

# Subscriber Terms and Conditions

## 1 Governing Terms and Conditions

---

- 1.1 The subscription service known as Turners Subscription is provided by Carly NZ Limited trading as Turners Subscription. These Terms and Conditions (Subscriber Terms and Conditions), the Subscription Agreement, the Privacy Policy, the Website Terms & Conditions, the Fair Wear and Tear Guide and all Handover Inspection Reports and checklists constitute the contract with the Subscriber (Subscriber Contract) which creates binding and enforceable legal obligations between Turners Subscription and the Subscriber.
- 1.2 Except as set out in clause 13.7 nothing in Subscriber Contract should be taken to limit the operation of the Fair Trading Act 1986 or the Consumer Guarantees Act 1993.

## 2 Subscriber Obligations

---

- 2.1 The Vehicle is provided by the Owner to the Subscriber subject to the Subscriber's acceptance and compliance with the Subscriber Terms and Conditions.
- 2.2 The Vehicle must only be driven by the Subscriber named in the Subscription Agreement.
- 2.3 An Additional Driver may only drive the Vehicle if that person is approved in writing by Turners Subscription and that person is registered in the Turners Subscription database as an Additional Driver. An Additional Driver is bound by these Subscriber Terms and Conditions as if they were the Subscriber.
- 2.4 The Subscriber must:
- (a) hold a Full New Zealand drivers licence (Learners or Restricted licenses are not accepted);
  - (b) In some cases, we will allow overseas or international license holders permission to subscribe.
  - (c) be twenty-one (21) years of age or older.
- 2.5 The Subscriber must not at either the commencement of the Subscription Period or during the Subscription Period:
- (a) have had their licence cancelled or suspended in the last twelve (12) months;
  - (b) have been the subject of bankruptcy proceedings in the last five (5) years;
  - (c) have had any criminal convictions in the last seven (7) years.
- 2.6 The Subscriber must not and must not permit others to:
- (a) use the Vehicle for hire or reward, or rideshare purposes;
  - (b) use the Vehicle for any illegal purpose;
  - (c) use the Vehicle off-road, or for racing, pace making, testing the Vehicle's reliability and speed, or teaching someone to drive;
  - (d) use the Vehicle under the influence of an illegal drug or with a proportion of alcohol in their breath or blood in excess of that permitted by law or fail or refuse to take a breathalyser or blood test when requested to do so in a lawful manner;
  - (e) use the Vehicle to carry anything that would cause the Vehicle to be overloaded or carry any hazardous, toxic or flammable materials in the Vehicle;
  - (f) use the Vehicle to tow any other vehicle, trailer, boat or other object without written permission from Turners Subscription;
  - (g) use the Vehicle in a manner such that a substantial breach of road safety legislation occurs;
  - (h) modify the Vehicle in any way, irrespective of whether the modifications are reversible or permanent;
  - (i) fail to take reasonable steps at all times to safeguard the Vehicle from loss and damage.
- 2.7 The Subscriber must not:
- (a) sell, rent or dispose of the Vehicle or any of its parts, or purport to give anyone any legal rights over the Vehicle or register or attempt to register any interest in the Vehicle under the Personal Property Securities Act 1999;
  - (b) smoke or allow others to smoke in the Vehicle and an additional cleaning fee of \$300 applies if this condition is breached;
  - (c) allow any animals into the Vehicle without written permission from Turners Subscription;
  - (d) use or permit the Vehicle to be used to jump start any other vehicle;

- (e) use the Vehicle:
  - (i) anywhere that is not officially designated as a road;
  - (ii) on the following roads: Skippers Canyon Road, the road to Macetown, Tasman Valley Road (also known as old Ball Road), Matukituki Road beyond the Treble Cone access road turn off, Glenorchy-Paradise Road beyond Priory Road turn off, any roads north of Colville on the Coromandel Peninsula;
  - (iii) in conditions where a reasonable person would use snow chains;
  - (iv) on any beach including Ninety Mile Beach or in any other area exposed to saltwater;
  - (v) under any circumstances where the Vehicle may or does become partially or totally immersed in water.

2.8 The Subscriber must:

- (a) display a replacement vehicle licence label or RUC label in the Vehicle at the designated location if one is provided by Turners Subscription;
- (b) make the Vehicle available for periodic servicing as per clause 8.11;
- (c) inform Turners Subscription immediately if:
  - (i) a warning light or fault message appears;
  - (ii) they become aware of low engine or brake oils, engine coolant levels or tyre pressures; or the Vehicle develops any fault during the Subscription Period, and the Vehicle must not be used unless Turners Subscription has given authority to do so. If Turners Subscription is not notified and the Vehicle continues to be used, the Subscriber will be responsible for any resulting Damage or third party loss.
- (d) return the Vehicle in the same condition as at the start of the Subscription Period, save for reasonable wear and tear.

2.9 The Subscriber shall:

- (a) prevent the Vehicle from being at any time used, kept or otherwise situated in any manner or place which, and shall not do or permit or suffer anything to be done which might or could permit the Insurer under any Insurance Policy to decline a claim arising out of such event or events whether under any condition or Exclusion contained in the Insurance Policy or otherwise;
- (b) notify Turners Subscription in writing immediately upon the occurrence of any event in respect of the Vehicle which may give rise to a claim under any Insurance Policy;
- (c) report any accident involving the Vehicle to the Police if:
  - (i) any person is killed or injured;
  - (ii) the accident involved another person's property and you cannot contact the owner of that property;
  - (iii) the other driver leaves the scene of the accident without exchanging names and addresses;
  - (iv) the other driver appears to be affected by drugs or alcohol.
- (d) provide all reasonable information and assistance as may be requested and by Turners Subscription in relation to any insurance claim;
- (e) if necessary, attend and provide evidence at his/her/its own cost in relating to any legal proceedings relating to a claim.

2.10 The Subscriber will not do or permit or suffer anything to be done which:

- (a) might or could permit the Insurer under any Insurance Policy to decline a claim arising out of such event or events whether under any condition or Exclusion contained in the Insurance Policy or otherwise; or
- (b) might or could prejudice any insurance cover in respect of the Vehicle or any premises in which the Vehicle is located including any admission, offer, promise, payment or indemnity.

2.11 In the case of a Subscription Period with a defined end date, if the Subscriber wishes to extend the Subscription Period a request must be made to Turners Subscription no less than 72 hours prior to the completion of the Subscription Period. The Subscription Period will not be extended unless Turners Subscription provides written confirmation to the Subscriber in accordance with clause 14.

### **3 Vehicle Handover Procedure**

---

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

- 3.2 At the handover of the Vehicle, the Subscriber must, in the presence of a Turners Subscription representative:
- (a) check that:
    - (i) the Vehicle's license and either warrant of fitness or certificate of fitness is current;
    - (ii) the Vehicle is in a roadworthy, serviceable, and safe condition;
    - (iii) the Vehicle's spare tyre is roadworthy and inflated;
    - (iv) the jack and tyre replacement tools are in the Vehicle;
    - (v) all Vehicle fluids such as fuel, transmission, oil, coolant, brake and power steering fluid and wiper wash are full;
    - (vi) the Vehicle is clean;
  - (b) review the Subscription Agreement, including the Handover Inspection Report;
  - (c) inspect the digital photographs of the Vehicle taken by the Turners Subscription representative to confirm that they accurately show the internal and external condition of the Vehicle and/or take their own photographs;
  - (d) produce the Subscriber's Driver's Licence and credit card used for the subscription for inspection by the Turners Subscription representative.
- 3.3 At the handover of the Vehicle to the Subscriber the Turners Subscription representative and Subscriber must complete and sign the Handover Inspection Report.
- 3.4 If at the time of hand over by the Turners Subscription representative the Subscriber fails to sign the Handover Inspection Report the Subscriber forfeits the right to dispute any claim for Damage allegedly caused during the Subscription Period.
- 3.5 A Subscription may only commence on a Business Day unless otherwise agreed in writing.

## **4 Switch**

---

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

- (a) these Terms and Conditions continue to apply to the Switched Vehicle;
- (b) the number of Switches available to a Subscriber is that specified in the Subscription Agreement;
- (c) a Switch must be requested in advance via [www.turnerssubscription.co.nz](http://www.turnerssubscription.co.nz);
- (d) a Switch may only be made to a vehicle that is identified as being available on the date required;
- (e) no guarantee is provided that a certain type of vehicle will be available on a specific day;
- (f) the Subscriber must ensure that at the time of a switch to the Turners Subscription representative each of the requirements for the return of the Vehicle in clause 8.4 have been fully complied with;
- (g) a Switch is one way only such that the Subscriber will be subscribing to the Switched Vehicle until such time as the Subscriber elects to undertake another Switch pursuant to these Terms and Conditions and the Subscription Agreement;
- (h) a Subscriber may request an additional Switch in excess of their entitlement under the Subscription Agreement upon the payment of a \$100 fee;
- (i) The Switched Vehicle will be subject to a new Subscription Agreement and the Subscription Fee applicable to the Switched Vehicle will apply from the date of the Switch. The subscription end date or recurring subscription date from the original Subscription Agreement will transfer to the new Subscription Agreement;
- (j) Switches are valid for a period of 30 days commencing from the start of the Subscription Agreement. During the first 30 days of a subscription a Switch may only occur 16 days or later from the start of the Subscription period;
- (k) Unused Switches expire at the end of each 30 day Subscription Period and may not be exchanged for cash.

## **5 Financial Obligations**

---

- 5.1 The Subscriber must pay Turners Subscription the Subscription Fee shown on the Subscription Agreement.
- 5.2 At the commencement of the Subscription, the Subscriber may be required to pay a Security Deposit to cover any additional charges, which includes, but is not limited to, fuel, excess kilometres, fines or Damage which may be payable by the Subscriber under this Subscription Agreement.
- 5.3 The Security Deposit, less any additional charges, will be refunded to the Subscriber 7 days after the

Vehicle has been returned in accordance with the Subscription Agreement and these Subscriber Terms and Conditions and subject to there being no Major Breach.

- 5.4 If a claim has been made against the Security Deposit Turners Subscription may hold the Security Deposit until actual costs for rectification of Damage have been determined.
- 5.5 If the Subscriber exceeds the kilometre allowance specified in the Subscription Agreement, the Subscriber must pay Turners Subscription the excess rate per excess kilometre or such other amount as is shown in the Subscription Agreement.
- 5.6 If the Subscriber is required to pay Turners Subscription any amount under these Subscriber Terms and Conditions:
- (a) that amount must be paid to Turners Subscription on or before the due date; and
  - (b) interest on any overdue amounts accrues daily from the date when payment becomes due, until the date of payment, at a rate of two and a half percent (2.5%) per calendar month (and at Turners Subscription's sole discretion such interest shall compound monthly at such a rate) after as well as before any judgment.
- 5.7 If the Subscriber requests Turners Subscription to perform any action or function under these Subscriber Terms and Conditions or if the Subscriber has failed to comply with the Subscriber Terms and Conditions thereby requiring rectification by Turners Subscription, the Subscriber must pay:
- (a) Turners Subscription a processing fee of \$20 or such other fee as specified in writing for each action or function;
  - (b) the full third party costs and expenses.
- 5.8 In performing any action or function on behalf of the Subscriber under clause 5.7, Turners Subscription does so as agent of the Subscriber and has no liability to the Subscriber or third parties for any of the actions or functions it performs on the Subscriber's behalf.
- 5.9 At the time of Subscribing a Subscriber will be required to choose an option defining the free kilometre allowance, excess kilometre cost and Damage Liability Charge that will apply to the Subscription. The cost for the chosen option will be included in the Subscription Fee.
- 5.10 A Subscriber may request to change the option that is applicable to their subscription. For the change to take effect, the Subscriber must present the Vehicle for visual inspection by a Turners Subscription representative at a location specified by Turners Subscription.
- 5.11 From time to time Turners Subscription may contact the Subscriber and request that the Subscriber provide date stamped photographic evidence of the external condition of the Vehicle and the odometer reading at the time of the request. Failure to provide such evidence within 48 hours of the request may result in cancellation of the Subscription.

## **6 Cancellation**

---

- 6.1 Subscription Agreements may only be cancelled in accordance with this clause 6.
- 6.2 Turners Subscription may cancel a Subscription Agreement without penalty to it or the Subscriber if the Vehicle is unavailable as a result of unforeseen circumstance, such as it having been involved in a prior accident.
- 6.3 For the purposes of this clause, 'Commencement of Subscription' occurs on the date specified on the Subscription Agreement.
- 6.4 Unless an end date has been specified at the commencement of the Subscription period, the Subscription will renew every 30 days until cancelled by the Subscriber by providing no less than 30 days' notice in writing.
- 6.5 A Subscriber may cancel a Subscription Agreement by providing no less than 30 days' notice in writing. No refunds are payable.
- 6.6 A Subscription may be cancelled upon 30 days' notice in writing to the Subscriber if Turners Subscription requires the Vehicle to be returned for whatever reason. Turners Subscription shall take reasonable steps to find a suitable replacement Vehicle.

6.7 We can change these terms and conditions, our fees and charges at any time, provided we give you at least 30 days' notice where fees and charges are increasing, or where we make changes to the terms and conditions, by at least one of the following methods:

- a) sending you a letter or email
- b) notifying you by other electronic means
- c) including a statement on your invoice

or

- d) a combination of the above.

We will write to you individually (by email) if our fees or charges are increasing by more than five per cent or if we make material changes to these terms and conditions that affect you. Please note if our fees or charges are increasing, we will give you the required 30 days' notice.

## **7 Traffic Offences, Fines, and Fees**

---

- 7.1 The Subscriber must pay all fines, penalties, traffic infringements, tolls and costs incurred during the Subscription Period or any period outside the Subscription Period in relation to which the Subscriber remains in possession of, or is responsible for, the Vehicle.
- (a) a processing fee of \$10 per toll is payable to Turners Subscription for each unpaid toll incurred, in addition to the toll amount and all other charges levied by the toll provider;
  - (b) a processing fee of \$20 is payable to Turners Subscription for each fine, penalty or traffic infringement notice, in addition to any charges levied by the issuer of the fine, penalty or traffic infringement.
- 7.2 The Subscriber must notify Turners Subscription in writing in accordance with clause 14 as soon as the Subscriber becomes aware that a fine, penalty, traffic infringement or toll infringement has been incurred.
- 7.3 Upon receipt of a fine, penalty, traffic infringement or toll notice Turners Subscription will complete the required documentation to absolve themselves from liability and nominate the Subscriber as the responsible party and return the documentation and any statutory declaration to the responsible authority that issued the notice within 7 days of receipt of the notice.
- 7.4 In the event that the Subscriber challenges any fine, penalty, infringement or toll notice, the Subscriber does so at his or her own expense.

## **8 Vehicle Condition and Return**

---

- 8.1 The Subscriber must return the Vehicle to the Turners Subscription representative at the Designated Return Location at the time and date agreed in advance with the Subscriber.
- 8.2 The Subscriber remains responsible for the Vehicle until it is returned to the Turners Subscription representative in accordance with clause 8.1 and these Subscriber Terms and Conditions continue to apply, regardless of whether it is returned during, at the end of, or after the expiry of, the relevant Subscription Period.
- 8.3 Subject to clause 6, if the Subscriber returns the Vehicle before the end of the Subscription Period the Subscriber must pay Turners Subscription the amounts in clause 5 for the duration of the Subscription Period unless otherwise agreed in writing by Turners Subscription.
- 8.4 At the time of hand over at the Designated Return Location the Subscriber must:
- (a) return the Vehicle to the Turners Subscription representative with its keys or keyless start device and all parts and accessories, including manuals, audio equipment, GPS unit, tools and wheel locking nuts in the same condition as it was at the beginning of the Subscription Period, save for any reasonable wear and tear;
  - (b) ensure that the Vehicle:
    - (i) has been cleaned prior to hand over;
    - (ii) is returned with a full tank of fuel;
  - (c) sign the Handover Inspection Report.
- 8.5 If at the time of handover to the Turners Subscription representative the Vehicle is in an unclean condition that does not allow for an accurate inspection of the Vehicle, Turners Subscription reserves the right to have the Vehicle cleaned at the Subscriber's expense and make an assessment of the Vehicle condition within 24 hours or next business day without the Subscriber being in attendance.
- 8.6 If at the time of handover to the Turners Subscription representative the Subscriber fails to sign the Handover Inspection Report the Subscriber forfeits the right to dispute any claim for Damage allegedly caused during the Subscription Period.
- 8.7 If the Vehicle is not returned at the time and date specified in the Subscription Agreement the Vehicle may immediately be reported as stolen and may be repossessed.
- 8.8 If Turners Subscription is required to replace any shortfall in fuel, the Subscriber agrees to pay for the actual cost of fuel plus a \$20 administration fee.
- 8.9 If the Vehicle is returned to the Turners Subscription representative without the service log book, the GPS unit, GPS disk or other accessories supplied to the Subscriber at the commencement of the Subscription, the Subscriber shall be charged replacement cost, for each item unreturned.
- 8.10 All Vehicles must be returned prior to 5pm on the agreed day of return, otherwise a \$50 fee will be

charged by Turners Subscription to the Subscriber. If a return time after 5pm is pre-agreed and the Vehicle is returned in excess of 2 hours after the pre-agreed time a \$50 fee will be charged by Turners Subscription to the Subscriber.

- 8.11 Turners Subscription may request the Vehicle be serviced or undertake a vehicle fitness inspection during the Subscription Period and the Subscriber must deliver the Vehicle to the nominated service location. Failure to comply with the service request is a Major Breach of these Subscriber Terms and Conditions, entitling Turners Subscription to terminate the Subscription Agreement immediately and, in addition, will result in the Subscriber being liable for mechanical damage caused to the Vehicle due to a missed scheduled service or \$150 for each missed service, whichever is greater.
- 8.12 Should the Subscriber remove, alter, or interfere with the log books, service sticker, vehicle license label, warrant of fitness or certificate of fitness label, or RUC label a fee of \$200 will be charged.
- 8.13 A Subscription may only end on a Business Day unless otherwise agreed in writing.

## **9 Insurance**

---

- 9.1 During the term of the Subscriber Contract Turners Subscription shall, at its own cost, insure, and keep insured, the Vehicle against fire, theft, burglary, damage, accident, risks in respect of third parties and damage to property on terms and conditions that Turners Subscription, in its sole discretion, considers appropriate (Insurance Policy).
- 9.2 The Insurance Policy does not cover (Exclusions):
- (a) loss or liability, other than loss or liability resulting from fire, theft or conversion, while the Vehicle is being driven by any person who is not the holder of a licence for the appropriate class and use applicable to the operation of the Vehicle or its components, or who is breaching any condition of their licence;
  - (b) loss, damage, death, injury, illness, disablement, costs, expense or any liability arising from an intentional or reckless act or omission;
  - (c) loss or liability while the vehicle is driven on a race track, or for: pace making, reliability trials, hill climbs, speed tests, time trials, or while being driven in preparation for any one of these activities;
  - (d) loss or liability while the vehicle is used to convey or tow a load in excess of that for which the vehicle or attached trailer was designed;
  - (e) loss or liability while the vehicle is used for any form of hire;
  - (f) loss or liability while the Vehicle is driven by or is in the charge of any person:
    - (i) while under the influence of an illegal drug;
    - (ii) with a proportion of alcohol in their breath or blood in excess of that permitted by law; or
    - (iii) who fails or refuses to take a breathalyser or blood test when requested to do so in a lawful manner; however this Exclusion will not apply if they are subsequently cleared of any wrongdoing;
    - (iv) who fails to stop or remain at the scene, following an accident as required by law except where there are any relevant statutory provisions to the contrary.
  - (g) This Exclusion 9.2(f) will not apply to loss or liability resulting from fire, theft or conversion.
  - (h) the tyres of the Vehicle being damaged by application of brakes or by road punctures, cuts, bursting or shredding of tread; unless caused as a result of an accident or malicious act;
  - (i) a mechanical failure breakdown or breakage and/or an electrical or electronic failure or breakdown that is the result of improper use of the vehicle;
  - (j) loss or liability while the Vehicle is in an unsafe or unroadworthy condition that arose during the Subscription Period and that caused or contributed to the loss or damage, and the Subscriber was aware or ought to have been aware of the unsafe or unroadworthy condition of the Vehicle;
  - (k) loss or damage to any personal property residing in or on the Vehicle;
  - (l) loss or liability where the Subscriber has not taken reasonable steps to safeguard the Vehicle from loss and damage.
- 9.3 If any damage to the Vehicle, theft, or third party loss occurs during the Subscription Period the Subscriber shall pay the Damage Liability Charge.
- 9.4 If the full cost of repair and/or loss is valued less than the Damage Liability Charge Turners Subscription shall refund the difference to the Subscriber.

- 9.5 Turners Subscription shall refund the Damage Liability Charge to the Subscriber if the Insurer is able to recover the full cost from a third party.
- 9.6 If any damage to the Vehicle or loss is not covered by the Insurance Policy due to an Exclusion as defined in clause 9.2:
- (a) the Subscriber indemnifies the Owner and Turners Subscription for all costs, losses, damages which directly or indirectly arise from any damage to the Vehicle, theft or third party loss which is not covered by the Insurance Policy; and
  - (b) the Subscriber shall continue to pay the Subscription Fee at the rate shown in the Subscription Agreement from the date of the damage until the amount referred to in clause 9.6(a) is paid in full.

## **10 Roadside Assistance**

---

- 10.1 Subject to clause 10.2, standard Roadside Assistance is included in the Subscription Fee.
- 10.2 The Subscriber is liable for the payment of all road side assistance costs, including the call- out fee, towing fees and replacement parts, if he/she:
- (a) loses and/or misplaces car keys or locks the car keys inside the Vehicle;
  - (b) leaves any lights or accessories switched on while the car engine is not running, resulting in a flat battery or other damage;
  - (c) causes the tyres to suffer a puncture or are shredded.

## **11 Personal Properties Securities Act**

---

- 11.1 The Subscriber Contract, which may comprise the lease of a Vehicle for more than one year, constitutes a deemed security interest under the Personal Property Securities Act 1999 (PPSA). It is the intention of the parties that Part 9 of the PPSA will not apply to the lease of the Vehicle.
- 11.2 The Subscriber waives the right to receive a copy of the verification statement confirming registration of a financing statement or financing change statement relating to the security interest created by the Subscriber Contract. The Subscriber agrees that nothing in sections 114(1)(a), 133 and 134 of the PPSA shall apply to the Subscriber Contract, and waives the Subscribers right under sections 116, 120(2), 121, 125 to 128, 129 and 131 of the PPSA.
- 11.3 The Subscriber agrees to do anything that Turners Subscription or the Owner reasonably requires to ensure that the Owner has a perfected purchase money security interest in the Vehicle at all times.

## **12 Termination of the Subscription Agreement and Repossession**

---

- 12.1 Turners Subscription may terminate the Subscription Agreement at any time if the Subscriber commits a Major Breach of the Subscriber Terms and Conditions and Turners Subscription must notify the Subscriber and Owner, in accordance with clause 14, immediately of the termination of the Subscription Agreement.
- 12.2 The Owner may terminate the Subscription Agreement at any time if the Subscriber commits a Major Breach of the Subscriber Terms and Conditions and the Owner must notify the Subscriber and Turners Subscription in accordance with clause 14, immediately of the termination of the Subscription Agreement.
- 12.3 If the Subscription Agreement is terminated pursuant to clause 12.1 or 12.2:
- (a) Turners Subscription or the Owner may repossess the Vehicle from the Subscriber; and
  - (b) the Subscriber must pay the cancellation fees, if any, pursuant to clause 6.
- 12.4 The Subscriber may terminate the Subscription Agreement at any time if the Owner commits a Major Breach of the Subscriber Terms and Conditions and the Subscriber must notify Turners Subscription, in accordance with clause 14, immediately of the termination of the Subscription Agreement.
- 12.5 Notwithstanding clauses 12.1 or 12.2, Turners Subscription or the Owner may immediately repossess the Vehicle without notice to the Subscriber if:
- (a) the Subscriber has illegally parked the Vehicle for longer than 24 hours;
  - (b) the Subscriber has committed a reckless breach of road or traffic legislation;
  - (c) the Vehicle is apparently abandoned;
  - (d) payments are in arrears or are not received within 24 hours of the due date;
  - (e) the Vehicle has not been returned to the Owner at the time and date specified in the Subscription Agreement.



- 12.6 If the Owner repossesses the Vehicle directly the Subscriber agrees to indemnify the Owner for the costs incurred by the Owner. This indemnity may be enforced by Turners Subscription as agent for the Owner.

### **13 Turners Subscription Responsibility and Liability**

---

- 13.1 Turners Subscription enters into the Subscription Agreement with the Subscriber as agent of the Owner with respect to payments and receipts only.
- 13.2 Notwithstanding clause 13.1, Turners Subscription, as agent of the Owner, has the right to enforce these Subscriber Terms and Conditions against the Subscriber in the event of any failure by the Subscriber to comply with these Subscriber Terms and Conditions.
- 13.3 Turners Subscription makes no warranty to the Subscriber that the Vehicle is in a roadworthy condition.
- 13.4 Except as expressly set out in these Subscriber Terms and Conditions, Turners Subscription expressly disclaims any further warranties, conditions, or other terms, either express or implied by statute or otherwise.
- 13.5 Turners Subscription accepts no liability in respect of and shall not be responsible to the Subscriber for:
- (a) the condition of the Vehicle;
  - (b) any information or content provided by the Owner;
  - (c) death or personal injury;
  - (d) any damage to any property, or damage to or loss of any Vehicle;
  - (e) any damage or loss of any belongings left in any Vehicle;
  - (f) any fuel costs;
  - (g) any incidental expenses;
  - (h) any charges or fines mentioned in clause 8;
  - (i) any theft or breakdown of any Vehicle;
  - (j) any failure of the Owner to honour these Subscriber Terms and Conditions.
- 13.6 Turners Subscription is not liable to the Subscriber under or in connection with these Subscriber Terms and Conditions whether for negligence, breach of contract, misrepresentation or otherwise, for:
- (a) loss or damage incurred by the Subscriber in connection with any Claims made by a third party;
  - (b) loss of profit, goodwill, business opportunity or anticipated saving suffered by the Subscriber;
  - (c) any indirect or consequential loss or damage suffered by the Subscriber.
- 13.7 Where the Subscriber is in trade as defined in the Consumer Guarantees Act 1993, the Subscriber acknowledges that the Vehicle referred to in the Subscriber Contract is both supplied and acquired in trade and the Subscriber, Turners Subscription and the Owner agree to contract out of the Consumer Guarantees Act 1993 and sections 9, 12A, 13, and 14(1) of the Fair Trading Act 1986. The Subscriber acknowledges and agrees that this provision is fair and reasonable.

### **14 Notices**

---

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

### **15 Proper Law and Jurisdiction**

---

The Subscriber Contract is governed by and construed in accordance with the laws of New Zealand.

### **16 Use of Personal Information**

---

- 16.1 Turners Subscription takes all reasonable steps to ensure that personal information is securely held and protected from misuse or unauthorised access. Full details of the Turners Subscription Privacy Policy can be viewed at [www.turnerssubscription.co.nz](http://www.turnerssubscription.co.nz).
- 16.1 The Subscriber authorises Turners Subscription and all related companies (as defined in the Companies Act 1993) to use and disclose the personal information provided to undertake all necessary enquiries and

request, collect, check and exchange information (both now and in the future), including but not limited to personal, commercial, and financial information from any Credit Reporting Agency or any other source for the purposes of assessing creditworthiness, verifying identity, anticipating fraudulent activity, or administering and enforcing the Subscriber Contract.

- 16.2 If the Subscriber defaults in the payment of any monies owed to Turners Subscription the Subscriber authorises Turners Subscription to provide information about that default to any Credit Reporting Agency and that Agency may give that default information to other Credit Reporting Agency customers.
- 16.3 Turners Subscription may fit and operate GPS tracking or other electronic tools to the Vehicle to enable it to track or locate the Vehicle, or monitor driver behaviour, during the Subscription Period. By signing the Subscription Agreement or taking possession of the Vehicle the Subscriber authorises Turners Subscription to track the Vehicle and collect other information about the use and operation of the Vehicle until it is returned to the Owner. For the avoidance of doubt, the Subscriber does not have any interest in, or ownership rights in, any data collected.

## 17 Definitions

---

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

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

**Business Day** means a day which is not a Saturday, Sunday or public holiday.

**Claim** means any claim, demand, action or proceeding.

**Damage** means:

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

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

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

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

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

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

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

**Major Breach** means a breach of any of clauses 2.2, 2.3, 2.4, 2.5, 2.6, 2.7, 2.8(b), 2.8(c), 2.9, 2.10, 8.11 of these Subscriber Terms and Conditions.

**Owner** means a Person who has agreed for their Vehicle to be used by a Subscriber subject to the terms of the Subscription Agreement.

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

**Subscriber** means an individual, firm or company who has entered or may enter into a Subscription Contract for the use of a Vehicle and includes any Additional Driver as defined in clause 2.3.

**Subscriber Contract** has the meaning given to it in clause 1.1 of these Subscriber Terms and Conditions.

**Subscriber Terms and Conditions** means these terms and conditions which form part of the Subscriber Contract.

**Subscription Agreement** means the document entitled 'Turners Subscription Subscription Agreement for use of the Vehicle'.

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

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

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

**Turners Subscription** means Carly NZ Limited trading as Turners Subscription.

**Insurer** means Turners Subscription's provider of motor vehicle insurance.

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

**Website** means the [www.turnerssubscription.co.nz](http://www.turnerssubscription.co.nz) website and the content, features and services offered through it.

TS0250820