

MOTOR INSURANCE

Definitions You will find the following words or phrases in this policy and wherever they appear will have the meaning described below:

Accident A sudden, unplanned and unforeseen mishap not under your control or that of the authorized driver.

Certificate of insurance The document in prescribed form and is to be displayed on the vehicle as required by law as evidence that you have taken out the insurance and displayed as required by law.

Claim Demand by you for indemnity or benefit under the Policy.

Excess The first amount of each claim borne by you.

Indemnity Restoring you to the financial position you were in immediately before the accident.

Legal liability Financial responsibilities attaching to you because of your failure to observe an obligation imposed by law.

Market Value The cost of replacing your vehicle with one of similar type and condition.

Members of your Persons you normally live within your residence.

Household Period of Insurance The period shown in the schedule and any subsequent period for which you will pay and we accept a renewal premium.

Policy Year The period between inception or renewal and the expiry date of an annual Policy.

Policy Written evidence of the contract between you and us.

Pre-Accident Value The Market Value of your vehicle immediately before the accident.

Schedule Summary of details specific to this contract.

Territorial limits Geographical limits within which the insured event or loss must occur.

Third party Any person other than you or your authorized driver who has been injured or whose property has been damaged.

Vehicle The vehicle or vehicles described in the schedule of this policy and any vehicle:

- For which the insurance is still in place.
- We have provided a certificate of insurance for; and
- You have given us details of.
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INSURANCE PROVIDED:

1. Where the Insurance provided is “Comprehensive” all Sections of this Policy are operative.
2. Where the Insurance provided is “Third Party Fire and Theft” Section I operates only in respect of loss or damage caused directly by fire, self-ignition, lightning, explosion, theft or attempted theft.
3. Where the Insurance provided is “Third Party Only” Section I of this Policy is cancelled.

SECTION I – INSURANCE ON THE VEHICLE

What is covered?

1. Loss or damage

We will pay for the loss of or damage to the vehicle(s) or its/their accessories and spare parts while in or on the vehicle. We may choose to pay cash, repair or replace the vehicle or a part of it or its accessories and spare parts to cover the amount of the loss or damage. If we settle a claim under this section on total loss basis, the lost or damaged vehicle becomes our property. The maximum we will pay will be the Market Value of the vehicle immediately before the loss or damage but not more than the value as shown in the Schedule.

2. Financier’s Interest

If the vehicle is under a financing arrangement for which interest we have noted in this Policy, we will pay the financier for any total loss or damage. We will then have no further liability to you.

3. Protection, Recovery and Removal after accident

We will also subject to the limits of liability pay the reasonable cost of protecting, recovering the vehicle and moving it to the nearest repairer or safe place if as a result of any loss or damage insured under this section the vehicle cannot be driven.

4. Authority to Repair

You may authorize the repair of the Vehicle necessitated by damage for which we may be liable under this Policy provided that:

- (a) the cost of such repair does not exceed the Authorized Repair Limit as shown in the Schedule and
- (b) a detailed cost of such repair is forwarded to us without delay.

What is not covered under Section I

We will not pay for:

- a) consequential loss
- b) depreciation, wear and tear, mechanical, electrical or electronic breakdown, failures or breakages.
- c) damage to tyres unless damage is caused to other parts of the vehicle at the same time.
- d) loss of or damage to the contents being carried in or on the vehicle;
- e) damage caused by overloading or strain.
- f) the excess stated in the schedule.

SECTION II – LIABILITY TO THIRD PARTIES

1. Indemnity to you or your authorized driver or any person in or getting into or out of the vehicle

We will cover you or any authorized driver or any person in or getting into or out of the vehicle against legal liability for damages (including the related costs and expenses) for:

- a) death or bodily injury to any person.
- b) damage to property.

arising as a result of an accident by or in connection with your vehicle, including while loading and unloading the vehicle as long as such costs will not exceed the amounts of cover provided for under this Policy.

2. Indemnity to Legal Representatives

Following the death of any person covered under this Policy we will indemnify that person's legal representatives for liability covered under this Section provided such legal representatives comply with all the terms and conditions of the Policy.

3. Application of Limits of Liability

In the event of an accident involving indemnity under this Section to more than one person the Limits of Liability will apply to the total amount of indemnity to all persons indemnified and such indemnity will apply in priority to you.

4. Representation and Defence

We may at our own option:

- a) arrange for representation at any inquest or inquiry the subject matter of which may give rise to indemnity under this Section,
- 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 Section.

What is not covered under Section II

We will not pay:

- a) for death of or bodily injury to any person in your employment arising out of and in the course of such employment.
- b) for damage to property held in your trust , custody or control or belonging to you or any member of your household.
- c) for damage to property held in trust , custody or control or belonging to any other person claiming to be indemnified under subsection 1.
- d) the first amount as shown in the schedule of each claim (applicable excess).

SECTION III – EMERGENCY MEDICAL EXPENSES

We will, subject to the Limits of Liability, pay or reimburse you the reasonable medical expenses incurred in connection with any bodily injury by violent, accidental, external and visible means sustained by you or your Authorised Driver or any other person as the direct and immediate result of an accident involving the Vehicle.

SECTION IV – VEHICLE IN CUSTODY OF MOTOR TRADER OR OTHER MOTOR VEHICLE SERVICE PROVIDERS

Despite the provisions of General Exception 1(b) the cover provided by this Policy will be operative only so far as it relates to you whilst the Vehicle is in the custody or control of a motor trader or other motor vehicle service providers.

JURISDICTION CLAUSE

Payment under this Policy will not apply in respect of judgements which are not in the first instance delivered by or obtained from a Court of competent jurisdiction within the territorial limits.

AVOIDANCE OF CERTAIN TERMS AND RIGHTS OF RECOVERY

If we are obliged by the law of any country within the Territorial Limit to pay an amount for which we would not otherwise be liable under this Policy then you will repay the amount to us.

GENERAL EXCEPTIONS

These general exceptions apply to all sections of this policy.

We will not be liable in respect of:

1. any accident, loss, damage or liability caused, sustained or incurred;
 - a. outside the Territorial Limits, or
 - b. while on your order or with your permission or to your knowledge any vehicle in respect of which indemnity is provided by this Policy is being used contrary to the Limitations as to Use clause.
2. any accident, injury, loss, damage or liability if the vehicle is carrying more than its authorised capacity.
3. any liability which attaches by virtue of an agreement but which would not have attached in the absence of such agreement.
4. any injury, loss, damage or legal liabilities (except so far as is necessary to meet the requirements of the Legislation) directly or indirectly caused by any of the following occurrences:
 - (a) (i) War, invasion, act of foreign enemy, hostilities or warlike operations (whether war be declared or not), civil war Mutiny, military rising, insurrection, rebellion, revolution, military or usurped power, martial law or state of siege or any of the events or causes which determine the proclamation or maintenance of martial law or state of siege
 - (ii) The act of any lawfully established authority in controlling, preventing, suppressing or in any other way dealing with any occurrence referred to in clause (i) above. (iii) Any act of terrorism, regardless of any other cause contributing concurrently or in any other sequence to the loss, damage or expense. For the purpose of this exclusion, terrorism means an act of violence or force or the threat thereof whether as an act harmful to human life or not, by any person or group of persons, whether acting alone or on behalf or in connection with any organization or government or any other person or body of persons, committed for political, religious, personal, ethnic or ideological reasons or purposes including any act committed with the intention to influence any government and/or for the purpose of inspiring fear in the public or any section thereof. In any action, suit or other proceedings where we allege that by reason of this definition a loss, damage or expense is not covered by the policy, the burden of proving that such loss, damage or expense is covered will be upon you.
 - (b) Detention, seizure, confiscation or an attempt of any of these occurrences or by and direct or indirect consequences of the said occurrences. In the event of any claim under this exclusion the person claiming to be indemnified will prove that the accident, loss, damage or liability arose independently of the said occurrences. In default of such proof we will not be liable to make any payment in respect of any such claim.

5. (a) any accident, loss or damage to any property or any loss or expense whatsoever resulting or arising there from or any consequential loss.

(b) any liability of whatsoever nature directly or indirectly caused by or contributed to by or arising from nuclear weapon materials ionising, radiation or contamination by radioactivity from any nuclear fuel or from any nuclear waste from the combustion of nuclear fuel. For the purposes of this exception combustion will include any self-sustaining process of nuclear fission.

6. any loss occurring while you or your authorized driver is certified by a competent authority to have been under the influence of a drink or drug to such an extent as to have rendered you or your authorized driver incapable of having proper control of the vehicle at the time of an occurrence giving rise to a claim.

CONDITIONS

1. Your Duty

We will only make a payment under this policy if:

- a) The information you have provided in the proposal for this insurance is true and complete to the best of your knowledge and belief; and
- b) You or any other person entitled to indemnity meets all the terms, conditions and endorsements under this Policy.

2. Duty of Care

You will:

- a) Ensure the vehicle(s) is/are at all times in roadworthy condition.
- b) Take all other reasonable steps to prevent accidents, injuries, loss or damage.
- c) Allow us access, at any reasonable time, to examine the vehicle(s).

3. Communication of Changes

You will inform us immediately of any important changes affecting the vehicle(s) covered under this Policy and/or its/their use.

4. Claims

- a. You must report to us any accident, injury, loss or damage involving your vehicle(s) as soon as is reasonably possible.
- b. If the vehicle(s) is/are lost or damaged as a result of theft, attempted theft or malicious damage, you must immediately make a report to the police and obtain a police report.

- c. You must also inform us immediately you become aware of any current or future prosecution or proceedings in connection with any event for which there may be any liability under this policy.
- d. Any correspondence relating to any incident should be sent to us immediately and unanswered. We will be entitled to take over and carry out in your name the defence or settlement of any claim. We may also prosecute in your name to recover any amounts we have paid.
- e. When you make a claim, we will be entitled to instruct and give information relating to the claim to other people such as lawyers, investigators, loss assessors, garages and we expect you to give them all the necessary co-operation.

5. Average (underinsurance) Clause

If at the time of an occurrence giving rise to a claim under Section I of this Policy the market value of the vehicle is greater than your estimated value including its accessories and spare parts, then you will be considered as being your own insurer for the difference and our liability will be limited to such percentage that your estimated value bears to the market value.

6. Other Insurances

If any loss, damage or liability covered by this insurance is also covered by any other insurance, we will pay only our share of any claim. This condition does not apply to Personal Accident benefits.

7. Fraud

If any claim is found to be fraudulent and you or any one acting on your behalf has given us any false documents or information you will lose any rights under this Policy. We may refer such cases to the law enforcers.

8. Complaints

We are committed to providing you with the highest standard of service at all times. However, if you are dissatisfied with our service, you have the right to complain through the channels stated below:

(a) If you are not satisfied at your usual level of contact, send your written complaints to our Principal Officer who will respond within reasonable time upon receipt of your complaint.

(b) If you are still not satisfied you can send your written concerns to the Insurance Regulatory Authority (IRA).

9. Disputes between You and Us

If any dispute arises between you and us on any matter relating to this policy such dispute will be referred to:

- a) A single mediator to be agreed between you and us within thirty (30) days of the dispute arising and the mediation process to be finalized not later than thirty (30) days thereafter or
- b) A single arbitrator agreed between us, to be appointed within thirty (30) days of the dispute arising. If we cannot agree, either party will refer the dispute to the Chairman of the Chartered Institute of Arbitrators (Kenya Branch) whose decision will be binding on you and us. The arbitral award will be final. If the dispute is not referred to the arbitration process within twelve (12) months we will assume you have abandoned the claim.

10. Cancellation

- a. You may cancel this policy at any time by informing us and returning the original and duplicate certificate of insurance, or if these certificates are misplaced, lost or destroyed, by availing a statutory declaration duly signed by a commissioner for oaths. We will refund you the premium for the remaining period of insurance based on the applicable rates.
- b. We may cancel the policy by issuing fourteen (14) days written notice to your last known address. We will refund your premium for any remaining Period of Insurance based on the applicable rates. You must return to us immediately the original and duplicate certificate of insurance. Provided the refund is subject to no claim or loss having arisen during the current period of insurance.

CLAUSES

1. Young and/or inexperienced drivers excess

We will not be liable under Sections I and II of this Policy for the first "As shown in the schedule" of any amount otherwise payable in respect of loss or damage to the Vehicle (other than by fire, external explosion, self-ignition or lightning or theft) occurring whilst the Vehicle is being driven by or is in the charge of an Authorized Driver who:-

- a. is under twenty one (21) years of age; and/or,
- b. has not held for a period of one

(1) Year a licence other than a provisional licence to drive a vehicle of the same class as your Vehicle.

The amount (s) payable will be in addition to any other for which you may be responsible within the terms of the Policy.

2. Replacement Parts Clause

In the event of loss or damage to the Vehicle or its accessories or spare parts necessitating the supply of a part not obtainable from stocks held in the country in which the Vehicle is held for repair or in the event we exercise the option under Section I-1 to pay in cash the amount of the loss or damage, our liability in respect of any such part will be limited to:-

a. (i) the price quoted in the latest catalogue or price list issued by the Manufacturer or

his Agents for the country in which the Vehicle is held for repair; or (ii) if no such catalogue or price list exists the price list obtained at the Manufacturer's factory plus the reasonable cost of transport otherwise than by air to the country in which the Vehicle is held for repair; and

(b) the reasonable cost of fitting such part.

3. Windscreen and Window Glass

In consideration of the payment of an additional premium it is hereby understood and agreed that any claim for the cost of reinstating any windscreen or window glass forming part of the vehicle, as a result of breakage will be made within the terms of the policy without deduction of any amount for which you are responsible in the terms of any Excess endorsement attaching to the policy. Any payment under this endorsement will not constitute a claim within the meaning of the No-Claim Discount provisions of the Policy. The maximum indemnity provided by this extension is limited to the amount shown in the Schedule and in the event of a claim arising under this endorsement notwithstanding that the payment may be less than the indemnity provided by the extension, cover under the extension will be forfeited and may be reinstated at our discretion and on payment of an additional premium. Provided that this endorsement will not apply to the breakage of glass arising from an occurrence in which other damage is sustained by your vehicle.

4. Premium Finance

Where the premium or any part thereof was paid with the benefit of finance agreement and there remains sums outstanding (whether or not the date for payment of the said sums or any part thereof has fallen due) by you to the financier we may at our option deduct all or any part of the sums outstanding between you and the financier from any claims settlement due in respect of a loss under this Policy, provided the sum thereby deducted is paid directly by us to the financier.

Important Notes These are purely advisory and not part of the policy.

(a) Market Value

Your attention is drawn to the importance of ensuring that the market value of each vehicle is covered by the amount shown on the Policy to avoid under or over-insurance. At the same time please remember that in the event of total loss you will only be entitled to recover the pre-accident market value subject to your estimate stated in the Schedule. You should therefore, in your own interest obtain the current market value of your vehicle(s) each year. A list of approved motor valuers can be obtained from our offices on request.

(b) Admission of Liability

In the event of an accident do not admit liability to any Third Party Claimant or Witness or any one acting on behalf of a possible Claimant, but obtain full particulars including names and addresses of all witnesses and forward this information at once to us.

(c) Transfer of ownership/cancellation of Policy

This being a personal contract it is not transferable to other parties. Thus in the event of the sale of the vehicle(s) or Cancellation of the Policy, certificate of insurance in duplicate MUST be returned to us immediately to facilitate cancellation.

6. No Blame No Excess Clause

It is hereby declared and agreed that the insured having requested for and paid an additional premium, this policy is extended to include the **No Blame No Excess benefit**.

In the event of a valid claim under the policy being reported to Pacis and that such a claim becomes payable as a consequence of which the Insured becomes liable to pay the policy excess imposed thereon, the Company shall not require payment of the **accidental damage or partial theft excess** from the insured on condition that they are not to blame for the accident.

Determination of blame under this policy for the purposes of this clause shall be through police investigations as recorded in the Police abstract.

However, the insured shall pay excess for: -

- a. Self involving claims
- b. Where there is no police abstract.
- c. Where the police abstract does not clearly assign blame for the accident.
- d. Any excess/deductible paid where a claim is settled on ex-gratia basis
- e. Any liability, which attaches by virtue of an agreement but which would not have attached in the absence of such an agreement.