in terms of the rate card or any other rate agreed in writing between the renter and the Licensee, as the case may be as well as any extensions.

3.2 Any other fees and/or charges accepted by the renter in terms of this agreement and/or levied in accordance with the rate card.

3.3 The cost of fuel supplied for the motorcycle by the Licensee, the renter agrees to return the motorcycle with a full tank of petrol.

3.4 All fines, taxes, charges, stamp duties, levies and tolls or other charges payable by the Licensee to any authority arising out of the use of the motorcycle by the renter;

3.5 All and any costs, losses or damages incurred by the Licensee in procuring the return of the motorcycle to the terminating office: 59 Charles Jackson Street, Weavind Park, Pretoria or such other location as determined by the Licensee in its sole discretion;

3.6 Any damages or losses suffered by the Licensee due to the failure of the renter to return the motorcycle on the expiry of the rental period, including but without limiting the generality of the foregoing, all amounts which would have been payable by the renter in terms of this agreement if the rental period had been extended to the actual date of return of the motorcycle to the Licensee;

3.7 All fines, court costs and any legal fees (on an attorney and own client scale) payable by the Licensee for any legal violation assessed against the motorcycle, renter or Licensee;

3.8 Any costs, including attorney's fees (on an attorney and client basis), collection commission and tracing charges directly or indirectly incurred by the Licensee in enforcing any of its rights or recovering any amounts in terms of this agreement;

3.9 All costs incurred by the Licensee in repairing any damage of any nature whatsoever to the motorcycle and any loss or damages suffered by the Licensee as a result of theft: fire or any cause whatsoever.

3.10 Any claims arising from the use of the motorcycle.

3.11 Any interest on late payments at a rate 2% (two percent) above the prime rate charged by the LICENSEE'S bank.

The renter shall be bound by all and any of the terms and Conditions applicable in terms of the Licensee's standard motorcycle insurance policy, which the renter will be deemed to have read and understand.

EXTENSION OF RENTAL PERIOD

The renter may at any time during the initial rental period apply to extend such rental period verbally (Provided it is subsequently and within 48 hours confirmed by fax or e-mail by the renter) and the renter agrees that any extension so noted by a representative of the Licensee on the Licensee's records will correctly reflect such extension, and notwithstanding anything contained herein to the contrary the original rental agreement will be regarded as so amended. All extensions are subject to availability and are at the sole discretion of the licensee.

TERMINATION

4.1 Notwithstanding anything to the contrary contained elsewhere in this agreement, the Licensee shall be entitled to terminate this agreement in its sole discretion at any time by notice to the renter and/or rider and or representative of the renter and/or rider, whereupon the renter shall return the motorcycle to the Licensee forthwith.

4.2 The obligations of the renter and rights of the licensee under this agreement shall continue to be in full force and effect until such time as the motorcycle has been returned to the Licensee in terms of this agreement and the renter has complied with all his obligations in terms hereof.

CIVIL DISTURBANCE

5.1 The rider shall not take the motorcycle into any area or on any road where there is a risk that the motorcycle may be damaged, stolen or lost.

5.2 The renter shall be liable for all damage suffered by the Licensee if this clause is contravened by the rider for any reason whatsoever.

INDEMNITY

6.1 The renter indemnifies the Licensee against any claim by any person for any illness, harm, trauma, injury, death, loss or damage of any nature whatsoever suffered as a result of any use of or involving the motorcycle whether as a result of the Licensee's negligence or otherwise.

6.2 The Licensee shall not be liable for any damage arising out of any defect in or mechanical failure of the motorcycle, nor for any loss of or damage to any property transported in or left on the motorcycle, nor for any indirect damages, consequential loss, loss of profits, or any illness, harm, trauma, injury, death, loss or other damages which the renter or the rider or any person transported on the motorcycle may suffer arising out of this agreement.

6.3 If the Licensee is nevertheless held liable, such liability will be subject to a limitation of R20 000, 00 per renter per booking and under no circumstances will the Licensee be liable for any indirect or consequential loss or damage.

RESPONSIBILITY AFTER LOSS OR DAMAGE TO VEHICLE

7.1 If the motorcycle is involved in any accident or collision or is lost or the motorcycle or any part thereof is stolen, or is involved in any incident which could prejudice the rights of the Licensee, the rider shall take all such steps to safeguard the interest of the Licensee, including, but not limited to, the following where appropriate:

7.1.1 He shall obtain the name and addresses of everyone involved and if possible

Witnesses as well as descriptions and registration numbers of other vehicles and/or motorcycles involved.

7.1.2 He shall not admit any responsibility or liability or 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;

7.1.3 He shall notify the police and the Licensee as soon as possible and in any event within 24 (twenty four) hours of the occurrence in question;

7.1.4 Within 48 (forty eight) hours of the occurrence in question he shall complete and furnish to the Licensee the Licensee's standard claim form.

7.1.5 Within 48 (forty eight) hours of the occurrence in question, he shall submit a copy of his driver's license to the Licensee.

7.1.6 He shall make adequate provision for the safety and security of the motorcycle;

7.2 He shall co-operate with the Licensee and its insurer in any investigation, the lodging or instituting of any claim or action and the defense or any prosecution, claim or action relating to the above.

7.3 If the renter is not the rider, then, without in any way derogating from the renter's obligations in terms of this clause, the renter shall ensure that the rider complies with the provisions of this clause 7. If the renter is not the rider and the rider does not comply with the conditions as set out in clause 7, hereof, the renter shall automatically become liable for all damages, including any third party claims.

7.4 The renter shall furnish the Licensee (and if the renter is not the rider the renter shall also ensure that the rider furnishes to the Licensee) the original of any notice of claim, demand, summons or the like, which the renter or the rider may receive in connection with the motorcycle immediately upon receipt thereof.

7.5 The renter or rider shall not be entitled to effect any repairs to the motorcycle whether mechanical, structural or otherwise without prior written consent of the Licensee.

7.6 The renter shall be responsible for the cost of transporting the motorcycle back to an authorized representative of the Licensee at the SAMA TOURS offices. In the case that the Licensee has to travel to fetch the damaged motorcycle, the renter shall be liable for a cost of R8.00 per km that the Licensee has to travel in order to collect the broken or damaged motorcycle.

GENERAL

8.1 The renter acknowledges that ownership of the motorcycle shall at all times remain vested in the Licensee, or the true registered owner of the motorcycle and that the Licensee may at any time for any reason whatsoever re-take possession of the motorcycle or acting as a duly authorized agent for and on behalf of the true owner of the motorcycle.

8.2 The renter shall not be entitled to cede or assign any of his rights and obligations under this agreement or to sublet or part with possession of the motorcycle, its tools or equipment or any part of it.

8.3 The cost of fuel is not included in the amount of the rental. The motorcycle must be returned with a full tank of petrol.

8.4 Any tampering by the renter with the odometer of the motorcycle will be regarded as fraud.

The distance driven by the renter shall be measured from the odometer installed on the motorcycle. If such calculation is not practical or possible for any reason whatsoever, the calculation shall be done by such other reasonable method as the licensee in its sole discretion may determine.

8.5 If the renter is not the rider, then, without in any way derogating from the renter's obligations in terms of this agreement, the renter and the rider, will be liable to the Licensee jointly severally for any amounts owing under the agreement including but not limited to damage and any third party claims.

8.6 The renter declares that he has not been induced to enter into any provision of this agreement upon any representation made by or on behalf of the Licensee with regard to the delivery time, the condition, quality, state of repair, performance capability, fitness or suitability for any purpose, of the motorcycle, or anything else whatsoever in respect of any of the matters above mentioned for any other purpose under this agreement.

8.7 The renter shall pay all amounts payable by the renter under this agreement to the Licensee, on demand, or where credit is expressly given in writing in terms of this agreement, within 14 (fourteen) days after the date of the Licensee's invoice. If any payment is not made on due date, then the Licensee may, without prejudice to any of its rights, charge interest at a rate 2% (two percent) above the prime rate charged by the LICENSEE'S bank.

8.8 Save as otherwise stated in this agreement any addition to or alteration of this agreement shall be null and void unless agreed upon by the Licensee in writing.

8.9 Waiver by the Licensee of any breach of this agreement shall not prejudice any rights of the Licensee under this agreement.

8.10 Any payment, which the Licensee may receive from the renter or from any other person on behalf of the renter, may be appropriated by the Licensee in its sole discretion to any liability of the renter under this agreement.

8.11 The parties consent to the jurisdiction of the Magistrate's Court having territorial jurisdiction over the parties, for all purposes under this agreement, notwithstanding that the subject matter or cause of action involved is otherwise beyond the jurisdiction of the said court and South African law will apply.

8.12 The renter chooses domicilium citandi et executandi for purposes of this agreement. at the renter's address specified on the rental agreement or in the case of that address not being within the Republic of South Africa, at the rider's local address specified on the rental agreement.

8.13 By his signature hereto as the authorized agent of the renter such signatory undertakes personal liability for the renter's obligations hereunder, notwithstanding anything to the contrary contained herein.

8.14 This document contains the entire agreement between the parties regarding the matters contained herein and the licensee shall not be bound by any undertakings, representations, warranties, promises or the like not recorded herein.

8.15 Please note if damage to the motorcycle does not require an insurance claim or is under the excess, for example if the cost of repair does not exceed the security deposit, then the motorcycle will be repaired accordingly, and the renter will be refunded the balance of the security deposit.

CANCELLATION POLICY

9.1 Cancellations received more than 60 days prior to rental will be subject to the full amount of the deposit paid

9.2 Cancellations received less than 60 days prior to the rental but more than 20 days prior to the rental will be subject to a cancellation fee equal to 50% of the rental cost.

9.3 Cancellations received less than 20 days prior to the rental will be subject to a cancellation fee equivalent to 100% of the rental cost. No exception to this policy can be made for any reason.

DECLARATION

I acknowledge that I have read the above terms and conditions and am satisfied with the content therein and agree to be bound thereby.

Rider/Renter

FULL NAME: _____

PASSPORT. NUMBER: _____

SIGNATURE: _____ DATE: _____

Passenger

FULL NAME: _____

Passport NUMBER: _____

SIGNATURE: _____ DATE: _____