

## **GENERAL TERMS AND CONDITIONS OF MEMBERSHIP TO myTOYOTA Drive PH**

### **PREAMBLE**

Toyota Motor Philippines Corporation (“**TMP**”) operate the myTOYOTA Drive PH program (“**Program**”), a car rental business, in the Philippines. This General Terms and Conditions governs Member’s participation in the Program. Member may join the Program by accepting this Terms and Conditions, without any obligation to make a Reservation. This Terms and Conditions shall apply to all Reservations that Member may make thereafter. Member is required to comply with these terms and conditions at all time while participating in the Program.

### **1. General Definition**

1.1. “Agreement” refers to these general terms and conditions of Membership to the Program, any Appendix or Appendices thereto and such other terms and conditions as may be contained in any other documents intending to bind the Members, and which are not inconsistent with the general terms and conditions herein and the relevant Appendix or Appendices.

1.2. “Program” shall have the meaning given to it in the Preamble above.

1.4. “Member” refers to the applicant who is admitted as a Member of the Program.

1.5. “Member’s Excess” refers to the excess payable by the Member upon the occurrence of any accident and/or damage caused to the Vehicle, which total amount may vary from time to time.

1.6. “Participation Fee” refers to the amount payable by the Member upon the occurrence of any accident and/or damage caused to the Vehicle, which total amount may vary from time to time.

1.7. “Rental Fee” means either the hourly Rental Rate multiplied by the number of hours of the Rental Period, or the daily Rental Rate multiplied by the number of days of the Rental Period, as applicable.

1.8. “Rental Period” refers to the period between the time the Member takes possession of the Vehicle and when the Member returns the Vehicle.

1.9. “Return” refers to the time the Member successfully locks the Vehicle on the Program’s website after the trip ended.

1.10. “Reservation” means a booking or reservation made for a specific Vehicle, and capitalized words such as “Reserve”, “Reserving”, “Reserved” etc. shall be interpreted accordingly.

1.11. “Reservation Period” refers to the period of time the Member has reserved the Vehicle for via TMP’s designated channels which include but are not limited to the Program’s website.

1.12. “Rental Rate” means the hourly or daily rate charged by TMP, as applicable, for Member’s use of the Vehicle.

1.13. “Pre-payment” means the amount payable by the Member for each Reservation, at the time of making a Reservation.

1.14. “Other Fee” means any type of amount payable by the Member other than Pre-payment, including, but not limited to, toll fee, penalty fee, and other expenses stated in Clause 10.

1.15. “Vehicle” refers to motor vehicle or such other mode of transportation which TMP may make available to the Member from time to time pursuant to this Agreement.

1.16. "Driver's Credit" refers to a credit TMP gives to the Member that can be used for future booking. This credit is to be used within 180 days of receiving such credit.

1.17. Words importing or signifying the singular shall include the plural and the male gender shall include the female gender and vice versa.

## **2. Membership of the Program**

2.1. The Member shall pay the fees and charges punctually when they fall due, and which sum total amount may vary from time to time.

2.2. Only a Member may participate in the Program as TMP may implement and revise from time to time.

2.3. TMP reserves the right to unilaterally terminate the Membership of any Member at any time if:

- (i) the Member do not pay any charges due for payment, or the Member's credit/debit card is declined, or any charges TMP have attempted to process are not paid, or the Member do not promptly replace his declined credit/debit card with a valid credit/debit card that TMP accept associated with a valid credit/debit account;
- (ii) the Member no longer meet the Member criteria stated in Clause 5.1;
- (iii) in TMP's sole discretion, TMP determine that the Member have failed to comply with any Agreement;
- (iv) in TMP's sole discretion, TMP determine that any fines the Member may incur for driving offences, whether minor or not, are a ground for termination;
- (v) in TMP's sole discretion, TMP determine that the Member have abused his Reservation in a way that detrimentally affects other Members, including but not limited to, regularly returning Vehicles late or in an unclean or damaged condition.

2.4. The Member may request to terminate his Membership without penalty by writing to TMP Helpdesk.

2.4.1. Upon termination, whether of the Member's participation or a specific Reservation, and whether by TMP or by the Member, the Member are responsible for all charges incurred by himself, or incurred by TMP as a result of the Member's actions, prior to or after termination or prior to or after return of a Reserved Vehicle.

2.4.2. Upon the payment of all outstanding sums, the Member shall receive confirmation from TMP that his Membership has been successfully terminated.

2.5. This Agreement shall terminate if the Member breaches any of its obligations under this Agreement (save for default of payment, in which case the provisions of Clause 3.1 shall apply) or if the Member ceases to be a Member of the Program by reason of death, bankruptcy or operation of law.

2.6. Termination of this Agreement shall not prejudice or in any way affect the rights and powers of TMP under the terms herein in respect of any breach committed by the Member and the payment of all outstanding payments due to TMP.

## **3. Suspension of Membership**

3.1. In the event the Member fails to pay any outstanding payments (including interest, if any) from the date on which the payment becomes due, TMP may suspend the privileges of the Member for such periods and subject to such conditions as TMP may at its sole discretion decide.

3.2. A waiver of such breach as aforesaid shall not prejudice the rights of TMP in respect of any other subsequent breach.

3.3. TMP reserve the right to suspend the Member's privileges in the event of the following circumstances which include but are not limited to:

- (i) where the Member reports an accident and/or damage to the Vehicle per Clause 11 hereinbelow;
- (ii) where the Member fails to report an accident and/or damage to the Vehicle per Clause 11 hereinbelow; and
- (iii) where the Vehicle has been operated by a driver who is not a Member of the Program.

#### **4. Vehicle Ownership**

4.1. All Vehicles including all accessories, equipment, spare tires, keys, registration documents and tools shall at all times remain the sole property of TMP and/or its partners.

4.2. The Member shall not transfer, dispose of, sub-let or in any way part with possession of the Vehicle. The Member shall not create any lien over or pledge the Vehicle in favor of any person or allow any person to have interest over the Vehicle.

#### **5. Conditions and Restrictions on use of Vehicle**

5.1. Unless otherwise specified, the Member shall be at least twenty (20) years old and must have held a driving license valid under the laws of the Philippines. The Member shall continue to maintain a valid license for the duration of the applicable Rental Period.

5.2. The Member shall accurately, truthfully, and fully complete all Member Documents forming part of the application for the Program and have delivered all information and documents requested in the application process. The Member must not have omitted something in his responses to the application which would otherwise render what the Member did or said in any way misleading.

5.3. TMP shall approve the Member's membership within five (5) working days after the Member submit the application. The Member may not book the Vehicle before his application is approved.

5.4. The Member shall operate the Vehicle with reasonable care and only within Metro Manila.

5.5. Only the Member who make a Reservation shall drive the Vehicle.

5.6. The Member agrees not to or permit anyone or cause the Vehicle to be used for any purpose for which it is not expressly designed and not to use it for any driving tuition, sub-leasing, towing, racing, pace-making, off-road driving or driving through a mountain trails or areas where roads are not passable, or for competing in any form of motor sport or for any illegal purpose whatsoever.

5.7. The Member shall not use or operate the Vehicle or permit anyone to use the Vehicle for (a) any illegal purposes (b) for carrying hazardous or dangerous materials (c) under the influence of alcohol or any intoxicating substance (d) or in such manner as to intentionally, negligently or in any way or for any reason expose the Vehicle to danger or risk including damage, theft and vandalism or (e) generally in violation of the Laws of the applicable jurisdiction.

5.8. In the event of any breach of this Agreement by the Member, the Member shall pay TMP on demand all losses and damages suffered by TMP (including all legal costs and expenses incurred for and on behalf of the Owner for the enforcement of any provision in this Agreement, on a full indemnity basis) in connection with such breach, including any loss or damage arising from the loss of use or loss of or damage to the Vehicle for any reason whatsoever.

5.9. The Member shall be fully responsible for all costs, expenses and fees (including Vehicle recovery expenses) and loss of use arising from any breach of the foregoing Clauses, and the occurrence of the following which include but are not limited to:

- (i) the Vehicle being forfeited to, seized or confiscated by the authorities;
- (ii) the Member's reckless and/or negligent operation of the Vehicle; and
- (iii) the Member's operating the Vehicle whilst intoxicated.

5.10. TMP may re-enter, repossess or disable any Vehicle used or hired by the Member, should TMP be of the opinion that the Vehicle or the Member of the public or the Member be at any risk from the use of the Vehicle and/or for any reason whatsoever.

5.11. The Member shall comply with prevailing health & safety protocols issued by the Inter-Agency Task Force for the Management of Emerging Infectious Diseases (IATF) during Rental Period, including but not limited to, seating capacity.

## **6. Vehicle Reservation and Cancellation**

6.1. Reservation of the Vehicle by the Member shall be made up to sixty (60) days in advance or within such other duration as TMP may specify from time to time.

6.2. The Member shall specify the date, time and place of collection of the Vehicle when making the reservation. The Member shall reserve only one (1) Vehicle at a time. Priority for use of the Vehicle shall be on a first reserved basis except for selective festive seasons or holidays during which TMP shall decide on the appropriate mechanism to be announced in Program's website.

6.3. The Member shall pay the Pre-payment, which is 100% of Reserved Rental Fee at the time of making a Reservation. The Member shall not make a Reservation unless deduction of Pre-payment from the Member's credit/debit card succeeds.

6.4. All Vehicles have a minimum Reservation period of 1 hour and a maximum Reservation period of 72 hours. When the Member wants to extend a Rental Period, the Member shall request an extension by following the applicable links on the Program's website.

6.5. In the event that the Member decides not to use the Vehicle after making Reservation, the Member shall cancel the Reservation at least twenty-four (24) hours in advance of the original time, and TMP shall not charge cancellation fee.

6.6. In case the Member fails to cancel the Reservation by the aforesaid time, TMP shall forfeit the 50% of the Pre-payment. TMP shall not refund the remaining Pre-payment, but shall give Driver's Credit to the Member. Driver's Credit shall be used in the future Reservation. The Member shall use Driver's Credit in 180 days after TMP issues the Driver's Credit.

6.7. The Member shall change the Reservation time without any penalty.

6.8. If, during the Rental Period, the Vehicle is due to be de-fleeted, or is due for servicing or maintenance (whether scheduled or otherwise) or damage repair that will incur a downtime (regardless of the duration), TMP shall provide a similar Vehicle, which may not be the same model as the one Reserved, as a substitute ("**Substitute Vehicle**"). In the event a Substitute Vehicle is required, TMP will provide Notice to the Member as much in advance as possible with all relevant details. TMP reserve the right to refuse to supply a Substitute Vehicle in case the original Vehicle cannot be used due to any act or omission on the Member's part, without prejudice to TMP's right to be paid the full Pre-payment for the Reservation.

6.9. In the event that Rental Fee of Substitute Vehicle is lower than the original Vehicle the Member reserves first, TMP will refund the difference of Rental Fee in the form of Driver's Credit after trip ends.

6.10. In the event that Rental Fee of Substitute Vehicle is higher than the original Vehicle the Member reserves first, TMP will not charge the difference of Rental Fee. In case the Member extends the reservation during the trip with Substitute Vehicle with higher Rental Fee, Rental Fee calculated based on the Rental Rate of Substitute Vehicle shall be charged to the Member's credit/debit card. TMP will refund the difference between Rental Fee for extension of Substitute Vehicle and that of original Vehicle in the form of Driver's Credit after trip ends.

6.11. In case a Vehicle intended to be assigned to the Member is incapable of being assigned for any reason, for example, due to damage during the previous Reservation, and no Substitute Vehicle is available, TMP shall refund the Pre-payment to the Member in the form of Driver's Credit. While TMP seek to ensure that all refunds in Driver's Credit to the Member are done as expediently as possibly, there may be delays to refunds or reimbursements due to factors beyond the Company's control.

6.12. TMP shall not be responsible for any losses or damage suffered or incurred by the Member arising from or in connection with the failure by TMP to honor a Vehicle reservation made by the Member for any reason whatsoever.

## **7. Vehicle Condition**

7.1. The Member agrees that by accepting a Vehicle assigned under a Reservation, he acknowledges that it is in good physical and mechanical condition and fit for operation.

7.2. Before moving off from the designated parking lot, the Member is to:

- (i) inspect the interior and exterior of the Vehicle for any damage and for general cleanliness;
- (ii) photograph and report any damage or irregularity to TMP by the prescribed means; and
- (iii) check the fuel level in the Vehicle and report if the level of petrol is less than (1/2) tank upon collection of the Vehicle. The Member shall then proceed to the closest partnered CALTEX station and refill the Vehicle with fuel and make payment for the same using the fuel card in the Vehicle. The list of partnered CALTEX stations that accept fuel card is inside of the glove compartment of the Vehicle.

7.3. The Member shall notify TMP immediately at the time of collection of the Vehicle if the Member believe the Vehicle is not in operational condition, and shall not proceed with the Reservation till the defect is remedied, and may terminate the Reservation. In any such situation, TMP shall investigate the matter and refund the Pre-payment in the form of Driver's Credit if warranted.

7.4. The Member agrees that Vehicles will be provided in an "as-is-where-is" condition, provided that it will be in fit condition to operate, and may not necessarily be in the same condition as a brand-new vehicle.

7.5. The Member shall return the Vehicle on time, as stated in the Confirmation Email, and in the same condition as received.

7.6. The Member agrees to immediately stop driving the Vehicle and notify TMP, putting the Vehicle in a safe location, if the Vehicle ceases to operate properly. The Member shall not have the Vehicle repaired without TMP express written permission.

7.7. The Member agrees to operate the Vehicle in a manner consistent with the guidelines provided in Clause 5, or as is usual for a Vehicle for that nature, including refueling the Vehicle with the appropriate type of fuel.

7.8. The Member shall drive the Vehicle in a careful and skillful manner. The Member shall observe all traffic regulations and laws and in the event of breach thereof, the Member shall pay all fines and penalties which may be incurred and shall also answer all police and Traffic Court Summonses, Notices and enquiries in connection therewith. In the event that the Member fails to pay such fines or penalties, TMP reserves the right to pay such charges on behalf of the Member to the appropriate authorities and TMP shall be entitled to be reimbursed for the total amount paid on such behalf in addition to imposing an administration and service charge of Php 1,150.

7.9. The Member acknowledges that all Vehicles will have car tracking devices, dashcamera and CCTV, installed to enable TMP to monitor the Vehicles' movement, and consents to TMP's use of such devices.

## **8. Vehicle Return**

8.1. The Member shall return the Vehicle and all accessories, equipment, spare tires, keys, registration documents and tools at the agreed time to the designated place, and in the same condition it was taken (fair wear and tear excepted). TMP reserves the right to impose late return fees or charges at a rate of Php 7 per minute as TMP may at its discretion decide if the Vehicle is returned later than the agreed time. In case there is a next Member who has booked the Vehicle and gets affected by the previous Member's lateness, the previous Member shall pay an additional two-hour Rental Rate;

8.2. If the Vehicle is returned in a condition unsatisfactory to TMP and will require repair, cleaning-up or restoration works (other than regular cleaning or maintenance or repairs due to mechanical faults or defects reported by the Member to TMP), the Member shall reimburse TMP for the costs incurred in repairing any damage to the Vehicle or restoring the Vehicle (including the interior) to its original condition, including but not limited to the loss of use of the Vehicle at the rate of 75% of 24-hour rental rate per day or such sum which may vary from time to time.

8.3. Such reimbursement to TMP shall be by way of a charge to the Member's credit/debit card and will be reflected in the invoice rendered at the end of each billing cycle.

8.4. Upon the Member's return of the Vehicle to the designated lot, the Member shall carry out the same checks on the Vehicle as set out in Clause 7.2 (i) (ii) above and report any damage or irregularity by the prescribed means. In case the Member fails to report damages, TMP shall charge a penalty fee equivalent to 24-hour Rental Rate, in addition to the loss of use of the Vehicle at the rate of 75% of 24-hour rental rate per day or such sum which may vary from time to time.

8.5. If the Member did not return the Vehicle according to the agreed time and day, or agreed extension of use, TMP or the police are authorized to take possession of the vehicle without further notice at the Member's expense.

## **9. Credit/Debit Card**

9.1. The Member represents and warrants that he will provide information for a valid credit/debit card at the time he applies for the Membership, and to keep a valid credit/debit card in the Member's Profile. The Member further represents and warrants that he shall not use a credit/debit card that is not lawfully owned by him or the use of which is not authorized by the credit/debit card's lawful owner. For the avoidance of doubt, if the Member provides information for a credit/debit card or makes payment with a credit/debit card that he does not personally own, then the Member must seek permission of the credit/debit card owner. In applying for a Membership, the Member must confirm that he has indeed received permission from the credit/debit card owner.

9.2. If a credit/debit card that the Member uses expires, is lost or stolen or is otherwise invalidated, or if the account associated with the credit/debit card TMP has on file is suspended, terminated or otherwise not

available for TMP to charge, the Member agree to promptly provide the information for an alternative valid credit/debit card. The Member authorize TMP to make charges to his credit/debit card for all charges incurred by the Member in relation to any Vehicles, and the Member agree to settle those charges with his respective credit/debit card company. The Member further authorize TMP to make any inquiries TMP consider necessary (including requesting the Member's consumer report from one or more consumer reporting agencies) in connection with any Reservation and/or rental of a Vehicle and for any other lawful purpose (including credit card validations, holds and collecting on the Member's account).

9.3. TMP require payments to be made in advance by credit/debit card, and therefore the Member's credit/debit card may be pre-authorized or charged (sometimes without any option for refund) upon making a Reservation, to provide, including without limitation, the Pre-payment.

9.4. The Member is responsible in ensuring that sufficient credit/balance is maintained in the credit/debit card account. Otherwise, TMP reserve the right to, at its sole discretion, levy charges against the Member for non or late payment of fees.

9.5. In the event of credit/debit card fraud or unauthorized use of the Member's credit/debit card by third parties, the Member shall report this fraud to credit card provider and contact Helpdesk immediately. The Member shall provide TMP with evidence of the charged deductible with e-mail.

9.6 In the event TMP determine, at its sole discretion, that there has been a credit card fraud or an unauthorized use of the Member's credit/debit card, TMP shall cancel the Reservation made through the Member's card, and shall refund the Member any monies received by TMP through the fraud or unauthorized use of credit/debit card, provided that refunds will only be given if:

- (i) the credit/debit card Reservation was made using the Program's website's secure server;
- (ii) the unauthorized use of credit/debit card resulted through TMP's default or negligence and through no fault of the Member's own; and
- (iii) the Member have not received nor utilized any products or services from TMP under the fraudulent or unauthorized use of Member's credit card.

9.7. The Member authorizes TMP to verify and/or obtain the Member's personal credit/debit and/or through credit/debit agencies or other sources.

## **10. Payments.**

10.1. At the time of a Reservation, the Member shall pay the Pre-payment (as defined under Clause 1.12). The Pre-payment shall be payable based on the Reservation timings the Member choose, and shall apply irrespective of whether the Member collects the Vehicle at the agreed time or later. The pre-payment or any Other Fee that will be charged to Member are exclusive of related charges that may be imposed by the bank.

10.2. The Member shall pay all parking, tolls, and other charges incurred during the Rental Period. When the Member uses South Luzon Expressway (SLEX), NAIA Expressway (NAIAX), STAR Tollway, Tarlac-Pangasinan-La Union Expressway (TPLEX), North Luzon Expressway (NLEX), Subic-Clark-Tarlac Expressway (SCTEX), Cavite-Manila Expressway (Cavitex), Cavite-Laguna Expressway (CALAX), C5 Southlink, TMP shall pay toll fee on behalf of the Member through RFID installed onto the Vehicle. TMP shall be entitled to be reimbursed for the total amount paid on such behalf. Such reimbursement to TMP shall be by way of a charge to the Member's credit/debit card and will be reflected in the invoice rendered at the end of each billing cycle.

10.3. Vehicles shall be provided with at least (1/2) fuel tank. The Member shall refill the Vehicle with fuel if there is less than (1/2) fuel in the tank when he returns the Vehicle. The Member shall refill the Vehicle with fuel at one of the partnered CALTEX stations and make payment for the same using the fuel card in the Vehicle. The list of partnered CALTEX stations that accept fuel card TMP provides is inside of the glove compartment of the Vehicle. The Member shall bear the cost of fuel in case he refills the Vehicle at stations

other than partnered CALTEX stations. In case the Member returns the Vehicle with less than (1/2) fuel in the tank, TMP shall charge penalty fee equivalent to one-hour Rental Rate.

10.4. The User further agrees to pay for the following:

- (i) Late fees in the event the Member retains possession of a Vehicle beyond the Rental Period, at the rate of the Php 7 per minute for the number of excess minutes (or part thereof) that the Member retains possession of the Vehicle. In case there is a next Member who has booked the Vehicle and get affected by the previous Member's lateness, the previous Member shall pay an additional two-hour Rental Rate;
- (ii) Costs arising from damage to or theft of the Vehicle, along with all related costs including, but not limited to, charges for towing, storage, impoundment, appraisal, and other expenses incidental to the damage or theft or repairs thereto, to the extent such costs are not covered by the applicable insurance policy, or any insurance excess over the limits set out in the insurance policy;
- (iii) The Vehicle Recovery Fee, if applicable;
- (iv) Cleaning fees and additional one-hour Rental Rate, if special cleaning or polishing is required to restore the Vehicle to its original condition;
- (v) All fees, costs, and attorneys' fees and disbursements (on an indemnity basis) for legal violations, including administrative fees up to Php 1,150 per incident for processing payment of any fines, costs or attorneys' fees as set forth above;
- (vi) All expenses incurred by us in collection of amounts due under the Agreement or in enforcing any term or condition of the Agreement, including, without limitation, administrative fees, any lawfully allowed fees for declined credit card charges, and any other costs or expenses incurred including attorneys' fees on an indemnity basis and disbursements;
- (vii) Participation Fee, Member's Excess, and exceptions to coverage under the insurance policy as set out in Clause 11.1 (iii);
- (viii) Parking fees, toll fee, fuel costs, tolls, towing and storage costs arising as a result of any of the events referred to in Clauses 10.4 (i) to (vii) above;
- (ix) Loss of use for the period a Vehicle is taken out of service, and for diminution in value of a Vehicle, in the event of any of the events referred to in Clauses 10.4 (i) to (vii) above.

10.5. TMP may, at sole discretion, deduct all or any costs payable to TMP by the Member in terms of the Agreement, under Clause 10 or any other provision, from the credit/debit card the Member register, or set off any sums payable by the Member to TMP from any sum or refund payable by TMP to the Member, without being required to provide advance Notice of any such deduction or set-off.

10.6. TMP may at its sole discretion charge an interest on any overdue amounts. Interest is equivalent to 0.5% per month of the outstanding balance, calculated from the due date for such payment until the actual date of payment.

10.7. Save for manifest error, the service billing sent by TMP to the Member shall be deemed as conclusive and binding upon the Member.

10.8. The Member shall be liable for all costs (including legal fees, on a full indemnity basis) incurred to recover any outstanding payments.

10.9. TMP may at any time render service billing for any transaction completed. This shall be paid without demand by the Member.



10.10. The minimum charge accepted for credit/debit card is Php 50. In case the amount the Member shall pay is less than the minimum charge, the excess will be returned in the form of Driver's Credit.

## **11. Vehicle Breakdown, Accident, Insurance**

11.1. The Member who makes an approved Reservation participates as an insured under a motor vehicle insurance policy upon the following terms (a copy of the prevailing insurance policy is available for inspection upon written request):

- (i) Subject to the limitations set out in this clause and the terms of the insurance policy, the Member is insured (to the extent set out in the insurance policy) by the insurance policy from and against liability to third parties for bodily injury (including death) and property damage if the accident results from the use of the Vehicle as permitted under this Agreement.
- (ii) The Member shall be responsible for the amount of Participation Fee and Member's excess over that set out in the insurance policy.
- (iii) The Member shall be responsible for the loss of use of the Vehicle at the rate equivalent to 75% of 24-hour Rental Rate per day or such sum which may vary from time to time where applicable.
- (iv) Without prejudice to the other provisions of this Clause 11.1, if the total quantum of injuries and/or property damage exceeds the coverage limits provided, the Member will be responsible for the shortfall. The Member shall indemnify and hold harmless us and our shareholders, members, subsidiaries, affiliates, directors, officers, agents, co-branders or other partners and employees from and against any and all Losses in excess of the limits stated in this Agreement, or beyond the scope of the protection provided for in this Agreement, arising from the use or possession of the Vehicle by the Member, including but not limited to attorneys' fees (on an indemnity basis) and disbursements incurred by us to enforce any of our rights under this Agreement, unless such Loss arises out of our gross negligence or willful misconduct.

11.2. The Member shall be fully responsible for any loss or damage to the Vehicle if the Vehicle is not used or operated in accordance with the provisions of the aforesaid insurance policy and/or the manufacturer's directions and/or the aforesaid provisions of this Agreement.

11.3. In the event of a Vehicle Breakdown, the Member should immediately contact TMP's Helpdesk for guidance and assistance.

11.4. In the event of an accident when the Vehicle is being used by the Member, the Member shall:

- (i) obtain the names, identity card numbers and addresses of all witnesses and/or all parties involved in the said accident;
- (ii) immediately take pictures of the damage, if any, as well as the site of the accident together with all involved parties' vehicles;
- (iii) not admit to guilt or liability without consulting TMP;
- (iv) not to abandon the Vehicle without adequate provisions for safeguarding and securing of the same;
- (v) notify the police immediately if injuries are involved, and comply with the provisions of applicable law in respect of such a situation;
- (vi) notify TMP within twenty-four (24) hours of the occurrence of the accident;
- (vii) cooperate fully with TMP's investigation of the accident; and/or
- (viii) deliver to TMP (to the address of our designation) every process, pleading or paper relating to any claims, suits or proceedings arising from such accident. In the event of a claim, suit or legal proceeding, the User shall cooperate fully with TMP and its representatives.

11.5. In the event that the Member neglects, fails or refuses to comply with reporting a Vehicle breakdown and/or Accident as set out hereinabove or neglects, fails or refuses to render assistance to TMP, the Member shall be solely responsible for all costs, expenses and liabilities arising out of the accident.

11.6. TMP shall not be liable for any incidental costs incurred by the Member, including but not limited to any taxi fares incurred by the Member due to a Vehicle breakdown or accident.

11.7. In the event that TMP is of the opinion that full sum of Member's Excess is not required to compensate the loss caused to TMP by reason of the accident that has occurred, TMP shall at its sole discretion refund such part thereof as is not required to the Member.

11.8. In the event of any insurance claims, the User shall be required to liaise TMP.

11.9. For the avoidance of doubt, insurance covering any theft or loss of personal belongings is not included. The Member agrees that TMP is not responsible to the Member or to anyone else for any loss of or damage to the Member's or such other person's personal property caused by the Member's or their acts or omissions, those of any third party or, to the extent permitted by law, TMP gross negligence. The Member hereby waives any claim against TMP, our agents, employees or affiliates, for loss of or damage to the Member's or anyone else's personal property, which includes, without limitation, property left in the Vehicle, caused by the Member, or by any third parties, or, to the extent permitted by law, by TMP negligence whether in whole or in part. The Member agrees to indemnify and hold TMP harmless from any claim against TMP for loss of or damage to the Member's or a third party's personal property that is connected with any Reservation or use of a Vehicle.

11.10. If the insurer repudiates liability under the insurance policy for any reason directly or indirectly caused by the Member, the Member agrees that the Member shall be liable for any and all damage to the Vehicle and liability to a third party or for the Member's own injuries, to the extent permitted by applicable law.

11.11. The Member is to notify TMP immediately of any change in the Member's driving license status.

11.12. The Member agrees that the terms and conditions of the insurance policy are subject to change without Notice including, without limitation, coverage limits and the amount of any applicable deductible. The member agrees that such changes shall be deemed to apply to the Member as of the time such changes in the insurance policy come into effect. The Member may request by writing that TMP provide the Member with a summary of the terms and conditions of such insurance then in effect.

11.13. Notwithstanding any other provision of this Agreement, the Member shall be responsible for the loss or damage to the Vehicle, and loss of its use, and all administrative charges, to the fullest extent permitted by applicable law, in the following situations:

- (i) if the Member has failed to comply with any terms and conditions of this Agreement;
- (ii) if the loss or damage occurs while the Vehicle is in Member's possession, due to any cause, including but not limited to collision, rollover, theft, vandalism, seizure, war, terrorism, strikes, riots, civil commotion, fire, flood, hail or other acts of nature or God, regardless of fault.
- (iii) if it is damaged while the Vehicle is being operated by a valet.
- (iv) if the Member committed, or aided or abetted in the commission of, theft of the Vehicle.

## **12. Member to render Assistance**

12.1. The Member shall report any damage, accident, theft or vandalism of the Vehicle to the police and TMP immediately.

12.2. The Member will give all possible assistance to TMP's insurers, investigators, assessors and lawyers as and when required to do so.

12.3. TMP reserves the right to impose any fees or charges for repair/administrative work incurred if the Member fails to report any damage, accident, theft or vandalism immediately to TMP.

### **13. Liability, Indemnification**

13.1. In the event TMP breach any of TMP's obligations under this Agreement, and/or if the Vehicle has any mechanical failure or other failure not attributable to the Member, and if TMP is liable under applicable law for such breach or Vehicle failure (as the case may be), TMP's sole liability to the Member is limited to:

- (i) The repair of the Vehicle;
- (ii) The provision of a Substitute Vehicle (as defined in Clause 6.7 above); or
- (iii) The compensation of the Member for the Rental Fees in proportion to the period for which the Member does not have use of the Vehicle, or a Substitute Vehicle. For the avoidance of doubt, TMP shall determine, at our sole discretion, whether the Member shall be entitled to all or any of the available remedies above.

13.2. Save for Clause 13.1 above, to the maximum extent permitted by applicable law, TMP shall not be responsible or liable in contract, tort (including negligence), product liability, strict liability, or for other causes of action at law, in equity, by statute or otherwise for any expenses, losses, costs, damages, liabilities or other consequences whatsoever that the Member may suffer or incur, whether directly or indirectly, arising out of or in connection with this Agreement, the Program, or the use of the Vehicles. TMP shall also, in no event, be liable for any indirect, special, economic or consequential loss or damage, including any loss of revenue or income, loss of contracts, loss of reputation or goodwill, or loss of business opportunity or anticipated savings, whether or not TMP have been informed of such a possibility.

13.3. The Member agree to indemnify, defend and hold harmless TMP and TMP's shareholders, members, subsidiaries, affiliates, directors, officers, agents, co-branders or other partners and employees against any losses, liabilities, costs, claims, demands, obligations, actions, proceedings, suits, judgments, damages or expenses (including attorneys' fees on a full-indemnity basis) ("**Losses**") arising out of or in connection with:

- (i) any personal injury or loss of life arising as a result of Member's use of a Vehicle;
- (ii) any loss of, or damage to, any personal property in or on the Vehicle or in or on any third party vehicle;
- (iii) any loss or damage incurred by the Member as a result of any claims made by a third party, or loss or damage incurred by the Member arising from or in relation to (1) a Reservation; (2) the failure to secure a Reservation for any reason; (3) the non-availability of a particular type of Vehicle after receipt of a Confirmation Email; or (4) any Vehicle accessories, whether supplied by TMP, by the Member or by a third party (for example, child restraint apparatus, luggage racks, bicycle racks; the Member is responsible for the safe installation of such accessories and must check the condition of such accessories before each use),
- (iv) any other event related to or connected with in any manner to this Agreement, including without limitation, the Member's breach of this Agreement and the Member's operation of a Vehicle, unless in each case such loss or damage is incurred due to TMP's gross negligence or our willful misconduct

### **14. Privacy**

14.1 The Member acknowledge that TMP have established a Privacy Policy. The Privacy Policy is available on Program's website. TMP reserve sole discretion to amend the Privacy Policy from time to time. By entering into this User Agreement, the Member hereby accept the terms of the Privacy Policy and any amendments thereto.

### **15. Electronic Delivery.**

15.1. TMP may, from time to time, give the Member: (a) written Notice of changes to this Agreement or (b) an Internet website address where the revised version of this Agreement can be found. The Member may decline such changes by discontinuing the Member's participation in the Program, which will terminate this Agreement. The Member may also obtain a free copy of the latest version of this agreement on Program's website.

15.2. By accepting the terms and conditions of this Agreement, the Member form a contractual relationship with TMP using electronic means. To the fullest extent permitted by applicable law, this Agreement and any Communications may be provided to the Member electronically, and the Member agree to receive such Communications in an electronic form. Electronic Communications may be delivered to the last electronic mail address as reflected in the Member's Profile. All Communications in either electronic or paper format will be considered to be in "writing," and to have been received no later than three (3) business days after dissemination, regardless of whether the Member have received or retrieved the Communication. By entering into this Agreement and making a Reservation, the Member demonstrate that the Member can access information in electronic form provided or made available to the Member on the Program's website. TMP may, at our sole discretion, provide Communications in paper format to the Member using the address on the Member's Profile.

15.3. The Member agree that it is Member's sole responsibility to keep his email address current and that TMP may reasonably assume that any email sent by TMP to the email address on Member's Profile will be received by the Member. The Member's consent to receive Communications electronically is valid until the Member revoke his consent by terminating this Agreement.

#### **16. Transaction Emails and Text Messages.**

16.1. TMP and/or our agents may provide to the Member certain transaction emails and text messages in connection with the Member's account or the Member's participation in the Program. Such transaction emails and text messages may include but are not limited to, the following: (i) Confirmation Emails; (ii) reminders of Reservations; (iii) statements of the Member's Reservation activity; (iv) alerts regarding Pick-up Locations and Drop-off Locations; (v) information regarding tolls and other charges; (vi) notification of an expired driver's license or credit card; (vii) marketing communications; and (viii) invoices.

**17. Copies of electronic documents.** Any Member may request for a paper copy of any electronic records relating to User Agreement. Requests for the said paper copy shall be made by way of an email to the applicable addresses as set out on the Program's Website. For the avoidance of doubt, TMP reserve the right to charge postage and a handling fee of Php 120 per page provided to the User.

#### **18. General**

**18.1. Governing Law.** This Agreement shall be governed by and construed in accordance with the laws of the Republic of the Philippines, and the Member irrevocably submit to the non-exclusive jurisdiction of the Philippine courts in respect of any dispute, controversy or claim arising in any way out of or in connection with this Agreement, including, without limitation as to: (1) any contractual, pre-contractual or noncontractual rights, obligations or liabilities; or (2) the existence, validity, enforceability or termination of this Agreement and this clause. For the avoidance of doubt, TMP reserve the right to bring legal proceedings in any other court of competent jurisdiction and, to the extent permitted by law, commence proceedings in more than one jurisdiction.

**18.2 No Waiver.** Unless waived in writing and signed by a representative expressly authorized by TMP, no delay or omission by TMP in exercising or enforcing any right, remedy, power or privilege hereunder shall affect our right, remedy, power or privilege or be construed as a waiver thereof, and no single or partial exercise or enforcement of any such right, remedy, power or privilege shall preclude any other or further exercise or enforcement or the exercise or enforcement of any other right, remedy, power or privilege. For the avoidance of doubt, no waiver of default by TMP under any of the provisions of this Agreement shall be construed as a waiver of any subsequent default of any of the provisions of this Agreement.

**18.3 Severability.** If any provision of this Agreement shall be deemed unlawful, void, or for any reason unenforceable by any court of competent jurisdiction or other competent authority, that provision shall be deemed severed from this Agreement and shall not affect the validity and enforceability of any remaining provisions in such jurisdiction, nor the validity and enforceability of the provision in question under the law

of any other jurisdiction. For the avoidance of doubt, TMP may substitute the unlawful, void, and/or unenforceable portion with a lawful and enforceable provision that most closely approximates the intent and effect of the original portion.

**18.4 Entire Agreement.** Subject to anything expressly stated in this Agreement, this Agreement, along with any amendments hereto, encompasses the entire agreement between the Member and TMP, and supersedes all prior discussions, agreements, communications, representations and understanding, whether written or oral, relating to the subject matter herein. The Member acknowledge and represent that the Member have not relied on any representation, assertion, guarantee, warranty, collateral contract or other assurance, except those set out in this Agreement, made by or on behalf of TMP prior to the execution of this Agreement.

**18.5 Notifications to TMP.** Any notices to us must be made in writing and directed to the addresses listed on Program's website under "Contact Us". Any contact numbers listed on the Website are provided for the Member's convenience only. For the avoidance of doubt, any calls to us shall not constitute notice.

**18.6 Changes to this Agreement.** TMP reserve the right to, at our sole and absolute discretion, change, modify, add or remove portions of this Agreement. It is the Member's responsibility to check this Agreement periodically for changes (if any). The Member's continued use of TMP's services including, without limitation, the Website or the Program including any Vehicle will mean that the Member accept and agree to the changes.

**18.7 No Third Party.** This Agreement is intended for the benefit of the Member and TMP only, and no other party may claim rights hereunder, whether as a third-party beneficiary or otherwise. This Agreement is excluded from the application of the Contracts (Rights of Third Parties) Act.

#### **19. Digital Signature.**

The Member understand that by clicking on "Submit" during registration, the Member is creating a digital signature which the Member intend to have the same force and effect as if he had signed his name manually or physically.