



Vehicle Leasing Agreement – Individual Drivers

Terms & Conditions

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1 Definitions and Interpretation

1.1 Definitions

In this Agreement, the following defined terms have the corresponding meanings unless expressly stated otherwise or the context otherwise requires:

Accident means an unintended and unforeseen incident, including:

- (a) a collision between the Vehicle and another vehicle or object, including animals and roadside infrastructure;
- (b) rollovers; and
- (c) weather events, including hail,

that results in Damage or Third Party Loss.

Additional Kilometre Charge means the amount set out in item 14 of Schedule A.

AFIA Guide means Australian Finance Industry Association's Fair Wear and Tear Guide included in their car rental code of practice, as found on their website (<https://afia.asn.au>) and updated from time to time.

Approved Application means a mobile application and/or website that facilitates rideshare or food delivery services (as approved in writing by CarBon from time to time). For the purposes of this Agreement, Uber (www.uber.com) is an Approved Application as at the Start Date.

App Termination means the Lessee being terminated and/or prohibited from using an Approved Application as determined by the Approved Application.

Australian Consumer Law means Schedule 2 to the *Competition and Consumer Act 2010* (Cth).

Authorised Representative means a current CarBon employee or a third party acting as CarBon's agent who CarBon has provided written notice of to the Lessee, confirming their status as an Authorised Representative.

Business Day means any day (other than a Saturday, Sunday or public holiday) on which banks are open for general business in Perth, Western Australia.

CarBon Depot means a CarBon location nominated by CarBon as set out in item 18 of Schedule A.

Claims means all suits, actions, causes of action, claims and demands for compensation, damages or other relief (including declaratory relief) on any basis whatsoever whether at law, in equity or under statute and includes, without limitation, all costs and expenses whether legal or otherwise in relation to any Claims.

Damage includes:

- (a) any loss or damage to the Vehicle including its parts, components and accessories, that is not Fair Wear and Tear;
- (b) towing and salvage costs; and
- (c) assessing fees,

acknowledging that any Damage to the windscreen, headlights, lights or tyres that makes the Vehicle unroadworthy is not Fair Wear and Tear.

Damage Excess means the fee specified in item 15 of Schedule A.

Deposit means the amount specified in item 8 of Schedule A.

End Date means the date specified in item 2 of Schedule A.

Establishment Fee means the fee specified in item 11 of Schedule A.

Experienced Driver means a driver aged 25 years old or over and has at least 2 years driving experience after having obtained an unrestricted Australian driving licence.

Extension Notice Date means the date specified in item 3 of Schedule A.

Fair Wear and Tear means the condition of the Vehicle, being within the tolerances described in the AFIA Guide.

GST means:

- (a) the same as in the *A New Tax System (Goods and Services) Act 1999* (Cth);
- (b) any other goods and services tax, or any tax applying to the transaction in a similar way; and
- (c) any additional tax, penalty tax, fine, interest or other charge under a law for such a tax.

Incident Report Form means the form in Schedule B.

Included Kilometres means the kilometre limit as specified in item 13 of Schedule A.

Inexperienced Driver means a driver who is not an Experienced Driver.

Insolvency Event means the happening of any following event in respect of a party:

- (a) if a natural person, it becomes bankrupt or insolvent; or
- (b) if a company:
 - (i) (receivership) a receiver, receiver and manager, official manager, trustee, administrator, other controller (as defined in the Corporations Act) or similar official is appointed, or steps are taken for such appointment, over any of the equipment or undertaking of the party;
 - (ii) (insolvency) the party is or becomes unable to pay its debts when they are due or is or becomes unable to pay its debts within the meaning of the Corporations Act or is presumed to be insolvent under the Corporations Act;
 - (iii) (ceasing business) a party ceases or threatens to cease to carry on business; or
 - (iv) (liquidation) an application or order is made for the liquidation of the party or a resolution is passed or any steps are taken to liquidate or pass a resolution for the liquidation of the party otherwise than for the purpose of an amalgamation or reconstruction.

Jurisdiction has the meaning given in item of 20 Schedule A.

Lease Payment Date means the day on which certain payments are to be made under this Agreement, commencing on the Start Date and at weekly intervals from the Start Date during the Term.

Lessee means the person identified at the 'Lessee' in item 5 of Schedule A.

Loss Event means an event which gives rise to a right of the Lessee to seek cover under the Loss and Damage Cover.

Loss and Damage Cover means the loss and damage cover described under clause 17.

Major Breach means a breach of any of the clauses described and listed in clause 28.

Nominated Payment Method means the payment method specified in item 19 of Schedule A.

Notifiable Event means an event set out in clause 7.

Permitted Area means the Australian State in which the Vehicle was obtained by the Lessee (as shown in item 16 of Schedule A) and within which the Vehicle must be operated.

Permitted Purpose has the meaning given in item 12 of Schedule A.

Personal Information means Personal Information as defined under the Privacy Act.

PPSA means the *Personal Property Securities Act 2009* (Cth).

PPSR means the personal property securities register maintained under and in accordance with the PPSA.

Privacy Act means the *Privacy Act 1988* (Cth).

Privacy Policy means CarBon's Privacy Policy as found on CarBon's website (www.carbon.com.au) as amended from time to time.

Sealed Road means a road, other than a road that is undergoing temporary roadworks, that has been formed and constructed and is sealed with a hard material such as tar, bitumen or concrete.

Security means any property whether real property or personal property of which the Lessee is the owner (or in which the Lessee has an interest) or registered proprietor whether beneficial, legal, equitable or other.

Security Interest has the meaning given in the PPSA.

Schedule means a schedule to this Agreement.

Start Date means the date specified in item 1 of Schedule A.

Supplementary Payment means any Additional Kilometre Charge, Damage Excess, or any other amount (other than the Weekly Lease Amount, the Deposit and the Establishment Fee) which is, or may become, payable by the Lessee under and in accordance with this Agreement.

Term means the period commencing on the Start Date and finishing on the earlier of:

- (a) the End Date; or
- (b) the time this Agreement is validly terminated and the Vehicle is returned to the CarBon Depot,

except as agreed otherwise in writing between the parties (including under clause 23) in which case the Term will be extended to include the agreed extension.

Third Party Loss means loss or damage to third party property, including other motor vehicles and any claim for third party loss of income.

Tracking Device means a GPS or other device that is fitted to the Vehicle that has electronic tracking capabilities to determine its location and other data including speed, braking and fuel levels.

Unpaid Toll Notice means a notice provided by the relevant transport authority, requesting payment of an unpaid toll fee.

Vehicle means the vehicle described in item 9 of Schedule A.

Weekly Lease Amount means the amount described in item 10 of Schedule A.

1.2 Interpretation

- (a) In this Agreement, unless the context requires otherwise:
 - (i) the singular includes the plural and vice versa;
 - (ii) a gender includes all other genders;
 - (iii) other grammatical forms of a defined word or expression have a corresponding meaning;
 - (iv) a reference to a document is to that document as amended, novated, supplemented, extended or restated from time to time;

- (v) a reference to a party to this Agreement includes that party's executors, administrators, successors, permitted assigns and permitted substitutes;
 - (vi) a reference to a person or an entity includes a natural person, partnership, body corporate, association, joint venture, governmental or local authority (whether or not having a separate legal personality) and any other body or entity (whether incorporated or not);
 - (vii) a reference to a thing (including a right) includes a part of it but nothing in this clause 1.2(a)(vii) implies that part performance of an obligation constitutes performance of the obligation;
 - (viii) money amounts are stated in Australian currency;
 - (ix) a reference to a clause, party, annexure, exhibit or schedule is a reference to a clause of, or a party, an annexure, an exhibit or a schedule to, this Agreement and a reference to this Agreement includes any annexure, exhibit and schedule to this Agreement;
 - (x) a reference to a time of day is to that time in the capital city of the Jurisdiction; and
 - (xi) a reference to dollars or \$ is a reference to dollars in Australian currency.
- (b) In this Agreement, headings are used for convenience only and do not affect the interpretation of this Agreement.
 - (c) In this Agreement, a reference to all or any part of a statute, rule, regulation ordinance or by-law is to that statute, rule, regulation, ordinance or by-law as amended, consolidated, re-enacted or replaced from time to time and a reference to a statute includes all rules, regulations, ordinances and by-laws issued under that statute.
 - (d) When used in this Agreement, "include", "for example" or any similar expression is not used, and must not be interpreted, as words of limitation.
 - (e) Any provision in this Agreement which binds more than one person binds all of them jointly and each of them severally unless a contrary intention is expressed.
 - (f) No provision of this Agreement may be construed adversely to a party solely because that party was responsible for the preparation of this Agreement or the preparation or proposal of that provision.
 - (g) In this Agreement, a reference to a "power" includes a right, power, authority, discretion or remedy.
 - (h) In this Agreement, the words "in writing" include any communication sent by letter, email or any other form of communication capable of being read by the recipient.
 - (i) Where there is any inconsistency between a term of Schedule A and the general terms of this Agreement then the term in Schedule A will take precedence to the extent of the inconsistency.

2 Rental and other payments

- 2.1 Pursuant to this Agreement, CarBon will let, and the Lessee will lease, the Vehicle for the Term.
- 2.2 Pursuant to this Agreement, the Lessee, as consideration for the lease of the Vehicle, agrees to pay to CarBon via the Nominated Payment Method:
 - (a) an initial payment, due 5 Business Days prior to the Start Date, consisting of:

- (i) the first payment of the Weekly Lease Amount;
 - (ii) the Deposit; and
 - (iii) the Establishment Fee;
- (b) the Weekly Lease Amount in advance, due on each subsequent Lease Payment Date after the Start Date; and
- (c) each Supplementary Payment or any other payments under and in accordance with the terms of this Agreement.

3 Vehicle

3.1 The Lessee acknowledges and agrees that:

- (a) the Vehicle provided under this Agreement is subject to the terms and conditions of this Agreement;
- (b) the Lessee is to be the sole driver of the Vehicle and must not allow any other person to drive the Vehicle without the prior written consent of CarBon; and
- (c) the Vehicle will not be provided to the Lessee until the Start Date, and subject to the Lessee having paid the amounts required under clause 2.2(a).

3.2 To the extent that the Lessee requests that another person be entitled to drive the Vehicle, and CarBon consents in writing, the Lessee must ensure that the approved driver complies with the terms and conditions of this Agreement. The Lessee will not be released or discharged from any of its responsibilities or liabilities under this Agreement as a result of an approved driver operating the Vehicle. The Lessee will be responsible for the acts and omissions of the approved driver as if they were the acts and omissions of the Lessee.

4 Driver requirements

4.1 The Lessee must hold a current, full (non-probationary) Australian driver's licence appropriate for the Vehicle for the duration of the Term.

4.2 The Lessee must be an Experienced Driver and must not:

- (a) have had their Australian driver's licence suspended or cancelled within the 3 years prior to the Start Date;
- (b) have their Australian driver's licence suspended or cancelled during the Term;
- (c) have accrued any more than 6 demerit points in the 2 years prior to the Start Date; or
- (d) accrue more than 6 demerit points during the Term.

4.3 The Lessee must ensure that, throughout the Term, CarBon has a copy of the Lessee's current driver's licence and must provide a copy promptly upon request from CarBon.

5 Lessee's Obligations

5.1 **Permitted and prohibited use**

- (a) The Lessee must only use the Vehicle, and only allow the Vehicle to be used, for the Permitted Purpose and only on Sealed Roads.

- (b) The Lessee must not drive the Vehicle:
 - (i) whilst intoxicated or under the influence of drugs or alcohol or with a blood alcohol content or level of drugs present in blood, urine or oral fluid that exceeds the limit set by law;
 - (ii) recklessly or dangerously; or
 - (iii) whilst there is Damage to the Vehicle or it is unroadworthy or unsafe.
- (c) The Lessee must not:
 - (i) fail or refuse to undergo any breath, blood, urine or oral fluid test or drug impairment assessment requested by the Police;
 - (ii) use the Vehicle:
 - (A) for any illegal purpose;
 - (B) to move dangerous, hazardous, flammable goods or substances that pollute or contaminate, in quantities above that used for domestic purposes;
 - (C) to transport biohazardous or infectious materials or substances, or biomedical waste, unless specifically approved in writing by CarBon;
 - (D) to transport any pets or animals (with the exception of accredited or trained assistance animals), unless specifically approved in writing by CarBon;
 - (E) to propel or tow another vehicle, trailer, caravan or boat;
 - (F) to carry or transport illegal drugs, substances, weapons or paraphernalia;
 - (G) in connection with the motor trade for experiments, tests, trials or demonstration purposes; or
 - (H) in racing, rallies, reliability trials, speed or hill climbing tests, or for testing in preparation thereof;
 - (iii) jump start the Vehicle or attempt to do so, or use the Vehicle to jump start another vehicle;
 - (iv) operate the Vehicle in a manner which causes or is likely to cause wear and tear that is not Fair Wear and Tear to the Vehicle; or
 - (v) use a mobile phone:
 - (A) to make or receive a phone call, perform any audio function or as a navigational device, unless the Vehicle is stationary and the body of the phone is secured in a mounting affixed to the Vehicle and its use does not require manual operation of the phone; or
 - (B) to send a text message, video message, email or similar communication unless the Vehicle is parked.
- (d) The Lessee must not:
 - (i) damage the Vehicle deliberately, intentionally, maliciously or recklessly and must take all reasonable steps to prevent anyone else from doing so;

- (ii) modify the Vehicle in any way or make any alteration or addition to it and no decals, branding or logos may be applied or removed from the Vehicle;
 - (iii) sell, rent, lease or dispose of the Vehicle; or
 - (iv) register or claim to be entitled to register any interest in the Vehicle under the PPSA.
- (e) The Lessee must not use the Vehicle to carry:
- (i) more than the number of passengers for which the Vehicle is licensed; or
 - (ii) any load that exceeds the limits for which the Vehicle was designed, constructed, registered or licensed,
- in each case as notified by CarBon to the Lessee in writing on or prior to the Start Date.

5.2 Prohibited areas of use

- (a) The Lessee must not operate the Vehicle or allow it to be operated outside the Permitted Area, without the prior written permission of CarBon.
- (b) The Lessee must never drive the Vehicle (or allow it to be driven):
 - (i) in any area where snow has fallen;
 - (ii) on any road that is flooded;
 - (iii) on any road where the police or an authority has issued a warning;
 - (iv) on any road that is closed; or
 - (v) on any road where it would be unsafe to drive the Vehicle,
 any one singly and any combination.

5.3 Continuing obligations during the Term

During the Term, the Lessee must ensure that:

- (a) all monies owing under this Agreement are paid on or before the date the monies become due for payment;
- (b) the Vehicle is inspected weekly for Damage and the tyre pressure is checked;
- (c) the Vehicle is not driven or parked in a reckless manner;
- (d) no person interferes with any part of the engine, transmission, braking, suspension or other installed systems; and
- (e) neither the Lessee nor any passenger smokes in the Vehicle (including the use of e-cigarettes and vapes), with the Lessee taking reasonable steps to prevent passengers of the Vehicle from doing so.

5.4 Laws

The Lessee must comply with all mandatory:

- (a) road laws, rules and regulations;
- (b) seat belt laws, acknowledging that fines may be imposed by the Police on any driver or passenger who does not have a seat belt properly adjusted and fastened (and the Lessee will be responsible for those fines); and

- (c) child restraint laws and ensure that for all children under the age of seven years the restraint has been fitted correctly according to the weight and age of the child and that the restraint is properly adjusted and fastened.

5.5 Vehicle to be locked and keys kept in the Lessee's possession

The Lessee must:

- (a) make sure that the Vehicle is locked when not in use or unattended; and
- (b) keep the keys or remote-control device (as applicable) in the Lessee's possession at all times and ensure that they are never left in the Vehicle when it is unattended.

5.6 Reasonable care

The Lessee must take reasonable care of the Vehicle by:

- (a) preventing it from incurring Damage;
- (b) making sure that it is protected from the weather;
- (c) maintaining the brake oils and coolant level and tyre pressures in accordance with the manufacturer's recommendations; and
- (d) making sure it is not overloaded.

5.7 Notification of Vehicle fault

The Lessee must inform CarBon immediately if:

- (a) a warning light or fault message appears;
- (b) the Lessee becomes aware of any malfunction in the Vehicle; or
- (c) the Vehicle develops any fault,

any one singly and any combination.

If the Lessee fails to notify CarBon immediately of the occurrence of any of the matters referred to in clauses 5.7(a) to 5.7(c) (inclusive) and continues to use the Vehicle, they will be solely responsible for any and all Damage and Third Party Loss incurred.

5.8 Staying with the Vehicle after an Accident

The Lessee must not leave the Vehicle unattended following an Accident and before the arrival of a tow or salvage operator, provided that it is safe and reasonable to do so.

6 Warranties

The Lessee warrants that they:

- (a) are eligible to work in Australia for the Term;
- (b) will only be using the Vehicle for the Permitted Purpose during the Term (and, to the extent that the Permitted Purpose is a rideshare service, only using Approved Applications), in addition to reasonable personal use;
- (c) have read each of the provisions of this Agreement and by signing this Agreement agree to be bound by its terms;
- (d) have read and understood the high-level summary of this Agreement provided to the Lessee prior to signing this Agreement; and

- (e) have fully and honestly disclosed to CarBon any material fact which might impact on CarBon's decision to enter into this Agreement.

7 Notifiable Events

As soon as practicable, and in any event within 24 hours of the Lessee becoming aware of any of the following events, the Lessee must notify CarBon of:

- (a) any change of address or mobile number for the Lessee;
- (b) the Lessee being charged with any offence, including drink driving, drug driving or other driving-related offence;
- (c) the Vehicle being stolen;
- (d) the keys to the Vehicle being lost or stolen;
- (e) the Vehicle being damaged (other than Fair Wear and Tear);
- (f) the Lessee being made bankrupt or becoming subject to any form of Insolvency Event;
- (g) the Lessee incurring demerit points for any reason;
- (h) the Lessee's driver's licence being suspended or cancelled for any reason;
- (i) the Lessee being convicted of a criminal offence;
- (j) the Lessee being the subject of an App Termination (to the extent that the Lessee is providing rideshare services);
- (k) the Lessee being diagnosed with a medical condition that could affect their driving; or
- (l) any other adverse event that could result in the Lessee being unable to drive or unable to pay any Weekly Lease Amount or Supplementary Payments.

8 Breakdowns and Impounding

- 8.1 If any warning light is activated or if the Vehicle requires mechanical attention, the Lessee must stop driving immediately and contact either CarBon or the relevant 24-hour Roadside Assistance offered by the manufacturer of the Vehicle. For the avoidance of doubt, the Lessee is not relieved of any of the Lessee's obligations under this Agreement, including obligations to pay sums owing (including the Weekly Lease Amount) in the event any warning light is activated or if the Vehicle requires mechanical attention, subject to this clause 8.
- 8.2 The Lessee must not arrange or undertake any repairs or towing without CarBon's prior written authority except to the extent that repairs or towing are immediately necessary to prevent further Damage to the Vehicle or to other property.
- 8.3 Approved repairs that either fall within the items in clause 20 or are under manufacturer's warranty will be paid by CarBon, provided the Lessee or any other driver was not responsible for the Damage.
- 8.4 If the Vehicle:

- (a) becomes unfit to drive due to a breakdown that was not the fault of the Lessee or any **other** driver;
- (b) is recalled for any reason by the manufacturer of the Vehicle; or
- (c) is not available as a result of repairs and/or maintenance, provided the Lessee or any driver was not responsible for the Damage.

for a period of more than 3 consecutive Business Days on any one occasion, the relevant Weekly Lease Amount will be reduced for the affected period on a pro rata basis to reflect the number of additional days beyond the 3 consecutive Business Days that the Vehicle is not available for before being returned to the Lessee.

- 8.5 In the event that the Vehicle is unavailable to the Lessee in the circumstances described in clause 8.4 for a period longer than 10 consecutive Business Days, the Lessee may terminate this Agreement by notice to Carbon.
- 8.6 This clause 8 does not relieve the Lessee from any liability for Damage or injury caused or contributed to by the Lessee or any other driver of the Vehicle.
- 8.7 If the Vehicle is impounded by law enforcement, council enforcement, or a towing provider, the Lessee will remain liable for payments under this Agreement and no suspension of the Weekly Lease Amount will apply.
- 8.8 In the event the Vehicle is the subject of a manufacturer's recall, the Lessee must take the Vehicle to the relevant Vehicle manufacturer for repair, as notified by CarBon to the Lessee in writing and subject to the relevant location being within the Permitted Area. Subject to any rights the Lessee has under the Australian Consumer Law, CarBon will not be liable to the Lessee for any replacement car, reimbursements, costs, expenses or loss or damages claim (including loss of earnings) in relation to the recall.

9 Vehicle charging and electricity

- 9.1 The Lessee is responsible for the cost of electricity used by the Vehicle during the Term.
- 9.2 Upon return, surrender or re-possession of the Vehicle, the Vehicle must be returned with at least 50% charge.
- 9.3 The Lessee must ensure the correct charging occurs for the Vehicle. The Lessee is liable for any and all Damage caused to the Vehicle as a result of incorrect charging.

10 Australian Carbon Credit Units

The Lessee acknowledges and agrees that any Australian Carbon Credit Units (**ACCU**) and any other emissions abatement credits that could be generated by the use of the Vehicle are the sole property of CarBon and, for the avoidance of doubt, to the extent that the Lessee may have any right to any ACCU arising from the use of the Vehicle, the Lessee waives such rights in favour of CarBon.

11 Tolls and Infringements

- 11.1 In the event that CarBon receives an Unpaid Toll Notice relating to the period the Vehicle was subject to this Agreement, an administration fee will be payable by the Lessee to CarBon in the amount set out in item 17 of Schedule A, in addition to the toll fee. The Lessee must pay both amounts upon demand by CarBon.
- 11.2 In the event that CarBon receives notice of a speeding, parking or other traffic infringement or fine relating to the period the Vehicle was subject to this Agreement, CarBon will complete a

statutory declaration nominating the Lessee as the driver of the Vehicle and an administration fee in the amount set out in item 17 of Schedule A will be charged to the Lessee, with the Lessee solely responsible for paying the amount owing to the relevant authority.

- 11.3 In the event that CarBon receives notification of any traffic infringement, fine or penalty, CarBon will nominate the Lessee as the responsible party and, in the event that the Vehicle was being driven by a person that is not the Lessee, will allow the Lessee to identify and nominate the responsible driver.

12 Payments

- 12.1 Where the Lessee fails to make a payment required by this Agreement when due via the Nominated Payment Method, CarBon may provide the Lessee with written notice informing the Lessee that the Weekly Payment Amount is outstanding.
- 12.2 If the direct debit authority is revoked by the Lessee, and the Lessee does not provide CarBon with an alternative Nominated Payment Method upon demand by CarBon, this will be treated as a breach of a fundamental term of this Agreement and as a result of this breach CarBon may, at its discretion, terminate this Agreement.
- 12.3 The Lessee is not relieved of any of the Lessee's obligations under this Agreement, including obligations to pay outstanding Weekly Lease Amount and Supplementary Payments in the event of termination of this Agreement pursuant to this clause 12. The Lessee agrees that this clause 12.3 will survive the termination of this Agreement.
- 12.4 Where a payment is late, a late payment fee of \$50 may be charged to the Lessee.
- 12.5 All payments to be made by the Lessee under this Agreement must be calculated and be made without, and free and clear of any deduction for, set-off or counterclaim.

13 Vehicle Lease Charges

- 13.1 The Included Kilometres are the maximum kilometres the Vehicle may travel within the Term at no extra cost.
- 13.2 If the Included Kilometres have been exceeded by the end of the Term, the Lessee must pay the Additional Kilometre Charge for each excess kilometre promptly upon demand.

14 Vehicle Condition

- 14.1 Upon termination of this Agreement the Lessee acknowledges that they are responsible for ensuring that the Vehicle is returned to CarBon in the same condition as it was provided to the Lessee on the Start Date, except for Fair Wear and Tear.
- 14.2 The Lessee accepts that failure to return the Vehicle in accordance with clause 14.1 will result in CarBon being authorised to claim via direct debit or a charge to the Lessee's credit card the reasonable cost of returning the Vehicle to the same condition as it was provided to the Lessee, subject to Fair Wear and Tear.
- 14.3 The Lessee agrees that an Authorised Representative may do monthly checks on the condition and performance of the Vehicle, provided that 5 Business Days' written notice is provided to the Lessee.

15 Lessee's Liability for Damage and Cleaning

- 15.1 Except to the extent such damage is covered by the Loss and Damage Cover, the Lessee is absolutely liable for any Damage, irrespective of fault.
- 15.2 If the Vehicle is returned in such a condition that requires cleaning or de-odorising, the Lessee will be liable for the full cost of this cleaning or repair, to a maximum amount of \$500. The Lessee must pay the cleaning and/or de-odorising fee promptly upon demand.

16 Accidents

- 16.1 In the event of an Accident involving the Vehicle, the Lessee must:
- (a) notify CarBon (by calling **1300 113 477**) of the full circumstances as soon as practical, and in any event within 24 hours of the Accident;
 - (b) notify the Police if required under the relevant road rules or laws or where a third party involved in an Accident leaves the scene failing to provide their details (including drivers licence, name, address and insurer);
 - (c) whenever possible, record full details of all parties involved in the Accident, including their full legal name, address, driver's licence number, vehicle registration, vehicle make, owner and model, telephone number, insurer and policy or claim number and provide those details to CarBon within 24 hours of the Accident;
 - (d) record details of all witnesses to the Accident and take photos of the accident site and the damaged Vehicle, if safe to do so; and
 - (e) follow any and all reasonable directions provided by CarBon in respect of conduct of the Lessee following the Accident in respect of the Vehicle.
- 16.2 In the event of an Accident, the Lessee must not:
- (a) make any admission of liability;
 - (b) arrange or undertake any repairs or salvage without CarBon's prior written authority; or
 - (c) engage any towing service, without express written authorisation by CarBon, except where required to do so by law.
- 16.3 In the event that an Accident renders the Vehicle unfit to drive:
- (a) CarBon will not be responsible for the cost of transporting the Lessee, other driver of the Vehicle or any accompanying passengers (any one singly and any combination) away from the Accident location; and
 - (b) payment of the Weekly Lease Amount will be suspended until the Vehicle is available or this Agreement is terminated (whichever occurs first).
- 16.4 Clause 16.3(b) will not apply where:
- (a) the negligence of the Lessee or other driver of the Vehicle caused or contributed to the Accident rendering the Vehicle unfit to drive;
 - (b) the Loss and Damage Cover is not available; or
 - (c) the Lessee fails or has failed to provide full co-operation to CarBon in respect of an Accident including acts or omission which delay the claim or repair process.

17 Loss and Damage Cover

- 17.1 Loss and Damage Cover is included in this Agreement, as provided for by the insurance policy held by CarBon for the purpose of this Agreement.
- 17.2 Subject to the terms and conditions of this Agreement, CarBon will indemnify the Lessee for any Damage to the Vehicle, its theft and Third Party Loss subject to the Lessee paying to CarBon the Damage Excess for each Accident and/or theft claim.
- 17.3 Notwithstanding clause 17.2, the Damage Excess will not have to be paid, if all of the following apply:
- (a) the Lessee has fully completed an Incident Report Form with:
 - (i) the name, residential address, contact phone and licence number of any person involved;
 - (ii) the registration number of all vehicles involved;
 - (iii) an accurate written and diagrammatic description of the Accident and location;
 - (iv) the names and addresses of all attending police officers and the stations at which they are based;
 - (b) the Lessee has taken all necessary steps to assist CarBon in its investigation of the Accident or theft claim (as applicable);
 - (c) CarBon reasonably agrees that the Lessee or other driver of the Vehicle was not at fault; and
 - (d) the other party was insured and their insurance company accepts liability.
- 17.4 All Accident, attempted theft and theft claims will incur a claims administration fee of \$100 per claim in addition to the Damage Excess amount. This fee is to compensate CarBon for the labour and associated costs with processing the claim. The Lessee must pay the relevant administration fee promptly upon demand.

18 Loss and Damage Cover Exclusions

No Loss and Damage Cover will be provided, and the Lessee will be liable to pay CarBon for its costs, expenses, losses and damages incurred, in the event of:

- (a) Damage or Third Party Loss arising from:
 - (i) a Major Breach;
 - (ii) any deliberate, intentional, malicious or criminal act by the Lessee or any person who is acting with their express or implied consent; or
 - (iii) the use of the Vehicle by any driver who is not the Lessee (without CarBon's prior written consent);
 - (iv) the Vehicle being operated outside the Term;
 - (v) the Lessee or other driver of the Vehicle having made a material, false disclosure or non-disclosure in respect of this Agreement whether or not such disclosure or non-disclosure was deliberate;
 - (vi) the Lessee or other driver of the Vehicle having made a material, false disclosure or non-disclosure in respect of any Accident in which the Lessee or

- the Vehicle is involved whether or not such disclosure or non-disclosure was innocent;
- (vii) the Lessee or other driver of the Vehicle having fallen asleep or is asleep in the Vehicle during or immediately preceding the Accident;
 - (viii) the use of the Vehicle by an Inexperienced Driver; or
 - (ix) immersion of the Vehicle in water;
- (b) Damage or Third Party Loss not otherwise covered by the Loss and Damage Cover;
 - (c) Damage to the tyres of the Vehicle, other than Fair Wear and Tear; or
 - (d) the full cost of replacing or repairing any accessories supplied by CarBon, including GPS units, lost keys, keyless start and remote-control devices.

19 Damage Excess

In the event of a claim against the Loss and Damage Cover in respect of a Loss Event, the Lessee must pay the Damage Excess to CarBon in respect of each and every individual claim made pursuant to the Loss and Damage Cover.

20 Maintenance Inclusions and Roadside Assistance

- 20.1 During the Term, the Lessee:
- (a) must procure that the Vehicle is serviced, maintained and (unless otherwise expressly stated in this Agreement) repaired in accordance with the recommendations and guidelines of the original equipment manufacturer as provided by CarBon to the Lessee;
 - (b) must ensure the vehicle is in attendance at a scheduled service if directed by a representative of CarBon, and accepts that failure to do so will be considered a fundamental breach of this Agreement; and
 - (c) will be responsible for providing the program of maintenance and parts for the Vehicle in accordance with the manufacturer's recommendations and which conform to applicable Australian Standards as reasonably required, except to the extent that CarBon is required to address these matters under the Australian Consumer Law, including:
 - (i) scheduled interval servicing;
 - (ii) replacement tyres;
 - (iii) front and rear wheel alignments;
 - (iv) replacement brake pads;
 - (v) replacement brake discs;
 - (vi) replacement windscreen wiper blades;
 - (vii) replacement sets of replacement headlight globes; and
 - (viii) replacement battery.
- 20.2 All servicing and maintenance carried out or procured under this clause 20 will be at the cost of CarBon.

- 20.3 If any single servicing event required under this clause 20 exceeds 3 consecutive Business Days, and on the condition that this is not as a result of any action or failure by the Lessee or other driver of the Vehicle, payment of the relevant Weekly Lease Amount will be adjusted on a pro-rata basis accordingly to take into account the number of additional Business Days that the Vehicle is unavailable for greater than 3 Business Days.
- 20.4 CarBon will provide the Lessee with reasonable roadside assistance during the Term. This will be listed in the Driver Information Pack provided by CarBon to the Lessee before or on the Start Date.

21 Liability, Indemnity and Release

- 21.1 Subject to the terms of this Agreement (including this clause 21), each party indemnifies and agrees to keep indemnified the other party against any loss, claim, damage, liability, action or legal proceedings and all costs, charges and expenses (including legal fees and disbursements on a reasonable basis) in connection with the enforcement of this Agreement and/or arising either directly or indirectly as a result of a breach by the indemnifying party of its obligations or of any warranties or representations given under this Agreement, including any action brought by third parties against the other party as a result, either directly or indirectly, of such breach.
- 21.2 The Lessee acknowledges that CarBon relies on the truth of the Lessee's representations and warranties provided in this Agreement.
- 21.3 Unless CarBon is negligent, in breach of this Agreement or as required by law (in which case this clause 21.3 will not apply to the extent that the liability is caused or contributed to by those circumstances), CarBon will not be responsible for, and the Lessee releases CarBon, its related bodies corporate, employees and agents from liability for, any and all loss (including loss of profits), damage, costs or expenses or other Claims which the Lessee incurs, or death or personal injury to the Lessee or any other person, (any one singly and any combination) as a result of the Lessee's lease or possession or use of the Vehicle or any alternative vehicle provided under this Agreement (any one singly and any combination).
- 21.4 Unless the Lessee is negligent or as required by law (in which case this clause 21.4 will not apply to the extent that the liability is caused or contributed to by those circumstances), the Lessee will not be responsible for, and CarBon releases the Lessee, its employees and agents from liability for, any and all loss of revenue and loss of profits, which the CarBon incurs, as a result of the Lessee's lease or possession or use of the Vehicle or any alternative vehicle provided under this Agreement (any one singly and any combination), except as otherwise expressly stated in this Agreement.
- 21.5 CarBon gives no express warranties in relation to the Vehicle. Certain conditions and warranties are imported by statute, whether Commonwealth or State, which cannot be excluded, restricted or modified. CarBon acknowledges the application of the Australian Consumer Law to this Agreement, and nothing in this Agreement will be construed as attempting to exclude the operation of that legislation to this Agreement.

22 Termination

- 22.1 At any time after the expiry of the period specified in item 21 of Schedule A, the Lessee may terminate this Agreement at any time during the Term, subject to providing CarBon with:
- (a) 30 days' written notice to CarBon;
 - (b) evidence demonstrating actual financial hardship, to CarBon's satisfaction; and
 - (c) payment of an amount equivalent to four times the Weekly Lease Amount, due on or before the final Lease Payment Date (in addition to such other payments as may be due to CarBon under this Agreement).

22.2 The Lessee may terminate this Agreement at any time during the Term, subject to providing CarBon with:

- (a) 30 days' written notice to CarBon; and
- (b) payment of an amount equivalent to 25% of the total remaining Weekly Lease Amounts for the Term, due on or before the final Lease Payment Date (in addition to such other payments as may be due to CarBon under this Agreement).

22.3 CarBon will have the right to:

- (a) terminate this Agreement;
- (b) remotely deactivate the Vehicle; and
- (c) repossess the Vehicle (and for that purpose enter any premises and remove the Vehicle),

and the Lessee must pay reasonable costs of repossessing the vehicle, including towing charges, at any time, upon written notice to the Lessee if:

- (d) the Lessee has committed a Major Breach;
- (e) the Lessee has obtained the Vehicle through fraud or misrepresentation;
- (f) any amounts have not been paid by the Lessee when due and payable under this Agreement and remain unpaid for more than fourteen (14) days after CarBon has given written notice to the Lessee that the payments are overdue;
- (g) the Vehicle appears to be abandoned;
- (h) the Vehicle is not returned on the agreed return date;
- (i) the Vehicle is damaged and is not repaired within 4 weeks;
- (j) servicing at manufacturer specified intervals is not performed within 2,000 kilometres of the specified service interval;
- (k) the Lessee is charged with drug/drink driving in the Vehicle;
- (l) the Lessee has driven 30 kilometres per hour or more over the speed limit;
- (m) the Lessee drives or acts in such a manner as to bring CarBon into disrepute; or
- (n) the Lessee permits the Vehicle to be used by a driver who is not the Lessee (except as expressly authorised by CarBon in writing);
- (o) the Lessee fails to advise CarBon of a Notifiable Event within 24 hours of its first occurrence;
- (p) the Vehicle is driven outside the Permitted Area;
- (q) the GPS tracking device attached to the Vehicle is tampered with or removed;
- (r) CarBon considers, on reasonable grounds, that the Vehicle is endangered; or
- (s) the Lessee does not make payments in accordance with this Agreement.

22.4 In the event that CarBon exercises its rights under clause 22.3 above, the Lessee has no right to a refund of any part of the Weekly Lease Amount.

22.5 Termination of this Agreement pursuant to clause 22.3 does not prejudice the ability of CarBon to recover monies due and payable by the Lessee to CarBon under this Agreement.

- 22.6 The Lessee must return the Vehicle and all items supplied with the Vehicle (including car keys, remote control device, Geotab and charging plugs) to CarBon on the last day of the Term or earlier upon demand from CarBon if this Agreement is terminated early pursuant to this clause 22.
- 22.7 The Lessee must return the Vehicle in the same condition it was in at the Start Date, subject only to Fair Wear and Tear.
- 22.8 Subject to Fair Wear and Tear, the Lessee will be responsible for any and all costs associated with the repair or replacement of any damaged or excessively worn vehicle tyres, brake pads or discs on the Vehicle (any one singly and any combination).
- 22.9 The termination of the Lease under this clause 22 will be without prejudice to the other rights of CarBon under this Agreement or otherwise.
- 22.10 Termination of this Agreement for any reason will not affect the accrued rights or liabilities of any party occurring prior to termination.
- 22.11 Any amount payable by the Lessee under this clause 22 is payable under any circumstances as compensation to CarBon for the loss of the benefits which CarBon would have received if the Lessee had performed its obligations under this Agreement for the Term, and is payable whether or not:
- (a) CarBon has exercised any power under this Agreement;
 - (b) the event which resulted in CarBon exercising any power was a breach of this Agreement; or
 - (c) the Lessee could have performed its obligations under this Agreement after the exercise of any power of CarBon under this Agreement.
- 22.12 The Lessee will have the right to terminate this Agreement at any time with notice to CarBon if CarBon has committed a material breach of this Agreement that it fails to remedy within 10 Business Days of receipt of notice from the Lessee outlining the breach.
- 22.13 Despite anything expressed or implied in this Agreement:
- (a) the absence of any event specified in clause 22.3 is a fundamental and essential term and condition of this Agreement; and
 - (b) the occurrence of an event specified in clause 22.3 constitutes a breach of fundamental and essential terms and conditions of this Agreement by the Lessee and constitutes a repudiation of this Agreement by the Lessee entitling CarBon to accept the repudiation of this Agreement.

23 Extension

- 23.1 CarBon may, in its absolute discretion, following written request from the Lessee to do so pursuant to clause 23.2, approve the extension of the Term on a month to month basis, for a period of up to 3 calendar months after the End Date.
- 23.2 At any time before the Extension Notice Date, the Lessee may, by written notice to CarBon, request an extension of this Agreement for a term of either 6, 12 or 18 months.
- 23.3 CarBon may, in its absolute discretion, either accept or reject the Lessee's request for extension, and will notify the Lessee of its decision by written notice within 14 days of receipt of the notice provided under clause 23.2.
- 23.4 CarBon may increase the Weekly Lease Payments by the greater of the Consumer Price Index published by the Australian Bureau of Statistics or 5%, when accepting a request for extension,

and will notify the Lessee of such an increase in the notice provided to the Lessee under clause 23.3.

23.5 If CarBon agrees to extend this Agreement under this clause 23:

- (a) the terms and conditions of this Agreement will continue to apply, and any applicable dates will be adjusted to account for the extended Term; and
- (b) CarBon will provide the Lessee with updated Included Kilometres for the extended Term.

24 Personal injury, personal property and storage of property

24.1 To the maximum extent permitted by law, CarBon does not accept any liability for:

- (a) personal injury or death sustained during the Term;
- (b) Damage or loss to the Lessee's personal property; or
- (c) property belonging to any other person which is carried in the Vehicle.

24.2 In the event that the Lessee or any other person leaves any property with CarBon for any reason, this is entirely at that person's own risk and CarBon, to the maximum extent permitted by law, will not accept any liability for damage or loss for any reason whatsoever.

24.3 Exclusion for personal items

There is no Loss and Damage Cover provided, and CarBon is not responsible, for personal property in the custody of or owned by:

- (a) the Lessee or another driver of the Vehicle;
- (b) any passenger of the Vehicle; or
- (c) any relative, friend or associate of the Lessee,

that is stolen from the Vehicle, lost or damaged in the Vehicle or left in the Vehicle after the Vehicle is returned to the CarBon Depot.

25 Third Parties

25.1 CarBon is not responsible for any claims the Lessee may have against third parties for any damage or loss, or claims any third party may have against the Lessee including the Lessee's liability under this Agreement.

25.2 CarBon does not undertake to provide repair quotes, police reports, photographs or any other information to the Lessee or any other party unless required to do so by law.

26 Security Interests

26.1 The Lessee acknowledges that this Agreement constitutes a security agreement for the purposes of the PPSA and that the Lessee grants a Security Interest in favour of CarBon over:

- (a) the Vehicle;
- (b) any other vehicles provided in the future by CarBon to the Lessee; and

- (c) any proceeds (as defined in the PPSA) of the Vehicle or any other vehicles provided in the future by CarBon to the Lessee,

and this clause 26 applies equally to any and all vehicles provided by CarBon to the Lessee under this Agreement.

26.2 The Lessee acknowledges that it has received value as at the commencement of the Term of the lease of the Vehicle and that the Security Interest has attached to the Vehicle upon obtaining possession of the Vehicle.

26.3 The Lessee acknowledges and undertakes:

- (a) not to, without the prior written consent of CarBon, sell, lease, dispose of, grant (or permit to arise) a Security Interest or other encumbrance over, or part with possession of the Vehicle or any interest in the Vehicle (or purport or attempt to do such a thing);
- (b) at CarBon's request, to promptly execute all documents and do anything required to register CarBon's Security Interest in the Vehicle;
- (c) to reimburse CarBon upon demand for all expenses incurred in registering a financing statement or financing change statement on the Personal Property Securities Register established by the PPSA;
- (d) not to change their name, address or contact details without providing CarBon with prior written notice; and
- (e) not to issue an amendment demand without the prior written consent of CarBon.

26.4 The Lessee acknowledges that its rights in the Vehicle are subject to any Security Interest granted by CarBon over the Vehicle and the Lessee hereby releases CarBon from any claim arising from any third party enforcing its Security Interest in, or rights in relation to the Vehicle.

26.5 The Lessee and CarBon agree not to disclose information in relation to this Agreement of the kind referred to in s 275(1) of the PPSA.

26.6 The Lessee waives its rights to receive a verification statement in respect of any financing statement or financing change statement registered by or on behalf of CarBon under the PPSA to the extent permitted by the PPSA and agrees to that as between CarBon and the Lessee, to the extent permitted by the PPSA, the Lessee will have no rights under (or by reference to) sections 95, 96, 117, 118, 120, 121(4), 123, 125, 126, 128, 129, 130, 132(3)(d), 132(4), 134(1), 135, 142 and 143 of the PPSA. So far as is permitted by law, the Lessee waives its rights:

- (a) to receive a copy of any verification statement or financing change statement or a statement of account on sale of the vehicle;
- (b) to receive any notice required under the PPSA, including a notice that CarBon intends to sell the vehicle or to retain the vehicle on enforcement of the Security Interest granted to CarBon; and
- (c) where any other personal property or modifications become an accession (as defined in the PPSA) to the vehicle, to claim for any damage to goods when CarBon removes the accession, to receive notice of removal of the accession or to apply to the court for an order concerning the removal of the accession.

26.7 Despite any other provision of this agreement, CarBon may terminate this Agreement by notice to the Lessee if the Lessee breaches any provision of this clause 26.

26.8 The Lessee undertakes to promptly execute any further documents and to provide any further information and to do such further acts and things as may be required by CarBon to:

- (a) register a financing statement or finance change statement in relation to a Security Interest on the PPSR;

- (b) register any other document required to be registered by the PPSA; or
- (c) correct a defect in a statement referred to in clauses 26.8(a) and 26.8(b) above.

26.9 Despite any other provision of this Agreement, the Lessee acknowledges and agrees, including for the benefit of any third party to whom CarBon has granted a Security Interest in the Vehicle (**Security Holder**) as follows:

- (a) CarBon may grant a Security Interest in its interest in the Vehicle in favour of a Security Holder (a **Security**) without the Lessee's consent. The exercise of any rights by the Security Holder under a Security will not constitute a breach or default under this Agreement or otherwise entitle the Lessee to terminate, rescind or revoke this agreement;
- (b) the Security Holder has a Security Interest, including a purchase money security interest (as defined in the PPSA) in the Vehicle;
- (c) by entering into this Agreement, CarBon will be in breach of the Security, unless the Lessee agrees to the terms set out in this clause;
- (d) the exercise of any rights by the Security Holder under any lease or other agreement between the Security Holder and CarBon will not constitute a breach of default under this agreement or otherwise entitle the Lessee to terminate, rescind or revoke this Agreement;
- (e) the Lessee rights in respect of Vehicle are expressly subject and subordinated to the rights of the Security Holder (whether arising under the Security, at law or otherwise), and nothing in this Agreement will in any way limit, reduce, vary or otherwise qualify the rights of a Security Holder under or in connection with any Security, any other document connected with any Security or any vehicle and the Security Holder will be entitled to exercise all of its rights under or in respect of the Security to the same extent as if this agreement had not been entered into; and
- (f) if a Security becomes enforceable, or if any lease with respect to the Vehicle between the Security Holder and CarBon is terminated:
 - (i) CarBon or the Security Holder may by notice to the Lessee terminate this Agreement and upon such notice the Lessee right to possess and use the Vehicle automatically ceases and the Lessee must surrender possession and control of the vehicle to the Security Holder, notwithstanding that the Lessee may not be in breach or default of its obligations under this Agreement;
 - (ii) the Security Holder may enter any premises where any Vehicle is located to remove the Vehicle from the relevant premises; and
 - (iii) the Lessee agrees to obtain all necessary consents from the owner, occupier and other interested persons (such as any mortgagee) of the relevant premises where the Vehicle is located to enable the Security Holder to take possession of the Vehicle.
- (g) This clause operates as an agreement between the Lessee and CarBon, and as a deed poll by the Lessee for the benefit of any Security Holder.

26.10 The Lessee:

- (a) charges the Security in favour of CarBon to secure all amounts owing by the Lessee under this Agreement;
- (b) consents to the registration of notices, including a caveat or mortgage, as may be appropriate against the title of the Security including any register, or similar, maintained by any authority which is customarily used for that purpose;

- (c) agrees to do promptly all things CarBon reasonably requires in connection with this clause 26.10; and
- (d) unconditionally and irrevocably agrees to CarBon procuring the registration of a caveat, mortgage or a notice of its interest on any register.

26.11 Clauses 26.5, 26.6, 26.7 and 26.8 apply to the Security Interest granted under clause 26.10.

27 Privacy

27.1 Privacy Consents

- (a) The terms of the Privacy Policy form part of this Agreement. The Privacy Policy sets out how CarBon collects, uses, stores and discloses the Lessee's Personal Information.
- (b) By entering into this Agreement and by providing CarBon with Personal Information, the Lessee represents to CarBon and CarBon proceeds on the basis that the Lessee has read and agree to the terms of CarBon's Privacy Policy.

27.2 Tracking Device

- (a) To maintain and protect the Vehicle, CarBon has fitted a Tracking Device to enable it to monitor the condition, performance and operation of the Vehicle and to track the Vehicle's movements.
- (b) Information from the Tracking Device may be used during and after the Term. When the Lessee signs this Agreement, they are consenting to the use of the Tracking Device and authorising CarBon to use the information collected from it.
- (c) The Lessee must not, and must not allow any other person to, tamper with the Tracking Device or remove it from the Vehicle.

28 Major Breach

The Lessee commits a Major Breach of this Agreement if there is a breach of any of the following clauses:

- (a) clause 5.1 (prohibited use);
- (b) clause 5.2 (prohibited areas of use);
- (c) clause 5.3(b) (continuing obligations);
- (d) clause 5.5 (Vehicle to be locked and keys kept in the Lessee's possession);
- (e) clause 5.6 (reasonable care); or
- (f) clause 5.7 (notification of Vehicle fault),

that causes Damage, theft of the Vehicle or Third Party Loss;

- (g) clause 4 (Drivers and drivers licence requirements);
- (h) clause 6 (notifiable event) and clause 14 (Accidents) that prevents CarBon from properly investigating a claim arising from an Accident or theft or from prosecuting or defending any Accident or theft claim; or
- (i) clause 25.2 (removal of the Tracking Device).

29 Recovery of Costs

- 29.1 In the event of breach of this Agreement by the Lessee, CarBon may recover all costs and other amounts reasonably incurred in recovering sums owing under this Agreement.
- 29.2 Such costs may include but are not limited to costs reflecting time spent by CarBon's employees or officers recovering monies owing, costs incurred by CarBon in engaging third party debt collectors to recover monies owing or repossess the Vehicle, other debt collection costs, legal costs, Court fees and any associated liquidation or administration fees.
- 29.3 Any legal costs incurred by CarBon in connection with or as a result of breach of this Agreement may be recovered on an indemnity basis, alternatively, if that is not permissible, on a special basis.
- 29.4 The Lessee must pay CarBon, upon demand, interest on any amount owing under this Agreement at the rate of 10% per annum calculated on a daily basis from the date 7 days after the payment is due under this Agreement.

30 Credit Card Authorisation

- 30.1 The Lessee agrees that CarBon may charge, and authorises CarBon to charge, the Lessee's credit card for any and all amounts, fees and charges set out in this Agreement with such charges to include any sums which are owing or become owing to CarBon by reason of a breach of this Agreement by the Lessee.
- 30.2 The Lessee agrees that the authorisation referred to in clause 30.1 will survive the termination of this Agreement irrespective of the reason for the termination of this Agreement.

31 Disclosure and Use of Information

- 31.1 Any information about the Lessee (including Personal Information and confidential information) that is provided to, obtained by or generated by CarBon:
- (a) may be used to assess credit and other relevant matters, enter into this Agreement and may be used in relation to other services provided to the Lessee under this Agreement; and
 - (b) may be used or given to any credit reporting agency, including in relation to:
 - (i) payments which may have been dishonoured and in respect of which recovery action has commenced;
 - (ii) payments made that have been dishonoured;
 - (iii) the potential that the Lessee has committed a serious credit infringement; and
 - (iv) such permitted particulars about the Lessee that allow the Lessee to be identified.
- 31.2 The Lessee agrees, subject to the requirements of the Privacy Act, that CarBon:
- (a) has informed the Lessee of the disclosure of information concerning it to a credit reporting agency and authorises such disclosures;
 - (b) may obtain a report on the Lessee's commercial credit worthiness from a commercial credit reporting agency or a report on the Lessee's personal credit worthiness from a credit agency at any time and from time to time;

- (c) if it considers it relevant to collecting overdue commercial payments or monitoring the Lessee, may receive a credit report concerning the Lessee from a credit reporting agency;
- (d) may give to and/or seek from any credit providers or from any personal or commercial credit reports concerning the Lessee, information about the Lessee's personal or commercial credit arrangements and credit worthiness, as permitted under the Privacy Act;
- (e) may disclose personal or confidential information to professional advisors, credit reporting agencies, debt collection agencies, mortgage insurers, insurers, other financial institutions, brokers and valuers, mortgage administrators, other organisations to whom CarBon outsources functions (including mailing and printing houses and IT providers);
- (f) may be required by law to disclose the personal or confidential information of the Lessee, and the Lessee authorises this or any other disclosure it considers it may be obliged or should provide in its reasonable discretion (but this does not require it to disclose any information of the kind referred in section 275(1) of the PPSA; and
- (g) may use or disclose any private or confidential information as otherwise permitted under the Privacy Act or related or similar legislation.

32 General

32.1 Rights Cumulative

Unless this Agreement expressly states otherwise, the rights and remedies of a party provided in this Agreement are cumulative and do not exclude any rights or remedies provided by law.

32.2 No Merger

The rights and obligations of the parties will not merge on completion of any transaction under this Agreement, and survive the execution and delivery of any assignment or other document entered into for the purpose of implementing any transaction contemplated by this Agreement.

32.3 Survival

Any clause which contemplates that a party has any rights or obligations after termination or expiry of this Agreement survives the termination or expiry of this Agreement.

32.4 Prohibition and Enforceability

- (a) The rights, duties and remedies granted or imposed under the provisions of this Agreement operate to the extent not excluded by law.
- (b) Any provision of, or the application of any provision of, this Agreement that is prohibited in any jurisdiction is, in that jurisdiction, ineffective only to the extent of that prohibition.

32.5 Entire Agreement

This Agreement constitutes the entire understanding and agreement between the parties with respect to its subject matter.

32.6 Independent Advice

The parties agree that they have had the opportunity to obtain independent legal and/or accounting advice in relation to the matters in this Agreement.

32.7 Representations and Warranties

The parties agree that any representations or warranties provided in this Agreement are relied upon by the other party.

32.8 Amendment

This Agreement may not be amended except in writing executed by the parties.

32.9 Relationship

Nothing in this Agreement creates a relationship of joint venture, partnership or employee and employer between the parties.

32.10 Severability Clause

In the event that any provision or portion of this Agreement is determined to be invalid or unenforceable for any reason, in whole or in part, the remaining provisions of this Agreement will be unaffected thereby and will remain in force and effect to the fullest extent permitted by law.

32.11 Governing Law

This Agreement is governed by and is to be construed in accordance with the law applicable to the Jurisdiction.

32.12 Australian Consumer Law

The Lessee has consumer rights conferred by the Australian Consumer Law and neither this clause nor any other provision of this Agreement excludes, restricts or modifies any implied terms, guarantees or rights that the Lessee may have under that law or any other Federal, State or Territory legislation.

32.13 Waiver

A provision of this Agreement or a right created under it may not be waived except in writing signed by the party granting the waiver.

32.14 Notices

A party may send a notice in connection with this Agreement by hand delivery, pre-paid post or email to the other party at the recipient party's address details set out in Schedule A or in such other way as the recipient party may have last notified the sending party in writing. A notice is deemed to be received:

- (a) if sent by hand delivery, at the time of delivery if on a Business Day at or before 5:30 pm, otherwise on the next Business Day;
- (b) if sent by pre-paid post within the same country, on the second Business Day after the date of posting, or if sent by pre-paid airmail from an address in a country to an address in another country, on the fifth Business Day after the date of posting; or
- (c) if sent by email, at the time of sending if on a Business Day at or before 5:30 pm, otherwise on the next Business Day, provided that the sender does not receive a subsequent 'out of office' reply or similar response or a system administrator message stating that the email did not reach its intended recipient

Schedule A – Contract Particulars

Item #	Item	Details
1.	Start Date	(ETA Subject to change)
2.	End Date	(Subject to change dependent on vehicle ETA)
3.	Extension Notice Date	(30 calendar days prior to the End Date)
4.	CarBon Leasing and Rentals Pty Ltd	CarBon Leasing and Rentals Pty Ltd (ABN: 39 657 812 756), 329 Hay Street, SUBIACO, WA 6008
5.	Permitted Purpose	Providing ridesharing [and/or food delivery] services, as part of an arrangement made using an Approved Application
6.	Damage Excess	\$2,500 (in addition all accident, attempted theft and theft claims will incur a 'claims administration fee' of \$100)
7.	Speeding, toll infringements, parking or other traffic infringement or fines administration fee	\$30 per item
8.	CarBon Depot	20 Mulgul Road, Malaga, WA 6090
9.	Nominated Payment Method (Direct Debit/Invoice)	Direct Debit
10.	Jurisdiction	Australia
11.	Initial lock-in period	365 calendar days commencing on the Start Date
12.	Notice details	CarBon: Address: 20 Mulgul Road, Malaga, WA 6090 Email: info@car-bon.com.au
