

Sustainable Mobility Limited t/a Zilch (previously Yoogo Share) Private Member Agreement – Terms & Conditions – March 2020

ZILCH CONTACT DETAILS ARE AS FOLLOWS:

- a. Shed 5c, City Works Depot, 90 Wellesley St West, Auckland CBD 1010
- b. Phone number during Booking Period: 0800 467427

1. INTERPRETATION

Unless the context otherwise requires, the following words and terms have the following meanings:

Access Card means an access card for a Vehicle issued to a Private Member.

Additional Kilometres means kilometres travelled over and above the Booking Kilometre Allowance

Agreement means these Terms and Conditions.

Booking means the time that the Private Member has pre booked for the use of the Vehicle.

Booking Kilometre Allowance means the distance per Booking Period for which Zilch will not charge an Additional Kilometre fee (as outlined in the Rentals, Fees & Charges Schedule).

Booking Period means the time from when the Access Card opens the Vehicle to the time that the Access Card locks the Vehicle and activates the charger at the Designated Parking Space. A minimum of 60 minutes will be charged.

Business Day means a day, other than Saturday and Sunday, on which Zilch's bank is open for business in New Zealand.

Certificate of Registration means the certificate of registration for a Vehicle issued by the New Zealand Transport Agency.

Clean and Tidy Condition means a Vehicle that is reasonably clean and free from rubbish or other belongings taking into account fair wear and tear and is not in a Soiled Condition.

Consumable means all charges payable pursuant to this Agreement not included in the Rental including all amounts payable pursuant to clauses 12 and 14, and as otherwise set out in in the Rentals, Fees & Charges Schedule.

CPI means the **Consumers Price Index** released quarterly by Statistics New Zealand.

Dedicated Parking Space means a clearly marked, numbered and sign written parking space within a Hub, in which a Vehicle can be parked and charged.

GST means **goods and services tax** chargeable in accordance with the Goods and Services Tax Act 1985 and includes, but is not limited to, any penalty, interest or other amount charged, imposed or levied on or in respect of goods and services tax.

Hub means the locations at which Zilch will make Vehicles available, implement Dedicated Parking Spaces and install and operate chargers of Vehicles.

Infringement Offences means any of the following: speeding offences, offences in respect of failure to comply with traffic signals, toll offences and parking violations.

Membership Schedule means the cover page of this Agreement including the specific details relevant to the Private Member.

Rental means the charges for usage as set out in the Rentals, Fees & Charges Schedule.

Rentals, Fees & Charges Schedule means the schedule of fees and charges relating to both Rental and additional charges, a copy of which is available on Zilch's website or by request from Zilch.

Private Member means an individual that is party to this Agreement as set out in the Membership Schedule.

Soiled Condition means a Vehicle that has been soiled (inside or outside) by a liquid or other foreign substance such as soil, smoke, mud, vomit or blood.

Vehicle includes any motor vehicle within the Zilch that a Private Member is permitted to drive for the Booking and includes the Vehicle's accessories. The make, model and registration number of a Vehicle for a particular Booking will be identified to the Private Member not later than 15 minutes prior to the commencement of the Booking Period and such details will form part of this Agreement.

2. Replacement Agreement

The Agreement comprises the Terms and Conditions and the Membership Schedule. This Agreement replaces any other Private Terms and Conditions executed or agreed by the Private Member prior to the date of this Agreement. If

there is any conflict or inconsistency between the Terms and Conditions and the Membership Schedule, the Membership Schedule shall prevail to the extent of any conflict or inconsistency. Upon Zilch and the Private Member signing the Membership Schedule or otherwise agreeing to the terms of this Agreement by electronic means, the parties will be bound by this Agreement.

3. Access

- a. Zilch will provide an access request link (access link) by email to the Private Member.
- b. Private Members can access Zilch's self-set-up by clicking on this access link. The Private Member will be asked for their full name, date of birth, full address, email address and mobile phone number, additionally they will be required to upload a photo image of their driver licence and provide their consent for Zilch to conduct driver licensing checks. Once completed the Private Member submits their access request..
- c. Upon receiving the Private Member's access request, subject to Zilch's acceptance of a Private Member in accordance with clause 3.f, Zilch will send an Access Card to the Private Member.
- d. The Access Card is used to unlock and lock the Vehicle during a Booking.
- e. A Private Member who misplaces their Access Card must notify Zilch as soon as reasonably practicable after they discover it is missing. A replacement Access Card will be provided within 10 Business Days and the fee prescribed in the Rentals, Fees & Charges Schedule will be charged to the Private Member.
- f. A Private Member will be subject to acceptance by Zilch before being granted access to Vehicles, and the Private Member agrees that Zilch may access all details concerning the drivers licence and status of the Private Member before access is initially given, and at any time thereafter.

4. Private Member Responsibilities

- a. The Driver must be aged twenty one (21) years or over.
- b. Overseas drivers must have been in NZ for less than 12 months and hold a full overseas driver licence or international driver permit that is in English, or has an accurate English translation, with validity of a minimum of three years or longer.
- c. The Private Member is responsible for the Vehicle during the Booking Period.
- d. The Private Member must hold, and carry with them on every Booking a valid driver licence appropriate for the Vehicle and must not allow the Vehicle to be driven by any person who is not the identified Private Member for that Booking.
- e. The Private Member must use reasonable endeavours to avoid any loss or damage to the Vehicle or to third persons or their property.
- f. The Private Member must ensure the Vehicle is securely locked at all times when unattended.
- g. The Private Member must unplug the Vehicle from the charging station at the beginning of the Booking Period and plug back into the charging station at the completion of the Booking Period.
- h. Should any vehicle warning light activate during a Booking Period the Private Member must immediately and safely pull over to the side of the road and contact Zilch.
- i. The Private Member must not;
 - I. Use or allow the Vehicle to be used for the transport of passengers for hire or reward;
 - II. Sublet or hire the Vehicle to any other person;
 - III. Use the Vehicle for any illegal purpose whatsoever;
 - IV. Use the Vehicle for off-road driving including but not limited to 4 wheel drive tracks, beaches, riverbeds, construction sites, legal unformed roads or on parks;
 - V. Drive recklessly;
 - VI. Operate the Vehicle or allow it to be operated in a race, speed test, rally or contest;
 - VII. Smoke or allow smoking inside the Vehicle or at any Hub;
 - VIII. Allow any animals to be transported in the Vehicle;
 - IX. Allow the Vehicle to be operated outside his or her authority, including using the Vehicle to teach somebody how to drive;
 - X. Use any hand-held electronic device whilst driving the Vehicle;
 - XI. Operate the Vehicle or allow it to be operated for the transport of more than the number of passengers or more than the gross vehicle mass specified in the certificate of loading for the Vehicle;
 - XII. Allow the Vehicle to carry dangerous goods as defined by the Land Transport Rule: Dangerous Goods 2005;
 - XIII. Allow or operate the Vehicle in any circumstances when the Private Member is under the influence of a drug or alcohol which contravenes Sections 12, 56, 57, 57a, 57aa or 58 of the Land Transport Act 1998;
 - XIV. Allow or operate the Vehicle in a manner which breaches the Land Transport Act 1998, Land Transport (Road User) Rule 2004, or any other act, regulation or bylaw in force within New Zealand;
 - XV. Interfere with or modify any part of the Vehicle outside of its intended use as detailed within the manufacturer guidelines and specifications located in the Vehicle's glove compartment;
 - XVI. Register or claim to be entitled to register any interest in the Vehicle under the Personal Property Securities Act 1999;
 - XVII. Operate the Vehicle when it is unsafe or in an un-roadworthy condition;
 - XVIII. Leave an accident scene or similar event before the arrival of a tow or salvage operator if required;

- XIX. End the Booking without plugging the Vehicle back into the charging station associated with the Dedicated Parking Space;
- XX. Use the Vehicle in a manner or for a purpose that may negatively affect the reputation of Zilch; or
- XXI. At any stage park the Vehicle in any illegal parking space.

- i. The Private Member must:
 - I. comply with all rules, instructions and regulations set by the owners and/or operators of any car parking premises (including those car parking premises at which a Hub is located);
 - II. comply with all reasonable directions of Zilch in relation to the operation of the Vehicle;
 - III. comply with all laws applicable to the operation of the Vehicle; and
 - IV. ensure that a copy of these Terms and Conditions is kept in the Vehicle for the duration of the Booking Period and produced without delay for inspection by an enforcement officer. A copy of these Terms and Conditions and the details applicable for the Booking will be available via the Zilch App.

5. Zilch's Responsibilities

- a. Zilch will ensure the Vehicle is in a safe and roadworthy condition prior to the Commencement of a Booking Period, with a current Certificate of Registration and certificate of fitness, provided that Zilch shall not be in breach of this Agreement if it has not been notified of any damage to a Vehicle before the commencement of a Booking Period.
- b. Zilch is responsible for all Vehicle running costs during the Booking Period except costs that are payable by a Private Member under this Agreement.
- c. Whilst reasonable endeavours are used to ensure Vehicle availability, Zilch does not guarantee availability of a Vehicle when required by the Private Member whether at a particular Hub or otherwise.

6. Beginning a Booking

- a. The Private Member can book a Vehicle in advance right up to the commencement of a Booking Period.
- b. Use of Vehicles can be pre booked via the Zilch App, Zilch's website or any other method that Zilch may make available.
- c. Bookings can be cancelled by a Private Member right up to the start of the Booking time.
- d. The Private Member must collect the Vehicle at the Zilch branded Parking Space as advised by Zilch.
- e. If the Private Member is late for their Booking but within 15 minutes of the beginning of the Booking time, then the Booking will not be cancelled and the Private Member will be charged the Rental from the beginning of the Booking.
- f. If the Private Member fails to arrive for their Booking or arrives more than 15 minutes after the Booking time, then the Booking will be cancelled and the Vehicle will become available to the greater pool. The Private Member will be charged a No Show fee as per the Rental, Fee and Charges Schedule. If the Private Member still requires a Vehicle then they must make a new Booking.
- g. Zilch may at any stage and for any reason whatsoever cancel a Booking. This may be done for any reason not limited to technical, mechanical, safety, capacity or emergency.
- h. Before operating a Vehicle at the commencement of a Booking Period, the Private Member must always complete a Vehicle condition inspection, and as soon as reasonably practicable report:
 - I. any damage to the Vehicle;
 - II. the Vehicle being in a Soiled Condition; or
 - III. the Vehicle not being in a Clean and Tidy Condition,

to Zilch. Zilch will determine a solution which may involve making alternate arrangements for the Booking or cancelling the Booking.

- i. The Private Member agrees that if it fails to communicate any of the matters specified in clause 6.h (i)-(iii) at the beginning of the Booking Period, any such matter with respect to the Vehicle may be deemed by Zilch to have occurred during the Booking Period and Zilch may charge the Private Member:
 - I. if the Vehicle is not in a Clean and Tidy Condition, the cleaning fee plus the administration fee relating to cleaning as outlined in the Rentals, Fees & Charges Schedule;
 - II. if the Vehicle is in a Soiled Condition, the soiled vehicle fee plus the administration fee relating to cleaning as outlined in the Rentals, Fees & Charges Schedule; and
 - III. if the Vehicle is damaged, all amounts payable pursuant to this Agreement in relation to damaged Vehicles.

7. Vehicle Return

- a. At the conclusion of a Booking Period, the Private Member must return the Vehicle locked, free from damage and in a Clean and Tidy Condition to a Zilch Dedicated Park in the Hub from which the journey was started, or, should Zilch, at its discretion, introduce a system whereby Vehicles can be taken from one Hub and returned to another Hub, to a Zilch Dedicated Park in any Hub that Zilch has available for the Vehicle.
- b. Wherever there is a charging unit in the Dedicated Park the Private Member must plug the Vehicle back into the charging unit to end the Booking and begin charging. Failure to end the Booking on the charger will result in the Booking Period remaining active and Rental charges will apply until the Booking Period has been ended (irrespective of the pre-booked period of usage). In this case, an alert will be sent to the Private Member by email to check if the Booking Period is still active and allow for the Private Member to finish the Booking Period if not still active.
- c. At the conclusion of a Booking Period, the Private Member must complete a visual inspection of the Vehicle and ensure any new damage, or the fact that the Vehicle is in a Soiled Condition or not in a Clean and Tidy Condition, is reported as soon as reasonably practicable to Zilch.
- d. The Private Member must check the Vehicle for any its property and remove all rubbish.
- e. If a Private Member notifies Zilch, or Zilch otherwise reasonably considers that the returned Vehicle is not in a Clean and Tidy Condition (including if the Private Member fails to inform Zilch and the next driver informs Zilch during their Vehicle condition inspection that the Vehicle is not in a Clean and Tidy Condition) then Zilch will charge the Private Member a cleaning fee plus the administration fee relating to cleaning as outlined in the Rentals, Fees & Charges Schedule.
- f. If a Private Member notifies Zilch, or Zilch otherwise reasonably considers that the returned Vehicle is in a Soiled Condition (including if the Private Member fails to inform Zilch and the next driver informs Zilch during their Vehicle condition inspection that the Vehicle is in a Soiled Condition) then Zilch will charge the Private Member a soiled vehicle fee plus the administration fee relating to cleaning as outlined in the Rentals, Fees & Charges Schedule.
- g. If a Private Member notifies Zilch, or Zilch otherwise reasonably considers that the returned Vehicle is damaged (including if the Private Member fails to inform Zilch and the next driver informs Zilch during their Vehicle condition inspection that the Vehicle is damaged) then Zilch will charge the Private Member all amounts payable pursuant to this Agreement in relation to damaged Vehicles.
- h. If another vehicle is parked in the Dedicated Parking Space the Private Member must contact Zilch and the support team will advise an alternate parking space for the Vehicle.
 - I. If the Vehicle is towed or clamped during a Booking Period:
 - II. the Private Member is to call Zilch immediately on becoming aware of towing or clamping, to make arrangements for the recovery or unclamping of the Vehicle and its return to its Designated Parking Space;
 - III. the Private Member shall be liable for all costs incurred by Zilch in the recovery or unclamping of the Vehicle; and
 - IV. the Booking Period shall be deemed to continue and Rental charges will apply until the Vehicle is returned to the Designated Parking Space (irrespective of the pre-booked period of usage).

8. Vehicle cleanliness

- a. If Zilch reasonably considers, or is notified by a Private Member, that a Vehicle is:
 - I. not in a Clean and Tidy Condition; or
 - II. in a Soiled Condition,

the Vehicle will be removed by Zilch from availability and groomed accordingly.

- b. If the Vehicle is in a Soiled Condition, then the Private Member must remove as much as reasonably possible and contact Zilch as soon as reasonably practicable.

9. Lost Property

- a. Zilch encourages every Private Member to check all compartments, seats and storage spaces after the Booking Period is completed to ensure no personal property is left behind.
- b. If a Private Member is missing something or if a Private Member finds any lost property then they must contact Zilch as soon as reasonably practicable. The Private Member is to leave the property secured in the Vehicle and Zilch may arrange for it to be returned at the cost of the relevant Private Member.
- c. The Private Member acknowledges that Zilch cannot be held responsible for any items left in a Vehicle during or after a Booking Period.

10. Accidents

Where the Vehicle is involved in an accident:

1. The Private Member is to call Zilch immediately to procure assistance and otherwise take prompt steps to minimise, avoid or diminish the loss or damage or liability of Zilch or its insurer. The Booking Period will end at the time of the call.
2. If required Zilch will dispatch a roadside assistance contractor as soon as practicable.
3. The Private Member is to make the Vehicle secure and inform the police immediately if anyone is injured, the flow of traffic is obstructed or there is a disagreement as to the facts.
4. The Private Member is to collect the registration of any other vehicle involved as well as the names, addresses and licence number of any other driver involved.
5. If the Vehicle is immobilised or otherwise unsafe to drive as a result of the accident, Zilch will arrange to transport the Vehicle to a selected location and the Private Member may be provided with alternative transport at the discretion of Zilch. The type of alternative transport solution that may be provided by Zilch (if any) will be selected at the discretion of Zilch (acting reasonably) provided that such alternative transport is either:
 - I. i. reasonably sufficient to enable the Private Member to complete the Booking; or
 - II. ii. sufficient to return the Private Member to the Designated Parking Space.

In the event that an alternate Vehicle is provided by Zilch, the Booking Period will re-commence from the time such replacement Vehicle is opened by the Private Member.

6. If the Vehicle is safe to drive, Zilch may approve continuation of the Booking and will make contact with the Private Member again at an appropriate time to complete any documentation relating to the accident.
7. The costs of the provision of any roadside assistance contractor or alternative transport following an accident shall be:
 - I. at Zilch's expense where the reason for the accident is mechanical failure; and
 - II. subject to clause 13, otherwise at the cost of the Private Member (with the Private Member to be invoiced the month following the accident).
8. The Private Member is:
 - I. to provide Zilch's insurer with any information as may be reasonably required in connection with the accident (including completing any insurance claim forms as requested by Zilch);
 - II. not to admit it is liable or say or do anything that prejudices the Zilch or its insurers ability to defend the claim or seek recovery;
 - III. not to negotiate, or offer to pay reparation, including but not limited to, offers made as part of any case management conference or sentencing hearing; and
 - IV. allow Zilch's insurer the sole right to act in the Private Member's name to defend, negotiate or settle the claim as Zilch's sees fit.

11. Breakdown Assistance

Where a Vehicle suffers a breakdown (including where a warning light is activated, or the Vehicle is immobilised or is unsafe to drive) otherwise than as a result of an accident at any time during the Booking Period:

- a. The Private Member is to call Zilch immediately to procure assistance and the Booking Period will end at the time of the call;
- b. Following such call, Zilch will dispatch a roadside assistance contractor as soon as practicable;
- c. The Private Member may be provided with alternative transport at the discretion of Zilch. The type of alternative transport solution that may be provided by Zilch (if any) will be selected at the discretion of Zilch (acting reasonably) provided that such alternative transport is either:
 - I. reasonably sufficient to enable the Private Member to complete the Booking; or
 - II. sufficient to return the Private Member to the Designated Parking Space.
- d. In the event that:
 - I. an alternate Vehicle is provided by Zilch, the Booking Period will re-commence from the time such replacement Vehicle is opened by the Private Member; or
 - II. the Vehicle is sufficiently repaired by the roadside assistance contractor Zilch may approve the continuation of the Booking.
- e. The costs of the provision of any roadside assistance contractor or alternative transport following a breakdown shall be:
 - I. at the cost of the Private Member (with the Private Member's credit card to be debited following the breakdown of the Vehicle) if the cause of the breakdown is Private Member induced (including the Vehicle having a flat battery that is not otherwise caused by mechanical failure); and
 - II. otherwise at the cost of Zilch.
- f. The Private Member shall ensure that the Vehicle is kept secure and parked legally (to the extent reasonably practical) following any breakdown.

12. Liability

The Private Member is liable for:

- a. Any loss of, or damage to, the Vehicle and its accessories during the Booking Period;
- b. Any damage, loss or costs incurred by Zilch in connection with the use or misuse of the Vehicle including any damage to property, injury or death of people, penalties and fines, any claims against Zilch by a third party arising from their use/misuse of the Vehicle, and salvage costs;
- c. Any loss of, or damage to, vehicles and property of third parties during the Booking Period arising out of or in connection with the use or misuse of the Vehicle.

The Private Member agrees to release and indemnify Zilch from and against all actions, claims, demands, losses, damages, costs, expenses, or harm which the Private Member may suffer or incur or become liable as a result of the use or misuse of the Vehicle.

Except as expressly set out in this agreement (including any types of loss or costs described in this clause 12 and clause 14.g, the Private Member will not be liable for any loss of profits and/or indirect or consequential loss.

13. Insurance

- a. Motor vehicle insurance is offered by Zilch but the Private Member may make its own insurance arrangements provided these are approved by Zilch in accordance with clause 13.c.
- b. Unless the Private Member elects to be covered by its own insurance as approved by Zilch in accordance with clause 13.c:
 - I. subject to the remaining provisions of this clause 13.b, provided a Private Member fulfils their obligations as set out in these Terms and Conditions, including but not limited to providing Zilch with all the relevant disclosures in relation to the Private Member's driving and insurance history, its liability under 12 will be covered by Zilch's insurance policy when driving a Vehicle;
 - II. Zilch's insurance policy provides cover against loss or damage to the Vehicle. Details of Zilch's Private insurance policy is available either on Zilch's website or on request;
 - III. The Private Member acknowledges that Zilch's insurance policy contains a number of exclusions, qualifications and limitations from cover. Where an exclusion, qualification or limitation applies the insurance cover referred to in this cause will not apply. In these circumstances the Private Member will be responsible for the matters specified in clause 12;
 - IV. By issuing a person with an Access Card, Zilch authorises that person to become a Private Member who can then drive under Zilch's motor insurance policy;
 - V. A Private Member must inform Zilch immediately should any of their driving history details change, including but not restricted to revocation of their driving licence or any further endorsements or accidents. Failure to inform Zilch in relation to a change in driving history could exclude insurance cover for the Private Member;
 - VI. No cover is provided for the theft of personal belongings from the Vehicle, nor is any personal accident cover provided;
 - VII. Private Members are liable for any excess in the event a Private Member has an accident. Excess rates plus any relevant administration fees are listed in the Rentals, Fees & Charges Schedule (with additional excess applying for Private Members using an international drivers licence). The excess is payable for each and every incident involving the Vehicle. If the damage is excluded under Zilch's insurance the excess will be considered part payment towards the total damage cost and any additional costs will be paid by the Private Member and
 - VIII. Zilch's insurer will not exercise rights of subrogation against Private Members subject to the Vehicle being driven within the terms of Zilch's insurance policy and the Private Member complying with all applicable laws.
- c. If the Private Member proposes to be covered by its own insurance (and not Zilch's), the Private Member will provide all relevant details of its proposed alternative insurance arrangements to Zilch. Zilch will review the alternative insurance arrangements and an administrative fee set out in the Rentals, Fees & Charges Schedule for this review may be charged. Zilch will only approve the alternative insurance arrangements if these are comparable to Zilch's offered insurance policy. If Zilch is not satisfied that the alternative insurance arrangements are comparable, Zilch may decline to hire any Vehicles to the Private Member.
- d. If the Private Member elects to use its own insurance (and such insurance is approved in accordance with clause 13.c above), then the Private Member accepts all liability for all losses, costs and damages set out in this Agreement and agrees that Zilch's insurance does not apply to and will not cover any such losses, costs and damages.

14. Payment

- a. The Private Member will pay to Zilch all Rental and Consumables for each Booking Period.
- b. All Rental and Consumables will be paid by the immediate direct debiting of the Private Member's nominated credit card.

- c. If a credit card provided by a Private Member to Zilch for payment purposes is declined by the card issuer then Zilch may, at its discretion, suspend or cancel the access of a Private Member to Vehicles until such time that Zilch is satisfied accurate details have been provided and payment has been received by Zilch.
- d. If a credit card is declined by the card issuer leaving the Private Member with an outstanding balance, then access to all Vehicles will be suspended until full payment is received by Zilch.
- e. Rental for each Booking shall be calculated to a minimum of the first hour and thereafter to the minute, hour or 24-hour rate whichever is the lowest. All Rental rates are as specified in the Membership Schedule. The 24-hour rate refers to the maximum amount charged for any consecutive 24-hour Booking
- f. Rental charges shall accrue from the beginning of a Booking (the beginning of pre-booked period of usage) and end at the end of a Booking Period (the time that the Access Card locks the Vehicle and activates the charger at the Designated Parking Space). In the event that a Booking Period ends after the conclusion of the pre-booked Booking period:
 - I. for the first 30 minutes after the conclusion of the pre-booked Booking, the Rental will continue to accrue at the rate otherwise applying to the Booking; and
 - II. for the period from 30 minutes after the conclusion of the pre-booked Booking until the end of the Booking Period (the time that the Access Card locks the Vehicle and activates the charger at the Designated Parking Space) the Rental will be charged at the minute rate set out in the Rental, Fees & Charges Schedule, subject to a multiple as notified to the Private Member via the Zilch App.
- g. In addition to the Rental the Private Member is liable for all other charges and in the Rentals, Fees & Charges Schedule or as otherwise set out below including but not limited to;
 - I. Annual Membership Fee as set out in the Membership Schedule;
 - II. Additional Kilometre Fee for usage above the Booking Kilometre Allowance;
 - III. Any charges for loss or damage to the Vehicle resulting from a Private Member's failure to comply with these Terms and Conditions (subject to the other provisions of these Terms and Conditions) including the administration fee for accidents;
 - IV. Any cleaning fee plus the administration fee relating to cleaning arising from the return of the Vehicle not in a Clean and Tidy Condition.
 - V. Any soiled vehicle fee plus the administration fee relating to cleaning arising from the return of the Vehicle in a Soiled Condition.
 - VI. The fee for replacing any lost or damaged Access Card;
 - VII. All costs incurred by Zilch in the recovery of a towed Vehicle;
 - VIII. All road tolls charged to the Vehicle during the Booking Period;
 - IX. If, without the prior agreement of Zilch, the Vehicle is not returned to its Designated Parking Space at the end of the Booking Period the Private Member will pay the relevant fee set out in the Rentals, Fees & Charges Schedule;
 - X. All penalties, fines and other costs for Infringement Offences incurred by the Private Member during a Booking Period. Any fines and penalties that are processed by Zilch will render the Private Member liable for Zilch's administration charges as set out in the Rentals, Fees & Charges Schedule;
 - XI. Any costs Zilch incurs, including legal fees, in collecting payments due from the Private Member (including the cost of debiting the Private Member's credit card for an Infringement Offence, and processing and sending to the Private Member notices relating to an Infringement Offence);
 - XII. Any finance charges Zilch incur for dishonoured, declined or failed payments and direct debits;
 - XIII. Any payment of an excess under clause 13;
 - XIV. Applicable fees for special information or data requests;
 - XV. Interest at the rate as detailed in the Rentals, Fees & Charges Schedule on any amount that is not paid on the due date, such interest to be calculated on a daily basis from the due date of payment until the actual date of payment in cleared funds.
 - XVI. All credit card payments will incur to the merchant fee surcharge.
- h. The Private Member's entry into this Agreement shall constitute authority for Zilch to calculate and charge against the Private Member's nominated credit card all monies due under this Agreement.
- i. The Private Member must pay all amounts owing to Zilch without set off or deduction.
- j. Where a payment under this Agreement is due on a day that is not a Business Day, the due date will be the preceding Business Day.

15. Infringement Offences

- a. Zilch undertakes, in the event of receiving a notice of any Infringement Offence, to send a copy of the infringement notice and a copy of any reminder notice to the Private Member as soon as practicable. The Private Member authorises Zilch to provide such necessary information to the relevant issuing enforcement authority for such notices to be directed to the Private Member.
- b. The Private Member has the right to challenge, complain about, query or object to the alleged Infringement Offence to the issuing enforcement authority, and the Private Member has the right to seek a court hearing (within 56 days from the date of issue of the infringement notice or 28 days from the date of issue of the reminder notice).
- c. If Zilch receives a reminder notice for an Infringement Offence it may debit the Private Member's credit card in accordance with clause 14.h for the amount of the penalties, fines and other costs relating to the Infringement Offence together with the applicable administration charges as set out in the Rentals, Fees & Charges Schedule.
- d. If Zilch pays any amount for which the Private Member is liable for an Infringement Offence, the Private Member will also be charged that amount together with the applicable administration charges as set out in the Rentals, Fees & Charges Schedule.
- e. By agreeing to this Agreement, the Private Member confirms that it has been notified of its liability for any Infringement Offences, its rights in respect of any Infringement Offences and Zilch's undertaking in respect of any infringement notices and/or reminder notices.

16. Vehicle Charging

Zilch shall use reasonable endeavours to ensure a Vehicle is suitably charged at the beginning of a Booking Period but on occasion and depending on the type of journey the Private Member may be required to recharge the Vehicle. How and where to do this is detailed in the Private user guide received either upon Private Member registration or viewed via the Zilch App or from Zilch's website. The network of charging locations is continuously growing so if any doubt a Private Member needs only contact Zilch and the support team will direct them to the closest or most appropriate charger.

17. Termination

- a. Either party can terminate this Agreement at any time with immediate effect by providing written notice of such termination to the other party. Immediately following such notice being given, the Private Member shall return its Access Card to Zilch.
- b. Any monies owed to Zilch at the time of termination will become immediately due and payable. The Private Member's acceptance of this Agreement grants Zilch the right to charge against the Private Member's nominated credit card all monies due and payable under this Agreement at the time of termination.

18. Privacy

Zilch respects a Private Member's right to privacy and as a result Zilch maintains a policy of strict confidence concerning all personal information (as that term is defined in the Privacy Act 1993). Zilch's policy concerning the use and disclosure of personal information is;

- a. All information collected is for the purpose of providing a Private service to Zilch's Private Members and for the provision of related services.
- b. The Private Member acknowledges and agrees that Zilch, or a third party on Zilch's behalf, may from time to time contact the Private Member with information about products, services and special deals offered by Zilch or any other third party by post, email or other electronic means.
- c. Zilch may request personal information to verify Private Member identity. Zilch will only speak to authorised Private Member contacts in relation to their own accounts and not to any third party.
- d. Some Private Member information supplied must necessarily be shared, and the Private Member acknowledges that personal information may be disclosed to Zilch's insurers, professional advisors and service providers, for the purposes of a credit check, to debt collection agencies and payments facility providers, to other parties involved in an accident with the Vehicle, or any organisations responsible for issuing, processing or handling traffic and/or parking related offences, or otherwise as permitted by the Privacy Act 1993.
- e. Zilch will not sell, lease, rent, loan or trade lists of any Private Member information.
- f. Reasonable steps are taken to ensure Zilch's information is accurate, complete and current. If any information is inaccurate then a Private Member is able to contact Zilch and all reasonable steps will be taken to correct it.
- g. All personal information is kept in a secure environment.
- h. Under the Privacy Act 1993, individuals have rights of access to and correction of their personal information.
- i. These policies may be superseded by requirements or obligations imposed by statute, regulation or legal process.

19. Telematics

- a. The Private Member acknowledges and understands that the Vehicle has been fitted with GPS and Telematics technology which among other things communicates Booking and usage information to the Vehicle and from the Vehicle back to Zilch.
- b. Subject to clause 19.f, the Private Member agrees that Zilch may disclose to any affiliated or non-affiliated third party any personal data necessary for performance of the Agreement and/or with regard to the use of the Vehicle.
- c. The Private Member acknowledge that Zilch's technology utilises cellular and/or radio signals to transmit data and communications and therefore, privacy and security of transmissions cannot be guaranteed.
- d. Subject to clause 19.f, the Private Member authorises and consents to the use of, disclosure of, access to and retrieval of any and all data and information produced or derived from Zilch's technology.
- e. The Private Member authorises Zilch to use all abovementioned data and information to formulate reports, information and insights on both Vehicle usage and driver behavior which will be shared with the Private Member.
- f. Any data to be disclosed by Zilch in accordance with clauses 19.b and 19.d shall be disclosed on the basis that it is aggregate information not attributable to or identifiable against the Private Member, provided that Zilch may disclose to the Private Member data collected concerning the Private Member's use of Vehicles.

20. Limitation of Liability

- a. This Agreement is subject, in all cases except where the Private Member is contracting within the terms of a trade/business (which cases are specifically excluded), to the provisions of the Consumer Guarantees Act 1993.
- b. To the fullest extent permissible by law all warranties, conditions or other terms implied by law are excluded. This Agreement constitute the sole understanding of the parties in relation to its subject matter and supersede all prior understandings, written or oral, which will be of no further force or effect.
- c. To the extent permitted by law, in no event shall Zilch be liable to the Private Member under or in connection with this Agreement and/ or the supply of the services (whether in contract, tort or otherwise) for consequential losses or damages, indirect loss or any economic loss or loss or profits.
- d. To the extent that Zilch's liability is not otherwise limited or excluded, and to the fullest extent permitted by law, Zilch's aggregate liability to the Private Member whether in tort, contract or otherwise for any loss, damage or injury in relation to the services is limited to the price paid by the Private Member for the services in respect of which the claims or claims are made.
- e. Zilch will not be in breach of any of its obligations under this Agreement because of any failure on Zilch's part due to a cause beyond Zilch's reasonable control.

21. Ownership of Vehicle

The Private Member acknowledges that any Vehicle is and shall remain the sole property of Zilch and nothing contained in this Agreement or Membership Schedule will confer upon the Private Member any right of property or interest in or to the Vehicle and the Private Member shall at all times be bailee only of the Vehicle.

22. Credit checks

The Private Member acknowledges and agrees that Zilch will use a credit reporting service provider to conduct a credit check on the Private Member and that; (i) the credit reporting service provider will give Zilch information about the Private Member for the purpose of Zilch's credit checks; (ii) Zilch will give the Private Member's personal information to the credit reporting service provider and that the credit reporting service provider will hold that information on their systems and use it to provide their credit reporting service. When other customers of the credit reporting service provider use that credit reporting service, the credit reporting service provider may give the information to those customers; (iii) Zilch may use credit reporting services in the future for purposes related to the provision of credit to the Private Member (iv) if the Private Member defaults in its payment obligations, information about that default may be given to the credit reporting service provider, and that credit reporting service provider may give information about that default to other customers.

23. No Waiver

No failure or forbearance by Zilch, to exercise, or delay in exercising, (in whole or in part) any right, power or remedy under, or in connection with, this Agreement shall operate as a waiver of that right, power or remedy. A waiver by Zilch (which must be in writing) of any breach by the Private Member shall not be, or deemed to be, a waiver of any other or subsequent breach.

24. Assignment and Subcontracting

- a. The Private Member shall not directly or indirectly assign, transfer or otherwise dispose of any of its rights or interests in, or any of its obligations or liabilities under, or in connection with, this Agreement except with the prior consent of Zilch.
- b. Zilch may subcontract the performance of its obligations under this Agreement.

25. Governing Law

This Agreement is governed by the laws of New Zealand. Both parties agree to submit to the non-exclusive jurisdiction of the courts of New Zealand.

26. Notices

A notice pursuant to this Agreement shall be sufficiently given or served if delivered or sent by email to such party at the address set out in the Membership Schedule.

27. Amendments

Zilch may vary these Terms and Conditions by putting the varied terms on its website. Bookings 7 days after the date of the publication of the varied terms will be subject to the variation, and the placing of the Booking shall be deemed to be an acceptance of such varied Terms and Conditions.

28. Severability

The illegality, invalidity or unenforceability of any provision of these Terms and Conditions will not affect the legality, validity or enforceability of another provision.

29. Schedule of Fees & Charges

The Schedule of Fees & Charges is set out on the website and is subject to change at the sole discretion of Zilch.

