




WAIDLER


2024
VEHICLE
INVESTIGATION

Terms & Conditions



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 enquiry@waidler.co.za

 www.waidler.co.za



VEHICLE INVESTIGATION TERMS AND CONDITIONS

1. Introduction

1.1. Waidler (Pty) Ltd is a motor vehicle investigation service that provides a one stop solution for automotive related services. Waidler (Pty) Ltd possesses extensive expertise in the automotive industry where motor vehicle collisions, defects and damages are concerned.

1.2. The client wishes to procure an inspector to conduct certain vehicle investigation services, as described more fully in the scope of investigation attached hereto and specifically incorporated herein as Schedule "A"

2. Definitions

2.1. "Company" means Waidler (Pty) Ltd a company with limited liability which is incorporated in terms of the Company laws of South Africa with company registration number: 2014/228614/07.

2.2. "Cancellation Fee" means the amount payable by the client as referred to in clause 12 of these terms and conditions.

2.3. "Client" means a/an client/insurer/individual or any person, natural or juristic who is the owner of a vehicle that places an order for an Investigation at the company with details on page 5 of this agreement.

2.4. "Consent" means permission to be obtained by the client/insurer from the vehicle owner.

2.5. "Digital Data Download" means the parameters and data which have been recorded on the electronically controlled vehicle systems.

2.6. "Fee" means the amount payable by the client to the company for Investigation services.

2.7. "Investigation" means the execution, download and scrutiny of a digital data download, examination of a vehicle/s and production of a report/s on behalf of the Client.

2.8. "Investigator" means an employee, sub- contractor or third party, engaged and/or affiliated with the Company, who is responsible for conducting an investigation into the digital data of the identified vehicle and who will carry out the investigation in the terms of the terms and conditions.

2.9. "Operational Information" means information regarding the vehicle prior to the collision which will be obtained via Digital Data Download which will be shared with the client;

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2.10. “Personal Information” means information or an opinion (including information forming part of a database), whether true or not, and whether recorded in a material form or not, about an individual whose identity is apparent, or can reasonably be ascertained, from the information or opinion.

2.11. “Terms and Conditions” means this document, including any ancillary documents or attachments which is specifically incorporated herein.

2.12. “Report” means the written and/or digital report produced by the company as part of the Investigation, which includes the client’s name and address, registration details of the specific vehicle inspected and its location and an outline of any areas of concern which the Inspector has decided should be brought to the attention of the client.

2.13. “Client Information Checklist” means the list documents and/or information the company requires for the inspector to properly conduct an investigation as per the client’s requirements.

2.14. “Vehicle” means the vehicle in respect of which the client requires an inspector to carry out an investigation.

2.15. “Vehicle Owner” means the registered owner in terms of title and possession of a specific vehicle.

3. General

3.1. Investigations are prepared from visual, external and digital data download of a vehicle. Investigations do not normally involve dismantling or disturbing any structure, assembly, component or internal mechanism, however, there may be instances where the vehicle are totalled, and it requires the company to dismantle certain parts of the vehicle in order to obtain the vehicle’s control unit; it mainly consists of the downloading of digital data from the vehicles internal recorded data called digital data download.

3.2. Digital Data Download will be retrieved in a binary syntax and will be decoded via code protocols provided by the unit manufacture. The retrieval of this information will be performed directly from the Micro Processor stored on the hardware, either via the OBDII interface in the vehicle or via the relevant pins on the unit itself. All available data and parameters are recorded in a closed loop circuit and stored according to a first in - first out principle. Therefore, it cannot be tampered and deleted manually. This process is not comparable with a common diagnostic test.

3.3. Items which are listed on the Client Information Checklist as a part/item to be checked, but which are not reasonably accessible and/or invalid/corrupt data and/or damaged beyond repair on the vehicle, will not be inspected. In such circumstances, the company will be under no obligation to inspect and/or report on requirements that fall outside of the intended scope.

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3.4. The Digital Investigation can only describe and/or identify defects recorded and downloaded as per the digital data. The company cannot be held liable and are not responsible for any latent defects which are later discovered, and which were not part of the initial scope of investigation.

4. Consent to inspect and acknowledgement.

4.1. By signing the Consent Letter (Annexure “B”), the Vehicle Owner unequivocally agrees to these terms and conditions and undertakes to abide hereby.

4.2. Schedule “C” contains an explanation on the process and what data will be extracted from the vehicle’s digital data, in order to assist with the investigation.

4.3. The parties agree that it remains the responsibility of the client to obtain consent from the vehicle owner in order for the Company to perform Investigation services. The Client/Vehicle Owner cannot hold the Company liable to obtain such a consent and it will never form part of the company’s scope of investigation. Should the client not be the vehicle owner, it will be the responsibility of the client to obtain such a consent.

5. Fees and cancellations

5.1. Any fees payable by the Client must be paid within 7 days of receipt of invoice.

6. Refusal to inspect:

6.1. We reserve the right to refuse to carry out an Investigation or to issue on any report if:

6.1.1. the Inspector cannot reasonably access; or appears to the Inspector to be:

6.1.2. Where the client has failed to ensure that the proper provision has been made for the Investigation to be carried out;

6.1.3. Where the Client has provided incorrect or incomplete information that has prevented The Company from carrying out an Investigation.

6.2. The Client acknowledges and agrees that in the event that the Inspector refuses to inspect as per the circumstances mentioned in 6.1 above, the company is entitled to treat the instruction as terminated and is entitled to retain the fee in full. Should the Client request the company to carry out further Investigation, the Client will be required to pay a further fee.

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6.3. Above, the Company is entitled to treat the instruction as terminated and is entitled to retain the Fee in full. Should the Client request the Company to carry out a further investigation the insurance company will be required to pay a further fee.

7. Cancellation of Instruction to Inspect

7.1. The Company will only deem the instruction to inspect as cancelled once a cancellation letter, as set out in Schedule E attached to these terms and conditions, has been completed and sent to the Company accordingly, where a cancellation fee always applies.

7.2. In the event that the Client cancels an Investigation:

7.2.1. By 2pm on the day before the Investigation is due to take place, the Client will be charged a fee of R750.00 (seven hundred and fifty rand) to cover the costs in setting up the investigation.

7.2.2. After 2pm on the day before the investigation is due to take place, the Client will be charged a fee of R1500.00 (one thousand five hundred rand) to cover the costs in arranging the investigation including allocating an inspector's time.

7.3. To cancel an Investigation, you must inform the Operations Department by emailing the cancellation letter to enquiry@waidler.co.za

8. Matters outside of Our reasonable control /Force Majeure

8.1 The Company will not be liable for any delay to/non-performance of the Investigation due to events or circumstances outside of the Company's reasonable control. The Company will take steps to minimize the effects of this where possible.

9. Exclusion of liability for loss

9.1 The Parties shall not be liable to each other for any direct, indirect or consequential loss or damage, including loss of profit, revenue, anticipated savings, business transactions or goodwill or other contracts whether arising from negligence or breach of contract.

9.2 Client shall indemnify and hold the Company, its officers, agents, employees, representatives and servants from all claims, suits, or actions of every name, kind, and description in terms of rendering the said investigation. The Client will always be responsible, to the fullest extent for all information provided to the Company pertaining to the vehicle and collision.

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9.3. The Company's maximum liability towards the Client will not exceed the value of the specific investigation scope which brought rise to the claim.

9.4. The Company will only be liable to the Client (and not to any other third party) to the extent that the Company fails to carry out the Investigation in accordance with these terms and conditions. Without limiting the foregoing, the Client acknowledges that neither the Company nor the Inspector will be liable to Client or any other third party for any liability, loss, damage, claim, proceedings, costs or expenses (together referred to as "Losses) suffered or incurred by Client.

9.5. Nothing herein will affect the statutory rights of a consumer under any applicable statute.

10. Intellectual Property and Copyright

10.1. It is an explicit condition of this agreement between the Company and the Client that all rights to any proprietary information will be held by the Company up to and until all payments has been effected, only then will any right to proprietary information be transferred to the Client.

10.2. The above inter alia includes, but is not limited to, methodologies, products, processes, data, specifications, and reports.

11. Reports and Content.

11.1. Due to the confidential nature of the services that the company renders the reports will under no circumstances be shared with any third party and will only be submitted to the Client directly.

11.2. All reports, content and Downloaded Digital Data are a true technical and scientific reflection of facts only. The parties agree that under no circumstances will the Client request any amendment or to be made which would deform the true reflection and/or integrity of such report.

12. Third Parties

12.1. The parties agree that under no circumstances will any information be shared with any third party, which includes but is not limited to policy holder, Vehicle Owner, witnesses, panel beater etc.

12.2. Any and all correspondence will only occur between the Company and the Client. Any information requested by a third party will have to be channeled through the Client in relation any discussions relating to results, reports, explanations, or meetings and the same can only be requested via the Client or a representative acting on its behalf.

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12.3. The company reserves their right to take appropriate legal action in the event of a breach in terms of clause.

13. Enforcement of terms

13.1. Each of the clauses of these terms operates separately. If any court of relevant authority decides that any of them are unlawful, the remaining clauses will remain in full force and effect.

13.2. The Agreement is between the Client and the Company. No other person or third party shall have any right to enforce any of the terms.

14. Verification of evidence before a Court of law

14.1. The Company will under no circumstances disclose any “raw data” to any third party, insurer, Client or whoever requests same, without a Court Order first being obtained by the party requesting the information. Should it be required, the parties agree that the investigator will testify voluntarily to verify its expert findings, however and any right to Private Privilege and/or privileged information must be granted and/or respected. No question into any privileged and/or private information will be answered, unless a Court Orders the investigator to answer same;

14.2. Should the Client require an investigator to testify at any Court of Law to verify its finding, the parties agree as follows:

14.2.1. That the parties, together with its representation schedule a preparation meeting, no more than 10 (ten) days prior to the set-down of the matter in question.

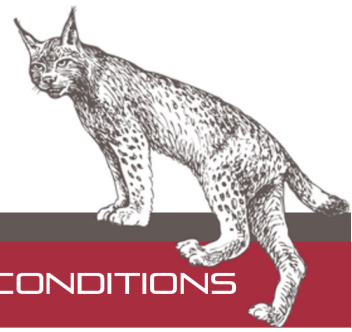
14.2.2. All notices and/or pleadings, which include but is not limited to all other expert reports or relevant evidence at least prior to the court (ten) days prior to date of set-down.

14.2.3. That the Client, through its representatives, communicate to the presiding officer as well as all other relevant parties that the investigator will only be providing a certified copy of its SAQA Qualification Evaluation and Carrier Profile as Curricula Vitae. No other certifications or testimonials will be provided, unless a Court orders the Investigator to obtain same.

14.2.4. That any representation by the investigator at any court or tribunal, an expert/scientist fee will be charged at an increased hourly rate which will be equivalent to double the normal hourly rate.

14.2.5. The Client, through its representative will within 3 (three) days, inform the Company in writing of the Order and/or Judgement the Court and/or tribunal handed down.

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14.2.6. We require the entire written court notice including all other Expert report or relevant evidence prior to the court date a reasonable time period prior to the court date.

15. Use of personal information.

15.1. The Company will use the obtained personal information for the purposes outlined in the fair processing notice in the Schedule below.

15.2. The Company will use the Vehicle's operational information as downloaded from the vehicle systems for purposes of an investigation only and will only disclose same to the Client or any of its appointed representatives.

16. Interpretation

16.1. The headings used in these terms and conditions are for convenience only and shall not affect the interpretation of their contents.

16.2. These terms and conditions are governed by South African Law. No amendment of or addition to this Agreement or any consensual cancellation thereof or any part thereof shall be binding on the parties unless reduced to a written document and signed by them.

16.3. No relaxation or indulgence, which the Company may show to the Client, shall in any way prejudice the Company or be deemed to be a waiver of its rights nor shall such relaxation or indulgence preclude or stop the Company from exercising its rights in terms of this agreement in respect of any further breach.

16.4. This Agreement constitutes the whole agreement between the parties and no warranties or presentations whether express or implied have been given nor made by the Company to the client.

16.5. Each paragraph or clause in this Agreement is severable from the other and if any paragraph or clause is found by any competent court to be defective or unenforceable for any reason whatsoever, the remaining paragraphs or clauses shall be in full force and effect and continue to be in full force and effect.

16.6. Notwithstanding anything to the contrary herein contained, this Agreement shall be deemed to have become binding on the parties on the date of signing of this Agreement by both parties.

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**Signatories**

Signed at _____ on this _____ of _____ 2024.

COMPANY

Full name: _____

As witnesses for the COMPANY:

16.6.1. Signature: _____

Full name: _____

16.6.2. Signature: _____

Full name: _____

CLIENT

Full Name: _____

ID/Reg No: _____

Address: _____

As witnesses for the CLIENT:

16.6.3. Signature: _____

Full name: _____

16.6.4. Signature: _____

Full name: _____

By signing this document, you declare that all details are true and correct and that you are bound by the terms and conditions as stated above.

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