

Motopool Membership Agreement Terms and Conditions

RECITALS

This Agreement is between MB Superstore Pty Ltd (ACN 010 604 350) (**Motopool, Us or We**) and You and governs Your Bookings, Additional drivers and Membership.

1 Definitions

In the Agreement, unless the context requires otherwise:

Accident means any collision with an object or vehicle (whether stationary or otherwise) or a person or any damage to Third Party Property associated with the Vehicle;

Account Holder means an individual or entity approved by Motopool to use the Motopool Services, having executed the Motopool Application for Membership and accepted these Terms and Conditions;

Additional Driver means persons appointed by an Account Holder and approved by Motopool to access the Motopool Services under their Membership;

Additional Driver Agreement means the agreement required to be accepted by an Additional Driver before they can use the Motopool Services;

Agreement means:

- (a) Your Application for Membership;
- (b) these Terms and Conditions;
- (c) any Additional Driver Application Form;
- (d) the Motopool Privacy Policy;
- (e) any annexures or schedules; and
- (f) any documents incorporated by reference which provide the terms of the Membership.

Ancillary Fees includes any additional Fees imposed under this Agreement, any charges incurred by the Account Holder or the Additional Driver as a result of their use of the Motopool Services (including but not limited to infringement notices such as parking fines, speeding tickets, and any other fines associated with the use of the Motopool Services howsoever incurred, fuel and tolls) and any other fees and charges payable in accordance with this Agreement, as varied by Motopool from time to time;

Booking means a booking made by You, as a Member, to use a Vehicle, and accepted by Motopool by way of a booking confirmation email sent to the email address provided by the Member;

Corporate Member means a Member with a valid ABN or ACN who Motopool has approved to use the Motopool Services in their capacity as a business;

Damage means

- (a) any loss or damage to the Vehicle including its parts, components and accessories, including the GPS unit, that is not fair wear and tear;
- (b) towing and salvage costs;
- (c) assessing fees;
- (d) claims administration fees; and
- (e) Loss of Use,

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

Damage Report Sheet means the report for recording Damage to be found in the Motopool Guide;

Driver's Licence means:

- (a) a current unrestricted full driver's licence issued by an existing Australian motor registry; or
- (b) a current and valid international driver's licence and if that licence is not in English an International Driving Permit or a translation of the licence into English by an approved translation service.

Holders of a learner driver's licence will not meet this requirement;

GPS 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 and fuel levels.

Initial Term has the meaning given in clause 2.8;

Injury to a person includes death;

Insurance Excess means the amount, including GST, up to which You **must** pay Us in the event of an Accident or attempted theft that causes Damage or Third Party Loss or the Vehicle has been stolen.

Joining fee means the amount prescribed in Section 4 of the Application for Membership.

Liability Limit means the applicable limit of Your liability which will be limited to the current Insurance Excess for any claim.

Member means a natural person or corporate entity who Motopool has approved to use the Motopool Services;

Membership means the Account Holder's approved membership to the Motopool Services;

Membership Fee means the fee set out in Section 4 of the Application for Membership and charged by Motopool for access to the Motopool Services in accordance with the Account Holder's Membership as varied by Motopool from time to time in accordance with the terms of this Agreement;

Membership Manual means Motopool's membership manual provided on Motopool's website, as varied by Motopool from time to time;

Motopool Booking means a Booking with the Motopool platform and contains:

- (a) a pre-defined start and end time; and
- (b) the same pre-defined drop-off and return location;

Motopool Guide means the Vehicle's information booklet and/or User manual contained within the Vehicle (usually in the glovebox);

Motopool Services means any services provided by Motopool including all services associated with the Account Holder's Membership and the provision of Vehicles;

Off Road means any area that is neither a sealed nor an Unsealed Road and includes but is not limited to unformed roads, fire trails, tracks, river and tidal crossings, creek beds, beaches, streams, dams, rivers, flood waters, sand, deserts, fields and paddocks.

Overhead Damage means:

- (a) Damage at or above the level of the top of the front windscreen of the Vehicle; or
- (b) Third Party Loss,
caused by:
 - (i) contact between the part of the Vehicle that is at or above the level of the top of the front windscreen with objects overhanging or obstructing its path;
 - (ii) objects being placed on the roof of the Vehicle; or
 - (iii) You or any person standing or sitting on the roof of the Vehicle.

Serious Breach means a breach of any of clauses, 4, 6.1, 6.2, 9.1(b), 10.1, 10.2, 10.3, 10.4 or 10.5 that causes Damage, theft of the Vehicle or Third Party Loss.

Subsequent Terms has the meaning given in clause 2.8;

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

Unsealed Road means a road that has been formed and constructed but is not sealed with a hard material such as tar, bitumen or concrete.

Vehicle means the vehicle booked pursuant to a Motopool Booking and which is described in the Handover Inspection Report.

You or Your means you as an Account Holder/Member.

2 Access to the Motopool Services

- 2.1 You acknowledge and agree that in becoming a Member and/or accessing the Motopool Services, You have read and agree to be bound by the terms of this Agreement.
- 2.2 In order to access or use the Motopool Services, You must be a Member.
- 2.3 If You are an individual, to become a Member, You must:
- (a) accept the terms of this Agreement;
 - (b) be at least twenty one (21) years of age;
 - (c) have held a Driver's Licence for a period of no less than twelve (12) consecutive months;
 - (d) have no history of suspensions or cancellations of any Driver's Licence held by You within the last five (5) years;
 - (e) not be bankrupt or have been bankrupt at any point within the last 7 years;
 - (f) not suffer from any medical conditions that may inhibit Your ability to operate a motor vehicle or which may make it unsafe for You to operate a motor vehicle;
 - (g) pay the Joining Fee and Membership Fees (if any);
 - (h) provide Motopool with any documents it reasonably requests, including but not limited to photo identification, proof of address and photocopies of a Driver's Licence or credit or debit cards; and
 - (i) provide Motopool with a valid bank account for which to direct debit any membership fees and a signed direct debit authority form
- 2.4 If You are a corporation, to become a Member, You must:
- (a) accept the terms of this Agreement;
 - (b) provide Motopool with a valid ABN or ACN;
 - (c) be solvent;
 - (d) provide credit references as required;
 - (e) pay the Joining Fee and Membership Fees (if any);
 - (f) provide Motopool with any documents it reasonably requests, including but not limited to photo identification of persons representing the company, proof of principal place of business, proof of office address, a company search, certificate of incorporation and photocopies of credit or debit cards; and
 - (g) provide Motopool with a valid bank account for which to direct debit any membership fees and a signed direct debit authority form
- 2.5 Notwithstanding any other provision of this Agreement, Motopool, at its absolute discretion, may refuse Your application to become a Member. Motopool will not be required to give reasons for the acceptance or denial of Your application. You will only become a Member once Motopool has notified You in writing that Your application has been accepted.
- 2.6 As a Member, You agree to advise Motopool of any:
- (a) changes to Your contact details including Your phone number, address or email address;

- (b) changes to Your nominated credit or debit card;
 - (c) changes to Your circumstances referred to in clauses 2.3(e) or 2.3(f) or 2.4(c) above;
 - (d) suspensions or cancellations of Your Driver's Licence; or
 - (e) changes to Your nominated bank account for the direct debit authority.
- 2.7 You must only allow approved Additional Drivers to access the Motopool Services under Your Membership.
- 2.8 This Agreement will operate for a term of one (1) month (**Initial Term**). After expiry of the Initial Term, this Agreement will continue to roll over on a monthly basis (**Subsequent Terms**) until terminated in accordance with this Agreement.
- 2.9 Motopool may, at any time during the term of the Membership, request any additional documentation detailed in 2.3(h) if You are an individual, and 2.4(f) if You are a corporation and may suspend Your Membership immediately until such documentation is provided and verified.

3 Membership Fees

- 3.1 Membership will be charged at the applicable Membership Fee set out in Section 4 of the Application for Membership that forms part of Your Agreement with Motopool. Your Membership Fee is charged in advance and payable on the Initial Term and every Subsequent Term from the commencement of Your Membership to the termination of Your Membership.
- 3.2 You acknowledge and agree that Motopool may:
- (a) at any time, reduce the Membership Fee without notice to You; or
 - (b) at any time with at least (1) month's notice to You, increase the Membership Fee, to take effect on the next full calendar month for which You will be required to pay Membership Fees.
- 3.3 Where Motopool increases the Membership Fee in accordance with clause 3.2 above, You will be entitled to terminate this Agreement by providing written notice of such election to Motopool within 7 days of receiving notice of the increase in Membership Fees.
- 3.4 You acknowledge and agree that Motopool may store Your nominated credit or debit card information with a third party provider of payment gateway services.
- 3.5 You acknowledge and agree that Motopool may debit Your bank account as per the direct debit authority for the term of the Membership and per the Membership Fees outlined in Section 4 of the Application for Membership.
- 3.6 You agree that Motopool may debit Your nominated credit card for all Ancillary Fees incurred in relation to the use of the Motopool Services, after providing notice of its intention to do so in writing, unless Motopool has been notified in writing that You dispute the Ancillary Fees. In the event of a dispute regarding Your Ancillary Fees, You must notify Motopool within five (5) days from the day You receive notice of the Ancillary Fees, of the nature and grounds of Your dispute. Motopool will investigate Your dispute and determine an outcome accordingly. If You disagree with Motopool's decision, You will be referred to the dispute resolution procedure in this Agreement.
- 3.7 In addition to the Membership Fees, You agree to pay:
- (a) any fees and charges incurred by Your use or the Additional Driver's use of the Vehicle, including but not limited to tolls, fuel, speeding tickets, traffic infringements, parking fines, towing fees, storage fees, legal costs on an indemnity basis and court fees;
 - (b) reasonable cleaning fees as incurred by Motopool as a result of Your or the Additional Driver's failure to return the interior or exterior of the Vehicle in a reasonable condition
 - (c) all costs, fees, charges and disbursements (including collection agency commissions, and legal costs on a solicitor/client basis) incurred or to be incurred by Motopool in recovering any monies due to Motopool by You under this Agreement or by an Additional Driver under the Additional Driver Agreement;

- 3.8 If You or the Additional Driver are in possession of a Vehicle without the consent of Motopool or if You or the Additional Driver remain in possession of a Vehicle following the conclusion of a Booking without the consent of Motopool, You acknowledge and agree that Motopool may charge You:
- (a) Membership Fees for the time You or the Additional Driver remain in possession of the Vehicle;
 - (b) administration fees as reasonably incurred by Motopool, including but not limited to attempts to contact You or the Additional Driver or assisting other Members with finding replacement Vehicles; and
 - (c) any fees payable by Motopool to recover the Vehicle including but not limited to legal costs on an indemnity basis, court costs, police costs, reasonable loss of utilisation costs, sheriff costs, debt recovery costs, parking, towing, storage, repair and retrieval costs and cost for the replacement of the Vehicle if the Vehicle cannot be recovered.

4 Your Obligations

You acknowledge and agree that You:

- (a) will, as soon as reasonably practicable, advise Motopool of any change in Your personal circumstances that would affect Motopool's ability to provide You with the Motopool Services including but not limited to a change in Your contact details or Your legal ability to hold a Driver's Licence;
- (b) will pay the Membership Fee as and when it falls due and payable;
- (c) will pay any Ancillary Fees as and when they fall due and payable;
- (d) will take all reasonable steps to prevent Your Membership being used to access the Motopool Services (including the Vehicles) in a manner unauthorised by You or as not permitted by this Agreement;
- (e) agree with the terms of this Agreement before using a Vehicle; and
- (f) will notify Motopool as soon as reasonably practicable but in any event no less than 48 hours before using a Vehicle if any of the warranties granted in this Agreement become inaccurate or if You have had any change of circumstances that may affect Your ability to operate a motor vehicle.

5 Additional Drivers

- 5.1 Your Membership may allow You to appoint Additional Drivers to access the Motopool Services via Your Membership.
- 5.2 To appoint an Additional Driver to Your Membership, You must:
- (a) not have exceeded the number of Additional Drivers You are permitted to appoint under Your Membership which is 2 additional drivers;
 - (b) ensure that the Additional Driver is a Member and has executed the Additional Driver Agreement and that Motopool has provided written confirmation that the Additional Driver Agreement has been approved; and
 - (c) indemnify Motopool from any liability, loss, damages, costs and expenses (including legal costs on a full indemnity basis) incurred by Motopool as a result of the Additional Driver accessing the Motopool Services with Your Membership.
- 5.3 If You appoint Additional Drivers to access the Motopool Services under Your Membership, You acknowledge and agree that You are liable on account of any and all liabilities arising from the use of the Motopool Services under Your Membership by the Additional Drivers pursuant to this Agreement or the Additional Driver Agreement.

6 Booking a Vehicle

- 6.1 You acknowledge and agree that You will not book or drive a Vehicle unless:
- (a) You have been advised by Motopool that You are a Member;

- (b) You accept the terms of this Agreement;
 - (c) You hold a Driver's Licence;
 - (d) You comply with the requirements of the Membership Manual; and
 - (e) the Membership is in full force and effect and You are not in breach of any terms of the same at the time of making Your Booking.
- 6.2 You must not use or access a Vehicle without You or Your Additional Driver(s) holding a Booking to use that Vehicle for the time the Vehicle is in Your possession.
- 6.3 You must comply with all conditions of Your Booking, including but not limited to the particular Vehicle to be used by You and the time, date and duration of Your Booking.
- 6.4 If You wish to use a Vehicle for longer than allowed for in Your Booking, or if You are unable to return Your Vehicle prior to the conclusion of Your Booking, You must:
- (a) where the Vehicle is not booked by another Member; make a new Booking or extend Your current Booking for the period that You will continue to require the Vehicle, by following the procedure set out in the Membership Manual; or
 - (b) where the Vehicle is booked by another Member, take all reasonable endeavours to return the Vehicle before the conclusion of Your Booking and contact Motopool immediately.
- 6.5 You may cancel or change a Booking within the cancellation period applicable to Your Membership as set out in the Membership Manual.
- 6.6 Nothing in this Agreement grants You a right to use a Vehicle without our express written consent by way of a booking confirmation email sent to You.
- 6.7 A confirmed Booking confers on You or Your appointed Additional Driver, as a Member, a conditional licence to use the vehicle allocated to You by Motopool during the period of the Booking, subject to the terms and conditions of this Agreement (and, if applicable, the Additional Driver Agreement). Notwithstanding anything in this Agreement, You acknowledge and agree that this Agreement does not:
- (a) constitute a lease or a rental agreement; or
 - (b) entitle You to exclusive access, usage or possession of a Vehicle.
- 6.8 All Bookings are limited to a maximum period of thirty one (31) days, unless otherwise extended by Motopool in writing. Where a Vehicle is not returned within thirty one (31) days from the date of the Booking, Motopool may terminate the Booking and report You to relevant law enforcement authorities.
- 6.9 Upon reasonable notice Motopool may change or cancel Your Booking, including by changing the duration of Your Booking, or repossessing, reclaiming or substituting a Vehicle. This may occur at any time including during the original Booking period. If this action is taken due to Your breach of this Agreement, You acknowledge and agree that You will be liable for all Ancillary Fees and any fees, fines and costs associated with Your usage of the Vehicle and all and any fees, fines and costs associated with the storage and retrieval of the Vehicle.
- 6.10 You acknowledge and agree that Motopool may monitor Your usage of its Vehicles via its on-board technology monitoring system. The usage information gathered by Motopool will be stored and used in accordance with Motopool's Privacy Policy.
- 6.11 Notwithstanding anything to the contrary in this Agreement, You agree that any actions of an Additional Driver listed under Your Membership, will be wholly borne by You and You indemnify Motopool of all fees and liabilities that may arise howsoever as a result of the Additional Driver's use of the Vehicle.

7 Vehicle Collection

- 7.1 At the commencement of Your Booking, You must:
- (a) inspect the Vehicle for any interior or exterior Damage;
 - (b) if there is any Damage present on the Vehicle:

- (i) check whether the Damage has been recorded on the Damage Report Sheet and that there is a report number assigned to the recorded Damage;
 - (ii) if the Damage is recorded on the Damage Report Sheet and there is a report number assigned to the recorded Damage, You may proceed with Your Booking provided that You believe, acting reasonably, that it is safe to do so;
 - (iii) if the Damage is not recorded on the Damage Report Sheet or there is not a report number assigned to the Damage, You must contact Motopool to report the Damage prior to using Your Vehicle. In this instance, Motopool will advise You how to proceed and You must follow all lawful directions given to You by Motopool; and
- (c) when You are ready to operate the Vehicle and if it is safe to do so, use the key which has been provided to You.

7.2 At any time that You access a Vehicle (whether or not with Our consent), You must:

- (a) ensure that the Vehicle is locked at any time You are not inside the Vehicle; and
- (b) leave the interior and exterior of the Vehicle clean and tidy in the same condition as when You first accessed the Vehicle.

8 Vehicle Return

8.1 At or before the end of a Booking, You must:

- (a) be available to return the Vehicle as set out in Your booking confirmation email;
- (b) inform Motopool of the location of the Vehicle and make plans to make the vehicle available for return if You cannot return the Vehicle immediately;
- (c) return the Vehicle in the same condition as when You collected it as soon as possible (such as ensuring the Vehicle is clean) subject to reasonable wear and tear;
- (d) ensure that all documents and accessories that were in the Vehicle at the commencement of Your Booking remain in the Vehicle;
- (e) ensure all of the Vehicle's lights are switched off;
- (f) remove the Vehicle key from the ignition and ensure the same remains within the Vehicle and is affixed to the Vehicle;
- (g) ensure all doors, windows, sun roof, fold-back roof or other similar openings are closed or sealed securely; and
- (h) remove Your personal belongings from the Vehicle.

8.2 If You fail to return the Vehicle in a condition fit for use in accordance with the requirements set out in clause 8.1, You will be liable for any costs involved in returning the Vehicle to a condition fit for use, including but not limited to Booking Fees until the Vehicle is fit for use, together with any applicable fees as set out in the Membership Manual.

8.3 If a speeding, parking or other traffic infringement notice is issued for a Vehicle for the time in which the Vehicle was in Your possession, We will nominate You as the responsible driver so the infringement will be processed and re-issued in Your name. You will also be liable for any fees and charges associated with this traffic offence including administration fees for processing and re-issuing the fine.

8.4 You acknowledge and agree that Motopool will not be responsible for any personal property left in a Vehicle. You are required to take full responsibility to ensure You have removed all of Your personal property from a Vehicle. You will be liable for any costs, fees or charges associated with the retrieval, removal and/or storage of Your personal property together with the fees associated with reasonable loss of utilisation.

9 Refuelling

9.1 At any time that You are using a Vehicle, You must:

- (a) ensure that, at the end of Your Booking, there is sufficient fuel in the Vehicle; and

- (b) refuel the Vehicle with the correct fuel, as advised in the Motopool Guide.
- 9.2 If when You cease using a Vehicle there is not a full tank of fuel in the Vehicle You will be charged a standard fee to refuel the vehicle as set out in the Membership Manual.
- 9.3 If You refuel the Vehicle with the incorrect fuel type, You will be liable for any fees and charges associated with the repair, servicing, storage, towing and retrieval of the Vehicle together with the fees associated with reasonable loss of utilisation.
- 9.4 If You run out of fuel during Your Booking, You will be held liable for any fees and charges associated with the repair, storage, towing and retrieval of the Vehicle together with the fees associated with the non-return of the Vehicle as listed in clause 8.2 if the time taken to refuel the Vehicle passes the end of Your Booking.

10 Use of the Vehicle

- 10.1 You and any Additional Driver must take reasonable care of the Vehicle by:
 - (a) preventing it from being damaged;
 - (b) making sure that it is protected from the weather;
 - (c) maintaining the engine and brake oils and coolant level and tyre pressures;
 - (d) using the correct fuel type; and
 - (e) making sure it is not overloaded.
- 10.2 You and any Additional Driver must make sure that the Vehicle is locked when not in use or unattended and the keys or remote control device must be kept in Your possession, or that of any Additional Driver, at all times and are never left in the ignition when the Vehicle is unattended.
- 10.3 You and any Additional Driver must not drive the Vehicle in a reckless manner so that a substantial breach of road safety laws and regulations will occur.
- 10.4 You and any Additional Driver must not:
 - (a) allow the Vehicle to be driven by anyone who is not a Member;
 - (b) damage the Vehicle deliberately or recklessly and You must take reasonable steps to prevent anyone else from doing so;
 - (c) use the Vehicle for any illegal purpose;
 - (d) operate the Vehicle at any time that it is unsafe to do so;
 - (e) modify the Vehicle in any way;
 - (f) sell, rent, lease or dispose of the Vehicle;
 - (g) register or claim to be entitled to register any interest in the Vehicle under the Personal Property Securities Act 2009.
 - (h) smoke, or imbibe or inhale any illicit drugs in the Vehicle;
 - (i) remove or attempt to remove any security equipment or other equipment fitted to or provided with or in the Vehicle unless You are instructed by Motopool to do so;
 - (j) use the Vehicle to carry passengers for remuneration, reward or for rideshare purposes;
 - (k) take part in any race, rally, pace-making, trials, speed testing or similar event, whether legal or otherwise, using the Vehicle;
 - (l) operate the Vehicle or allow the Vehicle to be operated in any illegal manner including where the operator of the Vehicle is under the influence of drugs, alcohol or any other substance impairing their ability to operate the Vehicle;
 - (m) use the Vehicle to carry any inflammable, explosive or corrosive materials in quantities above that used for domestic quantities;
 - (n) allow any more passengers to travel in the Vehicle than is legally permitted;

- (o) allow the Vehicle to be driven:
 - (i) in any area where snow has fallen or snow chains are recommended;
 - (ii) onto any island that is off mainland Australia;
 - (iii) on roads that are prone to flooding or are flooded;
 - (iv) on beaches, streams, rivers, creeks, dams and floodwaters;
 - (v) on any road where the police or an authority has issued a warning;
 - (vi) on any road that is closed; or
 - (vii) on any road where it would be unsafe to drive the Vehicle;
- (p) fail or refuse to undergo a breath analysis or blood test, whether requested by Motopool or the police, for the purposes of determining whether You are under the influence of alcohol or illegal drugs; or
- (q) let anyone else repair or work on the Vehicle or tow or salvage it without Our prior written authority to do so.

10.5 You and any Additional Driver must not:

- (a) use the Vehicle to propel or tow any vehicle, trailer or other object without Motopool's prior express written consent as per the Motopool Guide; or
- (b) allow the Vehicle to be driven on an Unsealed Road or Off Road unless the Vehicle is a Four Wheel Drive and Motopool has given its prior express written consent as per the Motopool Guide.

10.6 You and any Additional Driver must not:

- (a) allow any person to step, stand or sit on the roof or any other panel of the Vehicle;
- (b) fail to secure any load or equipment;
- (c) remove or attempt to remove the e-tag from the vehicle; or
- (d) smoke in the Vehicle, or cause the Vehicle to smell of smoke.

10.7 If You or an Authorised Driver has an Accident or if the Vehicle is stolen You must report the Accident or theft to Us within 24 hours of it occurring and fully complete an Accident/Theft report form.

10.8 If the Vehicle is stolen or if You or an Authorised Driver of the Vehicle has an Accident where:

- (a) any person is injured;
- (b) the other party has failed to stop or leaves the scene of the Accident without exchanging names and addresses; or
- (c) the other party appears to be under the influence of drugs or alcohol,

You or the Authorised Driver must also report the theft or Accident to the Police.

10.9 If You or an Authorised Driver has an Accident You and the Authorised Driver must:

- (a) exchange names and addresses, telephone numbers and email addresses with the other driver;
- (b) take the registration numbers of all vehicles involved;
- (c) take as many photos as is reasonable showing:
 - (i) the position of the Vehicles before they are moved for towing or salvage;
 - (ii) the Damage to the Vehicle;
 - (iii) the damage to any third party vehicle or property; and
 - (iv) the general area where the Accident occurred, including any road or traffic signs;

- (d) obtain the names, addresses and phone numbers of all witnesses;
- (e) not make any admission of fault or promised to pay the other party's claim or release the other party from any liability;
- (f) forward all third party correspondence or court documents to Us within 7 days of receipt; and
- (g) co-operate with Us in the prosecution of any legal proceedings that We may institute or defence of any legal proceedings which may be instituted against You or Us as a result of an Accident, including attending:
 - (i) Our lawyer's office; or
 - (ii) any Court hearing.

11 Termination

- 11.1 You may terminate this Agreement at the expiry of the Initial Term or any Subsequent Terms by providing written notice of Your intention to do so no later than one (1) week before the expiry of the Initial Term or Subsequent Terms, to take effect upon the expiry of the Initial Term or Subsequent Terms.
- 11.2 If You terminate during the Initial Term or any Subsequent Terms, You acknowledge and agree that You will forfeit any Membership Fees paid in advance.
- 11.3 Motopool may immediately terminate this Agreement by notice in writing to You if it reasonably believes that You or an Additional Driver have committed a Serious Breach of this Agreement. In the event of termination in this instance, You forfeit any Membership Fees already paid.
- 11.4 Motopool may immediately terminate this Agreement if it reasonably believes that You are not fit to operate a motor vehicle.
- 11.5 Motopool may terminate or suspend this Agreement by notice to You in writing if any amount owing by You to Motopool remains outstanding beyond fourteen (14) days of the due date. Such termination will take effect from the date specified in the notice or, if no date is specified, to immediate effect on the date the notice is served on You.
- 11.6 If this Agreement is terminated under any circumstances, Your Membership will also be terminated simultaneously.

12 Insurance Coverage

- 12.1 Motopool maintains a Fleet Insurance Policy with an APRA approved insurer that provides Insurance Coverage for persons using the Vehicle with Motopool's express written permission. This Insurance Coverage protects You and any Additional Driver against any legal claims for Damage to the Vehicle, its theft and Third Party Loss caused by Your use of the Vehicle.
- 12.2 Insurance Coverage for personal injury to You, any Additional Driver and any Third Party is provided by the statutory insurer according to the compulsory third party insurance scheme that operates in all states and territories and is subject to the terms and conditions that apply to such schemes.
- 12.3 Nothing in this clause 12 precludes Motopool or its insurer from seeking monies from You as a result of Your breach of this Agreement or as set out in clause 12.5 below.
- 12.4 Members are responsible for paying up to their Liability Limit of \$1,500 in the event of any Damage involving the Vehicle whilst You or Your Additional Driver have control or possession of the Vehicle or it is stolen or there is Third Party Loss.
- 12.5 Motopool agrees that Your liability, or that of any Additional Driver, for any Damage sustained to a Vehicle, its theft or any Third Party Loss will be limited to Your Liability Limit, but Damage Coverage is excluded for Damage, theft or Third Party Loss sustained as a result of or in connection with:
 - (a) a Serious Breach by You or Your Additional Driver of this Agreement;
 - (b) the loading or unloading of goods from the Vehicle;
 - (c) a person stepping, standing or sitting on the roof or any other panel of the Vehicle;
 - (d) Overhead Damage;

- (e) the Vehicle being totally or partially immersed in water, regardless of how such immersion occurred;
 - (f) the interior of the Vehicle suffering Damage, regardless of how such Damage occurred except as a result of a collision with another vehicle;
 - (g) an original component or accessory of the Vehicle being missing or being replaced without Motopool's approval;
 - (h) failing to secure any load or equipment;
 - (i) You or Your Additional Driver giving the Vehicle to any person or permitting any other person to drive the Vehicle who is not a Member;
 - (j) damage to third party property that You or a member of Your immediate family has or had physical or legal custody and/or control of;
 - (k) damage to another vehicle that You or a member of Your immediate family has or had physical or legal custody or control of;
 - (l) You or Your Additional Driver being in possession of the Vehicle without the express written consent of Motopool; or
 - (m) You or Your Additional Driver's failure to refuel the Vehicle with the correct fuel.
- 12.6 You acknowledge and agree that, in the event that any of the circumstances described in 12.5(a)-(m) apply in relation to You, Your use of a Vehicle or that by any Additional Driver, You and any Additional Driver will be liable for all liability, loss, damages, costs and expenses (including legal fees on a full indemnity basis) incurred in connection with Your use, possession or control of the Vehicle including but not limited to the cost of repair or replacement of the Vehicle and utilisation costs (as determined by Motopool acting reasonably), the repair or replacement cost of and third party property.
- 12.7 You acknowledge and agree that Your Liability Limit will be debited from either Your nominated bank account or the saved credit or debit card listed on the Membership immediately upon You reporting, or Motopool identifying any Damage sustained in relation to Your use of the Vehicle.
- 12.8 Motopool will refund a portion of Your Liability Limit deducted in accordance with clause 12.10 in relation to an Accident as follows:
- (a) if it is determined that You are not at fault, then Motopool will refund the full amount of Your Liability Limit (less any amount for which You are liable for under 12.5) within 2 business days of receiving full payment from the Third Party or the Third Party insurers; or
 - (b) if it is determined that You are partially or wholly at fault, then Motopool will refund only the portion (if any) of Your Liability Limit remaining after deduction of:
 - (i) the applicable fees under this Agreement together with the charges associated with the repair of the Vehicle, third party vehicle(s) and/or property; and
 - (ii) any other amounts for which You are liable under 12.5 (or which You otherwise owe to Motopool).
- 12.9 Notwithstanding any other provision of this Agreement, You acknowledge that Motopool is not liable to You, any Additional Driver or any third party for loss or damage to property left in the Vehicle either during the period You are using the Vehicle or remaining in the Vehicle after Your use of the Vehicle. Such property is left at Your risk and You acknowledge that You and any Additional Driver are not covered by Motopool's Fleet Insurance Policy for theft or loss of property from the Vehicle.
- 12.10 You acknowledge and agree that Your Liability Limit will be debited from the nominated bank account or saved credit or debit card listed on the Membership immediately upon You reporting, or Motopool identifying any Damage sustained in relation to Your use of the Vehicle.

13 Serious Breach Consequences

If You or any Additional Driver commit a Serious Breach of these Terms and Conditions:

- (a) You and any Additional Driver have no Insurance Coverage and will be liable for all Damage, theft of the Vehicle and Third Party Loss; and

- (b) acting reasonably, We may terminate the Agreement and take immediate possession of the Vehicle.

14 No Liability

- 14.1 You acknowledge and agree that Motopool will not be liable to You for any claim, liability, loss, damages, costs or expenses, whether direct, indirect or consequential, if Motopool acting reasonably is unable to provide You with a Vehicle or changes or cancels a Booking or takes any other action at any time under clauses 6.9 or 6.10 whether or not You have a Booking to use a Vehicle.
- 14.2 You acknowledge and agree that You will indemnify Motopool against any claims, liability, loss, damages, costs or expenses by third parties in connection with the use of the Vehicle.

15 Indemnity

- 15.1 You undertake and agree to indemnify Motopool against any liability, loss, damages, costs and expenses, including legal costs as a result of or in connection with any breaches by You of this Agreement.
- 15.2 You further agree to hold Motopool harmless for any bank fees incurred as a result of You having insufficient funds to meet charges deducted by Motopool in accordance with its rights under this Agreement.
- 15.3 Motopool undertakes and agrees to indemnify You against any liability, loss, damages, costs and expenses, including legal costs as a result of or in connection with Motopool's breaches by it of this Agreement.

16 Dispute Resolution

- 16.1 If You have a complaint or dispute about the Agreement, including the service You have received from Motopool or decisions made on a claim, You may refer Your complaint or dispute to the Motopool Internal Disputes Resolution (**IDR**) process where Your complaint or dispute will be reviewed by an employee who has the experience, knowledge and authority to conduct a full review.
- 16.2 The first step is to contact Motopool at enquiry@motopool.com.au or by phone to **+61 7 3884 9494** and the Motopool IDR officer will acknowledge receipt of Your complaint or dispute within 14 working days.
- 16.3 Provided that We have all the necessary information the Motopool IDR officer will review Your complaint or dispute and respond to You with reasons for Our decision within 15 business days or if further investigation is required within a reasonable time frame that Motopool will endeavour to agree with You.
- 16.4 Any information or documents disclosed under this clause 16:
- (a) is on a without prejudice basis; and
 - (b) must be kept confidential.
- 16.5 You must bear Your own costs of complying with this clause.

17 General

17.1 Australian Consumer Law

The Australian Consumer Law provides You with rights that are not affected by the Agreement and any provision in this contract is subject to the implied terms and conditions of that and any corresponding Federal, State or Territory legislation.

17.2 GPS Tracking

The Vehicle is fitted with a GPS Tracking Device to enable Motopool to track the Vehicle when it is out of its possession. When You sign the Membership Application and enter into the Agreement You are authorising Motopool to use the GPS Tracking Device to track the Vehicle until it is returned.

17.3 Notices

All notices, demands and other communications for the purposes of this Agreement shall be in writing. Such notice, if delivered personally, by email or sent by post, shall be deemed received on that day or if delivered by other means, after two (2) business days of sending.

17.4 Applicable Law

This Agreement shall be governed by and construed in accordance with the law for the time being applicable to Queensland and You agree to submit to the non-exclusive jurisdiction of the Courts of Queensland.

18 Amendments

You acknowledge and agree that Motopool may amend this Agreement by notifying You of such amendments in writing no later than one (1) month before such amendments are to take effect. Such amendments will be binding on You at the expiry of that one (1) month period unless You notify Motopool that You wish to terminate this Agreement before the expiry of that (1) month period. In the event of conflict between this clause and clause 3 of this Agreement, the provisions of clause 3 (*Membership Fees*) will prevail.