



SUBSCRIBER TERMS AND CONDITIONS

1 Governing Terms and Conditions

- 1.1 The subscription service known as Carly is provided by DriveMyCar Rentals Pty Ltd. These Terms and Conditions (**Subscriber Terms and Conditions**), the Subscription Agreement, the Website Terms & Conditions and the Privacy Policy constitute the contract with the Subscriber (**Subscriber Contract**) which creates binding and enforceable legal obligations between DriveMyCar Rentals Pty Ltd and the Subscriber and together with the Owner Contract, binding and enforceable legal obligations with the Owner.
- 1.2 The obligations imposed by this Subscriber Contract will be strictly enforced for the mutual benefit of DriveMyCar, the Owner and Subscribers.
- 1.3 The Australian Consumer Law confers rights that are not affected by these Subscriber Terms and Conditions and no clause in these Subscriber Terms and Conditions excludes, restricts or modifies any implied terms, guarantees or rights under that law or any other similar Federal, State or Territory legislation.

2 Subscriber Obligations

- 2.1 The Subscriber **must**:
- (a) be licensed to drive the Vehicle in the State or Territory in which they will be using the Vehicle;
 - (b) hold a full Australian drivers licence (Provisional, Probationary and Learners licences or permits are not accepted) or have a valid licence from their country of residence written in English and if not in English a valid International Driving Permit or an approved translation of the licence into English; and
 - (c) be twenty-one (21) years of age or older and less than 85 years of age.
- 2.2 The Subscriber **must not**:
- (a) have incurred any speeding fines in the last twelve (12) months;
 - (b) have been in an At-Fault Accident in the last twelve months;
 - (c) have had their licence cancelled or suspended in the last twelve months;
 - (d) modify the Vehicle in any way, irrespective of whether the modifications are reversible or permanent; and
 - (e) have been the subject of bankruptcy proceedings in the last 7 years.

3 Additional Drivers and Conditions of Use

- 3.1 The Vehicle is provided by the Owner to the Subscriber subject to the Subscriber's acceptance and compliance with the Subscriber Terms and Conditions.

- 3.2 The Vehicle **must** only be driven by the Subscriber named on the front page of the Subscription Agreement.
- 3.3 An Additional Driver may only drive the Vehicle if that person is approved in writing by DriveMyCar and that person is registered in the Carly database as an **Additional Driver**. An Additional Driver is bound by these Subscriber Terms and Conditions as if they were the Subscriber.
- 3.4 The Vehicle **must not** be driven by anyone who has provided a false name, age, address or driver's licence;
- 3.5 The Subscriber and any Additional Driver **must not**:
- (a) use the Vehicle for hire or reward, rideshare purposes or to carry on a business;
 - (b) use the Vehicle for any illegal purpose;
 - (c) use the Vehicle off-road, or for racing, pace making, testing the Vehicle's reliability and speed, or teaching someone to drive;
 - (d) use the Vehicle when under the influence of alcohol or drugs or refuse a preliminary breath test or drug impairment assessment;
 - (e) carry a number of passengers which exceeds the designed seating capacity of the Vehicle;
 - (f) carry anything that would cause the Vehicle to be overloaded;
 - (g) carry any hazardous, toxic or flammable materials in the Vehicle;
 - (h) use the Vehicle in a manner such that a substantial breach of road safety legislation or the criminal legislation has occurred;
 - (i) sell, rent or dispose of the Vehicle or any of its parts, or purport to give anyone any legal rights over the Vehicle or register or attempt to register any interest in the Vehicle under the Personal Property Securities Act 2009; or
 - (j) use the Vehicle in a dangerous or reckless manner.
- 3.6 The Subscriber and any Additional Driver **must not**:
- (a) smoke or allow others to smoke in the Vehicle and an additional cleaning fee of \$300 applies if this condition is breached;
 - (b) allow any animals into the Vehicle without written permission from the Owner;
 - (c) use or permit the Vehicle to be used to jump start any other vehicle; or
 - (d) use or permit others to use the Vehicle to tow any other vehicle, trailer, boat or other object without written permission from the Owner.
- 3.7 The Subscriber and any Additional Driver **must**:
- (a) ensure that the Vehicle is locked when not in use;
 - (b) use the correct fuel type when refueling the Vehicle;
 - (c) make the Vehicle available for periodic servicing as and when the service intervals fall due as per Clause 9.11; and
 - (d) inform DriveMyCar and the Owner immediately if:
 - (i) a warning light or fault message appears;
 - (ii) they become aware of low engine or brake oils, engine coolant levels or tyre pressures; or

(iii) the Vehicle develops any fault during the Subscription Period,

and the Vehicle **must** not be used unless DriveMyCar has given authority to do so. If DriveMyCar and the Owner are not notified and the Vehicle continues to be used, the Subscriber and any Authorised Driver will be responsible for any resulting Damage or third party loss.

3.8 The Subscriber **must**:

- (a) immediately report any loss or damage to the Vehicle (or loss involving the Vehicle) to the Owner and DriveMyCar; and
- (b) immediately deliver to the Owner every summons, complaint, document or paper in relation to loss identified in clause 3.8(a).

3.9 In the case of a Subscription Period with a defined end date, if the Subscriber wishes to extend the Subscription Period a request must be made to DriveMyCar no less than 72 hours prior to the completion of the Subscription Period. The Subscription Period will not be extended unless DriveMyCar provides written confirmation to the Subscriber in accordance with clause 15.

4 Vehicle handover procedure - Subscriber

4.1 The Subscriber must be available to receive the Vehicle at the time and at a location agreed in advance. It is the Subscriber's obligation to ensure that the location allows the Subscriber to undertake a comprehensive visual inspection of the Vehicle. If the Subscriber does not arrive at the agreed location within 30 minutes of the agreed time, the Vehicle will be moved to a collection depot at an address to be notified to the Subscriber and the Subscriber must collect the Vehicle from that collection depot. The Subscription period will not be altered if collection takes place after the agreed start date.

4.2 The Subscriber must make suitable arrangements for the payment of tolls that may be incurred during the Subscription Period.

4.3 At the handover of the Vehicle, the Subscriber must, in the presence of the Carly representative:

- (a) check that:
 - (i) the Vehicle's registration and compulsory third party insurance are current and will remain valid for the duration of the Subscription Period;
 - (ii) the Vehicle is in a roadworthy, serviceable and in a safe condition;
 - (iii) the Vehicle's spare tyre is roadworthy and inflated;
 - (iv) the jack and tyre replacement tools are in the Vehicle;
 - (v) all Vehicle fluids such as fuel, transmission, oil, coolant, brake and power steering fluid and wiper wash are full; and
 - (vi) the Vehicle is clean;
- (b) review the Subscription Agreement, including the Handover Inspection Report;
- (c) inspect the digital photographs of the Vehicle taken by the Carly representative to confirm that they accurately show the internal and external condition of the Vehicle and/or take their own photographs; and
- (d) produce the Subscriber's Driver's Licence and credit card used for the subscription for inspection by the Carly representative.

4.4 At the handover of the Vehicle to the Subscriber the Carly representative and Subscriber must complete and sign the Handover Inspection Report.

- 4.5 If at the time of hand over by the Carly representative the Subscriber fails to sign the Handover Inspection Report the Subscriber forfeits the right to dispute any claim for Damage allegedly caused during the Subscription Period.
- 4.6 A Subscription may only commence on a Business Day unless otherwise agreed in writing.

5 Switch

A Carly Subscriber is eligible to Switch the Vehicle that is the subject of a current Subscription Agreement with another vehicle subject to the following conditions:

- (a) these Terms and Conditions continue to apply to the Switched Vehicle;
- (b) the number of Switches available to a Subscriber is that specified in the Subscription Agreement;
- (c) a Switch must be requested in advance via www.carly.co;
- (d) a Switch may only be made to a vehicle that is identified as being available on the date required;
- (e) no guarantee is provided that a certain type of vehicle will be available on a specific day;
- (f) a Switch includes delivery of the Vehicle to a suitable location specified by the Subscriber within 20km of the Sydney CBD (Sydney GPO) or Melbourne CBD (Melbourne GPO);
- (g) the Subscriber must ensure that at the time of hand over to the Carly representative each of the requirements for the return of the Vehicle in clause 9.4 have been fully complied with;
- (h) a Switch is one way only such that the Subscriber will be subscribing to the Switched Vehicle until such time as the Subscriber elects to undertake another Switch pursuant to these Terms and Conditions and the Subscription Agreement; and
- (i) a Subscriber may request an additional Switch in excess of their entitlement upon the payment of a \$100 fee.
- (j) The Switched Vehicle will be subject to a new Subscription Agreement and the Subscription fee applicable to the Switched Vehicle will apply from the date of the Switch. The subscription end date or recurring subscription date from the original Subscription Agreement will transfer to the new Subscription Agreement.
- (k) During the first 30 days of a subscription a Switch may only occur 16 days or later from the commencement of the Subscription period
- (l) Unused Switches expire at the end of each 30 day Subscription Period and may not be exchanged for cash.

6 Financial Obligations - Subscriber

- 6.1 The Subscriber must pay DriveMyCar the Total Subscription Fee shown on the Subscription Agreement.
- 6.2 At the commencement of the Subscription, the Subscriber may be required to pay a Security Deposit to cover any additional charges, which includes, but is not limited to, fuel, excess kilometres or Damage.
- 6.3 The Security Deposit, less any additional charges, will be refunded to the Subscriber 7 days after the Vehicle has been returned in accordance with the Subscription Agreement and these Subscriber Terms and Conditions and subject to there being no Major Breach.
- 6.4 If a claim has been made against the Security Deposit DriveMyCar may hold the Security Deposit until actual costs for rectification of Damage have been determined.
- 6.5 If the Subscriber exceeds the kilometre allowance specified in the Subscription Agreement, the Subscriber must pay DriveMyCar the excess rate per excess kilometre or such other amount as is shown in the Subscription Agreement.
- 6.6 If the Subscriber is required to pay DriveMyCar any amount under these Subscriber Terms and Conditions:
- (a) that amount must be paid to DriveMyCar on or before the due date; and
 - (b) interest on any overdue amounts accrues daily from the date when payment becomes due, until the date of payment, at a rate of two and a half percent (2.5%) per calendar month (and at DriveMyCar's sole discretion such interest shall compound monthly at such a rate) after as well as before any judgment.
- 6.7 If the Subscriber requests DriveMyCar to perform any action or function under these Subscriber Terms and Conditions or if the Subscriber has failed to comply with the Subscriber Terms and Conditions thereby requiring rectification by DriveMyCar, the Subscriber **must** pay:
- (a) DriveMyCar a processing fee of \$20 or such other fee as specified in writing for each action or function; and
 - (b) the full third party costs and expenses.
- 6.8 In performing any action or function on behalf of the Subscriber under clause 6.7, DriveMyCar does so as agent of the Subscriber and has no liability to the Subscriber or third parties for any of the actions or functions it performs on the Subscriber's behalf.
- 6.9 At the time of Subscribing a Subscriber will be required to choose an Option defining the free kilometre allowance, excess kilometre cost and Damage Liability that will apply to the Subscription. The cost for the chosen option will be included in the Subscription Fee.
- 6.10 A Subscriber may request to change the Option that is applicable to their subscription. For the change to take effect, the Subscriber must present the Vehicle for visual inspection by a Carly representative at a location specified by DriveMyCar.
- 6.11 From time to time DriveMyCar may contact the Subscriber and request that the Subscriber provide date stamped photographic evidence of the external condition of the vehicle and the odometer reading at the time of the request. Failure to provide such evidence within 48 hours of the request may result in cancellation of the Subscription

7 Cancellation

- 7.1 Subscription Agreements may only be cancelled in accordance with this clause 7.

- 7.2 DriveMyCar may cancel a Subscription Agreement without penalty to it or the Subscriber if the Vehicle is unavailable as a result of unforeseen circumstance, such as it having been involved in a prior accident.
- 7.3 For the purposes of this clause, 'Commencement of Subscription' occurs on the date specified on the Subscription Agreement.
- 7.4 Unless an end date has been specified at the commencement of the Subscription period, the Subscription will renew every 30 days until canceled by the Subscriber by providing 30 days notice in writing.
- 7.5 A Subscriber may cancel a Subscription Agreement by providing 30 days' notice in writing. No refunds are payable.
- 7.6 A Subscription may be cancelled upon 30 days' notice in writing to the Subscriber if the Owner or DriveMyCar require the Vehicle to be returned for whatever reason. DriveMyCar shall take reasonable steps to find a suitable replacement Vehicle.

8 Traffic Offences, Fines and Fees

- 8.1 The Subscriber must pay all fines, penalties, traffic infringements, tolls and costs incurred during the Subscription Period or any period outside the Subscription Period in relation to which the Subscriber remains in possession of, or is responsible for, the Vehicle.
- (a) a processing fee of \$10 per toll is payable to DriveMyCar for each unpaid toll incurred, in addition to the toll amount and all other charges levied by the toll provider.
- (b) a processing fee of \$20 is payable to DriveMyCar for each fine, penalty or traffic infringement notice, in addition to any charges levied by the issuer of the fine, penalty or traffic infringement.
- 8.2 The Subscriber must notify DriveMyCar and the Owner in writing in accordance with clause 15 as soon as the Subscriber becomes aware that a fine, penalty, traffic infringement or toll has been incurred.
- 8.3 Upon receipt of a fine, penalty, traffic infringement or toll notice the Owner will complete the required documentation to absolve themselves from liability and nominate the Subscriber as the responsible party and return the documentation and any statutory declaration to the responsible authority that issued the notice within 7 days of receipt of the notice.
- 8.4 In the event that the Subscriber challenges any fine, penalty, infringement or toll notice, the Subscriber does so at his or her own expense.

9 Vehicle Condition and Return

- 9.1 The Subscriber must return the Vehicle to the Carly representative at the Designated Return Location at the time and date agreed in advance with the Subscriber.
- 9.2 The Subscriber remains responsible for the Vehicle until it is returned to the Carly representative in accordance with clause 9.1 and these Subscriber Terms and Conditions continue to apply, regardless of whether it is returned during, at the end of, or after the expiry of, the relevant Subscription Period.
- 9.3 Subject to clause 7, if the Subscriber returns the Vehicle before the end of the Subscription Period the Subscriber must pay DriveMyCar the amounts in clause 6 for the duration of the Subscription Period unless otherwise agreed in writing by DriveMyCar.
- 9.4 At the time of hand over at the Designated Return Location the Subscriber **must:**
- (a) return the Vehicle to the Carly representative with its keys or keyless start device and all parts and accessories, including manuals, audio equipment, GPS unit, tools and

wheel locking nuts) in the same condition as it was at the beginning of the Subscription Period, save for any reasonable wear and tear;

- (b) ensure that the Vehicle:
 - (i) has been cleaned prior to hand over; and
 - (ii) is returned with a full tank of fuel; and
 - (c) sign the Handover Inspection report.
- 9.5 If at the time of handover to the Carly representative the Vehicle is in an unclean condition that does not allow for an accurate inspection of the Vehicle, DriveMyCar reserves the right to have the Vehicle cleaned at the Subscriber's expense and make an assessment of the Vehicle condition within 24 hours or next business day without the Subscriber being in attendance.
- 9.6 If at the time of handover to the Carly representative the Subscriber fails to sign the Handover Inspection Report the Subscriber forfeits the right to dispute any claim for Damage allegedly caused during the Subscription Period.
- 9.7 If the Vehicle is not returned at the time and date specified in the Subscription Agreement the Vehicle may immediately be reported as stolen and may be de-registered.
- 9.8 If the Owner or DriveMyCar (as the case may be) are required to replace any shortfall in fuel, the Subscriber agrees to pay for the actual cost of fuel plus a \$20 administration fee.
- 9.9 If the Vehicle is returned to the Carly representative without the service log book, the GPS unit, GPS disk or other accessories supplied to the Subscriber at the commencement of the Subscription, the Subscriber shall be charged replacement cost, for each item unreturned.
- 9.10 All Vehicles must be returned prior to 5pm on the agreed day of return, otherwise a \$50 fee will be charged by DriveMyCar to the Subscriber. If a return time after 5pm is pre-agreed and the Vehicle is returned in excess of 2 hours after the pre-agreed time a \$50 fee will be charged by DriveMyCar to the Subscriber.
- 9.11 DriveMyCar may request the Vehicle be serviced during the period of the rental and the Subscriber must deliver the Vehicle to the nominated service location. Failure to comply with the service request will result in the Subscriber being liable for mechanical damage caused to the Vehicle due to a missed scheduled service or \$150 for each missed service, whichever is greater.
- 9.12 Should the Subscriber alter or interfere with the log books or service sticker, a fee of \$150 will be charged.
- 9.13 A Subscription may only end on a Business Day unless otherwise agreed in writing.

10 Damage Cover

- 10.1 The Subscriber must return the Vehicle in the same condition as at the start of the Subscription Period, save for reasonable wear and tear and the Subscriber is responsible for all Damage and any third party loss that occurs during the Subscription Period or that which results from the Subscriber's use of the Vehicle.
- 10.2 If Damage, theft of the Vehicle or third party loss occurs during the Subscription Period or results from the Subscriber's use of the Vehicle, the Subscriber must pay the Damage Liability Charge, which will be charged by DriveMyCar immediately upon notification of an accident or theft.
- 10.3 Subject to this clause 10 and clause 11.1, the Subscriber's liability is limited to the Damage Liability Charge.
- 10.4 Notwithstanding clause 10.3, the Subscriber must also pay the Subscription Fee at the rate shown in the Subscription Agreement from the date of the accident or theft until the earlier of:

- (a) payment of the Damage Liability Charge;
 - (b) the completion of repairs if the Vehicle is damaged;
 - (c) the Vehicle is replaced because it is declared a total loss because it is damaged beyond repair; or
 - (d) the Vehicle is replaced because it is stolen.
- 10.5 If the Vehicle is damaged or stolen and provided that the Subscriber has not committed a Major Breach of the Subscriber Terms and Conditions, DriveMyCar may at its option:
- (a) cancel the Subscription Agreement and, subject to the availability of a similar vehicle at a similar Subscription fee, grant the Subscriber the option of entering into a new Subscription agreement for a term no less than the term of the original Subscription Agreement; or
 - (b) cancel the Subscription Agreement if no similar vehicle is available at a similar Subscription fee.
- 10.6 If the Subscription Agreement is cancelled under clause 10.5 and notwithstanding clause 7, the Agreement is deemed to have been terminated by mutual consent and no action for damages or penalties will accrue to either DriveMyCar or the Owner as the result of that cancellation.
- 10.7 If there is Damage to the Vehicle from hail, flood, fire, storm, cyclone or other natural disasters, the Subscriber must pay the Damage Liability Charge.
- 10.8 The Subscriber agrees that Damage Cover is subject to:
- (a) a valid Subscription Agreement;
 - (b) payment (per incident) of the applicable Damage Liability Charge;
 - (c) compliance with these Subscriber Terms and Conditions;
 - (d) the Subscriber not being covered under any other policy of insurance such as his own insurance cover; and
 - (e) the Subscriber providing all reasonable information and assistance as may be requested and, if necessary, authorising DriveMyCar to bring, defend or settle legal proceedings, and the Subscriber agrees that DriveMyCar shall at all times have sole conduct of any legal proceedings.
- 10.9 The Damage Liability Charge is refundable to the Subscriber if it transpires that the Subscriber was not at fault and if there is no third party loss and the cost of the repairs is less than the Damage Liability Charge the Subscriber will be reimbursed the difference. Refund is subject to all costs being recovered from third parties and is at the discretion of the Insurer, not DriveMyCar.
- 10.10 The Subscriber must report all Claims to DriveMyCar and the Owner within 24 hours of any Damage or third party loss.
- 10.11 The Subscriber **must** also report all accidents to the police if:
- (a) any person is injured;
 - (b) the other driver leaves the scene of the accident without exchanging names and addresses; or
 - (c) the other driver appears to be affected drugs or alcohol.
- 10.12 In the event of an accident, the Subscriber acknowledges that DriveMyCar or the Owner may insist that the Vehicle be moved to the nearest repairer to secure it.

11 Exclusions to Cover and liability

- 11.1 The Subscriber has no cover for any Loss and Damage or any third party loss resulting from:
- (a) a Major Breach of any of these Subscriber Terms and Conditions; or
 - (b) use of the Vehicle by any person who is not authorised to drive the Vehicle.
- 11.2 The Subscriber is fully responsible and liable for Loss and Damage and third party loss where the Vehicle is operated or used:
- (a) whilst the Subscriber is under the influence of alcohol or drugs to both to the extent that the Subscriber is incapable of having proper control of the Vehicle or whilst the Subscriber's blood alcohol content or the level of drugs present in the Subscriber's blood exceeds the limit specified by the law of the state or territory in which the Vehicle is driven;
 - (b) on any road or other surface which is not sealed other than a road under repair, or a road notified to the Subscriber by DriveMyCar;
 - (c) in any area or under any circumstances (including crossing a waterway or transporting a Vehicle across a waterway) where the Vehicle may or does become partially or totally immersed in water;
 - (d) in a manner that causes:
 - (i) underbody damage, being any damage to the Vehicle that is caused by or directly results from contact between the underside of the Vehicle and any part of the road way or any object or obstruction including kerbs, gutters, speed or road humps, barriers or wheel stops; or
 - (ii) overhead damage, being damage to the Vehicle caused by or resulting from an impact between the Vehicle at a point that is level with or above the top of the windscreen;
 - (e) under any circumstances where the Vehicle is refuelled with fuel other than which is recommended by the Vehicle manufacturer;
 - (f) under any circumstances where the Vehicle and its keys are unsecured;
 - (g) in any area or region specified to the Subscriber by DriveMyCar as an area or region in which the Vehicle must not be used;
 - (h) in any alpine resort during the gazetted snow season or in any other area under conditions where a reasonable person would use snow chains
 - (i) on any beach or in any other area exposed to saltwater; or
 - (j) out of the state in which the Subscriber collected it without the consent of the Owner and DriveMyCar.
- 11.3 The Subscriber has no cover for:
- (a) damage to property belonging to, or in the custody of, the Subscriber, or any relative or friend of the Subscriber who ordinarily resides with You; and
 - (b) the Subscriber's liability under any contract or if they have agreed to or accepted liability without DriveMyCar's prior agreement unless the Subscriber would have been liable irrespective of the terms of that contract.
- 11.4 Neither DriveMyCar nor the Owner is liable to the Subscriber or any third party for any loss of use or enjoyment of the Vehicle or any indirect, special or consequential damages arising in any way out of any matter covered by this Subscriber Contract.

- 11.5 The Subscriber has no cover and is liable for Loss and Damage and any third party loss caused or incurred as a result of the Subscriber fitting anything to the Vehicle incorrectly or not in accordance with the Vehicle manufacturer's recommendations.
- 11.6 There is no Damage Cover for the theft of personal belongings from the Vehicle.
- 11.7 The Subscriber uses the Vehicle at the Subscriber's own risk. DriveMyCar and the Owner accept no responsibility or liability to the Subscriber, any passenger or third party for any loss, (including consequential loss) damage, costs, expenses, damages or any other liabilities resulting from:
- (a) any accident, breakdown or any other failure of a Vehicle; or
 - (b) any fault in or malfunction of the booking system.
- 11.8 No personal accident cover is provided by this Subscriber Contract. The Subscriber's liability for causing personal injuries resulting from use of the Vehicle is covered by the statutory schemes for transport accident compensation in each State and Territory of Australia (subject to the conditions and limitations of those schemes). For details of the scope, conditions and limitations of this coverage, You should contact the relevant authority in the State or Territory in which the Vehicle is registered.

12 Roadside Assistance

- 12.1 Subject to clause 12.2, standard Roadside Assistance is included in the Total Subscription Fees.
- 12.2 The Subscriber is liable for the payment of all road side assistance costs, including the call-out fee, towing fees and replacement parts, including if he/she:
- (a) loses and/or misplaces car keys or locks the car keys inside the Vehicle;
 - (b) leaves any lights or accessories switched on while the car engine is not running, resulting in a flat battery or other damage; or
 - (c) the tyres suffer a puncture or are shredded.

13 Termination of the Subscription Agreement and Repossession

- 13.1 DriveMyCar may terminate the Subscription Agreement at any time if the Subscriber commits a Major Breach of the Subscriber Terms and Conditions and DriveMyCar must notify the Subscriber and Owner, in accordance with clause 15, immediately of the termination of the Subscription Agreement.
- 13.2 The Owner may terminate the Subscription Agreement at any time if the Subscriber commits a Major Breach of the Subscriber Terms and Conditions and the Owner must notify the Subscriber and DriveMyCar in accordance with clause 15, immediately of the termination of the Subscription Agreement.
- 13.3 If the Subscription Agreement is terminated pursuant to clause 13.1 or 13.2:
- (a) DriveMyCar or the Owner may repossess the Vehicle from the Subscriber; and
 - (b) the Subscriber **must** pay the cancellation fees, if any, pursuant to clause 7.
- 13.4 The Subscriber may terminate the Subscription Agreement at any time if the Owner commits a Major Breach of the Subscriber Terms and Conditions and the Subscriber must notify the Owner and DriveMyCar, in accordance with clause 15, immediately of the termination of the r Subscription Agreement.
- 13.5 Notwithstanding clauses 13.1 or 13.2, the Owner may immediately repossess the Vehicle without notice to the Subscriber if:

- (a) the Subscriber has illegally parked the Vehicle for longer than 24 hours;
 - (b) the Subscriber has committed a reckless breach of road or traffic legislation;
 - (c) the Vehicle is apparently abandoned;
 - (d) payments are in arrears or are not received within 24 hours of the due date; or
 - (e) the Vehicle has not been returned to the Owner at the time and date specified in the Subscription Agreement.
- 13.6 If the Owner repossesses the Vehicle directly the Subscriber agrees to indemnify the Owner for the costs incurred by the Owner.

14 DriveMyCar Responsibility and Liability

- 14.1 DriveMyCar enters into the Subscription Agreement with the Subscriber as agent of the Owner with respect to payments and receipts only.
- 14.2 Notwithstanding clause 14.1, DriveMyCar, as agent of the Owner, has the right to enforce these Subscriber Terms and Conditions against the Subscriber in the event of any failure by the Subscriber to comply with these Subscriber Terms and Conditions.
- 14.3 DriveMyCar makes no warranty to the Subscriber that the Vehicle is in a roadworthy condition.
- 14.4 Except as expressly set out in these Subscriber Terms and Conditions, DriveMyCar expressly disclaims any further warranties, conditions, or other terms, either express or implied by statute or otherwise.
- 14.5 DriveMyCar accepts no liability in respect of and shall not be responsible to the Subscriber for:
- (a) the condition of the Vehicle;
 - (b) any information or content provided by the Owner;
 - (c) death or personal injury;
 - (d) any damage to any property, or damage to or loss of any Vehicle;
 - (e) any damage or loss of any belongings left in any Vehicle;
 - (f) any fuel costs;
 - (g) any incidental expenses;
 - (h) any charges or fines mentioned in clause 8;
 - (i) any theft or breakdown of any Vehicle; or
 - (j) any failure of the Owner to honour these Subscriber Terms and Conditions;
- 14.6 DriveMyCar is not liable to the Subscriber under or in connection with these Subscriber Terms and Conditions whether for negligence, breach of contract, misrepresentation or otherwise, for:
- (a) loss or damage incurred by the Subscriber in connection with any Claims made by a third party;
 - (b) loss of profit, goodwill, business opportunity or anticipated saving suffered by the Subscriber; or
 - (c) any indirect or consequential loss or damage suffered by the Subscriber.

15 Notices

Any notice to be given to the Owner, Subscriber or DriveMyCar shall be deemed to be given upon it being posted to the address or sent by email to the email address of the Owner, Subscriber, or DriveMyCar (as the case may be) set out in the Subscription Agreement.

16 Proper law and jurisdiction

The Subscriber Contract is governed by and construed in accordance with the laws of the State or Territory in which the Vehicle is registered. The Owner and Subscriber agree to submit to the non-exclusive jurisdiction of the Courts of that State or Territory and Courts of Appeal there from for all purposes of or in connection with the Subscriber Contract.

17 Privacy Act 1988 and GPS Units

- 17.1 DriveMyCar takes all reasonable steps to ensure that Your personal information is securely held and protected from misuse or unauthorised access.
- 17.2 The Subscriber authorises DriveMyCar to collect, use and disclose information in respect to any credit it provides to the Subscriber, including to a Credit Reporting Body. This includes Personal Information required to enable the Credit Reporting Body to provide DriveMyCar with a consumer credit report to assist DriveMyCar in assessing the Subscriber's credit worthiness, payment or default information, information about fraud or any other serious credit infringement, information about adverse court judgments or insolvency.
- 17.3 If the Subscriber defaults in the payment of any monies owed to DriveMyCar, the Subscriber authorises DriveMyCar to provide that information to a Credit Reporting Body and to obtain an up to date consumer credit report on the Subscriber.
- 17.4 Full details of the Carly Privacy Policy can be viewed on Our website at www.carly.co
- 17.5 DriveMyCar may fit and operate GPS or other electronic tracking capabilities to the Vehicle to enable it to track the Vehicle during the Subscription Period. By signing the Subscription Agreement or taking possession of the Vehicle, You authorise DriveMyCar to use the device to track the Vehicle until it is returned to the Owner.

18 Definitions

In these Subscriber Terms and Conditions, unless the context otherwise requires:

At-Fault Accident means an accident in relation to which the Subscriber is held legally responsible for the damages or injury.

Claim means any claim, demand, action or proceeding.

Damage means:

- (a) any damage to the Vehicle including its parts, components and accessories;
- (b) towing and salvage fees and assessing fees;
- (c) Loss of Use as a result of that damage or theft,

and for the removal of doubt, any Damage to the windscreen, headlights, lights or tyres that makes the Vehicle unroadworthy is **not** fair wear and tear.

Damage Liability Charge means the amount shown in the Subscription Agreement payable by the Subscriber if there is damage to or theft of the Vehicle or third party loss.

Designated Collection Location means the location specified in the Subscription Agreement for collection of the Vehicle, or any other location as agreed with the Subscriber.

Designated Return Location means the location specified in the Subscription Agreement for return of the Vehicle, or any other location as agreed with the Subscriber.

DriveMyCar means DriveMyCar Rentals Pty Ltd ACN 075 505 494.

DriveMyCar Insurer means an APRA approved licensed insurer.

DriveMyCar Policy means its Motor Vehicle Fleet insurance policy with its Insurer.

DriveMyCar Services means services relating to the subscription of the Vehicle, including managing Subscription Agreements, co-ordination of the drop off of the Vehicle at the Destination at the commencement and conclusion of each Subscription Period, collection of Subscription fees from the Subscriber, payment of the Owner Fee and arranging damage cover and insurance over the Vehicle.

Handover Inspection Report means the report on the Handover Inspection app which forms part of the Subscription Agreement.

Loss of Use means the loss suffered because the Vehicle identified in the Subscription Agreement is being repaired or replaced as a result of an accident or because it has been stolen and is being replaced. The amount is calculated on a daily basis at the rate shown in the Subscription Agreement.

Major Breach means a breach of any of clauses 2.1, 2.2, 3.2, 3.3, 3.4, 3.5, 11.2 ,(a), 11.2 ,(b), 11.2 ,(c), 11.2 ,(g), 11.2 ,(h), 11.2 ,(i) or 11.2 ,(j).

Owner means a Person who has agreed to hire out their Vehicle to a Subscriber in accordance with the contract between DriveMyCar and the Owner (**Owner Contract**).

Owner Rate means the amount payable by the Subscriber as identified on the Subscription Agreement.

Person includes an individual, the estate of an individual, a body politic, a corporation, an association (incorporated or unincorporated) and a statutory or other authority.

Parties means DriveMyCar, the Owner and the Subscriber.

Subscriber means an individual, firm or company which has agreed to hire a Vehicle from the Owner in accordance with the Subscriber Contract or any Additional Driver as defined in clause 3.3.

Subscriber Terms and Conditions means these terms and conditions which govern the operation of the Subscriber Contract.

Subscription Agreement means the document entitled 'DriveMyCar Subscription Agreement for use of the Motor Vehicle'.

Subscription Fee means the amount payable by the Subscriber to DriveMyCar as identified on the Subscription Agreement.

Subscription Period means the period of time that the Owner and Subscriber have agreed for use of the Vehicle as identified on the front page of the Subscription Agreement.

Switch means the ability to conduct a single exchange of the Vehicle that is the subject of the current Subscription Agreement with another vehicle provided by DriveMyCar subject to these Terms and Conditions and to the number of permitted Switches specified in the Subscription Agreement and upon providing DriveMyCar with sufficient notice. **Switches** and **Switched** have a corresponding meaning.

Vehicle means one or more cars, utes, sport utility vehicles and other automotive vehicles made available for hire by an Owner in accordance with the Subscriber Contract and includes the Vehicle's parts, components and accessories and any Switched or replacement Vehicle.

Website means the www.carly.co website and the content, features and services offered through it.