



AFRICA MERCHANT
ASSURANCE CO. LTD.



Africa Merchant Assurance Co.Ltd,
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MOTOR COMMERCIAL PSV POLICY

Please read this policy (and the schedule which forms an integral part of the Policy) to ensure that it meets your requirements.

AFRICA MERCHANT ASSURANCE COMPANY LIMITED (incorporated in Kenya hereinafter called the “Company”) and the insured agree that:-

This Policy the Schedule (including any Schedule issued in substitution) and any Memoranda shall be considered one document and any word or expression to which a specific meaning has been attached shall bear such meaning wherever it appears.

The Proposal or any information supplied by the Insured shall be incorporated in the contract.

The Company will provide the insurance described in this Policy subject to the terms and conditions for the Period of Insurance shown in the Schedule and any subsequent period for which the Insured shall pay and the Company shall agree to accept the renewal premium.

Provide that this Policy shall not be in force unless it has been initiated by an authorized official of the Company

Signed for and on behalf of the Company

.....
Manager

Please read this policy to ensure that it is in accordance with your requirements.

“Service Beyond The Obvious”

“Service Beyond The Obvious”

5. **MOTOR VEHICLE INSPECTION REPORT**

A report on the inspection carried out to by the Government Motor Vehicle Inspector determine the current mechanical and electrical condition of the Insured Motor Vehicle and confirms its roadworthiness as at the time of the accident. The Motor Vehicle Inspection report must be provided before settlement of any claim arising out of an event.

6. **PARTIAL THEFT**

A partial theft refers to an incident where the insured Motor Vehicle is stolen and recovered in a damaged condition or with some items missing from the insured Motor Vehicle or where some items are stolen from the insured Motor Vehicle.

7. **DISPUTE**

A dispute includes disagreement about acceptance of or settlement of a claim arising out of an event.

8. **CLAIM**

This is any writ, statement of claim, summons, application or legal notice, any written or verbal notice of demand for compensation, or any claim made by you or against you by a third party and formally presented to the Company.

9. **EXCESS**

This is the first part of any claim payable by the Insured for which provision is made under this Policy as specified in the Policy Schedule.

10. **PERIOD OF COVER**

The period of insurance cover as shown on the Policy Schedule.

SECTION FOUR (E) APPLICABLE LAW

This Policy shall be governed by the Laws of the Republic of Kenya.

IMPORTANT NOTICE

You are asked to note that:-

- a) In the event of an accident involving the insured Motor Vehicle liability should not be admitted to any Third Party Claimant or witness or to anyone acting on behalf of a possible claimant. Full Particulars including names and addresses of all witnesses should be obtained and submitted to the Company;
- b) The Company shall be informed within a reasonable time of any change of address;
- c) If the Motor Vehicle is sold or this Policy is cancelled the insurance certificate shall be surrendered to the Company immediately;
- d) If the insured Motor Vehicle is sold, the insurance cover terminates and the new owner has to propose a new
- e) Immediate notice of any accident or loss covered by this Policy must be delivered to the Company's registered office.

Date: _____

**Signed by the Insured
Company Representative:
For: Africa Merchant Assurance Co. Ltd,**

MOTOR COMMERCIAL PSV POLICY

MOTOR VEHICLE POLICY TERMS AND CONDITIONS

WHEREAS the Insured by a Proposal and Declaration which shall be the basis of this Contract and is deemed to be incorporated herein has applied to AMACO Assurance Company Limited (hereinafter referred to as "the Company") for the Insurance hereinafter contained in the Policy Schedule and has paid or agreed to pay the insurance premium as consideration for such Insurance.

NOW THIS POLICY WHICH SHALL BE READ TOGETHER WITH THE POLICY SCHEDULE WITNESSETH:

THAT in respect of events occurring during the Period of Insurance and subject to the terms, exceptions and conditions contained herein or endorsed hereon (hereinafter collectively referred to as the Terms of this Policy).

SECTION ONE (A) INSURANCE OF THE MOTOR VEHICLE

1. LOSS OR DAMAGE

The Company will indemnify the Insured against loss of or damage to the Motor Vehicle and its accessories and spare parts whilst thereon. Accessories and spare parts will be deemed to mean the normal and standard accessories and spare parts fitted and supplied by the Manufacturer.

At its own discretion the Company may pay in cash the amount of the loss or damage or may repair, reinstate or replace the Motor Vehicle or any part thereof or its accessories or spare parts. The liability of the Company shall not exceed the value of the parts lost or damaged and the reasonable cost of fitting such parts.

In the event that the Company opts to pay the insured cash in lieu of repairs, the amount payable shall be determined by the Company and shall be net of any Value Added Tax and a minimum discount of 20% shall be applicable,

In the event of theft of the insured Motor Vehicle the Policy shall automatically stand suspended from the date of the loss.

It being further understood that the Company's liability shall be limited to the pre-theft/pre-accident value of the Motor Vehicle at the time of the loss or damage but not exceeding the Insured's estimate of value stated in the Policy Schedule.

VALUATION

The Insured must submit Motor Vehicle Valuation Report from the Company's authorised appointed Valuers within fourteen (14) days after the inception of the Policy and every one (1) year thereafter failing which the Policy shall be cancelled. At the time of valuation the Insured is required to avail a copy of the Log book to the authorised appointed Valuer who shall attach it to the Motor Vehicle Valuation Report.

Further, that the theft cover shall stand suspended under this Policy until a satisfactory Motor Vehicle Valuation Report has been submitted to the Company.

In the event that there is a dispute in the value of the motor vehicle(s) between the Company's authorised appointed Valuers and the Company's Assessors, a second opinion shall be sought from an independent Assessor agreed upon by the parties and the average of the pre-theft/pre-accident value taken as the applicable pre-theft/pre-accident value of the motor vehicle(s).

Where the assessed value of the insured Motor Vehicle is higher than the sum insured, the Insured shall pay the additional premium within thirty (30) days from the date of the valuation, failing which the Average Clause under Section Four(C) 2(a) of the Policy will apply. Where the assessed value of the Motor Vehicle is lower than the sum insured, the Company shall refund the additional premium paid by the Insured within thirty (30) days.

2. LOAN AGREEMENT/ HIRE PURCHASE OR MORTGAGE

If to the knowledge of the Company the Motor Vehicle is the subject of a Hire Purchase Agreement or a Chattels Mortgage any payment due in cash shall be made to the Owner described in the Hire Purchase Agreement or the Mortgagee described in the Chattels Mortgage whose acknowledgment of receipt shall be a full and final discharge to the Company in respect of such loss or damage.

3. PROTECTION AND REMOVAL AFTER INCIDENT

If the Motor Vehicle is disabled by reason of loss or damage insured under this Policy, the Company will reimburse the reasonable cost of Protection and Removal to the nearest authorised repairers, provided that such aforesaid costs are proved and do not exceed the Protection and Removal charges limit specified in the Policy Schedule.

4. AUTHORITY TO REPAIR

The Insured shall not carry out any repairs to the Motor Vehicle necessitated by damage for which the Company may be liable under this Policy without the express written authority of the Company. The Insured shall take the motor vehicle to the Company's appointed garage/repairer and submit the documents pertaining to the claim as stipulated under Section Four (C) 1 (I) of the Policy upon which the Company shall appoint an Assessor to evaluate the extent of the loss.

Repairs will only be carried out by the Company's appointed garage and that the garage shall not commence repairs to the Motor Vehicle without the express written authority of the Company and such authority will only be issued after the Insured has complied with the policy conditions including full payment of the outstanding own damage premium to the Financier and the applicable own damage excess to the Company and documentation of the claim.

Where the motor vehicle is taken to a dealer garage, it is hereby agreed that the Company shall authorise repairs by the dealer if the motor vehicle is not more than six months old and/or the warranty from such dealer is still valid. Where the insured opts to have the vehicle repaired in garage other than the Company's appointed garages, the Company shall exercise the option of Paying cash in lieu of repairs.

The Insured shall be liable for the storage charges incurred from the date of the accident until the date the Insured complies with all the laid down policy conditions.

SECTION ONE (BJ: EXCEPTIONS TO SECTION ONE (A))

1. The Company shall not be liable for:
- a) Consequential loss.
 - b) Depreciation, wear and tear, mechanical or electrical breakdowns, failures or breakages to the Motor Vehicle or any pre-accident defects.
 - c) Damage to tyres unless damage is caused to other parts of the Motor Vehicle at the same time, in which case the Company's liability will be limited to 50% of the cost of replacing the tyres.
 - d) Damage to the car battery unless damage is caused to other parts of the Motor Vehicle at the same time, in which case the Company's liability will be limited to 50% of the replacement cost.
 - e) Damage caused to the Motor Vehicle by or arising out of explosion of any boiler or pressure vessel forming part of or attached to or on the Motor Vehicle.
 - f) Damage to the Motor Vehicle caused by overloading or strain.
 - g) Loss of the Motor Vehicle through theft by an employee, agent/representative of the Insured or members of the Insured's household.
 - h) Damage caused as a result of ignition of any flammable liquid carried on or by the Motor Vehicle other than its own fuel used to power/propel the Motor Vehicle.
 - i) Exclusive claim for damage to a windscreen or window glass arising from an occurrence occasioning damage to other parts of the Motor Vehicle.

SECTION TWO (A) LIABILITY TO THIRD PARTIES

1) INDEMNITY TO THE INSURED

The Company will, subject to the Limits of Liability and the Jurisdiction Clause, indemnify the Insured in the event of an accident caused by or arising out of the use of the Motor Vehicle on a road or loading or unloading of the Motor Vehicle against all sums including claimant's costs and expenses which the Insured shall become legally liable to pay in respect of:

- a) Death of or bodily injury to any person
- b) Damage to Property

i) RADIO CASSETTE AND OTHER AUDIO EQUIPMENT

Any claim for the cost of replacing the radio cassette and/or any other audio equipment fitted to the Motor Vehicle as a result of loss due to theft following forcible and violent entry (of which there shall be external visible entry) into the Motor Vehicle will be made within the terms of the Policy without deduction of any amount for which the insured is responsible in terms of any Excess or Deductible shown in the Policy Schedule and shall not constitute a claim within the meaning of the Motor Vehicle Insurance Policy. The maximum indemnity provided by this extension is limited to the amounts "as shown in the Policy Schedule".

This endorsement shall not apply to the loss of radio cassette and/or any other audio equipment arising from an occurrence occasioning other damage to or theft of the Motor Vehicle subject otherwise to the terms and conditions of this Policy.

j) JURISDICTION CLAUSE

The indemnity provided by this Policy shall apply in respect of events exclusively occurring in the Republic of Kenya or in respect of judgements obtained from a Court of competent jurisdiction within the Republic of Kenya.

Third Party cover is subject to COMESA yellow card rules. The yellow card shall be issued by the Company on request at an additional premium.

k) OTHER INSURANCE

It is hereby and understood that notwithstanding anything contained herein to the contrary that if at any time a claim arises under this Policy and there is any other insurance (whether such insurance is provided by the Company or not) covering the same loss, damage or liability, the Company shall not be liable to pay or contribute more than its rateable pro-portion of any loss, damage, compensation costs or expenses. Provided always that nothing in this condition shall impose or the Company any liability from which but for this condition it would have been relieved under the provisions of Section 2(A) 2(ii) (b).

SECTION FOUR (D) DEFINITIONS

1. INSURED

For the purposes of this Policy the Insured shall be the person who must have provided proof of having insurable interest in the Motor Vehicle which documents must be provided indicating that the insured is either;

- a) The registered owner of the Motor Vehicle; or
- b) The beneficial owner of the Motor Vehicle.

Any payment to be made shall be in the favour of the registered owner of the insured Motor Vehicle.

2. AUTHORISED DRIVER

While the Motor Vehicle is being used for social, domestic and pleasure purposes, for the carriage of passengers or goods in connection with the Insured's business or to whom the vehicle is hired, the Authorised Driver for the purposes of this Policy shall mean any one of the following;

- a) The Insured;
- b) Any person driving on the Insured's order or with his permission;
- c) Any person in the Insured's or hirer's employment provided such person is driving the Motor Vehicle on the Insured's or hirer's direct order or with his direct permission.

Such Authorised Driver MUST be properly qualified and licensed for the purpose and the Class of Motor Vehicle driven.

3. INSURED MOTOR VEHICLE

For the purpose of this Policy, Insured Motor Vehicle is the Motor Vehicle that is subject matter of the Policy and is identified by its registration Mark, Chassis Number and Engine Number, particulars of which shall be stated in the Policy Schedule and Proposal form.

4. MOTOR VEHICLE VALUATION REPORT

A report of the assessment carried out to determine the current market value of the Insured Motor Vehicle forming the basis of the estimated value benefit for the year for which this Policy relates. The Company shall appoint an authorised approved Valuer to carry out valuation at the inception of the Cover.

c) YOUNG AND INEXPERIENCED DRIVER'S EXCESS CLAUSE

The Insured shall, in addition to the applicable excess as defined in the Policy Schedule, be responsible for such additional amounts of money as defined in the Policy Schedule of any claim in respect of which indemnity is granted under Section One (A) and Two. (A) of this Policy when the Motor Vehicle is being driven by or in the charge of any person to whom indemnity is afforded if such person:

- i. Is under 21 years of age for non Public Service Vehicles or under the age of 24 years for Public Servite Vehicles
- ii. Has held a Full Driving Licence for less than 24 months

d) WINDSCREEN AND WINDOW GLASS EXTENSION

Any claim for the cost of reinstating any windscreen or window glass forming part of the Motor Vehicle, as a result of accidental breakage will be made within the terms of the Policy without deduction of any applicable excess normally payable by the Insured and shall not constitute a claim within the meaning of the Policy.

The maximum indemnity provided is limited to the amount stated in the Policy Schedule and in the event of any claim arising notwithstanding that the payment may be less than the indemnity provided, the cover shall be forfeited henceforth. Provided that this endorsement shall be read together with Section One (B) (h) of this Policy.

Where accidental breakage of the windscreen or window glass forming part of the Motor Vehicle occurs as result of damage to property or injury to a third party, the insured shall not be entitled to reimbursement of the replacement cost of the windscreen or window glass and the event shall be considered as an incident which shall be dealt with as per the Company's laid down claims procedure and subject to payment of the applicable excess by the Insured.

Windscreens will be fitted by Approved Dealers and/or Repairers as the Company may decide from time to time and the Insured will be required to pay the cost of replacement to the Dealer and/or Repairer and seek reimbursement from the Company upon availing a receipt in support of the same. The Insured shall not be entitled to reimbursement in the event that the windscreen is not fitted by Dealer and/or Repairer authorised by the Company.

e) MOTOR VEHICLE IN THE CUSTODY OF A MOTOR TRADER

The insurance hereunder shall be operative while the Motor Vehicle is in the custody or control of a member of the Motor Trade for the purpose of overhaul, upkeep, repair or sale provided that the Company reserves the right of subrogation against the Motor Trader concerned.

f) UNOBTAINABLE PARTS CLAUSE

In the event of loss or damage to the Motor Vehicle or its standard accessories or spare parts necessitating the supply of a part not obtainable from stock held in Kenya, the Company shall have the option to pay in cash to the Insured the amount of the loss or damage payable by the Company in respect of any such standard accessory or spare part so long as the amount shall be limited to the price quoted in the latest catalogue or price list issued by the Manufacturer's Agents in Kenya and the reasonable cost of fitting such parts.

g) MAINTENANCE OF THE MOTOR VEHICLE

The Insured shall take all reasonable care of and maintain the Motor Vehicle in a sound and roadworthy condition and the Company shall have free and full access to examine the Motor Vehicle or any part thereof at all times and/ or interview any driver or employee of the Insured. In the event of a claim arising out of the use of the Insured Motor Vehicle and it is proved that the cause of the accident is related to or was contributed to by the lack of maintenance of the Motor Vehicle, the Company shall not indemnify the Insured or any other person for such loss or damage.

h) CARE AND PROTECTION OF THE MOTOR VEHICLE

In the event of any accidental loss or damage, the Insured shall take all reasonable steps to safeguard the Motor Vehicle from further loss or damage. The Motor Vehicle shall not be left unattended without proper precautions being taken to prevent such further loss or damage and if the Motor Vehicle shall be driven before the necessary repairs are effected, any aggravation of the damage or any further damages to the Motor Vehicle shall be excluded from the scope of the indemnity granted by this Policy except when the Motor Vehicle is being so driven solely for the purpose of removing it to a place of safety.

2) INDEMNITY TO OTHER PERSON

The Company will, subject to the Limits of Liability and the Jurisdiction Clause, indemnify the Authorized Driver in the event of an accident caused by or arising out of the use of the Motor Vehicle on a road or loading or unloading of the Motor Vehicle against all sums including claimant's costs and expenses which the Authorized Driver shall become legally liable to pay in respect of:

- a) Death of or bodily injury to any person
- b) Damage to Property

i) The Authorised Driver shall only be indemnified if he:

- a) Shall as though he were the Insured observe, fulfil and be subject to the terms of this Policy in so far as they apply;
- b) Is not entitled to indemnity under any other Insurance Policy.

3) INDEMNITY TO LEGAL REPRESENTATIVES

In the event of the death of any person entitled to indemnity under this Policy the Company will, in respect of the liability incurred by such person, indemnify his personal legal representatives in terms of and subject to the limitations of the Policy provided that such legal representatives shall as though they were the Insured, observe, fulfil and be subject to the terms of this Policy in so far as they apply.

4) APPLICATION OF LIMITS OF LIABILITY

In the event of an accident involving indemnity under this Policy to more than one person, the Limits of Liability shall apply to the aggregate amount of indemnity to all persons indemnified and such indemnity shall apply in priority to the Insured.

5) EXPENSES

The Company will pay all costs and expenses incurred by the Insured with its written consent following an accident caused by or through or in connection with the insured's vehicle subject to the Limits of the Policy.

6) REPRESENTATION AND DEFENCE

The Company may at its own option:-

- a) Arrange for representation at any inquest or fatal inquiry in respect of any death, which may be the subject of indemnity under this Policy;
- b) Undertake the defence of proceedings in any Court of Law in respect of any act or alleged offence causing or relating to any event which may be the subject of indemnity under this Policy.

For purposes of this Clause, the Insured hereby irrevocably appoints the Company as his attorney and personal representative in all matters that pertain to any proceedings in any Court of Law or any inquest or inquiry which may be subject to indemnity under this Policy.

7) COMPANY'S RIGHT OF RECOVERY

If at any time the Company is compelled to pay an amount for any accident, loss or damage for which the Company would not otherwise be liable under this Policy BUT for the provisions of the Insurance (Motor Vehicle Third Party Risks) Act Cap 405 or any other Legislation, the Company shall be entitled to recover from the Insured to the extent of the amount paid by the Company.

SECTION TWO (B) EXCEPTIONS TO SECTION TWO (A)

1. The Company shall not be liable in respect of:

- a) Death or bodily injury to any person or damage to property caused by or arising beyond the limits of any carriageway or thoroughfare in connection with the bringing of a load to the Motor Vehicle for loading thereon or the taking away of the load from the Motor Vehicle after unloading there from.
- b) Death of or bodily injury to:
 - i. The Insured;
 - ii. Any person arising out of and in the course of such person's employment either by the Insured or any other person claiming to be indemnified under this Policy;
 - iii. Members of the Insured's household or any person claiming to be indemnified under Section Two (A) Clause (2) who are passengers in the Insured Motor Vehicle.
- c) Death of or bodily injury to any person being carried in or upon entering or getting on to or alighting from the Motor Vehicle at the time of the occurrence of the event out of which any claim arises, other than a passenger being carried for hire and reward [only for Public Service Vehicles], or by reason of or in pursuance of a contract of employment.

- d) Damage to any bridge, weighbridge or viaduct or to any road or anything beneath by vibration or by the weight of the Motor Vehicle or of the load carried by the Motor Vehicle.
- e) Damage to property being conveyed by the Motor Vehicle or to property belonging to or held in trust by or in the custody or control of:
 - i. The Insured;
 - ii. Any person claiming to be indemnified under Section Two (A) Clause (2);
 - iii. Members of the Insured's household or the same household as any person claiming to be indemnified under Section Two (A) Clause (2).
- f) Damage to property or death or bodily injury to any person caused by or arising out of explosion of a boiler forming part of or attached to or on the Motor Vehicle(s) except so far as is necessary to meet the requirements of the Insurance (Motor Vehicles Third Party Risks) Act Cap 405 of the Laws of Kenya.
- g) Damage to any disabled mechanically propelled vehicles attached to any Motor Vehicle in respect of which indemnity is provided by this Policy.

SECTION THREE: TOWING DISABLED VEHICLES

This Policy, subject to the limits of Liability stated on the Schedule, shall be operative whilst the Motor Vehicle is being used for the purpose of towing any one disabled mechanically propelled Motor Vehicle and the Company will indemnify the Insured in terms of Section Two (A) in connection with such towed Motor Vehicle provided that:-

- a) such towed Motor Vehicle is not towed for reward
- b) The Company shall not be liable for any reason for this section in respect of damage to such towed Motor Vehicle or property being conveyed thereby.

SECTION FOUR (A) SCOPE OF COVER PROVIDED

- a) Where the Insurance provided is "Comprehensive" (COMP) all Sections of this Policy are operative.
- b) Where the Insurance provided is "Third Party Only" (TPO) Section One of this Policy is cancelled.

1. LEGISLATION: The Insurance (Motor Vehicles Third Party Risks) Act CAP 405 of the Laws of Kenya, The Insurance Act Cap 48'7 of the Laws of Kenya and any subsequent amending Legislation.

2. LIMITATIONS AS TO USE:

- i) **Public Service Vehicles**
Use only for the carriage of passengers for hire or reward. The Policy does not cover use for racing competitions, rallies or trials (or use for practice for any of them) or the goods carried in the vehicle for hire or reward.
- ii) **Public Service Vehicles (Chauffeur Driven)**
Use only for the carriage of passengers for hire or reward and the driver must be the insured or an employee of the insured.

SECTION FOUR (BJ: GENERAL EXCEPTIONS TO THE POLICY

The Company shall not be liable in respect of:

- 1. Any accident, loss, damage or liability caused, sustained or incurred:
 - a) outside the Republic of Kenya;
 - b) whilst the Motor Vehicle is:
 - i. Being used otherwise than in accordance with the limitation as to use indicated in the Proposal Form giving rise to this Policy;
 - ii. Being driven by any person other than the Insured or an Authorized Driver.
- 2. Any accident, loss, damage or liability (except so far as is necessary to meet the requirements of Insurance Legislation) directly or indirectly, proximately or remotely occasioned by, contributed to by, or traceable to, or arising out of, or in connection with:
 - a) flood, typhoon, hurricane, cyclone, tornado, volcanic eruption, earthquake or other convulsion of nature;
 - b) war, invasion, the act of foreign enemy, hostilities or warlike operations (whether war be declared or not), civil war strike, mutiny, revolution, rebellion, insurrection, military or usurped power or order of the Government or any public authority;
 - c) political risks, strike, riot, or civil commotion;

In the event of partial damage to the said vehicle, the Company will only be liable for the repair cost less any duty element.

q) DISPUTES

In the event of any difference arising between the Insured and the Company as to the amount of any loss or damage or if the Company shall disclaim liability to the Insured for any claim hereunder or if the Company demand from the Insured restitution of amounts paid to any other party and the Insured shall disclaim or be in dispute to such requirement of restitution or if any other difference or dispute arises out of and in connection with this Policy, such difference/dispute or disclaimer shall be referred to any competent Court in the Republic of Kenya.

r) SALVAGE PROCEDURE

In the event that the Motor Vehicle is declared a total loss the Company shall be entitled to take and retain possession of the salvage prior to settlement of a claim.

s) SUBROGATION

Upon payment of any claim, the Company will have the Insured's rights of recovery to the extent of the claim payment made by the Company to the Insured or his legal representatives. The Insured MUST allow the Company to claim indemnity or contribution in the Insured's name from any party against whom the Insured may have such rights.
The insured must provide the Company with all the assistance reasonably required for the prosecution and settlement of recovery actions and where the Company makes a successful recovery, the Insured will be entitled to a refund of the excess proportionate to the percentage of the net amount recovered after deducting any administrative and/or legal costs incurred or paid by the Company in funding the recovery action.

t) CLAIMS CO-OPERATION AND SETTLEMENT

The Company is responsible for the defence and settlement of claims. The Insured must give all the assistance reasonably required by the Company for the defence and settlement of claims and on any recovery actions. The Insured must ensure that their employees, who may be witnesses, are available to testify in any court cases relating to the Insured's Motor Vehicle. On the Insured's failure to comply the Company shall reserve its right to recover any amounts paid from the Insured.

u) NO CLAIM DISCOUNT [NCD]

In event of no claim being made or arising under this Policy during the preceding year of insurance, the renewal premium for such part of the insurance as is renewed shall be reduced by 10% to a maximum of 30%. If the Company shall consent to a transfer of interest in this Policy the period during which the interest was in the transferor shall not accrue to the benefit of the transferee. This Clause shall not apply to Public Service Vehicles.

2. ENDORSEMENTS

a) AVERAGE CLAUSE

If at the time of an occurrence giving rise to a claim under Section One of this Policy the Pre-Accident Value of the insured Motor Vehicle shall be of greater value than the sum insured as may be determined by the Company's authorised appointed Assessor or Valuer, the Insured shall be considered as his own insurer for the difference and shall bear a rateable proportion of the loss or damage accordingly.

b) EXCESS CLAUSE

The Insured in respect of each and every event shall be responsible for the first amount payable of any expenditure for which provision is made under this Policy as specified in the Policy Schedule. The said Excess shall be payable directly to the Company by the Insured within fourteen (14) days upon demand failing which the Company shall not be liable to indemnify the Insured or any other person for any of the incurred claims.
The applicable excess for an Own Damage claim shall be payable before the Authority to repair is given by the Company.
Further, and subject to the Terms and Conditions of this Policy, the Insured shall be responsible for the amounts stated in the Policy Schedule in respect of each and every loss resulting from partial or total theft of the insured Motor Vehicle.

- Copy of the PIN Certificate
- Both front and rear number plates or an Abstract from the Flying Squad in the event that any of the number plates are missing or lost.
- iii. **Theft claim**
- Completed Accident Report Form
 - Original Log Book in the Insured's Name (with no endorsements by the Registrar of Motor Vehicles)
 - Transfer forms (2) signed but undated and without Name of Transferee.
 - Spare car key(s)
 - Latest Service Records
 - Original Police Abstract Report
 - Statutory Declaration stating that the Original Certificate of Insurance is lost
 - Copy of the Valuation Report
 - Copy of the Insured's National Identity Card
 - Copy of the PIN Certificate
 - Duplicate Certificate of Insurance
 - Copy of Driver's Driving License
 - Copy of Driver's PSV License
 - Copy of Driver's National Identity Card
 - Copy of the Conductor's PSV License
 - Copy of the Conductor's National Identity Card
 - Letter-from the Financier confirming receipt of the Own Damage premium in full

m) **PAYMENT OF LIMITS OF LIABILITY**

At any time after the happening of any event giving rise to a claim or series of claims under Section 2(A) 1 (b) and 2(b), the Company may at its sole discretion pay to the Insured or any person claiming to be indemnified the full amount of the Company's liability in accordance with the provisions under Section 2(A) 1 (b) and 2(b) and relinquish the conduct of any defence, settlement or proceedings and the Company shall not be responsible for any damage alleged to have been caused to the Insured or such person in consequence of any alleged action or omission of the Company in connection with such defence, settlement or proceedings or of the Company relinquishing such conduct, nor shall the Company be liable for any costs or expenses whatsoever incurred by the Insured or such person or by any claimant or other person after the Company shall have relinquished such conduct.

For death to or bodily injury to any one person, any payment due to the claimant shall be limited to the relevant Laws of the Republic of Kenya.

n) **THEFT WARRANTY**

The Motor Vehicle MUST have an Anti-theft Device of approved make from such Approved Company as the Company may decide from time to time. Proof of fitting of such an Anti theft Device will be confirmed by the Company's authorised appointed Valuers at the time of valuation. The said Anti-theft Device must be operational at the time of loss of the Motor Vehicle. Where the Motor Vehicle is not fitted with the appropriate Anti-theft Device, then all partial or total theft claims will be subject to the additional excess as given in the Policy Schedule.

The Motor Vehicle must be fitted with:

- a) Car identity and
 - b) Reverse gear lock or
 - c) Steering clamp or
 - d) Audio-visual alarm which must incorporate an engine immobiliser.
- o) **AUTHORISED DRIVER**
- The indemnity provided by this Policy shall only be operative when the Motor Vehicle is being driven by either the Insured or Authorized Driver as defined in this Policy under Section Four (D) (2).
- p) **DUTY AND VALUE ADDED TAX**
- In the event that the Motor Vehicle is stolen and/or damaged and the Insured value is subject to any payable taxes (including but not limited to all import duties, value added taxes and excise duties) the Insured shall before any claim is paid produce proof that the payable taxes have been paid in full and shall deliver to the Company the Motor Vehicle registration book free of any restrictions or encumbrances together with the necessary documents required to transfer the ownership of the Motor Vehicle. It is agreed and understood that the onus of payment of such taxes shall be on the Insured.

- d) detention, seizure, confiscation, or any attempt thereat or by any direct or indirect cosequences of any of the said occurrences, and in the event of any claim hereunder, the Insured shall prove that the accident, loss, damage or liability arose independently of, and was in no way connected with or occasioned by or contributed to by or traceable to any of the said occurrences or any consequences thereof and in default of such proof the Company shall not be liable to make any payment in respect of such a claim;
 - e) acts of terrorism committed by a person acting either by himself or on behalf of or in connection with any Organisation.
- 3. any liability, which attaches by virtue of any agreement but which liability could not have attached in the absence of such agreement;
 - 4. any accidental loss, damage or liability which the Insured is entitled to recover from any other party arising from any event that may give rise to liability to the Company under this Policy;
 - 5. any sum which the Insured would have been entitled to recover from any party but for an agreement between the Insured and such party;
 - 6. any consequential loss;
 - 7. any damage to the Motor Vehicle caused by the deliberate disregard of the need to take all reasonable steps; to prevent loss by the Insured or his authorised agent;
 - 8. any accidental loss, damage or liability of whatsoever nature directly or indirectly caused by or contributed to, by or arising from ionizing, radiation or contamination by radioactivity from any nuclear waste from the com bustion of nuclear fuel. For the purpose of this exception, combustion shall include any self-sustaining process of nuclear fission;
 - 9. any accidental loss, damage or liability directly or indirectly caused by, or contributed to, by or arising from nuclear weapons material;
 - 10. any accident, loss damage or liability directly or indirectly caused by, or contributed to, by or arising from intoxication from any alcoholic drink or other mind altering substance whether such substance is legal or not or any mind impairing substance or medication on the Insured or any Authorised Driver;
 - 11. any accident, loss or damage directly or indirectly caused by, or contributed to, by or arising from the lack of observance by the Insured or any Authorised Driver of any law in the Republic of Kenya including the Traffic Act Cap 403 of the Laws of Kenya and any additions or amendments to the said law;
 - 12. any accident, loss or damage directly or indirectly caused by, or contributed to, by or arising from the lack of observance of all speed regulations regarding specific Motor Vehicles or Motor vehicles in general in the Republic of Kenya;
 - 13. any accident, loss or damage directly or indirectly caused by, or contributed to, by or arising from use for racing competitions, trials or practice for any of them;
 - 14. any liability arising while the Motor Vehicle is being driven in contravention of any laws relating to the carriage of dangerous goods or while the Motor Vehicle is being used for illegal activities;
 - 15. any accident, loss or damage to the Motor Vehicle while it is being driven by an unlicensed driver or a driver whose license is suspended or is not in possession of a licence to drive the particular class of Motor Vehicle or if carrying passengers does not hold a valid PSV licence issued by the licensing authorities;
 - 16. any accident, loss or damage while the Motor Vehicle is being driven by a person found guilty in a court of law of any offence connected with driving under the influence of alcohol or drugs, under any law, by-law, or regulation;
 - 17. any liability arising from the use of the Motor Vehicle while carrying a greater load than permitted under the Law and/or excess passengers than the authorised carrying capacity and/or carrying unauthorised passengers.

SECTION FOUR (C): GENERAL CONDITIONS, WARRANTIES AND ENDORSEMENTS

1. CONDITIONS AND WARRANTIES:

- a) **INTERPRETATION**
- The Policy and the Policy Schedule shall be read together as one contract and any one word or expression to which a specific meaning has been attached in any part of this Policy or of the Policy Schedule shall bear such specific meaning wherever it may appear.
- Further, for the avoidance of doubt, if there shall be any contradiction between the Proposal Form and the Policy Schedule, then such information and/or details as contained in the Policy Schedule shall prevail.
- b) **INSURED'S DUTY**
- The due observance and fulfilment of the Terms of this Policy in so far as they relate to anything to be done or not to be done by the Insured or any person claiming to be indemnified and the truth of the statements and answers in the Proposal Form shall be conditions precedent to any liability of the Company to make any payment under this Policy.

c) **DUTY OF DISCLOSURE**

The Insured has a duty of disclosure in respect of risk exposures and that before accepting cover, the Insured must inform the Company of every matter they know of, or could reasonably be expected to know, which is relevant to and might influence the Company's decision to offer and issue insurance cover. During the currency of this Policy, the Insured must give the Company written notice, as soon as possible, of everything that the Insured is aware of in the ordinary course of business that is relevant to the Insured's risk exposure.

d) **WRITTEN NOTICE**

Every notice or communication required to be given or made to the Company under this Policy shall be delivered in writing to the Company's registered office and the said notice or communication shall only be deemed to have been delivered only when the Company has acknowledged such delivery in writing.

Further, every notice or communication to be given or made to the Insured under this Policy shall be deemed to have been given when ·mailed to the Insured's last known address or faxed to the Insured's last known fax number or mailed the insured's last known agent.

e) **PREMIUM PAYMENT WARRANTY**

The indemnity provided by this Policy shall only apply on payment of full Premium to the Company in accordance with the provisions of Section 156 of the Insurance Act Cap 487 of the Laws of Kenya. It is agreed and understood that in the event of breach of this warranty, this Insurance Policy will be deemed to have been inoperative from inception.

Should the Premium payable be part of a Premium Finance contract whether arranged by the Company or not, any own damage claim payable under this Policy shall be paid only after the Insured has paid the Financier the Own Damage portion of the Premium in full. The Financier shall give the Company a written confirmation that the said outstanding Own Damage premium has been received in full.

f) **VALID CERTIFICATE OF INSURANCE**

The Insured must have a valid Certificate of Insurance as evidence of the policy cover taken with the Company failing which the Company shall not be liable for any occurrence that may give rise to a claim under this Policy.

g) **ASSIGNMENT**

The Company reserves the right to assign all the contract rights and interest jn the debt acknowledgement and the Policy to various Financial Institutions.

h) **CANCELLATION**

The Insurance Policy may be terminated at any time by the Company by a notice of cancellation sent to the Insured's last known address. Similarly, it is agreed and understood that the Insured may cancel this Policy at any time provided that the Insured shall on such cancellation provide a written cancellation notice physically delivered to the Company together with the Insurance Certificate issued for the Motor Vehicle.

In such event of cancellation of the Policy, the Insured shall be entitled to the difference (if any) between the premium paid and the premium calculated at the Company's short period rates for the time during the period the Policy has been in force. The refund shall be due provided that no event has occurred on or before such cancellation that has or might give rise to a claim under this Policy. It is hereby understood and agreed that the Company shall not be liable for any claim arising out of an event that occurred on or after the cancellation.

In the event that premium against this Policy is a subject of a Premium Financing Contract, and on default, the Financier issues a notice of cancellation of finance and advises the insured to regularise payments, such notice shall automatically be deemed to be a notice of cancellation under the Policy. The Policy shall therefore cease to be of effect on the expiry of the said notice from the Premium Financier. Further, the refund of any un-utilised premium shall be made directly to the Premium Financier.

It is hereby understood and agreed that any notice of cancellation of a Policy that is subject to a Premium Finance Contract MUST be confirmed by the Financier in writing subject to the Terms of the Policy.

i) **SUSPENSION**

The Company may suspend the Policy at the request of the Insured at any time provided that no event has occurred on or before such suspension that has of might give rise to a claim under this Policy.

It is further understood and agreed that insurance cover must be reinstated within Six Months (180) days from the date of suspension of the policy and in the event that the said cover is not reinstated within the said Six Months (180) days, the Company shall terminate the insurance policy and the insured without refund of the premium to the insured. Where an event which has or might give rise to a claim under this Policy no refund of premium will become due to the insured 'Whether the insurance cover is re-instated before or after the period of Six Months (180) days.

j) **NOTIFICATION OF ACCIDENTS**

In the event of any occurrence that may give rise to a claim under this Policy, the Insured shall notify the Company with full particulars immediately but not later than fourteen (14) days after the happening of such event.

Every letter, claim, written summons and process shall be notified or forwarded to the Company immediately on receipt. Notice shall also be given to the Company immediately the Insured or any other person claiming to be indemnified shall have knowledge of any impending prosecution, inquest or fatal inquiry in connection with any such occurrence.

In case of theft or other criminal act which may give rise to a claim under this Policy, the Insured shall give immediate notice to the Police and cooperate with the Company in securing the conviction of the offender.

k) **CLAIMS PROCEDURE**

No admission, offer, promise or payment shall be made by or on behalf of the Insured or any person claiming to be indemnified without the written consent of the Company, which shall be entitled if it so desires to take over and conduct in the Insured's name or such person the defence or settlement of any claim or to prosecute in the name of the Insured or such person for its own benefit any claim for indemnity or damages or otherwise from any party and that the Company shall have full discretion in the conduct of any proceedings and in the settlement of any claim and that the Insured and such person that he shall give all such information and assistance as the Company may require from time to time.

The Insured shall pay the applicable excess, if any, as and when required by the Company. If the Insured fails to pay the applicable excess as per the Policy Schedule within the stipulated time, then the Company shall repudiate the claim and if a third party is involved, the Company shall instruct the third party to deal with the Insured directly.

l) **CLAIM DOCUMENTATION**

When a claim is made by the Insured, the following documents MUST be availed by the Insured:

- i. **Material/Own damage claim**
 - Completed Accident Report Form
 - A detailed and signed statement from the driver on the circumstances of the accident
 - Original Police Abstract Report
 - Copy of the Conductor's PSV License
 - Copy of the Conductor's National Identity Card
 - Copy of the Driver's PSV License
 - Copy of the Driver's Driving License
 - Original Motor Vehicle Inspection Report
 - Copy of the Log Book
 - Detailed Garage Estimate of the cost of repairs if vehicle is not in the Company's appointed garages
 - Letter from the Financier confirming receipt of the Own Damage premium in full
- ii. **Total Loss claim [in addition to the above documents]**
 - Original Log Book in the Insured's Name (with no endorsements by the Registrar of Motor Vehicles)
 - Transfer forms (2) signed but undated and without Name of Transferee.
 - Spare car key(s)
 - Duplicate Certificate of Insurance and original Certificate of Insurance(where possible) '
 - Copy of the Insured's National Identity Card