

Branded Financial Services (NZ) Limited

40 Paisley Place, Mount Wellington, Auckland 1060, New Zealand

CONSUMER CREDIT CONTRACT TERMS AND CONDITIONS

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Consumer Credit Contract - Terms and Conditions

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Consumer Credit Contract

General

Unless otherwise specified "you" and "your" refer to the Borrower named in the Disclosure Statement, and "we", "us" and "our" refer to the Lender named in the Disclosure Statement or the Lender's assignee. Where the Borrower comprises more than one person, the obligations of the Borrower shall be joint and several. Where there is more than one Guarantor named in the Disclosure Statement, the obligations of the Guarantors are joint and several.

You and each Guarantor acknowledge our recommendation to obtain independent legal advice about this Contract and both yours and each Guarantor's obligations under it, before you signed it.

Registration and Insurances

1. REGISTRATION

1.1 You will register the Vehicle and at all times maintain such registration during the Contract Term.

2. COMPREHENSIVE INSURANCE

2.1 You will insure the Vehicle:

- (a) comprehensively against loss, damage or destruction whether by fire, theft, collision, vandalism or such other risks as we may reasonably require from time to time for full replacement value; and
- (b) against public liability for such an amount as we reasonably require.

2.2 You will maintain and renew that insurance with an insurer acceptable to us, noting our interest as first security holder on the policy, and you will provide us with annual written confirmation of that insurance upon renewal.

2.3 You will not vary any insurance policy without our prior written consent.

2.4 You appoint us and each of our authorised representatives as your attorney for the purposes of recovering any insurance monies and settling any claims arising from the Vehicle insurance, and you understand that we may elect to retain any insurance monies and at our discretion, either:

- (a) repair the Vehicle; or
- (b) pay the monies to the credit of any monies you owe us.

2.5 If the cost of repairs exceeds the insurance monies, you will make up any difference to us immediately upon demand.

Operation and Maintenance

3. OPERATION

3.1 You will:

- (a) ensure the Vehicle is at all times maintained in First Class Condition and in running order, and serviced by qualified personnel according to the manufacturer's requirements;
- (b) allow us to inspect the Vehicle at any reasonable time and you authorise us to enter any premises where the Vehicle is located for that purpose. You indemnify us from and against all loss, legal costs (including legal costs incurred on a solicitor/own client basis), expenses,

claims, proceedings and any other liability you suffer or incur as a consequence of such entry;

(c) immediately repair any accident damage to the Vehicle;

(d) ensure the Vehicle has a valid warrant of fitness at all times during the Contract Term;

(e) only use the Vehicle for the purposes for which it was designed and manufactured; and

(f) if applicable, ensure all log books, service records and all other information required by law are at all times correct and current during the Contract Term.

3.2 You will not:

(a) without our prior written consent, change or modify any part of the Vehicle including the physical appearance of the Vehicle's body and interior, or the engine, or allow any accessions to attach to the Vehicle. If we consent, you agree that all parts added (including any new engine) become our property;

(b) use or let anyone else use the Vehicle in any way that breaches the law or the terms of your insurance policy, or otherwise in a negligent or reckless manner;

(c) remove or allow anyone else to remove the Vehicle from New Zealand without your prior written consent;

(d) allow any Security Interest to attach to the Vehicle or any accession; or

(e) sell or otherwise part with the possession or control of the Vehicle or any part of the Vehicle.

3.3 You will put in place security precautions to protect the Vehicle from being lost, damaged or destroyed.

Ending the Agreement

4. EVENTS OF DEFAULT

4.1 You will be in default if:

(a) you fail to pay any amount you owe us under this Contract on the due date for payment;

(b) you fail to do anything required of you under this Contract, and if such default is capable of remedy, you or any Guarantor

fail to remedy that default within 15 days after you receive notice of the default from us;

- (c) you are in default under any other Finance or Security Agreement;
- (d) any information given to us in connection with this Contract is misleading or false (including by omission) in any material respect;
- (e) steps are taken for your bankruptcy or you die;
- (f) any insurance on the Vehicle is cancelled, or you do anything, or a situation arises that may in anyway prejudice, invalidate or result in an insurance policy being cancelled;
- (g) the Vehicle is totally damaged or lost (refer to clause 5);
- (h) we believe the Vehicle is at risk; or
- (i) an event occurs, or which we reasonably believe may occur, which in our opinion will or may:
 - (i) breach any law in New Zealand or any other country or any of our policies including risk policies;
 - (ii) affect the value of the Vehicle; or
 - (iii) affect your ability, or any Guarantor's ability, to meet yours or that Guarantor's obligations under this Contract, or any other Finance or Security Agreement.

4.2 **Our rights**

If you default, subject to compliance with our obligations under the Credit Contracts and Consumer Finance Act 2003:

- (a) all amounts of whatever nature you owe us, or are payable to us, under this Contract (including interest, default interest, fees, charges and all other costs and expenses), shall become due and payable, and you shall pay such amounts in full upon demand;
- (b) we may immediately terminate this Contract by notice to you in writing; and/or
- (c) we may repossess the Vehicle and sell it. You authorise us to enter any property or premises for that purpose and you indemnify us against all loss, costs (including legal costs incurred on a solicitor/own client basis), expenses claims, proceedings and any other liability we suffer or incur as a consequence of such entry.

4.3 **Enforcement expenses**

You will pay to us all fees, costs and expenses (including legal costs incurred on a

solicitor/own client basis, debt recovery fees and agency fees), we incur in relation to the exercise, protection or enforcement of any of our rights under this Contract, or in suing or recovering any amount you owe us, upon demand.

5. **IF THE VEHICLE IS TOTALLY DAMAGED OR LOST**

- 5.1 The Vehicle is totally damaged or lost if it is stolen or lost and not recovered within 14 days, or is destroyed or impractical or uneconomic to repair.
- 5.2 You will advise us immediately in writing if the Vehicle is lost or totally damaged.
- 5.3 If any of the events in clause 5.1 occur, then in addition to any insurance proceeds, we are entitled to receive all monies paid or payable to you by any person in respect of the Vehicle. If you receive any monies to which we have entitlement, you will hold them on trust for us, and will pay it to us upon demand.
- 5.4 Within 21 days after the Vehicle is totally damaged or lost you must pay all amounts of whatever nature you owe us, or are payable to us, under this Contract (including interest, default interest, fees, charges and all other costs and expenses), upon demand. After this payment is made, we may terminate this Contract by written notice to you.

Payment Obligations

6. **PAYMENTS**

6.1 **You will:**

- (a) pay us the Repayments at intervals and in the amounts set out in the Disclosure Statement. We will credit all Repayments received by you in accordance with the Disclosure Statement;
- (b) pay all amounts of whatever nature you owe us, or are payable to us, under this Contract (including interest, default interest, fees, charges and all other costs and expenses) at the end of the Contract Term, upon demand;
- (c) pay or indemnify us against all fees, taxes (including any goods and services tax), duties, assessments and charges, however designated, levied or based upon the purchase, rental, leasing, sale, maintenance, possession or use of the Vehicle. You agree that we shall have the right to increase or gross up the amount of any payment to take account of any such taxes, duties, assessments or charges, with the intention that the amount of the net payment received by us shall not be less than the amount of the payment noted in the Disclosure Statement or that you are otherwise required to pay;

- (d) pay all fines, infringement notices and charges relating to the Vehicle and/or its use;
- (e) pay all insurance premiums and such other amounts required to ensure all insurance over the Vehicle remains valid during the Contract Term;
- (f) pay the Credit Fees and Charges listed in the Disclosure Statement;
- (g) pay all charges we reasonably determine and require you to pay:
 - (i) if any payment you make is returned or dishonoured by our bank or financial institution;
 - (ii) if any repayment becomes overdue;
 - (iii) if you request that we amend, vary or assign your obligations under this Contract.

6.2 Variations:

You agree to us varying the amount, frequency, time for payment, or method of calculation of any fees or charges payable under this Contract (including by way of adding new fees or charges). Where required to do so, we will notify you of any changes in accordance with the Credit Contracts and Consumer Finance Act 2003.

6.3 Times for payment

All payments must be paid at the times provided for in this Contract or, where no time for payment is provided for, upon demand.

6.4 Adjustments

If the amount actually payable by us to a relevant authority for any duties, taxes or fees differs from the amount (if any) disclosed in the Disclosure Statement, you must pay us the amount of the deficiency, or we will give credit to you for any excess, as the case may be.

6.5 Interest on overdue payments

If you fail to pay any amount under this Contract on the due date for payment, we may require you to pay interest on the amount overdue at the Default Interest Rate from the end of the day the payment was due until you pay the overdue amount in full. This interest must be paid by the next scheduled payment date and in any event, if outstanding at that time, upon the expiry of the Contract Term. You must also pay us any applicable Late Payment Fees or Dishonour Fees.

6.6 How payments must be made

All payments in this Contract must be made by direct debit or as we otherwise direct.

6.7 Part prepayments

We may at our sole discretion decline to accept a part prepayment of any amount under this Contract from you. If we accept a part prepayment, the part prepayment will be

credited in accordance with the Disclosure Statement.

6.8 Payments in full

Your obligations to pay Repayments and all other monies, and otherwise to perform your obligations, under this Contract will continue regardless of any defect in, or lack of performance of, the Vehicle or any breakdown, damage to, or loss or destruction of the Vehicle, or any delay in delivery of the Vehicle.

If you decide to fully repay all amounts payable by you under this Contract before the final payment is due, we may require you to pay to us, upon demand:

- (a) our administration fee specified in the Disclosure Statement; and
- (b) a fee or charge to compensate us for any loss we suffer resulting from the full prepayment. The amount you have to pay us for this loss will be calculated using the formula prescribed in regulation 9 of the Credit Contracts and Consumer Finance Act 2004.

6.9 Days for payment

If a date for payment of money under this Contract is a day other than a Working Day in the place in which the payment is to be made, then the money must be paid on the preceding Working Day.

6.10 Set-Off

We may set-off any amount we owe you or to any Guarantor against any amount you or any Guarantor owe or may owe us under this Contract or any other Finance or Security Agreement.

You will not withhold Repayment or other monies you owe us, or exercise any right or claim to any set-off.

6.11 Anti-money laundering and sanctions

You agree that we may delay, block or refuse to process any transaction without incurring any liability if we suspect that:

- (a) the transaction may breach a law in New Zealand or any other country or does not comply with any of our policies, including our risk policy;
- (b) the transaction involves any person (natural, corporate or governmental) that is itself sanctioned or is connected, directly or indirectly, to any person that is sanctioned under economic and trade sanctions imposed by the United States, the European Union or any other country; or
- (c) the transaction may directly or indirectly involve the proceeds of, or be applied for the purposes of, unlawful conduct.

You, and each Guarantor, must provide all information to us which we reasonably require in order to manage money-laundering or terrorism-financing risk or to comply with any

laws in New Zealand or any other country, including in relation to the prevention of crime or fraud. You, and each Guarantor, agree that we may disclose any information concerning you to any law enforcement, regulatory agency or court where required by any such law in New Zealand or elsewhere, or to assist us to decide what we need to do to comply with any such laws.

If a Guarantor is acting in a trustee capacity or on behalf of another party, they warrant that they are acting on their own behalf in entering into this Contract.

You declare and undertake to us that the payment of monies by us in accordance with your instructions will not breach any laws in New Zealand or any other country.

7. SECURITY

7.1 You grant us a Security Interest in the Vehicle, all proceeds, and in all of your present and future rights in relation to that Vehicle and those proceeds, as security for the payment of all amounts you may at any time owe us or are payable to us, and the performance of all of your obligations to us, whether under this Contract or any other Finance or Security Agreement (**Vehicle Security Interest**).

7.2 You will do everything and provide all information we require to establish and maintain a perfected first ranking Vehicle Security Interest.

7.3 You will not change your name or other details without giving us at least 14 days prior written notice.

7.4 You agree that the Vehicle Security Interest:

- (a) is collateral with every other Security Interest or guarantee you or any Guarantor has granted in our favour; and
- (b) shall remain in full force until we sign a final release.

7.5 You agree that nothing in sections 114(1)(a) (to receive notice of sale of goods), 116 (to receive a statement of account), 120(2) (to receive notice of proposal to take goods), 133 (to reinstate security agreement) and 134 (limit on reinstatement) of the Personal Property Securities Act 1999 (**PPSA**) will apply to this Contract or the Vehicle Security Interest.

7.6 You waive:

- (a) all of your rights under sections 121 (to object to proposal), 125 (damage to goods on removing accession), 129 (notice of removal of accession), and 131 (Court order preventing removal of accession) of the PPSA; and
- (b) your right to receive a copy of the verification statement confirming registration of a financing statement or financing change statement relating to the Vehicle Security Interest.

Guarantee and Indemnity

8. GUARANTEE AND INDEMNITY

8.1 Guarantee and indemnity

In consideration of us entering into this Contract at the request of the Borrower and each Guarantor, each Guarantor jointly and severally:

- (a) guarantees the payment of all amounts payable by the Borrower and the performance of all the Borrower's obligations to us, under this Contract now, or at any time (**Guaranteed Amount**);
- (b) agrees to pay us any amount payable by the Borrower under this Contract as soon as we demand it; and
- (c) indemnifies us against all costs and expenses (including legal costs incurred on a solicitor/own client basis), losses and liabilities incurred by us, and all claims made and proceedings brought against us because we cannot enforce the above guarantee for whatever reason. This may include a situation where we have no legal right to recover an amount payable under this Contract from the Borrower,

(together this **Guarantee and Indemnity**)

The above indemnity is a principal obligation and is separate to the Borrower's obligations to us under this Contract and a guarantee and indemnity given by another Guarantor. We can require any Guarantor to pay any Guaranteed Amount before or instead of requiring the Borrower or another Guarantor to pay it.

If a Guarantor does not pay any of the Guaranteed Amount when we demand it, we may, among other things:

- (d) sue the Guarantor, or if the Guarantor has given a security interest which secures this Guarantee and Indemnity, enforce that security interest; and
- (e) require the Guarantor to pay all our reasonable costs and expenses of enforcing this Guarantee and Indemnity, including legal fees and costs incurred on a solicitor/own client basis.

8.2 Obligations are unconditional

The obligations of each Guarantor under this Guarantee and Indemnity are unconditional, which means each Guarantor will continue to be liable even if:

- (a) we do not exercise any of our rights against the Borrower or another person;
- (b) we give the Borrower more time to pay any amount payable under this Contract or any other Finance or Security Agreement or any other concession;
- (c) we make a different arrangement or make a compromise with the Borrower;

- (d) we give the Borrower or another person a discharge, a release or limit our rights;
- (e) we do not take security even if that security was mentioned to the Guarantor; or
- (f) the Borrower or anyone else has any claim against us.

8.3 Contract can be changed

We may change this Contract with the Borrower at any time without the consent of the Guarantors. This includes changes that may increase the liability or obligations of a Guarantor under this Guarantee and Indemnity provided that where required to do so, we will disclose that change in accordance with the Credit Contracts and Consumer Finance Act 2003.

8.4 Guarantors still liable after Borrower makes payment

The obligations of each Guarantor under this Guarantee and Indemnity are continuing, which means they apply to all amounts payable under this Contract, even if some of it has been paid by the Borrower or another person, and even if there is any limit on the total amount we may be able to recover from the Borrower under this Contract or any other Finance or Security Agreement.

8.5 How the Lender will apply money it receives

If we receive or recover any money in respect of any amount payable by the Borrower, we may use it to pay off whichever part of the Borrower's debt we choose. We do not have to apply the money for a Guarantor's benefit.

8.6 Refunding of payments

If we are required to refund any amount which the Borrower or anyone else has paid to us, or which we have recovered in any way (including in an administration, liquidation or receivership), each Guarantor will owe to us all amounts they would have owed if the amount refunded had never been paid or recovered.

This obligation continues even after this Contract is terminated or this Guarantee and Indemnity is discharged.

8.7 Other payments

If we are required to deduct any tax from any payment:

- (a) each Guarantor promises to pay that amount to the appropriate authority; and
- (b) the amount payable to us will be increased so that after deducting that tax we receive the same amount we would have received had no deduction been made.

8.8 Release in writing

No discharge or release of a Guarantor from its liabilities under this Guarantee and Indemnity shall be effective unless it is in writing and signed by us or one of our officers.

8.9 Liability to continue

The liability of each Guarantor shall continue even if we have taken possession of the Vehicle pursuant to this Contract.

Additional Information

9. EXCLUSIONS

9.1 You acknowledge that all terms, conditions, guarantees or warranties, which may be implied into this Contract are excluded to the maximum extent permitted by law.

10. INDEMNITIES AND RELEASES

10.1 You indemnify and hold us harmless against all claims, losses, proceedings, injuries, expenses, costs (including legal costs incurred on a solicitor/own client basis and enforcement costs) and any other liability (direct or indirect) we suffer or incur caused by yours or a Guarantor's breach of this Contract or any law, related to the use, maintenance or condition of the Vehicle, or any other act or omission by you or a Guarantor. You will pay all of our resulting costs and expenses, upon demand.

11. POWER OF ATTORNEY

11.1 You, and each Guarantor irrevocably and jointly and severally, appoint us and each of our officers as your attorney in each of your names and at the expense of each of you, to do all things, and execute all documents, which you or any Guarantor have agreed to do or execute under this Contract, or which we believe is necessary to give effect to, or to exercise, any right, power or remedy given to, or vested in, us under this Contract, any other Finance or Security Agreement, or by law.

12. ASSIGNMENT

We may assign or transfer any of our rights or obligations under this Contract without your consent or the consent of the Guarantor(s). You are not entitled to transfer, charge or otherwise deal with any of your rights under this Contract or any other Finance or Security Agreement without our prior written consent.

13. ADDRESS

You and each Guarantor will notify us of a change in yours or a Guarantor's address.

14. OUR RIGHTS WHEN THIS CONTRACT TERMINATES

The termination or expiry of this Contract, for whatever reason, will not affect our rights, powers and remedies with respect to any prior breach by you or any Guarantor under this Contract, or any rights or powers we may have under any law.

15. GIVING NOTICE UNDER THIS CONTRACT

15.1 You, us and each Guarantor may give each other any notice, disclosure statement or any other document or communication regarding this Contract by:

- (a) handing it to the addressee personally or by leaving it, or by sending it by post to the address of the addressee's place of

residence or business last known to the person giving notice;

- (b) by facsimile, email or similar facility to the number or address of the addressee last known to the person giving notice;
- (c) by us providing disclosure statements and other notices through our website in accordance with the Credit Contracts and Consumer Finance Act 2003; or
- (d) any other lawful way

15.2 To the extent the law permits, notice will be taken to be given to you:

- (a) for a notice sent by post - on the date when, in the ordinary course of the post, it could have been expected to have been received, but no later than 7 Working Days after it is posted;
- (b) for a notice sent by facsimile - when the sending machine indicates transmission has occurred;
- (c) for a notice sent by email - on the date of delivery or transmission (whether or not the notice is actually received by the relevant party); or
- (d) for a notice given personally or left - on the date you are given it, or it is left.

16. COMMISSION

You consent to us paying a commission to any third party in relation to this Contract.

17. ABILITY TO BIND

17.1 If a Guarantor enters into this Contract as trustee for a trust, then that trustee personally warrants that they are duly authorised and permitted under the applicable trust deed or other legal instrument to enter into this Contract and fully bind the trust to the maximum extent permitted by law.

17.2 Each Guarantor acknowledges that if they have entered into this Contract as a trustee of a trust, they are personally liable under this Contract unless they are an independent trustee. If they are an independent trustee, they will only be personally liable to us if we are unable to recover any amount we are owed from the trust assets because a warranty the applicable Guarantor(s) gave us is incorrect or due to a Guarantor's negligence. An **independent trustee** is a person who is not a beneficiary of the applicable trust, or has no other right to, or interest in, any of the assets of the trust except in their capacity as a trustee.

18. COMPLETING OR AMENDING DETAILS

18.1 For the purposes of enabling us to obtain the full benefit of this Contract and to acquire a valid and enforceable security interest over the Vehicle, you authorise and consent to us correcting any details about you, a Guarantor, or the Vehicle, or adding any missing information in the Disclosure Statement. Where required, we will give you, or a Guarantor (as applicable) notice of any change in accordance with the

Credit Contracts and Consumer Finance Act 2003.

19. ENTIRE AGREEMENT

We, you and each Guarantor agree that this Contract contains the entire agreement between all of us, concerning its subject matter and to the maximum extent permitted by law, supersedes all previous understandings, arrangements and communications (verbal or oral) as to that subject matter.

20. INFORMATION

20.1 You and each Guarantor authorise us to collect, use and disclose credit information and personal information about you and each Guarantor (**Information**) to and from any third party (including credit reporters, debt collectors, accountants, lawyers, motor vehicle dealers, other financial institutions, the Police and any government agency) which we consider necessary to:

- (a) to identify and verify yours or any Guarantor's identity and any other information about you or a Guarantor that we may require from time to time;
- (b) make a credit decision about you or a Guarantor in relation to this Contract, including reviewing, managing, and monitoring the performance of yours or any Guarantor's obligations under it,
- (c) recover any amount you or any Guarantor owes us, and to take enforcement action against you or a Guarantor;
- (d) comply with any laws in New Zealand and overseas;
- (e) to utilise services provided by third parties (including credit reporters) in connection with this Contract and the other purposes listed in this clause 20.1; and
- (f) to give you and each Guarantor information about other products and services we, or our related companies, or any other third party with which we do business, offer or for other marketing purposes, unless you or a Guarantor tell us not to.

20.2 You, and each Guarantor, acknowledge that the Information (including yours and each Guarantor's regular repayment history information (good and bad)) we disclose and share with creditor reporters is used by them to help other third parties to decide whether to provide credit or other goods or services to you or a Guarantor, and to recover money and property from you or any Guarantor. You, and each Guarantor, authorise those credit reporters to use and disclose the Information for this purpose and for the purposes listed in clause 20.1.

21. SURVIVAL

21.1 Clauses, 5, 6, 7, 8, 10, 11, 12, 14, 20, 22 and all other clauses which by their nature, survive

termination or expiry, shall survive the expiry or termination of this Contract.

22. GOVERNING LAW

This Contract is governed by the laws in force in New Zealand. You and each Guarantor irrevocably and unconditionally submit to the exclusive jurisdiction of the courts of New Zealand.

23. SIGNING IN COUNTERPART

This Contract may be signed in counterparts. All signed counterparts will together constitute one document. Any copy of this Contract signed by a party which is received by facsimile, email or other reproduction format may be relied on by each other party as though it were an original copy of this Contract. This Contract may be entered into on the basis of an exchange of facsimile or email copies of it.

24. DISPUTES

If you wish to dispute a payment or anything else about this Contract, you are encouraged to contact our internal dispute resolution area. If you are dissatisfied with the outcome, you have a right to take your dispute to our external dispute resolution scheme specified in the Disclosure Statement or to a court.

25. UNDERSTANDING THIS CONTRACT

Special Terms

In this Contract:

"Finance or Security Agreement" means any agreement or other document recording a loan, lease, hire or other financial accommodation we have provided to you or to any Guarantor, and any guarantee or other security you or any Guarantor have granted in our favour;

"First Class Condition" means in good condition for a vehicle of the appropriate year of manufacture with all maintenance carried out in accordance with the manufacturer's specifications and with no unrepaired accident damage;

"Security Interest" means any mortgage, encumbrance, charge, present or future security interest for the purposes of the PPSA, lien (other than a lien arising by operation of law) or any other security arrangement;

"upon demand" means on demand by written notice signed by any of our officers;

"Working Day": means a day of the week other than:

- Saturday, a Sunday, Waitangi Day, Good Friday, Easter Monday, Anzac Day, the Sovereign's Birthday, Labour Day, Auckland Anniversary Day, and if Waitangi Day or Anzac Day falls on a Saturday or a Sunday, the following Monday; and
- a day in the period commencing with 25 December in a year and ending with 2 January in the following year; and

- if 1 January falls on a Friday, the following Monday; and
- if 1 January falls on a Saturday or a Sunday, the following Monday and Tuesday.

The terms **accession, at risk, financing statement, financing change statement, proceeds and verification statement** have the meanings given to them under the PPSA; and

A company is related to us in the manner defined in sections 2(3) or 2(4) of the Companies Act 1993.