



## ACCOUNT HOLDER AGREEMENT

# TERMS AND CONDITIONS

This agreement is between KINTO New Zealand Limited, Trading as Cityhop (35427) NZBN 9429040803395 (“Cityhop”, “We”, “Us”) and you as a member of Cityhop and governs Active Reservations and your Membership.

By becoming a Cityhop Member, you and your Drivers agree to the Terms and Conditions as stated below, and to the Privacy Policy which can be found [here](https://www.cityhop.co.nz/privacy-policy/) (<https://www.cityhop.co.nz/privacy-policy/>)

## 1. Definitions

1.1. In this document:

**Access** means the ability for an Account Holder to logon to the App and access a Car for the Active Reservation Period.

**Accident** means any collision with an object (stationery or otherwise) or a person or any damage to 3<sup>rd</sup> party property associated with the car.

**Account Holder** means any entity approved by Cityhop to use Cityhop services having completed the membership sign up process.

**Additional Charge** includes any Active Reservation Fees imposed by this Agreement, any charges incurred by the Account Holder as a result of using the Cityhop service (including but not limited to parking infringements, traffic infringements or any fines associated with using the Cityhop service) and any fees and charges payable in accordance with this Agreement or the User Guide Rules as varied by Cityhop from time to time.

**Agreement** means this agreement together with any annexures or schedules and any documents incorporated by reference.

**App** means the mobile application provided by Cityhop for the Cityhop Services available for download from Google Play Store and Apple App Store.

**Active Reservation** means the period from when the Account Holder has started a reservation by unlocking the Vehicle via the App until the Account Holder has returned the Vehicle to its Car Park, locked the Vehicle and ended the reservation via the App.

**Active Reservation Period** means the time that the Driver has pre- booked for use of a Cityhop with a set start and end time along with pick up and return to a Car Park. The Active Reservation Period can be extended in accordance with these Terms and Conditions.

**Active Reservation Fees** mean the fees from each Active Reservation, charged by the hour or day as per the membership of the Account Holder together with a kilometre charge that the Car is driven as per the membership category. The Active Reservation Fee may be varied by Cityhop from time to time.

**Business or Corporate Member** means a member with a valid GST number who uses Cityhop in their capacity as a business.

**Car** refers to a car within the Cityhop fleet that a Driver is permitted to drive for the Active Reservation Period.

**Car Park** means the designated parking spot for the Car as advised by Cityhop and known as a Reserved Parking Space.

**Cityhop** means KINTO New Zealand Limited (35427) trading as Cityhop.,

**Cityhop Active Reservation** means the time that the Driver has booked to use the Car with a) a predetermined start and end time and b) from a specific pick up and return Car Park.



Cityhop Services means any services provided by Cityhop including membership services and provision of cars.

Damage means any loss or damage to the Car such as but not limited to scratched paint, interior damage, scratched materials within the car, dents, collisions with objects (stationery or not) or like events, theft and accidents.

Driver's Licence means a current (full or restricted) driver's Licence issued by the NZTA or a current and valid international driver's Licence held by a person legally able to drive in New Zealand. Holders of a learner's Licence will not meet this requirement.

Individual Member means a member who Cityhop has approved who is not a Business or Corporate Member.

Initial Term (see clause 2.8).

Injury to a person includes death.

Joining Fee means the amount payable for becoming a member of Cityhop as varied by Cityhop from time to time.

Liability Excess means the applicable Excess of your liability for a single event

Member means any entity who Cityhop has approved to use the Cityhop service and includes individual and business/corporate members.

Membership means the Account Holder's membership to use Cityhop services.

Membership Fee means the fee charged by Cityhop to access the Cityhop service relative to the Account Holder's membership level as varied by Cityhop from time to time in accordance with the terms of this Agreement.

Membership Plan means the plan or category signed up to by the member and recorded by Cityhop at the time of making a Active Reservation or as varied by Cityhop from time to time.

Pet Friendly Car means a Car advised by Cityhop to be pet friendly and able to carry a pet.

Reduced Excess Fee means the additional fee payable on an Active Reservation (s) which a member selected to reduce the liability Excess for their Active Reservation to a reduced liability as explained on the website and Active Reservation engine.

Reduced-Liability Excess means the reduced liability for an Active Reservation as outlined on the website and in the Active Reservation engine.

Reserved Parking Space means the reserved space in which the Car is parked when not in use by a Driver.

Restricted Driver means a Member with a Restricted permit or who has held a driver's Licence for less than 12 months or a Member with an equivalent overseas drivers licence that has been reviewed by Cityhop.

Security Deposit means the cash security deposit for a value or a pre-authorization charged to the Account Holder's credit card for a value as advised by Cityhop from time to time in accordance with the Member's credit worthiness.

Terms and Conditions means these terms and conditions.

User Guide Rules means the Car information and rules booklet along with the damage guide that can be found on the App.

Vehicle Damage Form means the report for recording damage located in the App.

you or your means you as an Account Holder.

## 1.2. Interpretation

In this Agreement unless the context requires otherwise:

- a) headings are for convenience only and do not affect the interpretation of this Agreement;
- b) a reference to one gender includes others;
- c) references to clauses, subclauses, paragraphs, annexures or schedules are references to, clauses, subclauses, paragraphs, annexures and schedules of or to this Agreement;
- d) a reference to the singular includes the plural and the plural includes the singular;
- e) all monetary amounts are in New Zealand currency unless specifically stated otherwise;
- f) a reference to time refers to time in Auckland, New Zealand;
- g) "includes" is not a word of Limitation
- h) no rule of construction applies to the disadvantage of a party because this Agreement is prepared by (or on behalf of) that party;
- i) where a word or expression is given a particular meaning, other parts of speech and grammatical forms of a word or phrase defined in this Agreement have a corresponding meaning;
- j) an expression importing a natural person includes any company, partnership, joint venture, association, corporation or other body corporate and vice versa;
- k) a reference to a party includes the party's executors, administrators, successors and permitted assigns;
- l) if an act must be done on a specified day which is not a business day, it must be done instead on the next business day;
- m) if a party consists of more than 1 person, then the agreement binds each of them separately and any 2 or more of them jointly;
- n) a reference to a statute, regulations, proclamation, ordinance or by-law includes all statutes, regulations, proclamations, ordinances or by-laws varying, consolidating or replacing it, and a reference to a statute includes all regulations, proclamations, ordinances and by-laws under that statute; and
- o) a reference to a document or agreement includes all the amendments or supplements to, or replacements or novation of, that document or agreement.

## 2. Using Cityhop services

- 2.1. You acknowledge and agree that when you become a Member and/or access the Cityhop Services, you have read and accepted the terms of this Agreement.
- 2.2. In order to access or use the Cityhop 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 eighteen (18) 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 Car or which may make it unsafe for you to operate a motor Car;
  - g) pay the Joining Fee and Membership Fees (if any); and
  - h) provide Cityhop 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.
- 2.4. If you are a business, to become a Member, you must:
  - a) accept the terms of this Agreement;
  - b) be solvent;
  - c) provide credit references as required;
  - d) pay the joining and membership fee (if any); and
  - e) provide Cityhop with any documents, it reasonably asks for, including but not limited to photo ID, proof of address and photocopies of a Driver's Licence, or credit or debit cards.
- 2.5. Notwithstanding anything in this Agreement Cityhop may at its absolute discretion refuse any application to become a Member. If an application is refused the portion of the Membership Fees that are the application fee will not be refunded. Cityhop will not have to offer reasons for this acceptance or denial of applications. You will only become a Member once Cityhop has advised you in writing that your Membership has been accepted.
- 2.6. As a Member, you agree to advise Cityhop of any:
  - a) changes to your contact details including your phone number, address or email address;
  - b) changes to your nominated credit or debit cards;

- c) changes to your circumstances referred to in clauses 2.3(f) and (g) or 2.4(c) above; or
  - d) suspensions or cancellations of your Driver's Licence.
- 2.7. As a Member you agree:
- a) not to permit any other person(s) to use the App using your login details. You must contact Cityhop immediately if your App access credentials have been compromised or your smartphone with the App installed is stolen, lost, or destroyed; and
  - b) you understand that this is to prevent improper or unauthorised use of the Cityhop Services and that you will be held responsible for all fees, costs and damages if somebody else uses your Membership to access Vehicles.
- 2.8. This Agreement will operate for a term as determined by your Membership category (the "Initial Term"). After expiry of the Initial Term, this Agreement will continue to roll over on the same basis as determined by your Membership category ("Subsequent Terms") until terminated in accordance with this Agreement.
- 2.9. Cityhop 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 (e) if you are a business and may suspend your Membership immediately until such documentation is provided and verified.
- 2.10. You acknowledge and agree that at any time during your Membership, Cityhop may access the status of your Driver's Licence by using Waka Kotahi's (The New Zealand Transport Agency) TORO service.

### 3. Membership Fees

- 3.1. Membership will be charged at the applicable Membership Fee. 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 Cityhop may at any time, adjust the Membership Fee without notice to you;
- 3.3. Where Cityhop 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 decision to Cityhop no later than five (5) business days and no earlier than thirty (30) business days before the change is due to take effect.
- 3.4. You acknowledge and agree that Cityhop may store your nominated credit or debit card information with a third-party provider of payment gateway services.
- 3.5. You agree that Cityhop may debit your nominated credit card for all Additional Charges incurred in relation to the use of the Cityhop Services, after providing notice of its intention to do so in writing, unless Cityhop has been notified in writing that you dispute the Additional Charges. In the event of a dispute regarding your Additional Charges, you must notify Cityhop within five (5) days from the day you receive notice of the Additional Charges, of the nature and grounds of your dispute. Cityhop will investigate your dispute and determine an outcome accordingly. If you disagree with Cityhop's decision, you will be referred to the dispute resolution procedure in this Agreement.

### 4. Member responsibilities: Your Obligations

- 4.1. You acknowledge and agree that you:
- a) will, as soon as reasonably practicable, advise Cityhop of any change in your personal circumstances that would affect Cityhop's ability to provide you with the Cityhop 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 Additional Charges as and when they fall due and payable;
  - d) will pay the Security Deposit as and when required by Cityhop;
  - e) will take all reasonable steps to prevent your Membership being used to access the Cityhop Services (including the Cars) in a manner unauthorised by you or as not permitted by this Agreement;
  - f) agree with the terms of this Agreement before using a Car; and
  - g) will notify Cityhop as soon as reasonably practicable but in any event no less than 48 hours before using a Car 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 Car..
- 4.2. You acknowledge and agree that when a Car is under your possession and control you will ensure that:
- a) all reasonable care is taken when driving and parking the Car;
  - b) only the fuel type specified for the Car will be used;
  - c) the tyres are maintained at proper pressure;
  - d) the distance recorder or speedometer are not interfered with;
  - e) no part of the engine, transmission, braking or suspension systems are interfered with;
  - f) should a warning light be illuminated or You believe that the Car requires mechanical attention, You will stop driving the Car and advise Cityhop immediately;

- g) you comply with these Terms and Conditions; and
- h) you will keep your driver's licence with you in the Car at all times and will produce it on demand to any enforcement officer.

## 5. Reserving a Car

- 5.1. You acknowledge and agree that you will not book or drive a Car unless:
  - a) you have been advised by Cityhop that you are a Member;
  - b) you accept the terms of this Agreement;
  - c) you hold a Driver's Licence;
    - a Security Deposit has been paid for the Membership, if required by your Membership status;
  - d) you comply with the requirements of the User Guide; 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 Active Reservation.
- 5.2. You must not use or access a Car without you holding an Active Reservation to use that Car for the time the Car is in your possession.
- 5.3. You must comply with all conditions of your Active Reservation, including but not limited to the particular Car to be used by you and the time, date and duration of your Active Reservation.
- 5.4. If you wish to use a Car for longer than allowed for in your Active Reservation, or if you are unable to return your Car to its Reserved Car Park prior to the conclusion of your Active Reservation, you must:
  - a) where the Car is not booked by another Member; make a new Active Reservation or extend your current Active Reservation for the period that you will continue to require the Car, by following the procedure set out in the User Guide; or
  - b) where the Car is booked by another Member, take all reasonable endeavours to return the Car to its Car Park before the conclusion of your Active Reservation and contact Cityhop immediately.
- 5.5. You may cancel an Active Reservation within the cancellation period applicable to your Membership Category as set out in the User Guide. If you fail to cancel your Active Reservation in accordance with the User Guide, you will be charged Active Reservation Fees as stipulated in the User Guide.
- 5.6. If you fail to collect a Car in accordance with an Active Reservation made by you or if you do not use the Car during your Active Reservation without cancelling the Active Reservation, the Account Holder will be charged Active Reservation Fees.
- 5.7. Nothing in this Agreement grants you a right to use a Car without our express written consent by way of an Active Reservation confirmation email sent to you.
- 5.8. A confirmed Active Reservation confers on you, as a Member, a conditional Licence to use the Car allocated to you by Cityhop during the period of the Active Reservation, subject to the terms and conditions of this 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 Car.
- 5.9. Cityhop may change or cancel your Active Reservation, including by changing the duration of your Active Reservation, or repossessing, reclaiming or substituting a Car, in each case at any time (including during the original Active Reservation Period), at its absolute discretion. If this action is taken due to your breach of this Agreement, you acknowledge and agree that you will be liable for all and any fees, fines and costs associated with your usage of the Car and all and any fees, fines and costs associated with the storage and retrieval of the Car.
- 5.10. You acknowledge and agree that Cityhop may monitor your usage of its Cars via its on-board technology monitoring system. The usage information gathered by Cityhop will be stored and used in accordance with Cityhop's Privacy Policy.

## 6. User Rate charges

- 6.1. You will pay the User rate charges applicable to the Active Reservation.
- 6.2. You acknowledge and agree that Cityhop may at any time, adjust the Active Reservation Fees without notice to you. The Active Reservation Fees will be displayed on Cityhop's website and it is your sole responsibility to familiarise yourself with and accept the Active Reservation Fees before making a Active Reservation.
- 6.3. In addition to the Active Reservation Fees, you agree to pay:
  - a) any fees and charges incurred by your use of the Car, including but not limited to tolls, 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 Cityhop as a result of your failure to return the interior or exterior of the Car in the same condition as when you collected it;
  - 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 Cityhop in recovering any monies due to Cityhop by you under this Agreement;
  - d) any fees set out in the User Guide or website from time to time;
  - e) any reasonable fee for costs incurred by an inconvenienced driver for late return; and
  - f) interest of 1 % per month and administration charges of 1% per month or part thereof on the monies due. Any payments shall be credited firstly against any interest and administration charges due.
  - g) Invoices showing Active Reservation Fees and other charges will be emailed to the member and must be paid on the due date.
- 6.4. If you are in possession of a Car without the consent of Cityhop or if you remain in possession of a Car following the conclusion of a Active Reservation without the consent of Cityhop, you acknowledge and agree that Cityhop may charge you:
- a) Active Reservation Fees for the time you remain in possession of the Car;
  - b) administration fees as reasonably incurred by Cityhop, including but not limited to attempts to contact you or assisting other Members with finding replacement Cars; and
  - c) any fees payable by Cityhop to recover the Car 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 Car if the Car cannot be recovered.

## 7. Car Collection

- 7.1. At the commencement of your Active Reservation, you must:
- a) use the App to unlock the Car;
  - b) inspect the Car for any interior or exterior Damage;
  - c) if there is any Damage present on the Car:
    - i) check whether the Damage has been recorded on the Vehicle Damage Form and that there is a report number assigned to the recorded Damage;
    - ii) if the Damage is recorded on the Vehicle Damage Form and there is a report number assigned to the recorded Damage, you may proceed with your Active Reservation provided that you believe, acting reasonably, that it is safe to do so;
    - iii) if the Damage is not recorded on the Vehicle Damage Form or there is not a report number assigned to the Damage, you must contact Cityhop to report the Damage prior to using your Car. In this instance, Cityhop will advise you how to proceed and you must follow all lawful directions given to you by Cityhop;
  - d) when you are ready to operate the Car and if it is safe to do so, you must use the key which is affixed to the Car as set out in the Membership Manual.
- 7.2. At any time that you access a Car (whether or not with our consent), you must:
- a) ensure that the Car is locked with the App at any time you are not inside the Car; and
  - b) leave the interior and exterior of the Car clean and tidy in the same condition as when you first accessed the Car.
- 7.3. Failure to advise Cityhop of any damage to the Car that is not recorded on the Vehicle Damage Form creates an assumption of liability for the damage.

## 8. Car Return

- 8.1. At or before the end of a Active Reservation, you must:
- a) return the Car to the pre-defined Car park as set out in your Active Reservation confirmation email;
  - b) return the Car in the same condition as when you collected it (such as ensuring the Car is clean);
  - c) ensure that all documents and accessories that were in the Car at the commencement of your Active Reservation remain in the Car;
  - d) ensure all the Car's lights are switched off;
  - e) remove the Car key from the ignition, and ensure the key remains within the Car and is affixed to the Car
  - f) ensure all doors, windows, or other openings are closed or sealed securely;
  - g) remove your personal belongings from the Car; and
  - h) use the App to lock the Car.
- 8.2. If you cannot return the Car to its Car Park:
- a) you must park the Car in the nearest legal and permanently un-timed car space;

- b) or you may pay for parking near to the Car Park;
  - c) you must immediately notify Cityhop of the registration, make and model of the Car that is illegally parked; and
  - d) you must immediately inform Cityhop of the location of the Cityhop Car.
- 8.3. If you fail to return the Car to its Car Park in a condition fit for use in accordance with the requirements set out in 8.1 above, you will be liable for any costs involved in returning the Car to a condition fit for use, including but not limited to Active Reservation Fees until the Car is fit for use, together with any applicable fees as set out in the User Guide.
- 8.4. If you return the Car to a car space other than its Car Park and that car space is either an illegal car park, a metered car space, a timed car space, a clearway or becomes a metered car space, timed car space or clearway at some point in time following your parking of the Car, or if you park contrary to signage or road rules, you will be liable for any fees and charges associated with parking the Car in the car space including parking fines and all other associated fees and charges for the non-return of the Car, including administration fees for processing and re-issuing the fine, regardless of whether your Active Reservation has ended or you have advised Cityhop of the Car's location.
- 8.5. If you fail to return the Car to its Car Park at the end of your Active Reservation Cityhop may, at its discretion, report the vehicle as stolen to the Police and the Member must compensate Cityhop for either the full cost of the Car, or all additional costs and losses incurred up to the time that the Car is recovered by Cityhop.
- 8.6. If a speeding, parking or other traffic infringement notice is issued for a Car for the time in which the Car was in your possession, this infringement will be processed and re-issued in your name by Cityhop. 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.
- 8.7. You acknowledge and agree that Cityhop will not be responsible for any personal property left in a Car. You are required to take full responsibility to ensure you have removed all your personal property from a Car. 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 the car

- 9.1. At any time that you are using a Car, you must:
- a) ensure that, at the end of your Active Reservation, there is a minimum of a quarter of a tank of fuel in the Car; and
  - b) refuel the Car with the correct fuel, as advised in the User Guide or in the Active Reservation confirmation email.
- 9.2. Each Car is fitted with a fuel card for the purposes of refuelling the Car you are using at selected petrol stations. Where possible, you must refuel using the fuel cards. Where this is not possible, you must refuel the Car in accordance with clause 9.1 and pay for that fuel.
- 9.3. Where you have paid for fuel in accordance with clause 9.2, you may submit to Cityhop within sixty (60) days, a written request for reimbursement of the fuel purchased together with a copy of your receipt for the fuel showing the date and time, purchase location, type of fuel, volume of fuel purchased, the GST Number of the seller and the amount paid for the fuel. If you are an Individual Member, any costs to be reimbursed to you by Cityhop under this clause will be applied by setting-off any present or future fees or charges owed by you to Cityhop. If you are a Business Member, you may request that the costs be reimbursed to a bank account of your choice. Where you have paid for fuel in accordance with clause 9.2 and due to your own negligence, including but not limited to refuelling the Car with incorrect fuel or forgetting the PIN for the fuel card or entering the wrong PIN, and you have requested reimbursement in accordance with this clause, any costs reimbursed to you by Cityhop will incur an administration fee.
- 9.4. If when you return the Cityhop Car there is less than a quarter of a tank of fuel in the Car you may be charged a fee as set out in the User Guide.
- 9.5. If you refuel the Car 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 Car together with the fees associated with reasonable loss of utilisation.
- 9.6. If you run out of fuel during your Active Reservation, you will be held liable for any fees and charges associated with the repair, storage, towing and retrieval of the Car together with the fees associated with the non-return of the Car as listed in clause 6.4 if the time taken to refuel the Car passes the end of your Active Reservation.

## 10. Car Damage and Recovery

- 10.1. You must not:

- a) operate the Car at any time that it is unsafe to do so;
  - b) remove or attempt to remove the technology from the Car;
  - c) remove or attempt to remove or use the fuel card(s) from the Car, except for the purposes of refuelling the Car that you are using under an active and current Active Reservation;
  - d) remove the key from the Car unless you are instructed by Cityhop to do so;
  - e) remove any parking pass, carpark access device or permit from the Car unless you are instructed by Cityhop to do so;
  - f) smoke, or imbibe or inhale tobacco, nicotine, alcohol or any illicit drugs in the Car, or cause the Car to smell of smoke or other drugs;
  - g) remove or attempt to remove any security equipment or other equipment fitted to or provided with or in the Car unless you are instructed by Cityhop to do so;
  - h) use the Car to carry passengers for remuneration, reward or donation;
  - i) use the Car to propel or tow any Car, trailer or other object without Cityhop's express written consent;
  - j) take part in any race, rally, pace-making, trials, speed testing or similar event, whether legal or otherwise, using the Car;
  - k) operate the Car or allow the Car to be operated in any illegal manner including where the operator of the Car is under the influence of drugs, alcohol or any other substance impairing their ability to operate the Car;
  - l) allow the Car to be driven by anyone who is not a Member;
  - m) use the Car to carry any inflammable, explosive or corrosive materials;
  - n) allow any more passengers to travel in the Car than is legally permitted;
  - o) transport more goods than the maximum specified in the certificate of loading and/or road user charge certificate, whichever is lesser, for the vehicle; and
  - p) allow the Car to be driven on beaches or through streams, dams, rivers, flood waters, or any other roadway where the police or any Local Government authority have issued a warning or caution.
- 10.2. You must comply with all traffic laws and regulations during your operation of the Car.
- 10.3. In the event of an Accident associated with the Car or where the Car sustains Damage while you are in possession of it, whether or not such Accident is as a result of your use of the Car or whether or not such Damage is caused by you, you must:
- a) immediately, or if that is not possible then as soon as reasonably practicable, report that Damage to Cityhop by contacting Cityhop using the contact information as set out in the User Guide and website;
  - b) report any injury to any person caused by a Car in your possession (whether or not you were driving or operating that Car) first to the police and then to Cityhop. In this circumstance, you must provide Cityhop with the police reference number given to you by the police when you reported the injury;
  - c) report any loss or damage to third party property associated with your possession of the Car (whether or not you were driving or operating that Car) first to the police and then to Cityhop. If police attended the accident, you must provide Cityhop with the police reference number given to you by the police;
  - d) not admit liability or guilt in the event of an Accident;
  - e) not promise to pay any third party in the event of an Accident; not attempt to repair the Car or any part thereof;
  - f) not attempt to repair any third-party property;
  - g) obtain all details of any third parties involved in the Accident that a reasonable person in the same situation would obtain including but not limited to all details listed in the User Guide; and
  - h) take all other measures that a reasonable person would take in the event of an Accident.
- 10.4. You undertake and agree that you will complete any forms reasonably required by Cityhop in the event of an Accident or Damage.
- 10.5. You undertake and agree to fully co-operate with Cityhop and any third party as required by Cityhop in relation to any investigation or legal proceedings associated with an Accident or Damage sustained while a Car was in your possession, in connection with a Car associated with an Active Reservation made by you (whether or not such Car was in your possession at the time of the Active Reservation), your App/Membership being used to access a Car or access door or any other reasonable investigations or legal proceedings undertaken, initiated or involving Cityhop or any third party as advised by Cityhop.
- 10.6. You acknowledge and agree that if you fail to comply with any of your obligations under clauses 10.1-10.5, you will be liable for all fees, charges and other costs associated with the Accident and the Damage including, but not limited to debt recovery costs, legal costs on an indemnity basis and loss of utilisation costs.
- 10.7. You acknowledge and agree that you will be liable for any cleaning, damage, mechanical faults or towing, storage and other Additional Charges, fees and charges related to your usage of the Car on unsealed roads, private roads, or driving in snow or ice conditions or above the snow line during periods of snow, and that



such costs, fees and charges will not be covered by your damage Liability Excess.

## 11. Carrying Pets

- 11.1. You acknowledge and agree that you may not carry an animal in a Car unless:
- a) the animal is a small domestic animal;
    - i) if the Car is advised by Cityhop to be a Pet Friendly Car, the animal is carried using the pet hammock within the Car or if for any reason the animal cannot be carried within the pet hammock, then the animal is transported in a proper container suitable for the transport of the animal;
  - b) no physical evidence of the transport of the animal (including smells) is present in the Car when it is returned; and
  - c) you undertake to pay any reasonable expenses incurred by Cityhop for the cleaning or repair of the Car required due to your carrying of an animal in the Car.

## 12. Termination

- 12.1. 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.
- 12.2. 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.
- 12.3. Cityhop may immediately terminate this Agreement by notice in writing to you if it reasonably believes that you have breached any of the essential terms of this Agreement. In the event of termination in this instance, you forfeit any Membership Fees already paid.
- 12.4. Cityhop may immediately terminate this Agreement if it reasonably believes that you are not fit to operate a motor Car.
- 12.5. Cityhop may terminate or suspend this Agreement by notice to you in writing if any amount owing by you to Cityhop 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.
- 12.6. If this Agreement is terminated under any circumstances, your Membership will also be terminated simultaneously.

## 13. Invoicing

- 13.1. An Account Holder or Member will be invoiced for the use of cars, costs and any other penalties incurred by drivers on the account. These charges will be payable as required by Cityhop by direct debit from the Account Holder's nominated credit card or bank account.
- 13.2. If the credit card or bank account number provided by the Account Holder to Cityhop for payment purposes is declined by the card issuer or bank, Cityhop may, at its discretion, suspend or cancel all Drivers linked to the Account Holder's account until Cityhop is satisfied accurate details have been provided and payment has been received by Cityhop.
- 13.3. If the credit card or bank account is declined by the card issuer or Bank, leaving the Account Holder with an outstanding balance then access to the cars will be suspended for all drivers on the account until full payment is received by Cityhop.

## 14. Damage Liability

- 14.1. Cityhop has insurance coverage for persons using the Car with Cityhop's permission. This insurance coverage protects you against any legal claims from third parties for personal injury or material damage caused by your use of the Car. Nothing in this clause precludes Cityhop or its insurer from seeking monies from you as a result of your breach of this Agreement or as set out in clause 14.2 below.
- 14.2. Cityhop agrees that your liability for any Damage sustained to a Car or any damage to third party property or injury to a person will be limited to the Liability Excess, unless the Damage to the Car, the damage to third party property or injury to a person is sustained as a result of or is in connection with:
- a) you breaching a provision of this Agreement;
  - b) you operating the Car at anytime when the Car is in an unsafe or unroadworthy condition, such condition arising during the course of the Active Reservation, that caused or contributed to the damage or loss, and you were aware or should have been aware of the unsafe or unroadworthy condition of the vehicle;
  - c) any puncture, cut or bursting of any tyre, or damage to any tyre by application of brakes.
  - d) the loading or unloading of goods from the Car;

- e) a person stepping, standing or sitting on the roof or any other panel of the Car;
  - f) driving the Car under or into an object lower than the height of the Car or more narrow than the width of the Car;
  - g) the Car being totally or partially immersed in water, regardless of how such immersion occurred;
  - h) the interior of the Car suffering Damage, regardless of how such Damage occurred except as a result of a collision with another Car;
  - i) an original component or accessory of the Car being missing or being replaced without Cityhop's approval;
  - j) failing to secure any load or equipment;
  - k) failing or neglecting to take reasonable steps to protect the safety of the Car during or after the occurrence of an Accident, Damage or breakdown, including but not limited to failing to follow any reasonable instructions given by Cityhop;
  - l) you refusing to undergo a breath analysis or blood test, whether requested by Cityhop or the police, for the purposes of determining whether you are under the influence of alcohol or illegal drugs;
  - m) your blood alcohol content exceeding the lawful percentage while you are in possession or control of a Car, as determined by Cityhop acting reasonably;
  - n) you being under the influence of a drug (whether legal or otherwise) that impairs your ability to operate a motor Car, as determined by Cityhop acting reasonably;
  - o) the illegal use of a Car that is in your possession or control;
  - p) wilful or malicious damage to the Car;
  - q) a contravention of any legislation or regulations;
  - r) a traffic offence under any governing legislation or regulation where that offence is linked to the Damage sustained to the Car or any third-party property or injury to a person;
  - s) the Car being driven on an unsealed road or a private road;
  - t) the Car going missing or being stolen in circumstances where you did not keep the Car locked by using your Smart Card when you were not inside the Car;
  - u) you giving the Car to any person or permitting any other person to drive the Car who is not a Member;
  - v) 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;
  - w) damage to another Car that you or a member of your immediate family has or had physical or legal custody or control of;
  - x) you being in possession of the Car without the express written consent of Cityhop;
  - y) your failure to notify Cityhop within a reasonable time of any claim by a third party relating to damage to a third party's property or injury to a person associated with your use of the Car; or
  - z) your failure to refuel the Car with the correct fuel.
- 14.3. The Liability Excess may be reduced to the Reduced Liability Excess by selecting the Reduced Liability Excess when making a Active Reservation and paying the Reduced Liability Fee in addition to the Active Reservation Fees. The Reduced Liability Fees are payable on each Active Reservation where you wish to reduce the Liability Excess. Members aged between 18 and 21 years of age or who are on restricted Licences are not eligible to Reduced Liability Excess. If the person operating a Car at the time of an Accident is ineligible for the Reduced Liability Excess, the Liability Excess for the Accident will not be reduced.
- 14.4. The Reduced Liability Fee may be amended by Cityhop from time to time at its sole discretion. It is your sole responsibility to familiarise yourself with and accept the Reduced Liability Fee before selecting to be subject to the Reduced Liability Excess for an Active Reservation.
- 14.5. The Liability Excess and the Reduced Liability Excess will be provided on the website and may be amended by Cityhop from time to time in its sole discretion.
- 14.6. You acknowledge and agree that your Damage liability will be limited under clauses 14.1 - 14.3 if you provide Cityhop with sole control of any negotiations, settlements, claims and/or defences and provide Cityhop all reasonable assistance with respect to the same in relation to any Damage to the Car, damage to third party property or injury to a person associated with your use of the Car.
- 14.7. You acknowledge and agree that, in the event that the circumstances described in 14.2(a) - (z) apply in relation to you or your use of a Car, you 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 Car including but not limited to the cost of repair or replacement of the Car and utilisation costs (as determined by Cityhop acting reasonably), the repair or replacement cost of and third party property and/or costs associated with injury to persons.
- 14.8. You acknowledge and agree that your Liability Excess will be debited from the saved credit or debit card listed on the Membership immediately upon you reporting, or Cityhop identifying any Damage sustained in relation to your use of the Car.

- 14.9. Cityhop will refund a portion of your Liability Excess deducted in accordance with clause 14.8 in relation to an Accident as follows:
- a) if it is determined that you are not at fault, then Cityhop will refund the full amount of your Liability Excess (less any amount for which you are liable for under 14.2) within 2 business days of receiving full payment from the Third Party or Third Party insurers; or
  - b) if it is determined that you are partially or wholly at fault, then Cityhop will refund only the portion (if any) of your Liability Excess remaining after deduction of the applicable fees under this Agreement together with the charges associated with the repair of the Car, third party Car(s) and/or property; and
  - c) any other amounts for which you are liable under 14.2 (or which you otherwise owe to Cityhop).
- 14.10. Notwithstanding any other provision of this Agreement, you acknowledge that Cityhop is not liable to you 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 same. Such property is left at your risk and you acknowledge that you are not covered by Cityhop's insurance for theft or loss of property from the Vehicle.

## 15. No Liability

- 15.1. You acknowledge and agree that Cityhop will not be liable to you for any claim, liability, loss, damages, costs or expenses, whether direct, indirect or consequential, if Cityhop is unable to provide you with a Car or changes or cancels a Active Reservation or takes any other action at any time in accordance with its rights under this Agreement and whether or not you have an Active Reservation to use a Car.
- 15.2. You acknowledge and agree that you will indemnify Cityhop against any claims, liability, loss, damages, costs or expenses by third parties in connection with the use of the Car.

## 16. Indemnity

- 16.1. You undertake and agree to indemnify Cityhop against any liability, loss, damages, costs and expenses (including legal costs on a full indemnity basis) as a result of or in connection with any breaches by you of this Agreement. You further agree to hold Cityhop harmless for any bank fees incurred as a result of you having insufficient funds to meet charges deducted by Cityhop in accordance with its rights under this Agreement.
- 16.2. You acknowledge that Cityhop may call on the Security Deposit (or any part thereof) without notice to you to meet any monies owed by you to Cityhop, howsoever arising. This is in addition to any other rights Cityhop has at law, under this Agreement or any other Agreement with you. If Cityhop calls on your Security Deposit (or any part thereof), you may be required to replace the used portion of the Security Deposit before accessing the Cityhop Services.

## 17. Dispute Resolution

- 17.1. You shall not start arbitration or court proceedings (except proceedings seeking interlocutory relief) in respect of a dispute arising out of this Agreement ("Dispute") unless you have complied with this clause.
- 17.2. If you believe a dispute has arisen under or in relation to this Agreement, you must give written notice to Cityhop specifying the nature of the Dispute ("Dispute Notice").
- 17.3. During the fourteen (14) day period after a Dispute Notice is given (or any longer period agreed in writing by the Parties), you and Cityhop must mutually use best efforts to resolve the dispute.
- 17.4. If the Dispute is not resolved following the expiration of the fourteen (14) day period pursuant to clause 17.3, you and Cityhop must endeavour to jointly engage a Mediator and endeavour to agree on the Mediator's terms of agreement.
- 17.5. If you and Cityhop fail to agree on the engagement of a Mediator or the Mediator's terms of agreement within twenty-one (21) business days of service of a Dispute Notice, either you or Cityhop may apply to the President of the NZ Law Society to appoint a Mediator.
- 17.6. Any information or documents disclosed under this clause:
- a) is on a without prejudice basis; must be kept confidential; and
  - b) may not be used except to attempt to resolve the Dispute.
- 17.7. You must bear your own costs of complying with this clause. You and Cityhop must bear equally the costs of any mediator engaged under this Agreement.

## 18. Amendments to this Agreement

- 18.1. Cityhop reserves the right to amend these Terms and Conditions from time to time as it sees fit or necessary. Notice of any changes in these Terms & Conditions will be provided to Members via a notice on the App.

## 19. Assignment

- 19.1. You acknowledge and agree that you are not permitted to assign or Licence your rights and/or obligations under this Agreement.
- 19.2. You agree that Cityhop may assign its rights and/or obligations under this Agreement to any person, on terms as Cityhop sees fit in its sole discretion by notifying you of such an assignment in writing.

## 20. Force Majeure

- 20.1. Cityhop shall not be liable for either a failure to perform or delay in performing any of its obligations if performance is delayed, hindered or prevented by force majeure, which expression shall mean any event beyond the reasonable control of Cityhop.

## 21. Severance

- 21.1. If any provision of this Agreement is or becomes invalid or unenforceable, the remaining provisions shall be interpreted in such a way so as to remain in effect.

## 22. Governing Law and jurisdiction

- 22.1. This Agreement and all matters arising from or connected with it are governed by and shall be construed in accordance with New Zealand Law.

## 23. Privacy

- 23.1. By entering into this Agreement you agree to the collection, storage, use and disclosure of your personal information in the manner described in Cityhop's Privacy Policy, which can be found [here](https://www.cityhop.co.nz/privacy-policy/) (<https://www.cityhop.co.nz/privacy-policy/>).

## 24. General

- 24.1. The rights and obligations of both you and Cityhop shall continue in full force and effect until the rights and obligations created under this Agreement elapse by the effluxion of time or are determined by mutual agreement.
- 24.2. All notices, demands and other communications for the purposes of this Agreement shall be in writing. Such notice, if delivered personally, or by email shall be deemed received on that day or if delivered by post, after three (3 business days of sending).
- 24.3. No failure to exercise and no delay in exercising any right, power or remedy under this Agreement will operate as a waiver. Nor will any single or partial exercise of any right, power or remedy preclude any other or further exercise of that or any other right, power or remedy.
- 24.4. All reasonable steps are taken to ensure Cityhop's information is accurate, complete and up-to-date. If any information Cityhop has is inaccurate, please contact Cityhop immediately and Cityhop will take all reasonable steps to correct it.