

## **TERMS OF USE OF THE SUBARU CARE APP AND SUBARU CARE ACCOUNT**

Welcome to SUBARU Care. These Terms of Use apply to the SUBARU Care app and the content, services, application software, etc. made available from the SUBARU Care app, as well as to the creation and use of your SUBARU Care account.

### **1. DEFINITIONS**

In these Terms of Use:

**SUBARU Care app** means the mobile app that is connected to the vehicle and the in-car multimedia system, which enables you to remotely access and control a whole range of information and functions in your Subaru vehicle;

**SUBARU Care account** means your Subaru Account that is accessible through the SUBARU Care app;

**Services** means providing access to and managing your SUBARU Care Account that is accessible through the SUBARU Care app;

**Terms of Use** means the present Terms of Use;

**SE** means Subaru Europe NV/SA, a limited liability company incorporated under Belgian law, having its registered offices at 1930 Zaventem, Leuvensesteenweg 555/8 (Belgium) and registered with the Belgian Crossroads Bank of Enterprises under company number 0438.574.810;

**We, our** or **us** means Subaru Europe NV/SA, a limited liability company incorporated under Belgian law, having its registered offices at 1930 Zaventem, Leuvensesteenweg 555/8 (Belgium) and registered with the Belgian Crossroads Bank of Enterprises under company number 0438.574.810;

**Third Party Service Provider** means any service provider(s) other than SE that provides the Services to you;

**User, you** or **your** means any natural or legal person that has subscribed to the Services through his/her/its SUBARU Care account.

### **2. THESE TERMS OF USE ARE A CONTRACT BETWEEN YOU AND US**

By subscribing to the Services, you conclude a contract with us for the provision by us and use by you of the Services, the SUBARU Care app and your SUBARU Care account. That contract is governed by these Terms of Use.

### **3. SUBARU CARE ACCOUNT**

3.1. If you open and use a SUBARU Care account, you are responsible for maintaining the confidentiality of your SUBARU Care account and related password, as well

as for restricting access to the device(s) through which you access your SUBARU Care account (for example, your computer) to prevent unauthorised access to your SUBARU Care account. You agree to accept full responsibility and are liable for all activities that occur under your SUBARU Care account or related password. You should take all necessary steps to ensure that your SUBARU Care account related password is kept confidential and secure. You should also inform us immediately if you have any reason to believe that your password has become known to anyone else, or if the password is being, or is likely to be, used in an unauthorised manner.

You can always reset your password by going on the "Log in" page and clicking on "Forgot your password?", or change your password in the Account section by clicking on "Change password".

3.2. Please ensure that the details you provide to us are correct, up-to-date and complete. Please also inform us immediately of any changes to the information you provided us when opening your SUBARU Care account or afterwards. You can access and update much of the information you provided to us in the Account section of the SUBARU Care app.

3.3. SE reserves the right, at all times and at its discretion:

3.3.1. to refuse access to the SUBARU Care app,

3.3.2. to refuse the opening of your SUBARU Care account, and

3.3.3. to terminate or remove your SUBARU Care account.

3.4. If your SUBARU Care account related information indicates that you have not been active on your SUBARU Care account for a period of 6 months or you have not fully activated your SUBARU Care account, then SE shall notify you that it shall delete your SUBARU Care account (including any Personal Data that is processed when accessing and/or using the SUBARU Care app) 14 calendar days before closing your SUBARU Care account.

If your SUBARU Care account related information indicates that you own one or more Subaru vehicles and that you have not logged in on your SUBARU Care account for 5 years, we will consider that you do not wish to keep your SUBARU Care account and no longer wish to rely on certain of its features that are linked to the ownership and use of your vehicle(s) (for example, the link between the use of a connectivity device in your car and your SUBARU Care account). We will then close your SUBARU Care account and delete your Personal Data related to your SUBARU Care account.

14 calendar days before effectively closing your SUBARU Care account and deleting your Personal Data, we will send you an e-mail so that you can confirm whether or not you want to keep your SUBARU Care account.

The above applies equally if your SUBARU Care account related information does not indicate that you do not own a Subaru vehicle and you have not logged in on your SUBARU Care account for 2 years.

#### **4. ACCESS TO AND USE OF THE SUBARU CARE APP AND YOUR SUBARU CARE ACCOUNT**

4.1. We will try to ensure an uninterrupted availability of the SUBARU Care app and your SUBARU Care account and error-free transmissions. However, due to the

nature of the Internet, an uninterrupted and error-free access cannot be guaranteed. You cannot claim any damages from SE in the event of interruption of the availability of the SUBARU Care app or your SUBARU Care account, except in the event of our or our appointees' intentional fault or gross negligence, or in the event of non-performance of our essential obligations under these Terms of Use.

- 4.2. SE may occasionally suspend or restrict your access to the SUBARU Care app and/or your SUBARU Care account in any case of emergency, for technical reasons (repair, maintenance, improvement, etc.), for security related reasons and/or for the introduction of changes (new facilities, services, apps, etc.), without incurring any liability. We will attempt to limit the frequency and duration of any such suspension or restriction.
- 4.3. SE may also block or prevent access to your SUBARU Care account in case of a (suspected) breach of confidentiality/security of the account or a misuse thereof.
- 4.4. You are responsible for the choice of your own devices used to access the SUBARU Care app and your SUBARU Care account, as well as the products, services or apps via the SUBARU Care app, including the compatibility of such devices in terms of software and technological fitness to receive the Services and to access and use the SUBARU Care app and your SUBARU Care account. You are also responsible for keeping your devices up to date, including, but not limited to, by installing any updates or new releases when these are made available by SE.

## **5. LICENSE TO ACCESS AND USE THE SUBARU CARE APP AND YOUR SUBARU CARE ACCOUNT**

- 5.1. SE grants you a limited licence to access and make personal use of the SUBARU Care app and your SUBARU Care account, but not to download (other than page caching) or modify it, or any portion of it, except after a prior explicit written consent of SE.
- 5.2. The use of the SUBARU Care app and the creation and use of the SUBARU Care account are for free. In the event that, at any time, we would change our policy and that we would charge the users for their use of the Services, the SUBARU Care app or the SUBARU Care account, you will be notified of such change beforehand and you will then have the opportunity to not continue using the Services, the SUBARU Care app or the SUBARU Care account on a paid-for basis.
- 5.3. SE reserves the right to modify, discontinue, suspend or replace any service or app available or offered through the SUBARU Care app at any time and at its discretion. In such case, SE shall inform you reasonably in advance thereof. SE shall not incur any liability as a consequence of its decision.
- 5.4. This licence does NOT include (a) any re-sale or commercial use of this app and website or its contents, (b) any collection and use of any product listings, descriptions or prices, (c) any derivative use of this app and website or its contents, (d) any downloading or copying of account information for the benefit of another merchant or (e) any use of data mining, robots or similar data gathering and extraction tools.

- 5.5. The Services, the SUBARU Care app, your SUBARU Care account, or any portion thereof may not be reproduced, duplicated, copied, sold, resold, visited, or otherwise exploited for any commercial purpose without the prior explicit written consent of SE.
- 5.6. Furthermore, you are not allowed to undertake any of the following:
  - 5.6.1. Frame or use framing techniques to enclose any trademark, logo or other proprietary information (including images, text, page layout, or form) of SE and its affiliates without explicit written consent;
  - 5.6.2. To use any meta-tags or any other "hidden text" utilising SE's or its affiliates' names or trademarks without the explicit written consent of SE;
  - 5.6.3. Act inappropriately by engaging in a behaviour that cannot be expected from a honest user acting in good faith;
  - 5.6.4. Duplicate, license, sublicense, publish, broadcast, transmit, distribute, perform, display, sell, rebrand, or otherwise transfer the data except as permitted in these Terms of Use;
  - 5.6.5. Attempt to or actually override any security component;
  - 5.6.6. Take any action or omission that may disrupt or compromise the integrity or security of the Services, the SUBARU Care app, your SUBARU Care account, any network of partners or vendors of us or the privacy of any other person or to cause any damage to us or any of our partners, vendors or customers;
  - 5.6.7. Access or use the Services, the SUBARU Care app or your SUBARU Care account:
    - (a) for any fraudulent, criminal, defamatory, harassing or tortious purpose, or to participate in or promote any illegal activity;
    - (b) to breach, violate or infringe intellectual property, privacy or other rights, or misappropriate the property of any third party;
    - (c) to transmit misleading or inaccurate information with the intent to defraud, cause harm, or wrongfully obtain anything of value;
  - 5.6.8. Inspect, possess, use, copy, reverse engineer, or attempt to discover the source code of or used to create any computer program or other component of the Services, the SUBARU Care app or your SUBARU Care account, except as otherwise permitted by applicable laws;
  - 5.6.9. Attempt to hack or gain unauthorised access to any network, environment, or system of us or of any of our partners, vendors or customers;
  - 5.6.10. Collect, use or transfer any information, including personal data, processed in the context of your use of the Services, the SUBARU Care app or your SUBARU Care account other than for your permitted use of the Services;

- 5.6.11. Access or use the Services, the SUBARU Care app or your SUBARU Care account in order to build a competitive product or for the primary purpose of monitoring its availability, performance or functionality or for benchmarking or competitive purposes; and
- 5.6.12. Remove any copyright, trademark or other proprietary rights notices.
- 5.7. In case of any unauthorised use, SE shall be entitled to terminate the access to and use of the SUBARU Care app and/or your SUBARU Care account and/or any services or app related thereto with immediate effect and without being liable to you for any compensation.

## **6. INTELLECTUAL PROPERTY RIGHTS**

- 6.1. All intellectual, industrial and other (property) rights, title and interest in and related to the Services belong to our affiliates, our subcontractors, Third Party Service Providers and/or our licensors. Except as otherwise explicitly provided, the provisions of these Terms of Use cannot be construed as granting or assigning to you any intellectual, industrial and other (property) rights, rights of use, title and interest in and related to the Services.
- 6.2. SE's graphics, logos, page headers, button icons, scripts and services and apps names are the trademarks or trade dress of SE. SE's trademarks and trade dress may not be used in connection with any product or service that is not SE's, in any manner that is likely to cause confusion among customers or in any manner that disparages or discredits SE.
- 6.3. SE shall retain any and all rights on the data obtained from the use of the SUBARU Care app, its content, services and apps, etc., in anonymous form, and any subsequent use of or analysis performed by us based on such data.

## **7. THIRD PARTY SERVICE PROVIDERS**

- 7.1. Third Party Service Providers may make accessible, provide or sell products, services or apps through the SUBARU Care app.
- 7.2. We are not responsible for checking, evaluating and/or validating any of these Third Party Service Providers' products, services or apps. We do not warrant nor endorse the offerings of any of these Third Party Service Providers and we are not in any way responsible or liable for any action from the Third Party Service Providers and/or for the content, quality and/or performance of their products, services or apps.
- 7.3. The Third Party Service Providers will have separate terms of use for making accessible, providing or selling their products, services and apps, which you will have to accept specifically. You should carefully review these terms of use when you consider to engage in any transaction with them.

## **8. WARRANTIES AND LIABILITY**

- 8.1. Despite the many technical and organisational measures that we take to guarantee the quality and security of the Services, the SUBARU Care app and your SUBARU Care account, we cannot guarantee that:
  - 8.1.1. the information your Subaru vehicle transmits to our back-end information systems will always be fully private and secure and is free from any risk of interception or other unauthorised access;
  - 8.1.2. your access to and use of the Services, the SUBARU Care app and your SUBARU Care account will be uninterrupted and available at all times;
  - 8.1.3. the data made available to you through the Services, the SUBARU Care app and your SUBARU Care account are accurate or complete;
  - 8.1.4. the Services, the SUBARU Care app and your SUBARU Care account are error-free or that there would be no loss of quality.
- 8.2. We do not guarantee the quality, completeness or correctness of any of the services provided by Third Party Service Providers and we therefore do not assume any responsibility or liability arising from your use of those services. To the extent permitted by applicable law, you agree to indemnify us and hold us harmless against any damage or loss we or our associated or affiliated companies may incur in relation to your use of the services provided by Third Party Service Providers.
- 8.3. We cannot be held liable for any loss or damage or for any third party claims resulting from your failure to terminate your access and/or use of the Services, the SUBARU Care app or your SUBARU Care account.
- 8.4. Notwithstanding any other provision of these Terms of Use, we do not exclude or limit our liability for:
  - 8.4.1. death or personal injury caused by us;
  - 8.4.2. fraud, fraudulent misrepresentation, gross negligence or wilful misconduct caused by us or by any of our employees or agents;
  - 8.4.3. non-performance of our essential obligations under these Terms of Use;  
or
  - 8.4.4. loss or damage that we may not limit or exclude under mandatory applicable law.
- 8.5. Subject to clause 8.4., our total aggregate liability arising from negligence, breach of contract or otherwise under or in connection with these Terms of Use will be limited to the higher of
  - 8.5.1. EUR 200; or
  - 8.5.2. the total amount of the fees paid by you to us during the period of three (3) months preceding the event giving rise to the liability.
- 8.6. Subject to clause 8.4., we will not be liable:

- 8.6.1. for any indirect or consequential loss or damage whether arising from negligence, breach of contract or otherwise, including but not limited to any loss of profits, loss of goodwill, loss of data, loss of revenue, loss of turnover, loss of business, reputational damage, loss of opportunities, business interruptions or loss of anticipated savings; or
- 8.6.2. for any loss or damage resulting from your failure to comply with your responsibilities and obligations under these Terms of Use.

## **9. MODIFICATIONS**

- 9.1. We reserve the right to make changes to the content, services, application software, etc. of the SUBARU Care app, as well as to these Terms of Use, at any time. You will be subject to the version of these Terms of Use in force at the time that you use the SUBARU Care app, unless any change to those Terms of Use is required to be made by law or any governmental authority. If any of these Terms of Use is deemed invalid, void or for any reason unenforceable, that specific term will be deemed severable and will not affect the validity and enforceability of any of the remaining Terms of Use.
- 9.2. It is your responsibility to regularly check these Terms of Use via the SUBARU Care App.
- 9.3. If we modify these Terms of Use, we will notify the change to you via the SUBARU Care App.
- 9.4. If, within thirty (30) calendar days from your receipt of the above-mentioned notification, you have not terminated your access and use of the Services, the SUBARU Care app or your SUBARU Care account, such modification will enter into effect and become binding upon you as from the expiry of such thirty (30) calendar days period.

## **10. COMPLIANCE WITH LAW**

- 10.1. You acknowledge and agree that it is your responsibility to comply with applicable laws and regulations when accessing and using the Services, the SUBARU Care app and your SUBARU Care account. Without limiting the generality of the foregoing, it is your responsibility to comply with any:
  - 10.1.1. applicable export and import laws and regulations applicable to the use of the Services, the SUBARU Care app and your SUBARU Care account; and
  - 10.1.2. applicable privacy and employment laws and regulations. If you are an employer and if you make our Services, the SUBARU Care app and your SUBARU Care account available to your employees, you must comply with any rules and restrictions regarding the use of the Services, the SUBARU Care app and your SUBARU Care account in relation to employees (e.g. by providing fair processing information and by obtaining consent where required).

## **11. PRIVACY AND DATA PROTECTION**

- 11.1. We shall process your personal data in compliance with applicable privacy regulations, in particular Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of individuals with regard to the processing of personal data and on the free movement of such data and repealing Directive 95/46/EC (General Data Protection Regulation).
- 11.2. If you want to know more about how we process your personal data, please consult our privacy notice through the following hyperlink: <https://www.subaru.eu/privacy-policy-connected-services>

## **12. MISCELLANEOUS**

- 12.1. No delay or failure by either you or us to exercise any powers, rights or remedies under these Terms of Use will operate as a waiver of them, nor will any single or partial exercise of any such powers, rights or remedies preclude any other or further exercise of them. Any waiver to be effective must be in writing.
- 12.2. SE shall not be deemed to be in breach of these Terms of Use by reason of any delay in performing, or any failure to perform any of its respective obligations in relation to this Terms of Use, if the delay or failure is due to an event beyond the reasonable control of SE.
- 12.3. If any term or other provision of these Terms of Use is invalid, illegal or incapable of being enforced by any rule or law, or public policy, all other conditions or provisions of these Terms of Use will nevertheless remain in full force and effect. Upon such determination that any term or other provision is invalid, illegal or incapable of being enforced, the Parties will negotiate in good faith to modify these Terms of Use so as to effect the original intent of the Parties as closely as possible.
- 12.4. Any provision under these Terms of Use which is expressly or by implication intended to continue in force after the termination or expiration of your access and/or use of the Services, the SUBARU Care app or your SUBARU Care account will not be affected by such termination or expiration and will continue to be in full force thereafter.
- 12.5. Without limiting the generality of clause 12.3, clauses 5.6, 6, 8 and 10 will survive expiry or termination of your access and/or use of the Services, the SUBARU Care app or your SUBARU Care account.
- 12.6. We are entitled to subcontract, assign or transfer any of our rights and/or obligations with respect to these Terms of Use to any third party.
- 12.7. You may not subcontract, assign or transfer any of your rights and/or obligations with respect to these Terms of Use to any third party, without our prior written authorisation.
- 12.8. These Terms of Use constitute the entire agreement between you and us with respect to the Services and they supersede and replace any prior or contemporaneous agreements, written or oral, relating to the Services.



### **13. CONTACT DETAILS AND COMPLAINTS**

13.1. If you have any questions about the Services or if you have any complaints about the Services, please contact your preferred Subaru dealer first. You can also contact us via the Contact section in the SUBARU Care app.

13.2. If and to the extent applicable under the laws of your country of subscription to the Services, and provided that you are a consumer under those laws, you have the right to lodge a complaint:

13.2.1 through the ODR platform by clicking on the following link: <https://ec.europa.eu/consumers/odr>; when filing a complaint via this platform, the following email address [mt.subarucare@subaru.eu] can be mentioned as our email address; or

13.2.2 with the following competent authority:  
Ministry for Social Dialogue, Consumer Affairs and Civil Liberties  
Barriera Wharf,  
Valletta. VLT 2000  
+356 20908311  
socialdialogue@gov.mt

### **14. GOVERNING LAW AND JURISDICTION**

14.1. These Terms of Use are governed by and will be construed in accordance with the laws of Belgium.

14.2. Any litigation concerning the content, interpretation and/or implementation of these Terms of Use shall be brought before the competent courts of your place of residence, except in case you (or your employer who has acquired the Services) are a professional user of the Services, in which case the Dutch speaking courts of Brussels, Belgium shall have exclusive jurisdiction.