

This Service Agreement (New Zealand) is current as at 1 December 2018

Please read the terms of this Agreement (as defined below) carefully. By clicking on the “I agree” button, you expressly represent that:

- (1) you have read, understand, and agree to be bound by the terms and conditions of this Agreement,
- (2) you are of legal age to form a binding contract with Beam, and
- (3) you have the authority to enter into the Agreement personally or, if applicable, on behalf of the entity you represent and to bind that entity to this Agreement.

1. Services Agreement

The terms of the following Services Agreement (“**Agreement**”) constitute an agreement between you or the entity you represent (“**you**”, “**your**”, and, where the context requires, shall include your employees, officers and agents) and Beam Mobility New Zealand Limited (NZBN: 9429047157651) (“**Beam**”, “**us**”, “**our**”, or “**we**”) governing the services you provide to Beam in New Zealand from time to time (collectively, “**Beam Services**”) on an independent contractor basis.

2. About Beam

Beam is a last-mile electric vehicle rental service business. Beam Services are ancillary to Beam’s core rental services.

3. Your Relationship with Beam

- 3.1. By accepting this Agreement and performing the Beam Services, you acknowledge and agree that you have been engaged by us as an independent contractor in relation to the provision of Beam Services.
- 3.2. Nothing in this Agreement constitutes or should be construed to create an employer-employee relationship, a joint venture, partnership, franchisor-franchisee or agency relationship. For the avoidance of doubt, this Agreement does not constitute or create any relationship (a) other than that of an independent contractor and a principal between you and Beam (or any member of the Beam Group), or (b) between Beam (or any member of the Beam Group) and any of your employees, officers or agents.
- 3.3. You further acknowledge and agree that you will have complete discretion whether or not to provide Beam Services or otherwise engage in other business or employment activities with third parties including businesses or entities that provide vehicle rental services, provided always that you comply with clause 9. For the avoidance of doubt, you are not appointed on an exclusive contractor basis and we do not warrant or guarantee that you will have preference or priority in providing any of the Beam Services to us.
- 3.4. You acknowledge that you have no authority to bind Beam or any member of the Beam Group. You undertake not to represent yourself as an employee, officer, agent or representative of Beam or any member of the Beam Group and that you will procure a similar undertaking from any of your employees, officers or agents.
- 3.5. You and any employee, officer or agent may not use, export, import, or transfer the Beam App, any Beam Vehicle, or any Beam Group property except as authorised by us in writing.

4. Supply of Beam Services

4.1. Unless otherwise stated, you are solely responsible for determining and controlling the manner in which you provide Beam Services to us. You retain the sole right to determine when, where, how and for how long you will perform Beam Services. Subject to the limitations set out in this Agreement, you will determine the method, details, and means of performing the Beam Services.

4.2. You must ensure that:

- (a) You (and any employee, officer or agent) provide Beam Services in accordance with suitable methods and practices for the provision of those services.
- (b) All materials and standards of workmanship associated with the delivery of the Beam Services are of a high quality and fit for purpose. If we reasonably consider that the quality of any work or materials provided in the delivery of the Beam Services is not in accordance with the terms of this Agreement, we may instruct you to re-execute and replace the work or materials, or to make good any defective performance of the Beam Services at your own cost and expense.
- (c) You (and any employee, officer or agent) provide the Beam Services in accordance with suitable methods and practices for the provision of those services.
- (d) You (and any employee, officer or agent) comply with all relevant laws and regulations.
- (e) You (and any employee, officer or agent) do not act in a manner or otherwise do anything to harm or adversely affect Beam's reputation or goodwill.

5. Working Rights

5.1. You warrant and represent that:

- (a) if executing this Agreement on behalf of an entity, you are authorised to, and have capacity to do so;
- (b) you (or, if applicable, your employees, officers and agents) hold and will continue to hold all necessary rights to work in New Zealand and provide the Beam Services.

5.2. You must immediately inform us of any change or event which may affect your right to provide the Beam Services.

6. Payment for Your Services

6.1. The fees payable for your provision of the Beam Services ("**Contract Fees**") will be displayed on our designated mobile application ("**Beam App**"). Generally, the Contract Fees will be paid on a

daily basis, or within a reasonable time after successful completion and delivery of Beam Services.

- 6.2. The Contract Fees constitute full payment in respect of your provision of Beam Services and we shall not be liable to pay any other amount to you. The Contract Fees may be subject to withholding or deductions as required by law.
- 6.3. You must pay all applicable levies, assessments, taxes or other payments as required under the provisions of the *Income Tax Act 2007*, the *Good and Services Tax Act 1985*, the *Accident Compensation Act 2001*, and all other legislation that may be in force and affects your provision of the Beam Services, and any payments received by you under this Agreement. You agree to indemnify, defend and hold Beam harmless from any liability for any breach of this Agreement by you, or any liability for or assessment of, any claims or penalties or interest with respect to such levies, assessments, taxes or other payments or liability.
- 6.4. You are solely responsible for your own tools, equipment, insurance (including public liability and third party) and any expenses that you incur in connection with the Beam Services.

7. Your Responsibility for Prohibited Activities

You agree that you will be solely liable for all acts and omissions arising out of or in connection with your provision of the Beam Services including:

- (a) any damage to a Beam vehicle ("**Beam Vehicle**");
- (b) any damage or injury to yourself or third parties;
- (c) entering any private or public property which you do not have authorisation to enter;
- (d) performing Beam Services in an unsafe, unprofessional or unworkmanlike manner;
- (e) any damage, depreciation or wear and tear to your tools or personal property (as applicable);
- (f) using electricity that you do not pay for or are not authorised to use (as applicable);
- (g) overloading any electrical circuit while charging a Beam Vehicle (as applicable); and
- (h) violating any law, statute, regulation, rule, or the terms of any permit, licence or consent.

8. Intellectual Property and Moral Rights

- 8.1. You must disclose all Contract Materials to us.
- 8.2. You:
 - (a) agree that we will own all rights in and to the Contract Materials including any Intellectual Property Rights which subsist in the Contract Materials or which may be obtained from the Contract Materials;
 - (b) to the extent necessary to give effect to this clause, assign all of the Intellectual Property Rights in all Contract Materials to us; and

(c) grant the us a non-exclusive, royalty-free, transferable and perpetual licence to use any Existing Materials for any purpose in connection with Beam's business activities.

8.3. You warrant to the best of your knowledge and belief after making all reasonable enquiries, that:

(a) the use by Beam of any Materials supplied by you in the course of your engagement will not; and

(b) you (and any employee, officer or agent) will not in the course of your engagement,

infringe any Intellectual Property Rights of any person nor give rise to any liability to make royalty or other payments to any person.

9. Confidential Information

9.1. You shall hold all Confidential Information in strict confidence and shall not, directly or indirectly, disclose or divulge Confidential Information to any person without our prior written consent. For these purposes, "disclosing" or "divulging" Confidential Information includes making it available in any way, whether deliberately or not.

9.2. You shall not use any Confidential Information for any purpose other than as necessary to provide Beam Services. You agree to use reasonable care to protect the confidentiality of the Confidential Information. If you are compelled by law to disclose any Confidential Information, you shall provide us with prior notice of such compelled disclosure (to the extent legally permitted) and reasonable assistance if we wish to contest the disclosure.

9.3. You specifically acknowledge that we will be irreparably harmed by any breach of this clause 9, and that damages alone is not an adequate remedy.

9.4. You further acknowledge that, without affecting any other rights or remedies if a breach of the terms of this clause 9 occurs or is threatened, the remedies of injunction, specific performance and other equitable relief, or any combination of these remedies, shall be available to us.

9.5. You agree that you shall, if any of the remedies set out in clause 9.4 is sought in relation to any threatened or actual breach of the terms of this Agreement, waive to the fullest extent at law any rights you may have to oppose that remedy on the grounds that damages would be an adequate alternative.

9.6. You will ensure compliance by any employee, officer or agent with the obligations set out in this clause 9.

10. Indemnity

10.1. You must comply with this Agreement, all laws, regulations, rules, directions, orders and the instructions of Beam for the purposes of this Agreement and any relevant authority. You will be

responsible for all liabilities arising from or in connection with your failure to do so, including loss or damage to any persons or property resulting from such failure.

- 10.2. You will defend, indemnify, and hold Beam (including our related companies), affiliates, successors and assigns, and each of our respective officers, directors, employees, agents, or shareholders) (collectively, the "**Beam Group**") harmless from any claims, demands, actions, suits, losses, costs, liabilities and expenses (including all legal fees on an indemnity basis) in connection with or arising out of this Agreement and your provision of Beam Services including:
- (a) any breach of any term of this Agreement by you (or your employee, officer or agent);
 - (b) any unlawful or negligent act or omission by you (or your employee, officer or agent); in performing the Beam Services;
 - (c) any misuse or unauthorised disclosure of Confidential Information by you (or your employee, officer or agent);
 - (d) any infringement of Intellectual Property Rights by you (or your employee, officer or agent);
 - (e) any liability arising from the parties' relationship being deemed to be one of employee and employer, including, without limitation, annual holidays, sick or bereavement leave, KiwiSaver contributions, and any other liability arising from other employment rights (including in connection with the termination of the relationship).
 - (f) your violation of any law (including laws relating to workplace safety and health); or
 - (g) your ownership, use, operation or possession of a Beam Vehicle, or any vehicle used in the performance of Beam Services.
- 10.3. Any member of the Beam Group shall be entitled to enforce the terms of this clause 10 in its own right as if it were a party to this Agreement.

11. Limitation of Liability

- 11.1. In no event will any member of the Beam Group be liable to you whether in contract or tort (including negligence or breach of statutory duty) or otherwise for any direct or indirect loss or damage (including loss of revenue or profits, incidental, special, exemplary, punitive, consequential, or indirect damages (including damages for deletion, corruption, loss of data, loss of programs, failure to store any information or other content maintained or transmitted by the Beam App, service interruptions, or for the cost of procurement of substitute services)) arising out of or in connection with the Beam App, the Beam Services, or this Agreement, even if we or our agents or representatives know or have been advised of the possibility of such damages.
- 11.2. You agree that Beam will not be liable for any loss or damage to you or any third parties arising from or related to the App, Beam Vehicles, or Beam property. In no event will Beam be liable

for any lost profits, lost or incorrect data, or loss of use in connection with the use of the App, Beam Vehicles, or any other Beam property provided by Beam or in connection with any other claim arising from this Agreement, even if Beam has been advised of the possibility of such damages. You further agree that our aggregate liability to you arising out of or in connection with this Agreement shall not exceed USD 1000.00.

- 11.3. The Beam App and all Beam Vehicles are owned by and shall remain our property at all times. The Beam App, Beam Vehicles, and any other property provided to you by Beam are provided to you on an “as is, where is” basis and any use of the App, Beam Vehicles, or Beam property are at your own risk. We expressly disclaim all warranties, whether express, implied, or statutory, including any implied warranties of title, non-infringement, merchantability, or fitness for a particular purpose.
- 11.4. Any member of the Beam Group shall be entitled to enforce the terms of this clause 11 in its own right as if it were a party to this Agreement.

12. Health and Safety

- 12.1. Both Beam and you are committed to undertake workplace practices which promote health and safety in the workplace and will ensure, so far as is reasonably practicable, your health and safety, and the health and safety of others, in the performance of the Beam Services, in accordance with the *Health & Safety at Work Act 2015*. You will comply with all of Beam’s health and safety instructions, rules and procedures, and also:
- (a) Not perform any work for us until you have read and agreed to this Agreement, and any of our other health and safety rules and procedures;
 - (b) At all times, comply with your duties and obligations under New Zealand health and safety legislation and any applicable regulations, standards and codes of practice, while performing Beam Services for us; and
 - (c) Apply best industry practice to ensure that no persons are put at risk from any work that they carry out for us.
- 12.2. We may monitor your activities and carry out a safety audit from time to time during your performance of the Beam Services.
- 12.3. We may suspend your work (including at your expense) where we are not satisfied that you are performing the Beam Services safely.
- 12.4. You must advise us immediately of any near-misses or accidents or incidents, including where a notifiable event is caused, or a significant hazard or risk is involved, and will comply and cooperate with us in our compliance with any statutory obligations to notify WorkSafe NZ regarding any accidents, incidents or other notifiable events.
- 12.5. You must advise us immediately of any new hazard or risk to health and safety created while performing the Beam Services and will take all practicable steps to avoid harm being caused to

any person as a result of such hazards and risks.

13. Amendments to Agreement

- 13.1. Please note that this Agreement is subject to change by Beam at its sole discretion at any time.
- 13.2. When changes are made, Beam will make a new copy of the Agreement available within the Beam App. You must accept the terms of the amended Agreement through the Beam App before you may continue providing the Beam Services.
- 13.3. Notwithstanding clause 13.2, your continued use of the Beam App or continued provision of the Beam Services shall be deemed to be and/or constitute your acceptance of the prevailing terms of this Agreement as amended by us from time to time.

14. No Assignment of Rights

Your rights and obligations under this Agreement are personal to you. You may not assign any of your rights or delegate any of your duties under this Agreement without our prior written consent and any assignment or delegation or attempts thereof to assign or delegate your rights or obligations shall be null and void.

15. Waiver

- 15.1. Any delay, failure or forbearance by Beam in exercising or enforcing any right (in whole or in part) provided by this Agreement or by law shall not operate as a waiver or release, or in any way limit Beam's ability to further exercise or enforce that, or any other, right.
- 15.2. A waiver of any breach of any provision of this Agreement shall not be effective or implied unless that waiver is in writing and is signed by Beam, and shall only constitute a waiver only with respect to the specific default or breach specified and only to the extent expressly provided.

16. Notices

- 16.1. Any correspondence, document, notice or other communication to be given under or in connection with this Agreement shall be in the English language in writing, and will be deemed given when sent to by email us at legal@ridebeam.com, or to you at the email address you used to register in respect of the provision of the Beam Services, as the case may be.
- 16.2. For the avoidance of doubt, clause 16.1 shall not apply to the service of process.

17. Third Party Rights

Except as expressly provided in this Agreement, a person who is not a party to this Agreement shall have no rights to enforce any term of this Agreement.

18. Third Party Rights

Except as expressly provided in this Agreement, a person who is not a party to this Agreement shall have no rights to enforce any term of this Agreement.

19. Term and Termination

19.1. This Agreement may be terminated:

- (a) by either party, without cause and without providing any reasons, upon seven (7) days' prior written notice to the other party; or
- (b) by us immediately without notice and without payment in lieu of notice if:
 - (i) you (or your employee, officer or agent) commit a material breach of this Agreement;
 - (ii) you (or your employee, officer or agent) act in a manner that we reasonably regard as inappropriate or unprofessional;
 - (iii) you (or your employee, officer or agent) fail to provide the Beam Services in a safe manner;
 - (iv) you become insolvent or go into liquidation or enter into any arrangement or composition with your creditors, or any action is taken for the appointment of an administrator or official manager or receiver over your assets;
 - (v) you are charged with a breach of any law;
 - (vi) you (or your employee, officer or agent) engage in any misconduct (including but not limited to fraud or dishonest behaviour) or in any activity in conflict with or adverse to the activities, affairs or reputation of Beam or which in our opinion renders the continued provision of the Beam Services adverse to the interests, activities, affairs or reputation of the Beam Group; or
 - (vii) you commit any other act which at common law would entitle us to terminate the document without notice or payment in lieu of notice.

19.2. For all other breaches of this Agreement, you will be provided notice and a reasonable opportunity to remedy the breach. If the breach is remedied in a timely manner and to Beam's satisfaction, Beam may choose not to terminate this Agreement.

19.3. Notwithstanding the provisions of clause 19.1 and 19.2, Beam may terminate this Agreement or deactivate your account immediately in the event that Beam reasonably believes that such action is necessary to protect the safety or interests of Beam, any member of the Beam Group, users of the Beam App or third parties, or to promote or protect Beam's business and operations.

19.4. Clauses 8 to 11 shall survive the termination or expiration of this Agreement.

- 19.5. Termination of this Agreement shall be without prejudice to any existing rights and/or claims that Beam may have against you, and shall not relieve you from fulfilling the obligations accrued prior to such termination.
- 19.6. If Beam terminates this Agreement because you are in breach of any of your main obligations, then:
- (a) you will no longer be able to be in possession of the Beam Vehicles;
 - (b) you shall return the Beam Vehicle(s) in your possession within 24 hours of the termination, regardless of whether your services have been fully performed;
 - (c) you must use all reasonable efforts to return the Beam Vehicle(s) to us as soon as possible at your own expense to a place directed by us together with all chargers supplied by us (or equivalent);
 - (d) if your services have not been fully performed upon return of the Beam Vehicle(s), your Contract Fees may be reduced at Beam's sole and absolute discretion; and
 - (e) you will also be responsible for any reasonable costs and expenses incurred by us in recovery, including, but not limited to, solicitor's fees, agent's fees and storage charges.

PLEASE READ THIS SECTION CAREFULLY – IT MAY SIGNIFICANTLY AFFECT YOUR LEGAL RIGHTS, INCLUDING YOUR RIGHT TO FILE A LAWSUIT IN COURT

20. Initial Dispute Resolution

- 20.1. Support is available via the Beam App to address any concerns you may have regarding your provision of Beam Services and/or this Agreement. The parties shall first use their best efforts to negotiate in good faith to settle any dispute, claim, question, or disagreement arising out of or in relation to this Agreement or the provision of the Beam Services.
- 20.2. For the avoidance of doubt, compliance with clause 20.1 shall be a condition precedent to either party commencing arbitration under clause 21.

21. Binding Arbitration

- 21.1. If the parties do not settle the dispute within a period of 30 days from the commencement of negotiations pursuant to clause 20, either party may initiate arbitration pursuant to clause 21.
- 21.2. Any dispute arising out of or in connection with this Agreement, including any question regarding its existence, validity or termination, shall be referred to and finally resolved, in accordance with New Zealand law, by arbitration administered by the Resolution Institute (or successor organisation) in accordance with the Resolution Institute's Arbitration Rules for the time being in force, which rules are deemed to be incorporated by reference in this clause.
- 21.3. The seat of arbitration shall be New Zealand.
- 21.4. The tribunal shall consist of one arbitrator.
- 21.5. The language of the arbitration shall be English.

21.6. While any unresolved dispute remains, each party shall continue to perform its obligations under this Agreement to the extent reasonably practicable, but without prejudice to their respective rights and remedies.

22. Privacy

You consent to the collection, use or disclosure of your personal data in accordance with Beam's privacy policy and procedures which may be found on the Beam App and our website. You may also obtain a copy of our privacy policies by writing to the Data Protection Officer at legal@ridebeam.com. These policy and procedures set out, among other things, how you may access, seek correction of or make a complaint in relation to the handling of personal data.

23. General

23.1. This Agreement shall be governed by, construed and interpreted in accordance with the laws of New Zealand.

23.2. If one or more provisions of this Agreement are held to be unenforceable under any applicable law(s), then such invalidity, illegality or unenforceability shall not affect any other provision of this Agreement and parties agree to carry out the Agreement and perform their respective obligations in such a manner as far as a possible to give effect to the original intention of the invalid, illegal or unenforceable provision.

23.3. This Agreement constitutes the entire agreement between you and Beam in connection with its subject matter and supersedes all previous agreements, understandings or discussions between the parties in connection with its subject matter.

23.4. Definitions

The following definitions apply in this Agreement:

"Contract Materials" means Material created, made or discovered by the Contractor (either alone or with others) in the course of your engagement or as a result of using the resources (including the Confidential Information and Intellectual Property Rights) of Beam.

"Confidential Information" means any information of a private, secret, confidential or commercially sensitive nature and which may not be readily available to the Beam Group's competitors or the general public (of any nature and in any form, including whether given in writing or orally or in a visual or electronic, magnetic or digital form) including but not limited to any trade secret, information regarding confidential operations, processes, dealings or any information (other than within the public domain) concerning the operations, business finances or affairs of Beam and its related companies (as that term is defined in the *Companies Act 1993* or any of their respective customers, clients or suppliers (including but not limited to terms of contracts or arrangements, existing or potential projects, accounts information regarding customers, clients or suppliers, disputes, business development and/or marketing programmes and plans) which may come to your knowledge during the provision of Beam Services, whether

or not the same is committed to in writing, oral or on tape or stored in computers, processors, electrical, mechanical, or telephone conversations.

"Existing Materials" means Materials created, made or discovered by you prior to or outside the scope of your engagement that you use or supply in the course of your engagement.

"Intellectual Property Rights" means all present and future rights conferred by law in or in relation to copyright, trademarks, designs, patents, circuit layouts, plant varieties, business and domain names, inventions and confidential information, and other results of intellectual activity in the industrial, commercial, scientific, literary or artistic fields whether or not registrable, registered or patentable, and include:

- (a) all rights in all applications to register these rights;
- (b) all renewals and extensions of these rights; and
- (c) all rights in the nature of these rights, such as Moral Rights.

"Materials" means works, ideas, concepts, designs, inventions, developments, improvements, systems or other material or information.

"Moral Rights" means moral rights as provided for in Part 4 of the *Copyright Act 1994*, and rights of a similar nature that exist, or may come to exist, anywhere in the world.

"Taxes" means a tax, levy, duty, charge, deduction or withholding (including Goods and Services Tax), however it is described, that is imposed by law or by a government agency, together with any related interest, penalty, fine or other charge or liability.

If you have any questions regarding this Agreement, please contact legal@ridebeam.com.

ADDENDUM A - Charger Services Addendum

The following addendum applies only if you are providing services to Beam as a Charger ("Beam Charger Services"), and should be read in conjunction with the general terms and conditions set forth above.

Your Provision of Charger Services for Beam

You can provide Beam Charger Services by clicking the "Beam Charger" button on the Beam App and scanning the code on the Beam Vehicle into the App. The Beam Vehicle will unlock, so that you may take and charge the Beam Vehicle. You must capture and unlock the Beam Vehicle in the App before moving it.

If you are engaged as a Beam Charger, you agree to perform the following services:

- Charge the Beam Vehicle to 95% charge and return that Beam Vehicle to an authorized Beam Vehicle location ("Beam Point") in the appropriate manner by the stipulated time the following day, and in no event more than 24 hours from the time you unlock the Beam Vehicle;
- Return the Beam Vehicle in good serviceable condition or immediately notify Beam if the Beam Vehicle requires maintenance;
- Provide photographs of the Beam Vehicle showing that it has been returned appropriately to the Beam Point; and
- Such further or other services as may be reasonably required.

Beam may recommend and make available to you "Charger Guidelines" through the App or in writing. You must comply with the terms of the Charger Guidelines (as amended by Beam at its sole and absolute discretion from time to time).

Beam's records shall be conclusive evidence of all matters arising out of or in connection with your provision of Beam Charger Services and shall not be subject to any challenge.

Payment for Your Charger Services

You will receive payment for providing Beam Charger Services pursuant to the terms of this Agreement. You are only entitled to a payment for each Beam Vehicle that you fully charge to a 95% charge based on the then-applicable rate for the applicable Beam Vehicle as displayed on the Beam App.

If the Beam Vehicle is returned to a Beam Point or sent to an authorized Beam repair location after 7:00 a.m. local time the following day or such later time as provided by Beam in its sole discretion, your total payment (including any incentives) for Services related to such Beam Vehicle may be reduced at Beam's sole and absolute discretion. If a Beam Vehicle is not returned to a Beam Point or sent to an authorized Beam repair location within three (3) days from the date you first unlocked the Beam Vehicle, it shall be deemed that you will not be returning the Beam Vehicle and you will be charged for the full value of the Beam Vehicle (US\$900, or such other sum as determined by Beam from time to time).

We reserve the right to reduce or refuse payment if we deem (at our sole and absolute discretion) that you have not provided the Beam Charger Services in accordance with the terms of this Agreement.

Charger Cords

You must use the charging cords (each a “**Cord**”) prescribed and provided by Beam.

Representations, Warranties, and Agreements

By providing Beam Charger Services, you represent, warrant, and agree that:

- you own, or have the legal right to use the electricity fed to Beam Vehicles in your possession;
- you will at all times only use premises that are reasonably safe and suitable to provide the Beam Charger Services; and
- you have access to and will provide reasonable space and ventilation of Beam Vehicles while charging to prevent overheating of the Beam Vehicles and Cords.