Terms of Use: hire-rates.com.au

Updated: September 2023

These Terms of Use (***These Terms***) are terms of a legal agreement between Us, Hire Rates Pty Ltd (ABN: 74 670 230 921) and You, and set out the basis on which You agree to access and use the Website hire-rates.com.au (***Our Website***) and/or its online services (collectively referred to as the ***System***).

Please take the time to read These Terms carefully as they contain important information regarding Your legal rights, remedies and obligations and include various limitations and exclusions. Your access to and use of the System are subject to These Terms. If You do not agree with These Terms, You may not access, or use the System.

1. Introduction

We publish, or make available on the System:

(a) historic hire vehicle rental prices;
(b) vehicle data including the classification of makes and models; and
(c) images of hire vehicle websites that correlate with, and verify, the historic hire vehicle rental price data (***Pricing Images***).

These are collectively referred to as ***Our Data***.

2. Additional elements of These Terms

These Terms also include, and Your access to and use of the System are subject to:

- Our Privacy Policy (available at https://hire-rates.com.au/privacy_policy.pdf); and
- any other terms, conditions, notices, or disclaimers displayed on Our Website from time to time;

We make the System available to You on These Terms. You must only access and use the System in accordance with These Terms. By accessing and/or using the System You will be deemed to accept, and agree to be bound by, These Terms.

3. Changes to These Terms

We may at any time and, at Our sole discretion modify or amend the terms and conditions upon which Our Data and Services are supplied to You, including such modifications or amendments in these terms of use, by publishing an updated version to Our Website. We will provide notice of changes to These Terms by either: (i) posting a notice to Our Website; or (ii) sending an email to Your billing email address. If You do not agree to a change to These Terms, You must not continue to access or use the System. By continuing to access or use the System after We have changed These Terms, You will be deemed to have accepted that change and agree to be bound by These Terms as changed.

4. Membership

The System may only be accessed by a person registered through the Website (***Member***) and who has a valid account (***Member Account***)

In cases where the Member Account is in the name of a businesses, corporation or organisation, the phrase “You” and “Your” means Your business, corporation or organisation including any employee, agent, representative, contractor, associate or third-party, who has access to the System under your Member Account.

You agree to pay a monthly membership fee (***Membership Fee***) unless We offer You a free trial period.

At Our sole discretion, We may offer prospective customers a free trial period or other promotional memberships, which are subject to These Terms. Your rights to access and use the System expire at the end of the trial period. We reserve the right, at Our sole discretion, to determine Your eligibility for these offers.

You may cancel Your Membership and deactivate Your Member Account at any time by contacting Us by email as detailed in section 13 below. You will remain liable for paying any amounts due to us before such cancellation. We will refund You the pro-rata unused portion of the Membership Fee. If You cancel Your Membership, We will deactivate Your Member Account.

At Our sole discretion, We may make additional features of the System (e.g. API access) available to You. If we make the additional feature available to You without requiring You to agree to a further set of terms, then the feature will be made available in accordance with These Terms. If we require You to agree to a further set of terms in the course of making the additional feature available to You, then the feature will be made available in accordance with those terms.

We issue invoices for Membership Fees in advance at the begining of each calendar month. Invoices issued to Australian organisations will be inclusive of GST and as a Tax Invoice. Invoices issued to organisations outside of Australia will be issued exclusive of GST. You must pay each invoice within the terms stated on the invoice. You must pay each invoice within the time specified in it (or within 30 days if no period is specified). As detailed in Section 8, We may cancel Your Membership and deactivate Your Member Account if You do not pay an invoice as required.

5. Our Conduct

When using the System, We collect and receive data from You, including your email address, IP address and hire-rates search history. You acknowledge and agree that We may use and retain this data to provide and improve the System, subject to Our Privacy Policy.

We will use all reasonable endeavours to ensure that the System is maintained in accordance with applicable laws pertaining to privacy and the processing, use, storage, disclosure and disposal of data relevant to You.

We will provide technical support services to You, for your access to, and use of the System, via our email address or phone numbers, as detailed in Section 13 below.

You are responsible for technical support of Your own applications, systems and projects which relate to Your use of the System.

We will notify You at least 3 months before making a significant amendment to the System or Our Data that materially reduces its functionality, unless We reasonably determine that: (i) We cannot do so by law or by contract (including if there is a change in applicable law or contract); or (ii) continuing to provide the System could create a security risk or substantial economic or technical burden.

6. Your Conduct

General Obligation

You must access and use the System in a diligent and professional manner, in good faith, and in accordance with These Terms, all applicable laws, regulations, rules, policies and codes of conduct relevant to Your access and use.

Specific Obligations

You may only access and use the System through Your Member Account or any other credentials as provided by Us.

You are responsible for: (i) the information You provide in connection with Your Member Account; (ii) maintaining the confidentiality and security of Your Member Account and associated passwords; and (iii) any use of Your Member Account.

You may only access and use the System and Our Data for the following purposes (each a ***Permitted Purpose***).

- To support, mittigate and/or defend invoicing, recovery and legal claims against at-fault parties or insurers.
- To model, forecast & predict hire-rates pricing changes and trends.

- To classify hire-vehicle makes and models to various classification systems.
- To improve Your business processes and purchasing decisions.
- To improve the efficiency of Your pricing, recovery and operations.
- Any other such purpose as agreed by us in writing.

You must not do any of the following.

- Access or use or attempt to access or use another person's Member Account without Our written permission.
- Attempt to obtain unauthorised access to Our Data or any aspect of the System which is not included in Your Membership entitlements.
- Disrupt, modify or interfere with the security of, or otherwise abuse, the System, or any Data, services, system resources, software (including source code and object code), accounts, servers or networks connected to or accessible through the System or Our Data.
- Disrupt or interfere with any other person's access or use of the System or Our Data.
- Copy, modify or create a derivative work of Our Data or Our Website.
- Offer access to the System or Our Data under a “time-sharing” or “service bureau” model.
- Allow any other person to access, store, manage, process or use the System or Our Data.

In addition, and to the fullest extent permitted by applicable law, You agree that, save in the instance of a material breach of any of the obligations imposed on Us under These Terms, You are solely responsible for actions undertaken or transmitted by Your access or use of the System.

7. Intellectual Property Rights

You must not do anything which breaches or interferes with any rights (including intellectual property rights) subsisting in the System. All:

(a) rights in all software, designs, arrangements, layouts, sequences, forms and graphics pertaining to the System belong to us; and
(b) rights in all trade marks, product names, company names, logos and Pricing Images displayed on the System are owned by Us or the respective owners,

and none of the foregoing may be reproduced, imitated, or used, in whole or in part, without the prior written permission of each relevant owner.

Nothing displayed on Our Website or contained in the System or Our Data should be construed as granting You any intellectual property rights, including the right to use any trade mark, product name, company name, logo or image. You acknowledge that accessing or using Our Website, the System or Our Data does not give You or any other person any interest in any intellectual property rights that may subsist therein.

We grant You a personal, non-exclusive, non-assignable, non-transferable and revocable licence (without the right to grant sub-licences) to use the System and Our Data to:

(a) make an unlimited number of extractions of individual price point data;
(b) save and store a single copy of each such individual price point data so extracted;
(c) view, but not copy save nor store, the Pricing Images that correlate with, and verifies, the historic hire vehicle rental price data of hire vehicle websites corresponding to each such individual price point data so extracted,

all strictly to the extent necessary for the Permitted Purpose.

Attribution

You must not obscure, remove, mask or replace any attribution statements or copyright notices or logos which are embedded in any information We provide to You.

Notice of Inappropriate Use

If You believe that Your personal data has been improperly used on the System, or that any other person has engaged in any conduct contrary to These Terms, please contact Us by email as detailed in Section 13 below.

8. Suspension and Termination

If Your access to or use of the System terminates or expires for any reason:

- We will cancel Your Membership and deactivate Your Member Account.
- You may retain any of Our Data properly downloaded before such expiry or termination, strictly for the purpose of using such Data to support, mittigate and/or defend invoicing, recovery and legal claims against at-fault parties or insurers, as well as any applicable business records.
- You must stop using and delete all other components of Our Data downloaded by You.

If We consider, at Our sole discretion, that You have acted contrary to These Terms or in a manner contrary to Our interests, then We may immediately terminate your right to access and use the System at any time and reserve Our rights to take any action We deem necessary or desirable to prevent such repeated action and / or further access to the System.

If Your Membership Fees are overdue, We may, at Our sole discretion and without liability or notice to You, suspend your right to access and use the System until such time that Your Membership fees are paid, or cancel Your Membership and deactivate Your Member Account.

9. Disclaimers, Limitations of Liability and Indemnity

Disclaimers

The System, including Our Data, is provided on an "*as is*" and "*as available*" basis. You acknowledge having read and understood These Terms, including the disclaimers in this clause, and any other conditions brought to Your attention in the course of Your access to, or use of, the System.

To the maximum extent permitted by law, You expressly agree that:

(a) You use the System and Our Data at Your sole risk;

(b) Except as otherwise expressly agreed in writing, We expressly disclaim any implied or express representations or warranties of any kind relating to the use of the System;

(c) Without limiting the foregoing, We:

(i) do not guarantee;

(ii) assume no responsibility for; and

(iii) make no warranty or representation as to,

the accuracy, currency, completeness, reliability or usefulness of, any information obtained through use of the System or Data (including any advice, opinion, statement or other data or any products or services distributed or made available by third parties through the System); and

(d) We are not liable to You or anyone else for any:

(i) interference with or damage to Your computer system that may occur in connection with Your use of the System; or

(ii) acts or omissions of Your internet service provider or any public or private telecommunications networks, including any system error, service outage, slow performance, bandwidth capacity problems, unauthorised access, malware or viruses.

No advice or information, whether oral or written, obtained by You from or through Your use of the System, or otherwise from Us, creates any warranty not expressly made in These Terms.

If We reasonably believe that any access to or use of the System or Our Data might infringe a third party's Intellectual Property Rights, then We may, at Our sole discretion take any one or more, or none, of the following:

(a) procure the right for You to continue to access or use the System or Our Data;
(b) modify the System or Our Data to make them non-infringing without materially reducing their functionality;
(c) replace the System or Our Data with a non-infringing, functionally equivalent alternative; or
(d) cancel Your Membership and deactivate Your Member Account.

Limitation of liability

To the maximum extent permitted by law, We exclude all liability to any person for loss or damage of any kind (howsoever caused, including by negligence) arising from or relating in any way to any access to or use, suspension or termination of the System (including liability for any special, indirect, consequential or incidental damages, including, damages for personal injury (including vision impairment or loss), death, misdiagnosis, defamation, loss of profits or revenues, business interruption, loss of programs or other data or costs of replacement goods, or otherwise, even if We have been expressly advised of the possibility of such loss or damages.

Any liability of Us for or in respect of any claim arising out of in connection with the relationship established by These Terms will not, in any event (and whether or not such liability results from or involves Our breach of contract (including breach of warranty), tort, negligence, breach of statutory duty or otherwise) exceed in aggregate the lesser of AUD $100 or the total amount received by Us from You under These Terms, over the preceding 1 month at the time Our liability is assessed.

Where any legislation implies into These Terms any term, condition or guarantee, and also renders void any provision in a contract which purports to exclude or modify the application or exercise of, or liability under, such term, condition or guarantee, such term, condition or guarantee will be deemed to be included in These Terms. However, to the maximum extent permitted by law, Our aggregate liability for any breach of all such terms, conditions or guarantee will be limited, at Our option, to supplying access the System to You again or the payment to You of the cost of having access to the System supplied again, and You acknowledge and agree that it is fair and reasonable for Us to rely on this paragraph.

Indemnity

You must indemnify and keep indemnified Us and Our directors, officers, employees and agents (***Our Indemnitees***) from and against any claims, losses, liabilities, costs, expenses (including investigative costs, court costs, legal fees, penalties, fines and interest) and damages of any kind whatsoever (including those which are prospective or contingent) which any of Our Indemnitees may incur directly or indirectly arising out of or in connection with access to or use of the System or Our Data by You or any person authorised by You, including any liability arising in connection with any infringement of third party rights.

Links to Third Party Websites

The System and Our Website may contain links to other websites. These links are provided as a convenience and do not constitute an endorsement, sponsorship or recommendation by Us or an affiliation, association or responsibility of Us for the linked websites or any information or products available on or through such sites. If You decide to visit any linked site, You do so at Your own risk and it is Your responsibility to take all protective measures to guard against third parry infringement risk and viruses and other destructive elements.

10. Force Majeure

We will not be liable for any failure to perform, or any delay in performance of, any act required under These Terms by reason of any act of God, act of nature or other event of whatever nature or whatever reason beyond the reasonable control of the party, including any epidemic or outbreak of pandemic as declared by the WHO, fire, act, decree, legislation, regulations or restrictions of government or state,

war, civil commotion, insurrection, embargo, prevention from or hindrance in obtaining energy or other supplies, impossibility of the use of public or private telecommunications networks, or labour disputes, and performance of such acts shall be excused for the period of such event.

11. Governing Law

Unless otherwise required by law, These Terms shall be governed by the laws of the State of Victoria, Australia.

Unless otherwise required by law any dispute arising from the interpretation and/or performance of These Terms, shall be submitted to the exclusive jurisdiction of Courts having jurisdiction in the State of Victoria, Australia.

12. General

You may not assign Your rights or obligations under These Terms without Our written consent. Any attempt by You to do so is void. We may assign Our rights or obligations under These Terms without Your consent by either: (i) posting a notice to Our Website; or (ii) sending an email to Your billing email address.

If any provision of These Terms is held to be unenforceable, the remaining provisions shall remain in full force and effect.

These Terms contain the entire understanding and agreement between You and Us regarding the System, and supersede all prior and contemporaneous agreements and understandings between the parties regarding such subject matter.

13. Contact Us

If you have a question, problem or complaint or need to contact us:

- Address: 6 Somerset Close, Heatherton, VIC, 3202
- Phone (from within Australia): 1300 788 662
- Phone (outside of Australia): +61 403 857 111
- General enquiries: admin@hire-rates.com.au
- Technical support: support@hire-rates.com.au