

Gemini Terms of Service

These Gemini Terms of Service are part of and incorporated into that certain Vehicle Use Agreement executed by and between Gemini Electric Mobility Co. ("**Gemini**") and the relevant member identified in **Schedule 1** of that agreement (the "**Member**").

1. **Term.** The Agreement shall commence at the earlier of the Start Date & Time (as such terms are defined in **Schedule 1**) or when the Member takes possession of the Vehicle (as defined in **Schedule 1**) and shall continue until 8:00am (PT) the next morning, at which time the Agreement shall terminate (such termination date being the "**Return Date**") and the Member shall ensure that the Vehicle is returned to Gemini at Gemini's designated location by the Return Date. If, for whatever reason, the Member has not returned the Vehicle by the Return Date, then this Agreement will automatically renew, and will continue to renew, for successive twenty-four hour periods, each such twenty-four hour period ending and having a Return Date of 8:00am (PT), until the Member has returned the Vehicle by the applicable Return Date, with such date that the Member has returned the Vehicle being the End Date & Time (as such terms are set forth in **Schedule 1** (collectively, the "**Vehicle Use Period**"). The Member will be charged the total price and other costs that may accrue during the Vehicle Use Period.
 - a. **Vehicle Use Period Extension.** For clarity, the End Date & Time is the date and time that recorded on **Schedule 1** the Member has actually returned the Vehicle to Gemini in accordance with Gemini's Vehicle Return Policy. Until the Member has returned the Vehicle to Gemini in accordance With Gemini's Vehicle Return Policy, this Agreement shall automatically renew as set forth above, all of which such renewals shall be in accordance with the same terms and conditions as the original Agreement. If, for any reason, this Agreement is terminated by Gemini, then Gemini may pre-determine the End Date & Time by which the Member must return the Vehicle.
 - b. **Failure to Return.** In the event that the Member does not return the Vehicle to Gemini on the date designed by Gemini as the End Date & Time in accordance with Gemini's Vehicle Return Policy, then Gemini, in its sole discretion, may consider such non-return of the Vehicle to be a breach of this Agreement. If the Vehicle is not returned within 12 hours (or other such time as required by local law) of the date and time which Gemini sets designates as the End Date & Time, then, in addition to the additional costs incurred in accordance with clause 2 below, Gemini may in accordance with applicable law: (i) report the Vehicle as stolen to law enforcement authorities, (ii) take action to repossess the Vehicle, (iii) take any legal action necessary to protect Gemini's rights in the Vehicle, and/or (iv) immobilize the Vehicle. Electronic surveillance technology may be activated if the Vehicle has not been returned within seventy-two (72) hours after the date and time

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designated by Gemini as the End Date & Time Further notice of this and the Member's signed acknowledgement of such notice can be found on **Schedule 1**. Additionally, the loss may be reported to one or more credit agencies and or national stolen car databases. Any additional cost incurred by Gemini resulting from any measure taken as a result of the foregoing will be borne by the Member and the Member waives all claims for damages connected with such repossession or action, including loss or damage to any of Member's personal belongings that may have been left in the Vehicle or loss of income.

2. **Price and Charges.** The Member shall pay the total price for the entirety of the Vehicle Use Period, which includes the per mile price set forth on **Schedule 1** paid daily (which, as of the Effective Date, is \$0.20 per mile) plus applicable taxes and fees, all of which prices are set forth on **Schedule 1**. In addition, the Member shall pay all other charges due under this Agreement when due and in accordance with applicable law, including but not limited to:
- a. All damage to or loss of the Vehicle caused by collision, regardless of the cause of such damage. Member's responsibility may include: (a) all physical and mechanical damage to the Vehicle up to the Vehicle's fair market value measured as follows: (i) if Gemini determines that the Vehicle is a total loss: the total loss vehicle value of the Vehicle, calculated in accordance with California Civil Code Section 1939.07, as amended from time to time, less salvage; (ii) if Gemini determines that the Vehicle is repairable: the actual cost of the repairs performed or the estimated cost of repairs to Gemini if Gemini elects not to repair the Vehicle; (b) an administrative fee, calculated in accordance with California Civil Code Sections 1939.03 and 1939.05, as amended from time to time; and (c) Gemini's actual charges for towing, storage, and impound;
 - b. All loss due to theft of the Vehicle and any damage caused by vandalism that occurs in connection with a theft if Member fails to exercise ordinary care while in possession of the Vehicle;
 - c. Any damage due to vandalism not associated with theft of the Vehicle up to a maximum of \$500;
 - d. Any applicable administrative and legal fees for claim processing;
 - e. A charging fee equivalent to \$50 if the Vehicle is returned with less than 80% of Vehicle's maximum battery range;
 - f. A key replacement fee equivalent to \$450 if the key is missing or damaged;
 - g. A cleaning fee of \$25 if the Vehicle is dirty and a professional cleaning fee of \$200 if the Vehicle requires cleaning for spills, smoke, or other dirtiness or smells that require professional cleaning;

- h. The total price of the rental plus an additional \$25 per hour late return fee with a maximum late return fee of \$100 per day, beginning immediately after the end of the Vehicle Use Period;
- i. Unless due to the fault of Gemini, all Fine and Violations (as defined in Section 8 below) incurred during the Vehicle Use Period;
- j. A fee, charged by any of Gemini, its affiliates or a third party, of up to \$25 per incident to apply towards all costs incurred in connection with any Fines and Violations and their administration;
- k. All expenses Gemini incurs related to Member's failure to return the Vehicle, including without limitation, costs of locating, recovering and towing the Vehicle;
- l. 1.5% interest per month (or the maximum allowed by law), for any amount due which are more than 14 days past due;
- m. All costs incurred to collect unpaid amounts due, including debt collection agency, attorney, court costs or other related third party costs; and
- n. The greater of \$25 per day or the maximum amount allowed by law if Member's payments are stopped, rejected for insufficient funds, or for any other reason the payment from Member is dishonored.

The Member authorizes charges to the payment method on file in **Schedule 1** in an amount equal to all payments, costs and fees under this Agreement as they are incurred.

- 3. **Security Deposit.** The Member will be required to pay a Security Deposit at the time of the reservation in the amount set forth on **Schedule 1**. The Security Deposit will be the first money applied to any balance due at the end of the Vehicle Use Period. The Member may be responsible for additional fees or charges in excess of the Security Deposit as otherwise stated in this Agreement.
- 4. **Authorized Drivers.** Only the Member listed above is a party to this Agreement. Throughout the duration of this Agreement, the Member must be capable of driving in accordance with the law and have a valid driver's license to use and operate the Vehicle himself or herself, and such valid driver's license must be in good standing at all times (not suspended, revoked or otherwise restricted in any way) during the Vehicle Use Period. By signing this Agreement, the Member also represents and warrants that they are and will continue to be, for the duration of this Agreement, in good standing with Uber, Lyft, or any other applicable employer or entity with respect to which the Member uses the Vehicle. The Member agrees that Gemini shall have the right to verify the above at any point. Except as is specifically authorized by applicable law, the Member is the sole Authorized Driver, and therefore no one else is permitted to operate the Vehicle, except in accordance with applicable law.

Should any other person operate the Vehicle, including if the Vehicle is lost or stolen, the Member will be liable for any and all acts and omissions of any driver, whether authorized by law or otherwise, in connection with and while operating the Vehicle, including any and all resulting loss or damage. In accordance with applicable law, the Member is responsible for any and all losses or damages caused to the Vehicle during the Vehicle Use Period.

5. Insurance. Insurance has been procured by Gemini on the Vehicle which applies while the Member is operating the Vehicle in compliance with the terms of this Agreement. The automobile liability insurance obtained by Gemini provides coverage for the minimum financial responsibility limits required by state law. The Member expressly acknowledges that the insurance procured by Gemini may not be sufficient to meet Member's needs. By signing below, the Member acknowledges and agrees that the insurance coverage may not cover in whole or in part, the Member's liability to Gemini or to a third party, including for damage to the Vehicle, injury to the Member, injury to other people, and/or damage to or loss of Your property or a third party's property, and that despite the Insurance Coverage, the Member may be liable directly to Gemini and/or any third party to whom the Member may have caused damage, injury or loss through the Member's use of the Vehicle. If this Agreement is violated or if other parties claim damages (such as for personal injury or property damage) then the Member may be liable to Gemini or to such other parties beyond those limits. Violations of this Agreement may void the insurance coverage procured by Gemini. The insurance procured by Gemini does not cover the cost of the Member's own medical expenses in the event of an accident – to ensure that the Member is covered in the event of this situation, the Member should consult his/her personal medical policy and/or personal auto insurance policy. In the event the Member has insurance that provides coverage for a claim, that coverage will be considered primary, where allowed by law. Gemini expressly reserves the right to recover any and all damages from the Member in the event of an accident, where permitted by applicable law.

6. Vehicle Use Restrictions. The Member shall not:

- a. permit the Vehicle to be operated by any other person, except in accordance with applicable law;
- b. operate the Vehicle or permit it to be operated in violation of law, including without limitation, driving under the influence of alcohol, narcotics, intoxicants or drugs, whether used with or without prescription, or in breach of any traffic rules or regulations;
- c. operate the Vehicle or permit it to be operated to commit any violation of law;
- d. operate the Vehicle or permit it to be operated in a reckless manner;

- e. operate the Vehicle or permit it to be operated for any race, speed, test, or contest;
- f. operate the Vehicle in zones not previously approved by Gemini. The Vehicle may not cross any state borders, or be driven in any state or country other than California, unless otherwise agreed by Gemini in writing;
- g. load the Vehicle or permit it to be loaded with passengers or goods in excess of the Vehicle's Gross Vehicle Weight Rating ("GVWR") which is, weight of Vehicle plus weight of load, or with an improperly or unevenly distributed load as per Vehicle manufacturer's specifications and/or guidelines;
- h. operate the Vehicle or permit it to be operated to carry passengers in excess of the number of seat belts provided by manufacturer or outside of the passenger compartment;
- i. increase the Vehicle's charge capacity beyond 89% or charge the Vehicle beyond such 89% capacity, under any circumstance whatsoever;
- j. operate the Vehicle or permit it to be operated to transport or carry explosive substances, chemicals, corrosives or any other kind of hazardous materials or pollutants of any kind or nature;
- k. operate the Vehicle or permit it to be operated as a school bus or for driver training;
- l. drive the Vehicle or permit the Vehicle to be driven or parked on roadways not regularly maintained, on unpaved roads, off-road or on any roads, beaches, driveways, or surfaces likely to cause damage to the Vehicle;
- m. drive the Vehicle or permit the Vehicle to be driven or parked in unsafe areas or where the Vehicle is likely to be damaged;
- n. operate the Vehicle or permit the Vehicle to be operated to push or tow any other vehicle;
- o. transport any animal in the Vehicle (with the exception of certified or licensed animals for assisting persons with disabilities, in which case the Member agrees to return the Vehicle in a clean condition free of pet hair and pet waste);
- p. allow any person to smoke and/or take or use alcohol or illegal drugs in the Vehicle;
- q. remove or modify any component or accessory attached to or included in the Vehicle. In addition, the Member shall not install any component or accessory in the Vehicle. The Member shall not change the vehicle settings. Upon return, all other vehicle settings must be returned to the settings in place at the start of the Vehicle Use Period; and/or
- r. transfer or assign this Agreement and/or sublease the Vehicle.

Any violation of this paragraph will permit Gemini to automatically terminate this Agreement and the Member's use of the Vehicle and is an exclusion to and voids all liability protection and any optional services that the Member may have accepted.

7. **Return of Vehicle.** The Member shall return the Vehicle to Gemini at the end of the Vehicle Use Period in accordance with the Vehicle Return Policy found on Gemini's website and as it may be updated from time to time.
8. **Fines and Violations.** All fines, penalties, interest, expenses, costs, charges, administrative fees, court costs and attorneys' fees paid or to be paid by Gemini or a third party for legal or traffic violations, including, parking, tolls, towing, impounding and storage and associated charges occurring during the Vehicle Use Period ("**Fines and Violations**") are the sole and exclusive responsibility of the Member. The Member must inform Gemini immediately of any Fines and Violations incurred by the Member in or with respect to the Vehicle during the Vehicle Use Period. To the maximum extent permitted by applicable law, the Member consents to the payment of all Fines and Violations by Gemini, its affiliates or a third party on the Member's behalf without advance notice thereof. The Member agrees Gemini may provide the Member's information to applicable authorities and/or third parties to process payment and/or transfer liability to the Member for any such Fines and Violations. In addition, Gemini, its affiliates or a third party may charge a fee in the amount set forth in Section 2 above to apply towards all costs incurred in connection with any Fines and Violations and their administration. THE MEMBER EXPRESSLY AUTHORIZES GEMINI OR ITS AFFILIATES TO TRANSFER MEMBER'S NAME, ADDRESS, CREDIT CARD INFORMATION AND ALL OTHER DATA NECESSARY TO ENABLE THE COLLECTION OF ALL FINES AND VIOLATIONS INCURRED DURING THE VEHICLE USE PERIOD TO THE EXTENT AUTHORIZED UNDER APPLICABLE LAW.
9. **Collections.** If the Member does not pay all amounts due to Gemini under this Agreement upon demand, including all charges, fees, expenses, fines, penalties, and all matters associated with the use of the Vehicle including, without limitation, payment for loss of or damage to the car, charges, Fines and Violations, towing, storage and impoundment fees, Gemini can charge the Member as per Section 2. The Member shall also be liable for any costs incurred in seeking to collect such amounts as per Section 2. The Member also agrees that Gemini or its collection agent(s) may access the personal information that the Member provided to Gemini in any effort to collect any amount under this section and may use the address provided by the Member in this Agreement, or in any customer profile, as the place to send any demands or collection notices. In the event that the Member presented a credit card or debit card for payment, the Member understands that Gemini may report such deficiency to an appropriate credit reporting agency and the Member also authorizes Gemini to share that credit and debit card information with third party collection agents and further

authorizes Gemini or its collection agents to charge any amounts due to Gemini to that credit or debit card, in accordance with applicable law.

- 10. Roadside Assistance.** Vehicles may require roadside assistance from time to time. Gemini provides necessary and required routine roadside assistance support to the Members. If, however, the Member's need for roadside assistance results from a breach of this Agreement, the Member may be charged for the roadside assistance services provided, as well as any other damages resulting from such breach.
- 11. Vehicle Maintenance.** The Member shall return the Vehicle in safe and roadworthy condition, in good mechanical condition, and in full compliance with all applicable inspection and registration requirements. The Member shall comply with any maintenance requirements in accordance with the Maintenance Policy at all times. The Maintenance Use Policy may be found on the Gemini website, and may be updated by Gemini from time to time. Gemini is responsible for responding to any applicable recall or similar safety notices and for completing any recommended action before allowing a Member to use the Vehicle.
- 12. Vehicle Batteries.** The Member may not, under any circumstance and for whatever reason, increase the Vehicle's charge capacity beyond 89% and the Vehicle's charge settings must remain in the Hill Top Reserve option under all circumstances, unless otherwise notified by Gemini. Failure to comply with this charging limitation shall be deemed a breach of this Agreement. In the event, due to the Member's negligence or lack of adherence to the suggested charging protocol, the Vehicle runs out of charge during a Vehicle Use Period and the Member needs towing to a charging station, the Member will be responsible for any and all towing charges and/or damage to the Vehicle.
- 13. Vehicle Charging.** The Member shall not leave the Vehicle connected into any assigned network charger for longer than twelve (12) hours at a time. The Member is responsible for any "Idle Fees" as billed by the network provider resulting from the Vehicle being left connected to the charger for longer than the above period. The Member is responsible for all charging costs incurred on a charger that is not the charger assigned for use by Gemini during the onboarding process.
- 14. Repair or Loss.** The Member shall not, whether on its own or through a third party, service or repair the Vehicle (including any parts or accessories thereto), nor shall the Member replace or permit to be replaced any parts or accessories, in each case, without the prior written consent of Gemini. The Member shall immediately alert Gemini to any damage to or loss of the Vehicle or parts of the Vehicle during the Vehicle Use Period. The Member must immediately deliver to Gemini every process, pleading or paper relating to any claims, suits or proceedings arising from any loss or damage related to the Vehicle (a "**Vehicle Claim**"). In

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the event of a Vehicle Claim, the Member shall cooperate fully with Gemini and its representatives. The Member shall be responsible for any loss or damage to the Vehicle and the loss of use, diminution of the Vehicle's value caused by the damage or repair or replacement of a part of the Vehicle, regardless of the cause, the origin or the person who has caused such loss or damage, to the extent arising during the Vehicle Use Period. In the event of an accident, vandalism, or theft affecting the Vehicle, the Member shall report the incident to Gemini immediately. The Member will report all accidents involving the Vehicle and all theft of or damage or vandalism to the Vehicle to Gemini and to the police as soon as possible within 24 hours of occurrence. As part of such report, the Member will provide a written description of the incident and the insurance information of the other parties involved. The Member will make a reasonable effort to secure evidence from any available witnesses to the incident. The Member expressly agrees to cooperate with Gemini and Gemini's insurer in the adjustment of any insurance claim.

- 15. Condition of the Vehicle.** The Member acknowledges that s/he has examined the Vehicle prior to the Start Date, and that it is in good condition. GEMINI MAKES NO WARRANTY, EXPRESS OR IMPLIED, INCLUDING WARRANTIES OF MERCHANTABILITY, SATISFACTORY QUALITY, FITNESS FOR A PARTICULAR PURPOSE, QUALITY, COMPATIBILITY, COURSE OF DEALING, COURSE OF PERFORMANCE, USAGE OF TRADE OR OTHERWISE, AND GEMINI EXPRESSLY EXCLUDES AND DISCLAIMS ALL SUCH WARRANTIES AND REPRESENTATIONS. THE MEMBER FURTHER ACKNOWLEDGES AND AGREES THAT GEMINI MAKES NO REPRESENTATIONS OR WARRANTIES OF ANY KIND THAT THE MEMBER'S USE OF THE VEHICLE WILL ACHIEVE ANY PARTICULAR RESULTS, WHETHER COST SAVING OR OTHERWISE.
- 16. Vehicle Verification.** It is the responsibility of the Member to ensure that the vehicle of which the Member takes possession matches the Vehicle information on **Schedule 1** and on the Member's reservation.
- 17. Vehicle Ownership.** Under no circumstance will this Agreement entail a transfer of ownership and title to the Vehicle to or for the benefit of the Member. The Member shall immediately notify Gemini in the event the Vehicle is levied, has a lien attached or is threatened with lien and/or seizure as a result of the Member's action, inaction, possession, or use of the Vehicle. The Member shall indemnify and hold Gemini harmless against from and against any and all claims, actions, judgments, settlements, liabilities, losses, costs, expenses, fees, fines, penalties and/or damages ("**Losses**") caused by such action or inaction.
- 18. GPS and Telematics.** Vehicles may include global positioning satellite ("**GPS**"), telematics technology, vehicle disabling technology, or another telematics system and/or an event data recorder ("**Telematic Devices**"), which tracks the Vehicle's location and other analytics data

such as miles driven or battery usage. Member acknowledges that Telematic Devices may be used in accordance with Section 1(b) of this Agreement. The Member agrees not to tamper with, disable, or remove such Telematics Device for any reason. The Member will be held responsible for any damages to or tampering with any Telematics Devices present in the Vehicle.

- 19. Property in the Vehicle.** Gemini is not responsible for loss of, theft, or damage to any property in or on the Vehicle, in any service Vehicle, such as a transit van or bus, on Gemini's premises, or received or handed by Gemini, regardless of who is at fault. The Member is responsible to Gemini for claims by others for loss or damage caused by the Member's property. The Member is solely and exclusively liable for any accessories which the Member may need or desire, including child restraint systems.
- 20. Repossessing the Vehicle.** Gemini can repossess the Vehicle at any time in its sole discretion in accordance with applicable law for reasons that include, but are not limited to the following: the Vehicle is found illegally parked, the Vehicle is being used to violate the law or the terms of this Agreement, or the Vehicle appears abandoned. The Member agrees that Gemini need not notify the Member in advance of any repossession, and that Gemini may take any actions necessary to do so, in accordance with Section 1(b) of this Agreement and in compliance with applicable laws. The Member is responsible for any actual and reasonable costs incurred in repossessing the Vehicle and such costs may be charged to the Member's card or account.
- 21. Termination.** This Agreement shall terminate at the end of the Vehicle Use Period. The Agreement may be terminated earlier by Gemini with immediate effect in the event of the Member's breach of this Agreement, in particular the Vehicle Use Restrictions provision set forth in Section 6 of this Agreement.
- 22. Indemnification and Liability.** The Member shall indemnify, defend and hold harmless Gemini and its affiliates from and against any and all Losses or any expenses incurred by Gemini, for any property damage or personal injury, including death, arising from the Member's use of Vehicle by any cause or arising in any manner from the transaction contemplated in this Agreement, including any claims or, or liabilities to, third-parties. IN NO EVENT SHALL GEMINI BE LIABLE FOR ANY INDIRECT, SPECIAL, EXEMPLARY, PUNITIVE OR CONSEQUENTIAL LOSS OR DAMAGES ARISING FROM THE MEMBER'S OR ANY AUTHORIZED DRIVERS' USE OF THE VEHICLE, INCLUDING BUT NOT LIMITED TO LOST PROFITS, LOSS OF USE, LOSS OF INCOME, AND LOST REVENUE, EVEN IF INFORMED OF THE POSSIBILITY OF SUCH DAMAGES. UNDER NO CIRCUMSTANCES SHALL GEMINI'S LIABILITY TO THE MEMBER FOR DAMAGES UNDER THIS AGREEMENT EXCEED THE

TOTAL AGGREGATE AMOUNT OF FEES PAID BY THE MEMBER TO GEMINI PRIOR TO THE EVENTS GIVING RISE TO THE CLAIM.

- 23. Transfer.** Gemini may assign or transfer its rights, duties and obligations under this Agreement to another party. The Member may only assign or transfer its rights or obligations under the Agreements to another person if Gemini expressly agrees in writing. Gemini's failure to request the Member's performance of any of its obligations, failure to enforce its rights against the Member, or delay in doing so, will not be deemed to constitute a waiver of Gemini's rights against the Member and will not mean that the Member does not have to comply with those obligations. Gemini's waiver of the Member's default must be in writing and shall not be deemed to constitute an automatic waiver of any later default by the Member.
- 24. Cooperation.** The Member agrees to cooperate and coordinate with Gemini generally and to take any actions Gemini reasonably requests in connection with (i) the Agreement, (ii) the use and return of the Vehicle, and (iii) any disputes, actions, proceedings, suits, and investigations related to the Agreement or use of the Vehicle, including without limitation, execution and delivery of any documents Gemini reasonably requests, giving testimony under oath, and taking any other actions Gemini reasonably requests related to the Agreement or the use of the Vehicle.
- 25. Dispute Resolution.** Any dispute, claim, or other legal proceeding in connection with this Agreement shall be finally decided by arbitration in accordance with the American Arbitration Association (AAA) Commercial Arbitration Rules then in effect, before a panel of three (3) AAA arbitrators, one selected by Gemini, one selected by the Member, and the third, who shall be the chairman, selected by agreement of the two arbitrators selected by the parties. In the event the two arbitrators fail to agree on the selection of the third arbitrator within thirty (30) days following the selection of the second arbitrator, the chairman shall be selected in accordance with the AAA Commercial Arbitration Rules. The arbitration shall be conducted in Los Angeles, California. Each party may be represented by counsel in any such arbitration. During the course of any arbitration hereunder, the parties will (i) each bear its own costs and attorneys' fees and any expert witness fees, and (ii) each bear equally the arbitrators' fees and expenses. The arbitration shall be conducted in English. Any arbitration under this Agreement shall be confidential, and the parties may request that the arbitrators issue appropriate protective orders to safeguard each party's confidential information. Except as required by law, no party may make (or instruct the arbitrators to make) any public announcement with respect to the proceedings or decision of the arbitrators without the prior written consent of the other party. Any award rendered by the arbitrators shall be final, and judgment may be entered upon it in any court having jurisdiction. The arbitrators shall have the authority to award temporary, preliminary and

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permanent injunctive and equitable relief in the arbitration (in addition to any monetary relief); provided, however, that either party may opt to seek equitable relief, including emergency injunctive relief, at any time, from a court of competent jurisdiction. The existence of any dispute, claim, or other legal proceeding in connection with this Agreement, and any related resolution, mediation settlement or arbitration decision, shall be kept in confidence by the parties, except as required in connection with the enforcement of an arbitration decision or as otherwise required by applicable law. Notwithstanding the foregoing, nothing shall prevent a party from bringing any action for injunctive or other emergency or equitable relief in any court of proper jurisdiction without posting bond or proving any damages.

- 26. Waiver.** No failure of Gemini to exercise or enforce any rights under this Agreement shall act as a waiver of any subsequent breach(es), and any waiver of any breach shall not act as a waiver of any subsequent breach(es). Gemini's acceptance of payment with knowledge of a default by the Member shall not constitute a waiver by Gemini of any breach by the Member.
- 27. Severability.** In the event any provision of this Agreement is held by a court or other tribunal of competent jurisdiction to be unenforceable, that provision will be enforced to the maximum extent permissible under applicable law, and the other provisions of this Agreement will remain in full force and effect. Upon a determination that any term or other provision is invalid or illegal and is material to this Agreement, the parties shall negotiate in good faith to modify this Agreement to reflect the original intent of the parties as closely as possible.
- 28. Changes.** Any change to the Agreement or to the Member's rights must be in writing and signed by an authorized Gemini officer. The Member further agrees that Gemini has the unilateral right to change these Terms of Service from time to time either upon written notice to the Member, in paper or electronic form, or upon posting such changes on the Gemini website. Such changes will apply to the Vehicle use that the Member has reserved after such notice has been given, as indicated by the date of such notice, if sent in written form, or the date such changes are posted on the Gemini website, which date will be indicated therein, without any requirement by the Member to sign the changed Terms of Service. Changes to these Terms of Service will be posted as they occur on the Gemini web site at www.drivegemini.com and will govern all use commencing after posting even if the terms provided at time of reserving the Vehicle use are different.
- 29. Headings.** The section headings used in this Agreement are for reference only and shall not be used or relied upon in the interpretation of this Agreement.

- 30. Survival.** Any provisions of this Agreement that are necessary for the enforcement of the terms of this Agreement will survive termination.
- 31. Entire Agreement.** The Agreement represents the entire understanding relating to the subject matter hereof and prevails over any prior or contemporaneous, conflicting, or additional communications between the parties.
- 32. Counterparts.** This Agreement may be executed in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same document.
- 33. No Employment Relationship.** Nothing in this Agreement shall be construed as establishing an employment relationship between the Member and Gemini or any Gemini affiliate; and nothing in this Agreement, shall be construed to make either the Member, Gemini or any Gemini affiliates partners, joint ventures, principals, agents, or employees of the other. Neither party has any right, power or authority, express or implied, to represent or bind the other.
- 34. Background Check Disclosures.** A consumer report is a type of background check in which information (which may include, but is not limited to, driver's license validity verification and driving reports/background) about the Member is gathered and communicated by a consumer reporting agency ("**CRA**") to Gemini, its subsidiaries, affiliates, other related entities, successors, and/or assigns (collectively or individually, as appropriate, the "**Company**"). The Company may obtain a consumer report on the Member to be used to evaluate you as a new or continued driver of a Vehicle, including the Member's application to be eligible to operate a Vehicle.