



BMW MotoAdventures

Rental Agreement

TERMS AND CONDITIONS

1. DEFINITIONS

- 1.1 "BMA" means BMW MotoAdventures and "S4x4H" means Safari4x4Hire, divisions of AB&WA cc;
- 1.2 "rental" means the person (natural or juristic) described on the rental agreement as the renter, jointly and severally, with the person on whose behalf the signatory enters this agreement, and/or the account holder as described on the rental agreement;
- 1.3 "driver" means the renter described on the rental agreement;
- 1.4 "the vehicle" means the motorcycle or vehicle described on the rental agreement together with any additional equipment which travels with/on the vehicle, and all keys, spares, accessories, tools and documents relating to the vehicle, and includes any replacement vehicle authorised by BMA/S4x4H.
- 1.5 "the rental period" means the period that the renter and/or the driver has the vehicle in his possession or under his control, commencing from delivery of the vehicle to the renter, until return of the vehicle to BMA.
- 1.6 "delivery" means the handing over to the renter of possession or control of either the vehicle or the vehicle's keys, whichever first occurs;
- 1.7 "day" means the 24 hours following the time stipulated as "time" on the reverse side, or any part thereof if the vehicle is returned to BMA/S4x4H prior to the expiry of the 24-hour period;
- 1.8 "the rental agreement" means the document headed "Rental Agreement" and the terms and conditions set out below;
- 1.9 "this agreement" means the terms and conditions set out below, the document headed "Rental Agreement", "Rate Chart", "General Terms and Conditions of Rental" and, where applicable, the agreement to which these terms and conditions and the reverse side are an annexure;
- 1.10 words in the singular include the plural and vice versa, and words denoting any one gender include the others.

2. RENTAL OF MOTORCYCLE/VEHICLE

The motorcycle/vehicle is rented from BMA/S4x4H to the renter upon the terms and conditions contained in this agreement.

* Clients renting vehicles/4x4's from S4x4H will also have to agree & sign an additional Vehicle Rental Agreement & Contract with additional Terms & Conditions.

3. PAYMENT

3.1 The renter shall pay the rates stipulated on the rental agreement for the days of the vehicle is rented and the kilometres travelled during the rental period, as well as all other charges accepted by the renter on the rental agreement.

3.2 If during the rental period the renter receives any service or benefit contemplated in this agreement but for which no basis for changing is specified, then the renter shall pay a charge determined on the basis (if any) specified in the official rates brochure or, if no basis is specified, on BMA/S4x4H's usual basis then applied by it.

3.3 BMA/S4x4H may, at its discretion, require the renter to pay a deposit in an amount determined by BMA/S4x4H, prior to delivery of the vehicle to the renter. BMA/S4x4H may utilise the deposit to pay any amounts payable to it in terms of this agreement or otherwise in law.

3.4 All payments shall be due and payable on termination of the rental period.

3.5 If any amount is not paid on due date, BMA/S4x4H may, without prejudice to any rights it may have, charge interest on the overdue amount at a rate equal to the highest of the "annual finance charge rates" then permitted for "leasing transactions" in terms of the Usury Act, 1968, as amended.

3.6 The renter shall pay all costs of petrol, oil and the like used during the rental period as well as all costs necessary to return the vehicle to BMA/S4x4H on termination of the rental period, including but not limited to, towing charges, levies, tolls and taxes.

3.7 The renter shall be liable for all fines, penalties, parking, traffic fines and other criminal offences arising out of the use of the vehicle during the rental period and hereby indemnifies BMA/S4x4H accordingly.

3.8 The authorisation on the rental agreement to debit the renter's credit card or charge card is in respect of the full amount due in terms of this agreement.

3.9 In the event that the renter returns the vehicle to BMA/S4x4H prior to the due date on the rental agreement, the renter shall pay, at the discretion of BMA/S4x4H, either the usual rates applicable to the period and/or kilometres actually used, or the rates as if the full minimum rental period and/or kilometres travelled actually occurred.

3.10 In determining the kilometres travelled for the purposes of 3.1 above:-

3.10.1 The kilometres shall be calculated from the vehicle's departure from a BMA/S4x4H location to the return of the vehicle to a BMA/S4x4H location.

3.10.2 The kilometres shall be determined by the vehicle's odometer. However, should the odometer cease to operate effectively as a result of a mechanical failure, the renter shall be obliged to inform BMA/S4x4H of the use to which the vehicle has been put during the rental period and BMA/S4x4H shall make a reasonable assessment of kilometres travelled which shall be binding upon the renter.

3.10.3 The renter shall pay a rental charge calculated at 500 (five hundred) kilometres per day or from the time delivery was taken of the vehicle by the renter, to the time of return to BMA/S4x4H should the odometer fail to operate efficiently by reason of having been tampered with, or for any other reason other than mechanical failure.

4. DELIVERY AND RISK

4.1 Risk on the vehicle shall pass to the renter on delivery of the vehicle to the renter and shall remain at the risk of the renter until return of the vehicle to BMA/S4x4H.

4.2 Return of the vehicle to BMA/S4x4H shall mean the later of:-

4.2.1 Handling over possession or control of the vehicle to an unauthorised representative of BMA/S4x4H; or

4.2.2 Handing the keys to an authorised representative of BMA/S4x4H, or in terms of any other prior arrangement with BMA/S4x4H, once the vehicle is parked in a designated place and locked and secured.

4.3 The vehicle shall be deemed to have been delivered to the renter in a good and roadworthy condition, completely undamaged, the radiator, oil reserve and fuel tank filled, with an accurate odometer reading and tyres pumped according to specification.

4.4 The renter shall return the vehicle to BMA/S4x4H in the same condition it was in on delivery, fair wear and tear excepted, with the tank, radiator and oil reserve filled.

5. USE OF MOTORCYCLE/VEHICLE

5.1 The renter shall ensure that the vehicle is secured and protected at all times during the rental period, that the alarm and other security devices are activated when the vehicle is not in use, that the keys of the vehicle are at all times under the control of the renter, and that the accessories and radio and/or radio faceplate are removed (if they are removable) and kept in a secure place when the vehicle is not in use.

5.2 The renter shall not use the vehicle:-

5.2.1 in a manner and/or in areas that may directly or indirectly, cause damage to the vehicle, or place the vehicle at any risk whatsoever or for a purpose other than that for which it was intended or which is not appropriate for the type of vehicle;

5.2.2 To convey passengers or goods for reward, unless authorised by BMA/S4x4H;

5.2.3 To tow or propel any other vehicle or object other than a trailer (motorcycles excluded).

5.2.4 Outside South Africa, unless prior written consent of BMA/S4x4H is obtained;

5.2.5 To transport animals.

5.3 The renter shall not sublet or lend the vehicle to any person, nor allow any person other than such person(s) to use, drive, possess or control the vehicle, nor cause or allow the vehicle to be subject to any lien or attachment, not allow the vehicle to be used for rider training, racing or competition of any kind.

5.4 The renter shall not affix a tow-bar, roof-rack or any other item to the car without BMA/S4x4H's prior written consent and, unless otherwise agreed, any item affixed on/to the vehicle shall become the property of BMA/S4x4H.

5.5 The renter shall:-

5.5.1 Care for the vehicle prudently by, amongst other things, ensuring there is sufficient water, oil and petrol;

5.5.2 Return the vehicle to BMA/S4x4H for lubrication as specified in the manufacturer's service guide.

6. TERMINATION

6.1 The renter shall return the car to BMA/S4x4H on the due date and at the place stipulated on the rental agreement.

6.2 There shall be no extension of the due date on the rental agreement unless agreed with BMA/S4x4H, in which event the renter shall return the vehicle to BMA/S4x4H on the extended due date.

6.3 BMA/S4x4H may at any time during the rental period, for whatever reason, in its sole discretion, without notice to the renter and without being required to provide reasons, summarily terminate this agreement and immediately take possession of the vehicle. The renter shall have no claim of any nature against BMA/S4x4H in respect of such early termination and shall be liable to pay all amounts payable in terms of this agreement.

6.4 The renter acknowledges that use of the vehicle beyond the due date on the reverse side shall constitute illegal possession of the vehicle, subject to point 6.2, and he shall be liable to BMA/S4x4H for all costs, damages and loss suffered by BMA/S4x4H as a direct or indirect result. BMA/S4x4H shall be entitled to charge the renter on such basis as BMA/S4x4H shall determine for the use of the vehicle as if the due date on the reverse side had been extended.

6.5 This agreement shall terminate on expiry of the rental period.

7. WARRANTIES

7.1 The renter warrants that they:-

7.1.1 Have, and have had for the past five years, a valid and unendorsed drivers license (which license he will produce to BMA/S4x4H whenever required to do so) and are legally entitled to drive the vehicle;

7.1.2 Are over the age of 25 (twenty five) years;

7.1.3 Shall comply with all the provisions of this agreement;

7.1.4 Shall not drive or use the vehicle negligently or recklessly or whilst under the influence of alcohol or drugs;

7.1.5 Do not have defective vision or defective hearing, do not have any physical infirmity and have never had a fit;

7.1.6 Have not been convicted of any offence related to the driving of a motor vehicle;

7.1.7 Will not breach any law whilst using the vehicle including, but not limited to, exceeding speed limits;

- 7.1.8 Have not been refused an application for or renewal of motor vehicle insurance, not have had a motor vehicle insurance policy cancelled nor premiums increased nor special conditions imposed;
- 7.1.9 Understand the meaning of the provisions of this agreement;
- 7.1.10 Shall not carry any articles in/on the vehicle which may cause damage to the inside or outside of the vehicle.
- 7.2 The renter warrants further that:-
- 7.2.1 All particulars given to BMA/S4x4H and/or recorded on the rental agreement are true and correct;
- 7.2.2 No unauthorised person shall drive or use the vehicle;
- 7.2.3 They are entitled to enter into this agreement;
- 7.2.4 If the renter is not a natural person, the signatory on this agreement is authorised to bind the renter in terms of this agreement, and the renter shall be liable as if they/it were the signatory.

8. PROCEDURES IN THE EVENT OF ACCIDENT, THEFT AND DAMAGE

- 8.1 If during the rental period, the vehicle or any part thereof is involved in an accident or is damaged, lost or stolen ("the incident") the renter shall take all responsible steps to protect the interests of BMA/S4x4H and BMA/S4x4H's insurers, including but not limited to the following:-
- 8.1.1 Obtain the name, address and telephone number of all persons involved in the incident and of possible witnesses;
- 8.1.2 Not admit any liability for the incident, nor release any party from any liability, nor settle any claim against or by any party, nor accept any disclaimer of liability;
- 8.1.3 Notify the police and BMA/S4x4H as soon as possible, but no later than 6 (six) hours after the incident has occurred, obtain a police reference number and give this number to BMA/S4x4H within 6 (six) hours of the incident.
- 8.1.4 Within 48 (forty-eight) hours after the incident complete BMA/S4x4H's accident report from which the renter shall be obliged to obtain from BMA/S4x4H, return the form to BMA/S4x4H and submit a copy of their driver's licence to BMA/S4x4H;
- 8.1.5 Ensure that the vehicle is safe and secure;
- 8.1.6 Co-operate with BMA/S4x4H and its insurer in the investigation of and the institution of any claim or action and/or the defence of any prosecution or action relating to the incident.
- 8.1.7 Furnish to BMA/S4x4H, immediately upon receipt, any demand or process of court which the renter or the driver may receive in connection with the incident.
- 8.2 If the renter is not the driver, then, without in any way derogating from the renter's obligations in terms of this clause, the renter shall ensure that the driver complies with the provisions of this clause and the renter warrants that the driver will do so.
- 8.3 If the renter is not the driver, and the driver does not comply with the steps set out above, the renter shall be liable for all damages of whatever nature incurred by BMA/S4x4H arising directly or indirectly out of the incident.

9. NO LIABILITY AND INDEMNITIES

- 9.1 BMA/S4x4H shall not be liable to the renter or any other person for:-
- 9.1.1 Any damages directly or indirectly arising from any patent or latent defect in or mechanical failure of the vehicle nor for any loss of or damage to any property transported or left in the vehicle;
- 9.1.2 Any indirect damages, consequential loss, loss of profits or special damages of any kind for any breach by it of any provision or this agreement.
- 9.1.3 Any damages as a result of late delivery of the vehicle or failure to deliver the vehicle or the vehicle being unable to be used for the purpose for which it is rented;
- 9.1.4 Any damages as a result of any act or omission by BMA/S4x4H or any of its employees or agents or representatives.
- 9.2 The renter indemnifies BMA/S4x4H against any claim by any party for any loss or damage of any nature whatever suffered by any person as a result of:-
- 9.2.1 Any event involving the vehicle, whether caused by BMA/S4x4H's negligence or otherwise, to the extent that BMA/S4x4H does not recover the amount of such claim;

9.2.2 Any claims of whatsoever nature arising from the installation or condition of a child seat or any other accessory in and/or on the vehicle.

10. PERSONAL ACCIDENT INSURANCE

BMA/S4x4H shall not be liable to any person whatsoever for loss of life or for personal injury to any person, arising directly or indirectly from the use or condition of the vehicle.

11. BREAKDOWNS AND REPAIRS

11.1 The renter shall notify BMA/S4x4H immediately should the vehicle break down or require repairs and/or replacement of components ("repairs")

11.2 The renter shall be liable for the cost of the repairs if:

11.2.1 Such repairs were necessitated through the fault, negligence or recklessness of the renter and/or driver or as direct or indirect result of the renter's breach of this agreement; or

11.2.2 The vehicle has been repaired without the prior written consent of BMA/S4x4H.

11.3 If, after the vehicle has been returned to BMA/S4x4H, BMA/S4x4H is of the opinion that the vehicle requires repairs of any nature, the renter shall be liable for the cost of repairs in the circumstances described in 11.2 above.

12. GENERAL

12.1 The renter acknowledges that they have not relied on any representations as to the condition, state of repair, fitness for any purpose, performance or capabilities of the vehicle, the year of its manufacture, the odometer reading or anything else concerning the vehicle and confirms that no warranties have been made by BMA/S4x4H with regards to any other matter.

12.2 The renter shall not be entitled to cede or assign any of his rights or obligations under this agreement. The signatory shall be personally liable for the renter's obligations in terms of this agreement as surety and co-principal debtor for fulfillment of the renter's obligations.

12.3 The rental period is deemed to continue during the time the vehicle is being serviced or repaired during or following termination of this agreement and the renter is accordingly liable to pay the daily rates for such period.

12.4 The renter authorises BMA/S4x4H to insert any particulars on the agreement and on the terms and conditions of rental which are not known or are unavailable at the time of signature and to rectify any bona fide errors in any fact or calculation.

12.5 Any addition to or alteration of this agreement shall not be valid unless agreed by BMA/S4x4H in writing (other than to extend the due date).

12.6 The renter shall produce their drivers licence to BMA/S4x4H upon request. A renter holding a drivers licence issued outside South Africa shall, upon request, produce to BMA/S4x4H, in addition to his local drivers licence, a valid and unendorsed international driver's licence, if his local licence is not written in English.

12.7 The laws of South Africa shall govern this agreement.

12.8 The renter consents to the jurisdiction of the South African court to adjudicate any matter arising out of this agreement. The renter further consents to the jurisdiction of the Magistrates Court. Should BMA/S4x4H, at its election, bring legal proceedings in a Magistrates Court, notwithstanding that the amount involved exceeds the jurisdiction of the Magistrates Court.

12.9 Any indulgence granted by BMA/S4x4H to the renter for fulfillment of any terms or conditions of this agreement shall not prejudice any rights of BMA/S4x4H under this agreement.

12.10 Any costs, including attorney's fees (on an attorney and client basis), collection commission, tracing charges, directly or indirectly incurred by BMA/S4x4H in enforcing any of its rights or recovering any amounts in terms of this agreement, shall be paid by the renter.

12.11 BMA/S4x4H shall be entitled to appropriate any payment received by it from the renter to any liability under this agreement.

12.12 The renter chooses domicilium et executandi for all purposes at the address specified on the rental agreement.

12.13 BMA/S4x4H shall be entitled to carry out a credit check on a renter with one or more credit agencies and shall also be entitled to advise any credit agency of any default by a renter.

12.14 In the event of renter negligence being a relevant factor, it shall be presumed that the renter was negligent until the contrary is proved by him.

12.15 Should the renter breach any condition of this agreement or in the opinion of BMA/S4x4H act in a reckless or negligent manner, he shall personally be liable for all damages or loss whatsoever nature caused during the subsistence of this agreement arising from such conduct and shall pay on demand all claims made by or against BMA/S4x4H there from.

RENTAL GUIDELINES

Please familiarize yourself with the following rental guidelines before you depart.

Office Hours: 08h00 - 17h00

After Hours: 072 388 1536

BMW On-Call: +27 12 522 2930 Sundays and Public Holidays

SA Police/Emergency Services: 10111

Back-up/Repairs on Self Guided Tours:

Your new motorcycle is covered by BMW Roadside Assistance in South Africa ONLY. Should you require assistance with a roadside breakdown, please call BMW On-Call on 0800 600 777 or +27 12 522 2930. Any repairs that may be required are to be authorised by BMA/S4x4H. Please call +27 72 388 1536. BMA/S4x4H will not be responsible for roadside recoveries. Any costs associated with repatriating a motorcycle (not covered by BMW SA Warranty Policy), both within and outside of South Africa will be for the account of the renter.

General Maintenance:

The renter will be responsible for the motorcycle whilst it is in their possession. Oil, water and other fluid levels are to be checked daily and topped up as required. Chain driven motorcycles - Please lubricate chain and sprockets daily. Tyre pressures - GS Models on tarred roads (F 2.2 Bar, R 2.4 Bar), on gravel roads (F 1.6 Bar, R 1.6 Bar) - Road Motorcycles on tar only (F2.4 Bar, R 2.6 Bar). Engine Oil - Castrol GTX 20W50 High Mileage.

Fuel and Oil:

All motorcycles are to be filled with 93RON or 95RON Unleaded fuel. You were handed a motorcycle with a full tank. Please return your rental motorcycle with a full tank. Failure to do so will result in an amount of R 150.00 (plus the cost of the fuel filled) being charged to your credit card. Please top-up all motorcycles with Castrol GTX 20W50 High Mileage Oil.

Late/After Hours Returns:

A late return will be deemed to be a return later than the time stipulated in your Rental Agreement. A late return will attract an extra days rental charge. After hours is defined as a collection or return of a motorcycle outside of our "Depot Hours" detailed below. A charge of R 300.00 will be levied for returns after hours.

Traffic Offences:

You will be responsible for any traffic prosecutions whilst the motorcycle is in your possession. All traffic fines received will be paid on your behalf by BMA/S4x4H and directly charged to your credit card. A handling fee of R 250.00 will be levied per fine. For fines exceeding R 1 000.00, a handling fee of R 500.00 per fine will apply.

Cross Border Repatriation/Abandonment:

Where a motorcycle is abandoned for any reason whatsoever, locally or across any border, the renter will be responsible for its repatriation to the nearest BMA/S4x4H Depot. These charges fall outside of your motorcycle Insurance Cover and will be for the account of the renter. Daily rental charges will continue until such time that the motorcycle reaches one of our depots. Motorcycles may only be ridden outside of the borders of South Africa with the prior authorisation of BMA/S4x4H.

Insurance Excess Cover:

Normally you will be liable for an insurance excess cover of minimum ZAR 10 000.00 per motorcycle, but you may be required to deposit the following: R12 500.00 (650GS/800GS), R 15 000.00 (R1200R/R1200GS/R1150GS) and R17 500 (R1200RT/R1200GS Adventure) for each and every event. For all cross-border travelling the excesses are as follow: R25 000.00 (650GS/800GS/R1150GS), R 25 000.00 (R1200R/R1200GS) and R30 000 (R1200RT/R1200GS Adventure) for each and every event if the motorcycles are "outsourced", again these security deposits may differ from supply partner to supply partner if outsourced. There is no waiver on the excess payable. Any other rented goods, other than the motorcycle (eg. panniers, helmets, top boxes, tank bags, other luggage and clothing) are not covered by the insurance policy. Any losses or damages to these items whatsoever will be for the account of the renter and will be recovered from the deposit paid when the goods are rented. All other insurance, such as personal and medical insurance, is the responsibility of the renter. Notwithstanding that BMW GS motorcycles are designed for dual-purpose use, these motorcycles are insured for travel on national and main tarred or hard packed gravel roads only (as per Map Studio Road Atlas). Travel on secondary roads will not be covered. Road going motorcycles (BMW RT, R & GT Models) may only be used on tarred roads.

Insurance:

The motorcycle will be insured by our/the supply partner's Insurers for Theft, Collision Damage and 3rd Party while it is being used within the terms and conditions of the original contract. The insurance covers any accidental damage to the motorcycle that is reported to BMA/S4x4H as stipulated in the Terms and Conditions of Rental as per your rental agreement. Failure to report the accident, damages or theft will result in the motorcycle no longer being covered by insurance.

Accident Damage Policy:

In the event of a fall, collision or damage, however minor, you will be required to complete the Insurance Claim Form overleaf. Please note that BMA/S4x4H have a strict replacement policy on all damaged parts, irrespective of how minor any damage may be. Any scratched, dented and damaged parts will be replaced at the current dealer part retail price plus labour. An administration fee for any claim or damage repair will be charged at R 350.00. All accidents, however minor are to be reported to the local police. Please obtain a case number which must be detailed on the Insurance claim form overleaf. Failure to do so will result in your claim being repudiated. No damaged parts will be retained or forwarded to the renter.

Punctures and Flat Tyres:

In the event of a flat tyre or puncture, you, the renter will be responsible for the repair and repair costs. BMA will not pay for any part usage of tyres and tubes replaced by the renter.

Note: All clients are compelled to sign an Indemnity Agreement

Credit Card Payments

Credit Card Imprint:

Credit Card Number: _____ **Bank Name:** _____

Account Name: _____

Security Number: _____

Expiry Date: ____ / ____

Deposit Paid: _____

Rent/Other: _____

Total: _____

Description of Vehicle/Motorcycle: _____

Engine Number: _____

Registration Number: _____

VIN Number: _____

There may be a handling fee charged on all Credit Cards used for payment.

Only VISA & MasterCard Credit Cards accepted

Clients Name: _____

Clients Signature: _____

Date: ____ / ____ / ____ Place: _____

Clients Contact Details: _____

Clients Address: _____

Safari 4x4 Hire/BMW MotoAdventures Signature: _____

AB&WA CC t/a S4x4H & BMW MotoAdventures

REG. 2009/016129/23

P O BOX 1166, MENLYN CENTRAL, SOUTH AFRICA, 0077

Cell: +27 72 388 1536 / Fax2Email: 086 743 1498

www.bmw-motoadventures.co.za , e-mail: info@bmw-motoadventures.co.za