



general terms and conditions

consumer credit contracts

business credit agreements and business leases

Branded Financial Services (NZ) Limited

A wholly owned subsidiary of Avanti Finance Limited

About Avanti Finance

We've been saying "yes" to New Zealanders for more than 25 years. There's nothing we like more than helping people to solve problems and grab opportunities by providing the money they need – quickly and easily.

We measure our success by the satisfaction of our customers, who are often introduced to us by our trusted network of nationwide brokers, dealers and mortgage advisors. Feedback tells us that our service is fast, efficient and friendly. And the repeat business we get tells us that our loans and insurance covers meet our customers' needs.

Listening is something we're good at. Our experienced and professional team are great at understanding every customer's needs and situation. Coming up with workable answers to every type of financial challenge is our reason for being. Give us a try.

– Glenn Hawkins, Director, Avanti Finance

Need a loan?

You may not know that Avanti offers a broad range of loan solutions for almost anything. Our loans are designed to be easy, fair, quick and affordable – so that you can turn plans into action.

PERSONAL LOAN

We lend money for all sorts of reasons. You might want to catch up on bills, get some stuff for your home, take a holiday, pay back a friend or fix your car. Some things just can't wait!

LOANS FOR HOME OWNERS

If you own a home, we can help you to finance all kind of things, including house renovations, building projects, tax bills and bridging between properties. Get financial worries off your mind now. Avanti specialises in providing solutions for homeowners, using 1st and 2nd mortgages.

BUSINESS LOAN

Fast and flexible business finance is available from GetCapital. Our business loan products include equipment financing, leasing, factoring, stock financing and working capital loans, visit the GetCapital website for more information.

About Branded Financial Services

Branded Financial Services was established to provide premium motor vehicle finance products and services in New Zealand & Australia. In fact, we are exclusively a motor vehicle financier so our products are tailored and perfectly suited to assist you purchase your next vehicle.

Our financial services heritage is born from 30 years' experience in the automotive industry in New Zealand & Australia. The expertise and professionalism of our company and team speaks for itself.

Branded Financial Services continues the heritage by serving New Zealand's automotive dealers and their customers.

Whilst we provide financial services for all makes of motor vehicles, we are also proud to be partnered with the following brands for financial services:

New Zealand: Maserati, Chrysler, Jeep, Dodge, Alfa Romeo, Fiat Passenger & Commercial, RAM and Mahindra vehicles.

Australia: Maserati, RAM & LDV vehicles.

General Terms

Consumer Credit Contracts, Business Credit Agreements and Business Leases

FINDING YOUR WAY AROUND THE SMALL PRINT

Your loan agreement with us is made up of several documents.

The document that you sign containing your agreements and acknowledgements (we call this the Loan Details); the Cost of Borrowing disclosure statement and this document containing the terms and conditions that apply to all loans (we call this the General Terms).

If you are a guarantor and not the borrower – the same documents contain your guarantee.

To help you find your way around this document we have divided it into sections. Some clauses and some sections may not apply to your specific loan.

If you are a guarantor, the section headed Guarantee and Indemnity applies to you. You should also read and understand all other sections because you are guaranteeing that the borrower will comply with the terms in these sections.

It is important to us that you understand the nature and extent of your obligations to us when we lend money to you. It is tempting to overlook the small print but we encourage you not to. If you have any concerns or do not understand any of these terms or if you feel you are being pressured into signing the Loan Details, then you should obtain legal advice before you sign.

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(continued) and General Terms & Conditions
(version 201911)*

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Section A – Consumer Credit Contracts Initial Disclosure Statement (Continued)

RIGHT TO CANCEL

You are entitled to cancel the consumer credit contract by giving notice to the creditor.

Time limits for cancellation

- If the disclosure documents are handed to you directly you must give notice that you intend to cancel within 5 working days after you receive the documents.
- If the disclosure documents are sent to you by electronic means (for example, email) you must give notice that you intend to cancel within 7 working days after the electronic communication is sent.
- If the documents are mailed to you, you must give the notice within 9 working days after they were posted.

Saturdays, Sundays and national public holidays are not counted as working days.

How to cancel

To cancel, you must give the creditor written notice that you intend to cancel the contract by:

- giving notice to the creditor or an employee or agent of the creditor; or
- posting the notice to the creditor or an agent of the creditor; or
- emailing the notice to the creditor's email address (if specified on the front of the disclosure statement).

You must also, within the same time, return to the creditor any advance and any other property received by you under the contract.

What you may have to pay if you cancel

If you cancel the contract, the creditor can charge you the amount of any reasonable expenses the creditor had to pay in connection with the contract and its cancellation (including legal fees and fees for credit reports, etc.). If you cancel the contract the creditor can also charge you interest for the period from the day you received the advance until the day you repay the advance.

WHAT TO DO IF YOU SUFFER UNFORSEEN HARDSHIP

If you are unable to keep up with your payments under this Contract because of an unexpected event that causes you hardship, such as illness, injury, loss of employment or the end of a relationship you can apply to us for a hardship variation.

To apply for a hardship variation, you need to:

- a) make an application in writing; and
- b) explain your reason(s) for the application; and
- c) request one of the following:
 - an extension of the term of the contract and reducing the amount of each payment due under the Contract accordingly (without a consequential change being made to the annual interest rate); or
 - giving you longer to pay by postponing, during a specified period, the dates on which payments are due under the Contract (without a consequential change being made to the annual interest rate); or
 - both of the above – postponing payments for a specified time and reducing the amount of your payments by extending the term; and
- d) give the application to the us.

Do this as soon as possible. If you leave it for too long, we do not have to consider your application.

FINANCIAL SERVICES PROVIDER - DISCLOSURE STATEMENT

Branded Financial Services (NZ) Limited is licensed (FSP No. FSP279565) by the Financial Markets Authority ('FMA').

The FMA's contact details are:

Financial Markets Authority, PO Box 1179, Wellington 6140

Ph: 04 472 9830 or 0800 434 566

Email: fma@fma.govt.nz

You can obtain information about financial advisers from the FMA and you can also report information about advisers to the FMA. The information provided in this Disclosure Statement is important and should help you decide which financial adviser to choose.

This disclosure statement is given as at the Statement Date on the Initial Disclosure page of your Consumer Credit Contract.

OUR CONTACT DETAILS

Branded Financial Services (NZ) Limited, 33 Broadway, Newmarket, Auckland 1023.

Ph: 0800 399 299

Email: enquiries@brandedfinancial.com

DISPUTE RESOLUTION

We are a member of Financial Services Complaints Limited ('FSCL'), which is an approved dispute resolution scheme.

FSCL's contact details are:

Financial Services Complaints Limited, PO Box 5967, Wellington 6145

Ph: 04 472 3725 or 0800 347 257

Email: info@fscl.org.nz

AGREEMENT EFFECTIVE

The consumer credit contract will not bind us until we have disbursed the agreed loan funds to the relevant nominated account.

Consumer Credit Contract

General Terms and Conditions (version 201911)

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Consumer Credit Contract – General Terms & Conditions (version 201911)

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 our 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:

- breach any law in New Zealand or any other country or any of our policies including risk policies;

- affect the value of the Vehicle; or

- 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:

(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:

- if any payment you make is returned or dishonoured by our bank or financial institution;
- if any repayment becomes overdue;
- if you request that we amend, vary or assign your obligations under this Contract.

(h) pay all Repayments and all other monies, and otherwise to perform your obligations, under this Contract 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.

6.2 Variations:

You agree to us varying the amount, frequency, time for payment, or method of calculation of any fee or charge 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

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.

8. GUARANTEE AND INDEMNITY

8.1 Full guarantee

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

- (a) guarantees the payment and performance of your obligations under this Contract and any other Finance or Security Agreement;
- (b) will pay to us upon demand all monies which are not paid by you on the due date for payment whether or not we have made demand on you; and
- (c) shall observe and perform as a principal debtor all those terms of this Contract, that are to be observed and performed by you, with which you have not complied within fourteen (14) days after the due date for observance or performance, whether or not we have made demand on you for such observance or performance.

8.2 Our powers

We may at all times without prejudice to the guarantee and indemnity provided under this clause 8 (**Guarantee and Indemnity**), and without discharging or in any way affecting any of our rights against the Guarantor(s) hereunder:

- (a) vary any term or condition of this Contract without the Guarantor's consent, including in a way that increases the Guarantor's liability under this Guarantee and Indemnity, provided that we disclose that variation to you and each Guarantor in accordance with the Credit Contracts and Consumer Finance Act 2003;
- (b) grant to you or to any other person including any party any time, credit or indulgence or concession;
- (c) deal with, exchange, release, discharge, modify or abstain from perfecting or enforcing any securities or other guarantees or rights which we may at any time have; and
- (d) do any other thing whatsoever which under the law relating to sureties would, but for this provision, have the effect of prejudicing this Guarantee and Indemnity or discharging or in any way affecting our rights against a Guarantor.

8.3 Indemnity

If the guarantee in this clause 8 is not enforceable against a Guarantor (whether by reason of any legal limitation, disability or incapacity on or of you, or by reason of any other fact or circumstance whatsoever and whether the relevant transactions were void at the time of entry or have been subsequently avoided and whether or not any of the matters or facts relating thereto were or ought to have been made known to us), then each Guarantor as separate and additional agreements, and jointly and severally:

- (a) indemnify us and shall keep us fully indemnified against all losses, damages, costs and expenses (including legal costs incurred on a solicitor/own client basis), claims, proceedings and all other liability we may suffer or incur by reason of the guarantee under this clause 8 not being enforceable or immediately enforceable;

(b) indemnifies us and shall keep us fully indemnified in respect of any claims by you to any refund to which we may be or become entitled, by virtue of all or any of the abovementioned reasons; and

(c) agrees that the guarantee under this clause 8 shall nevertheless be enforceable against each Guarantor as principal debtor and shall be satisfied by each Guarantor upon demand,

and the other provisions of this Guarantee and Indemnity shall apply as far as possible to the provisions of clause 8.3(c). Each Guarantor waives all or any of its respective rights and sureties, which may at any time be inconsistent with this Contract (including this Guarantee and Indemnity).

8.4 **Continuing Guarantee and Indemnity**

This Guarantee and Indemnity is a continuing guarantee and indemnity, is irrevocable and shall remain in full force and effect until:

(a) we have received all monies payable by you or the Guarantor(s) and all of yours and each Guarantor's obligations under this Contract have been fully discharged; and

(b) we are satisfied no payment received, or to be received, by us will be avoided, or required to be repaid by us whether under any law relating to insolvency or otherwise.

8.5 **Amounts set aside**

No money received by us to the credit of the account of you or any Guarantor which we may later become liable to repay, or for which you are or may thereafter become liable to account in any liquidation, official management, bankruptcy, scheme of arrangement or similar administration to any liquidator, official manager, trustee in bankruptcy or other person (as a preference or otherwise) or for which we (in your discretion exercised in good faith) may so repay or so account shall be considered as

received by us or discharge or diminish yours or any Guarantor's liability under this Contract, and each Guarantor jointly and severally indemnifies us in respect of any such payment or payments that we may make.

8.6 **Principal obligation**

This Guarantee and Indemnity shall be a principal obligation and shall not be treated as ancillary to or collateral with any other obligation howsoever created, and in particular, shall be independent of any other security relating to this Contract to the intent that this Guarantee and Indemnity shall be enforceable without first taking steps or proceedings against you, and notwithstanding the loss by us of any security.

8.7 **Release in writing**

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

8.8 **Liability to continue**

The liability of each Guarantor shall continue notwithstanding that 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.

9.2 You will, if you consider it necessary to do so, obtain independent legal and financial advice as to the nature and effect of your obligations under this Contract, and the consequences of failing to comply with them.

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) 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) 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) 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, 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.

Section B

Business Credit Agreement And Business Lease

General Terms and Conditions (version 201911)

1. REGISTRATION
2. COMPREHENSIVE INSURANCE
3. OPERATION
4. WARRANTY
5. LEASE RUNS TO FULL TERM
6. RIGHT TO PURCHASE
7. WHAT HAPPENS IF I DEFAULT?
8. PRIOR TERMINATION BY RETURN OF THE VEHICLE
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20. COMMISSION
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26. COUNTERPARTS
27. AUTHORITY TO COMPLETE
28. UNDERSTANDING THIS LEASE/AGREEMENT

AGREEMENT EFFECTIVE

The Business Lease or Business Credit Agreement will not bind us until we have disbursed the agreed loan funds to the relevant nominated account.

GENERAL

If you have signed a Business Lease, then references in these Terms and Conditions to Lease, Lessee, Lessor and Rent apply to you. If you have signed a Business Credit Agreement then references to Agreement, Owner, Customer and Instalments apply to you.

Section 5 contains important information specific to the type of contract you have signed and should be read carefully.

Unless otherwise specified "I", "me" and "my" refer to the Lessee/Customer named in Schedule A, and "you" and "your" refer to the Lessor/Owner named in Schedule A or the Lessor's/Owner's assignee. Where the Lessee/Customer comprises more than one person, the obligations of the Lessee/Customer shall be joint and several. Where there is more than one Guarantor named in Schedule A, the obligations of the Guarantors are joint and several.

I, and each Guarantor, acknowledge your recommendation to obtain independent legal advice about this Lease/Agreement and our obligations under it, before we signed it.

Registration and Insurances

1. REGISTRATION

- 1.1 I will register the Vehicle and at all times maintain such registration during the Lease/Agreement Term.

2. COMPREHENSIVE INSURANCE

2.1 I will insure the Vehicle:

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

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

- 2.3 I will not vary any insurance policy without your prior written consent.

- 2.4 I appoint you and each of your authorised representatives my attorney for the purposes of recovering any insurance monies and settling any claims arising from that insurance, and I understand that you may retain any insurance monies and at your discretion, either:

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

- 2.5 If the cost of repairs exceeds the insurance monies, I will pay the difference to you immediately upon demand.

Operation and Maintenance

3. OPERATION

3.1 I 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 you to inspect the Vehicle at any reasonable time and I authorise you to enter any premises where the Vehicle is located for that purpose. I indemnify you from and against all loss, 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 Lease/Agreement Term;
- (e) only use the Vehicle for the purposes for which it was designed and manufactured; and
- (f) ensure all log books, service records and all other information required by law are at all times correct and current during the Lease/Agreement Term.

3.2 I will not:

- (a) without your 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 you consent, I agree that all parts added to the Vehicle (including any new engine) become your property;
- (b) use or let anyone else use the Vehicle in any way that breaches the law or the terms of my 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 I will put in place security precautions to protect the Vehicle from being lost, damaged or destroyed.

4. WARRANTY

- 4.1 If the Vehicle is new, it is covered by a standard new vehicle warranty from the manufacturer.
- 4.2 I warrant I have inspected the Vehicle and have satisfied myself as to its condition and performance, and that it is fit for my intended use. I have not relied on any statement, warranty, undertaking or representation you may have made about the Vehicle's condition, performance or suitability for my intended use.
- 4.3 I will at my own cost obtain delivery of the Vehicle. You will not be liable for any delay in respect of delivery.

This section 5 only applies if you are party to a Business Lease

5. LEASE RUNS TO FULL TERM

- 5.1 Upon the expiry of the Lease Term, I will deliver the Vehicle to you, or to such other location as you direct, in First Class Condition and in running order, together with all log books, manuals, maintenance records, registration certificates and insurance details.
- 5.2 If I do not return the Vehicle as required, you may repossess the Vehicle. Unless prohibited by any relevant law, I authorise you to enter any property or premises for that purpose, and I indemnify you against all loss, 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.

- 5.3 I agree that I must pay to you immediately upon demand, the usual rental calculated on a daily basis for each day until delivery or repossession (as applicable), and if you do repossess the Vehicle, all repossession, storage and other costs incurred by you until you sell it.
- 5.4 If I fail to return the Vehicle to you in First Class Condition and in running order, I will pay you all costs and expenses you incur returning the Vehicle to that condition upon demand.

This Section 5 only applies if you are a party to a Business Credit Agreement

6. RIGHT TO PURCHASE

By payment of the first Instalment under this Agreement I agree to become the owner of the Vehicle once I have paid you the Termination Amount.

7. WHAT HAPPENS IF I DEFAULT?

7.1 Events of default

I will be in default if:

- (a) I fail to pay any amount I owe you under this Lease/Agreement on the due date for payment;
- (b) I fail to do anything required of me under this Lease/Agreement, and if such default is capable of remedy, I or any Guarantor fail to remedy that default within 14 days after I receive notice of the default from you;
- (c) I am in default under any other Finance or Security Agreement;
- (d) any information given to you in connection with this Lease/Agreement is misleading or false (including by omission) in any material respect;
- (e) steps are taken for my receivership, liquidation or administration, or if I am an individual, my bankruptcy or I die;

- (f) I, or any Guarantor, enter into any arrangement or composition with any of our creditors, or stop or suspend any payment to them;
- (g) I, or any Guarantor, cease or threaten to cease carrying on any business;
- (h) any insurance on the Vehicle is cancelled or the Vehicle is totally damaged or lost (refer to clause 8);
- (i) you believe the Vehicle is at risk; or
- (j) an event occurs, or which you reasonably believe may occur, which in your opinion will or may:
 - breach any law in New Zealand or any other country or any of your policies, including risk policies;
 - affect the value of the Vehicle; or
 - affect my ability, or any Guarantor's ability, to meet my or that Guarantor's obligations under this Lease/Agreement, or any other Finance or Security Agreement.

7.2 Your rights

If I default you may:

- (a) immediately terminate this Lease/Agreement by notice to me in writing; and/or
- (b) repossess the Vehicle. I authorise you to enter any property or premises for that purpose and I indemnify you against all loss, 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.

If this Lease/Agreement is terminated I must immediately return the Vehicle to you in First Class Condition and in running order if you are not already in possession, and pay you the Termination Amount upon demand.

7.3 Enforcement expenses

I agree to pay you a fee to compensate you for all costs and expenses (including legal costs incurred on a solicitor/own client basis and enforcement costs) you incur in relation to the exercise, protection and enforcement of our rights under this Lease/Agreement, or in suing or recovering any amount you owe us, when enforcing our rights under this Lease/Agreement, upon demand.

8. PRIOR TERMINATION BY RETURN OF THE VEHICLE

- 8.1 If I return the Vehicle to you before the end of the Lease/Agreement Term, I must:
- (a) ensure the Vehicle is in First Class Condition and in running order, and ensure all manuals, maintenance records, registration certificates and insurance details are returned with it;
 - (b) return the Vehicle during business hours to where you direct; and
 - (c) immediately pay you the Termination Amount upon demand; and
 - (d) following receipt of such payment, you may terminate this Lease/Agreement by written notice to me.

9. IF THE VEHICLE IS TOTALLY DAMAGED OR LOST

- 9.1 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.
- 9.2 I will advise you immediately in writing if the Vehicle is lost or totally damaged.
- 9.3 If any of the events in 8.1 occur, then in addition to any insurance proceeds, you are entitled to receive all monies paid or payable to me by any person in respect of the Vehicle. If I receive any monies to which you have entitlement, I will hold it on trust for you, and will pay it to you upon demand.

- 9.4 Within 21 days after the Vehicle is totally damaged or lost I must pay the Termination Amount. After this payment is made, you may terminate this Lease/Agreement by written notice to me.

Payment Obligations

10. PAYMENTS

10.1 Rent Payments/Instalments and other payments

I will:

- (a) in the case of a Business Lease, pay you all Rent Payments at intervals and in the amounts set out in Schedule A;
- (b) in the case of a Business Credit Agreement, pay you all Instalments towards the purchase of the Vehicle at the intervals set out in Schedule A;
- (c) pay you the Termination Amount on the Termination Date, upon demand;
- (d) pay or indemnify you 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. I agree that you 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 you shall not be less than the amount of the payment noted in Schedule A or that I am otherwise required to pay;
- (e) pay all fines, infringement notices and charges relating to the Vehicle and/or its use;
- (f) pay all insurance premiums and such other amounts required to ensure all insurance over the Vehicle remains valid during the Lease/Agreement Term;

- (g) pay as required by you all fees listed in Schedule A, including the Documentation Fee which is payable before the Vehicle is delivered to me; and
- (h) in addition to any other charges, imposed on me by this Lease/Agreement, also pay all charges you reasonably determine and require me to pay:
 - in respect of an early payout or discharge of this Lease/Agreement (for whatever reason);
 - if any Rent Payment/Instalment becomes overdue;
 - if any Rent Payment/Instalment I make is returned or dishonoured by my bank or financial institution; or
 - if I request that you amend, vary or assign my obligations under this Lease/Agreement.

I acknowledge that you may impose further service charges from time to time by notice to me and that the new charges shall apply following my receipt of your notice. Enclosed with this Lease/Agreement is a Schedule of Fees applicable at the date of this Lease/Agreement. I acknowledge that the fees may change from time to time at your absolute discretion but that you agree to provide me with written notification of any change to the fees.

10.2 Times for payment

All payments by me will be paid at the times provided for in this Lease/Agreement or, where no time for payment is provided for, upon demand.

10.3 Adjustments

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

10.4 Registration of your interest in the Vehicle

I will also pay you upon demand the amount of any fee or expense incurred by you in protecting your interest as owner of the Vehicle and as a security holder.

10.5 Interest on overdue payments

I will pay interest on the final daily balance of any amount that is overdue for payment under this Lease/Agreement, calculated at the Overdue Rate from time to time, from the day it was due until I 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, on the Termination Date.

10.6 How payments must be made

All payments under this Lease/Agreement must be made by direct debit or as you otherwise direct.

10.7 Payments in full

My obligations to pay Rent/Instalments and all other monies, and otherwise to perform my obligations, under this Lease/Agreement, 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.

10.8 Days for payment

If a date for payment of money under this Lease/Agreement is a day other than a Business Day in the place in which the payment is to be made, then the money must be paid on the preceding Business Day. **Business Day** means a day that is not:

- (a) a Saturday or Sunday; or
- (b) a statutory public holiday in New Zealand.

10.9 Set off

You may set off any amount you may owe me or any Guarantor against any amount I or

any Guarantor owe, or may owe, you under this Lease/Agreement or any other Finance or Security Agreement.

I will not withhold Rent/Instalments or any other monies I owe you, or exercise any right or claim to any set off.

10.10 Anti-money laundering and sanctions

I agree you may delay, block or refuse to process any transaction or payment without incurring any liability if you suspect that:

- (a) the transaction may breach any law in New Zealand or any other country, or does not comply with any of your policies, including your risk policies;
- (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, any unlawful conduct.

I, and each Guarantor will provide all information to you which you 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 and I, and each Guarantor, agree that you may disclose any information concerning any of us to any law enforcement, regulatory agency or court where required by any such law in New Zealand or elsewhere.

Unless I, or any Guarantor, have disclosed that any of us are acting in a trustee capacity or on behalf of another party, each of us warrants that we are acting on our own behalves in entering into this Lease/Agreement. I, and each Guarantor, declare and undertake to you that the payment of monies by you in accordance with our

instructions will not breach any laws in New Zealand or any other country.

11. TITLE AND SECURITY

- 11.1 In the case of a Business Lease I acknowledge that the Vehicle will at all times remain your property; or in the case of a Business Credit Agreement I acknowledge that the Vehicle will at all times remain your property until the Agreement Term has expired, and I have paid you the Termination Amount in full.
- 11.2 I agree that risk in the Vehicle passes to me on the commencement of the Lease/Agreement Term.
- 11.3 I grant you a Security Interest in the Vehicle, all proceeds, and in all of my present and future rights in relation to that Vehicle and those proceeds, as security for the payment of all amounts I may at any time owe you or are payable to you under this Lease/Agreement, and the performance of all of my obligations to you, whether under this Lease/Agreement or any other Finance or Security Agreement (**Vehicle Security Interest**).
- 11.4 I will do everything and provide all information you require to establish and maintain a perfected first ranking Vehicle Security Interest.
- 11.5 I will not change my name or other details without giving you at least 14 days prior written notice.
- 11.6 I agree that the Vehicle Security Interest:
 - (a) is collateral with every other Security Interest or guarantee I or any Guarantor has granted in your favour; and
 - (b) shall remain in full force until you sign a final release.
- 11.7 I 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 Lease/Agreement or the Vehicle Security Interest.

11.8 I waive:

- (a) all of my 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) my 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.

12. GUARANTEE AND INDEMNITY

12.1 Full guarantee

In consideration of you entering into this Lease/Agreement at the request of each Guarantor, each Guarantor jointly and severally:

- (a) guarantees the payment and performance of my obligations under this Lease/Agreement and any other Finance and Security Agreement;
- (b) will pay to you upon demand all monies which are not paid by me on the due date for payment whether or not you have made demand on me; and
- (c) shall observe and perform as a principal debtor all those terms of this Lease/Agreement, that are to be observed and performed by me, with which I have not complied within fourteen (14) days after the due date for observance or performance, whether or not you have made demand on me for such observance or performance.

12.2 Your powers

You may at all times without prejudice to the guarantee and indemnity provided under this

clause 11 (**Guarantee and Indemnity**), and without discharging or in any way affecting any of your rights against any Guarantor hereunder:

- (a) vary any term or condition of this Lease/Agreement provided that the Guarantor shall not be liable for any greater amount than the Guarantor would have been liable to pay under the terms of this Lease/Agreement had it not been varied;
- (b) grant to me or to any other person including any party hereto any time, credit or indulgence or concession;
- (c) deal with, exchange, release, discharge, modify or abstain from perfecting or enforcing any securities or other guarantees or rights which you may at any time have; and
- (d) do any other thing whatsoever which under the law relating to sureties would, but for this provision, have the effect of prejudicing this Guarantee and Indemnity or discharging or in any way affecting your rights against the Guarantor.

12.3 Indemnity

If the guarantee in this clause 11 is not enforceable against a Guarantor (whether by reason of any legal limitation, disability or incapacity on or of me, or by reason of any other fact or circumstance whatsoever and whether the relevant transactions were void ab initio or have been subsequently avoided and whether or not any of the matters or facts relating thereto were or ought to have been made known to you), then each Guarantor as separate and additional agreements, and jointly and severally:

- (a) indemnify you and shall keep you fully indemnified against all losses, damages, costs and expenses (including legal costs incurred on a solicitor/owner client basis), claims, proceedings and all other liability you may suffer or incur

by reason of the guarantee under this clause 11 not being enforceable or immediately enforceable;

- (b) indemnifies you and shall keep you fully indemnified in respect of any claims by me to any refund to which you may be or become entitled, by virtue of all or any of the abovementioned reasons; and
- (c) agrees that the guarantee under this clause 11 shall nevertheless be enforceable against each Guarantor as principal debtor and shall be satisfied by each Guarantor upon demand,

and the other provisions of this Guarantee and Indemnity shall apply as far as possible to the provisions of clause 11.3(c). Each Guarantor waives all or any of its respective rights and sureties which may at any time be inconsistent with this Lease/Agreement (including this Guarantee and Indemnity).

12.4 **Continuing Guarantee and Indemnity**

This Guarantee and Indemnity is a continuing guarantee and indemnity, is irrevocable and shall remain in full force and effect until:

- (a) you have received all monies payable by me or the Guarantor(s) and all of mine and each Guarantor's obligations under this Lease/Agreement have been fully discharged; and
- (b) you are satisfied no payment received, or to be received, by you will be avoided, or required to be repaid by you whether under any law relating to insolvency or otherwise.

12.5 **Amounts set aside**

No money received by you to the credit of the account of me or any Guarantor which you may later become liable to repay, or for which I am or may thereafter become liable to account in any liquidation, official management, bankruptcy, scheme of arrangement or similar administration to

any liquidator, official manager, trustee in bankruptcy or other person (as a preference or otherwise) or for which you (in your discretion exercised in good faith) may so repay or so account shall be considered as received by you or discharge or diminish mine or any Guarantor's liability under this Lease/Agreement, and each Guarantor jointly and severally indemnifies you in respect of any such payment or payments that you may make.

12.6 **Principal obligation**

This Guarantee and Indemnity shall be a principal obligation and shall not be treated as ancillary to or collateral with any other obligation howsoever created, and in particular, shall be independent of any other security relating to this Lease/Agreement to the intent that this Guarantee and Indemnity shall be enforceable without first taking steps or proceedings against me, and notwithstanding the loss by you of any security.

12.7 **Release in writing**

No discharge or release of a Guarantor from its liabilities hereunder shall be effective unless it is in writing and signed by one of your officers.

12.8 **Liability to continue**

The liability of each Guarantor shall continue notwithstanding that you have taken possession of the Vehicle pursuant to this Lease/Agreement.

Additional information

13. EXCLUSIONS

13.1 **I acknowledge that:**

- (a) all terms, conditions, guarantees or warranties (including implied warranties as to merchantable quality and fitness for purpose of the Vehicle), which may be implied into this Lease/Agreement are excluded to the maximum extent permitted by law;

(b) if legislation implies any such term, condition, guarantee or warranty in this Lease/Agreement, and such legislation does not allow you to exclude or modify it, your liability for any breach is limited, to the maximum extent permitted by law, and at your option, to:

- replacing the Vehicle with a similar vehicle, or paying another person acceptable to you to give me a similar vehicle; or
- repairing the Vehicle.

(c) In the case of a Business Lease I am leasing the Vehicle for business purposes and in trade, and in the case of a Business Credit Agreement I am hiring and purchasing the Vehicle for business purposes and in trade, and therefore we all agree that:

- the provisions of the Consumer Guarantees Act 1993 do not apply to this Lease/Agreement and the Vehicle; and
- this Lease/Agreement is not a consumer credit contract or a consumer lease/agreement for the purposes of the Credit Contracts and Consumer Finance Act 2003.

14. INDEMNITIES AND RELEASES

14.1 I indemnify and hold you harmless against all claims, losses, proceedings, injuries, expenses, or costs (including legal costs incurred on a solicitor/own client basis and enforcement costs) and any other liability (direct or indirect) you suffer or incur caused by mine or a Guarantor's breach of this Lease/Agreement or any law, related to the use, maintenance or condition of the Vehicle, or any other act or omission by me or a Guarantor. I will pay all of your resulting costs and expenses, including damages if applicable, upon demand.

14.2 I release you, to the fullest extent permitted

by law, from all claims, demands and all other liability arising out of the delivery or use of the Vehicle.

15. POWER OF ATTORNEY

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

16. ASSIGNMENT

You may assign or transfer all or any part of your rights or obligations under this Lease/Agreement without my consent or the consent of the Guarantor(s).

17. ADDRESS

I and each Guarantor will notify you of a change in any of our addresses.

18. YOUR RIGHTS WHEN THIS LEASE/AGREEMENT TERMINATES

The termination or expiry of this Lease/Agreement, for whatever reason, will not affect your rights, powers and remedies with respect to any prior breach by me or any Guarantor under this Lease/Agreement, or any rights or powers you may have under any law.

19. GIVING NOTICE UNDER THIS LEASE/AGREEMENT

19.1 I, you and each Guarantor may give each other a notice or any other document regarding this Lease/Agreement 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; or

- (b) facsimile, email or similar facility to the number or address of the addressee last known to the person giving notice.

20. COMMISSION

I consent to you paying a commission to any third party in relation to this Lease/Agreement. I, and each Guarantor, acknowledge that any third party which submitted my application for finance to you, or who conducted any prior negotiations with you, is and was not your agent for any purpose, and to the maximum extent permitted by law, you are not responsible or liable for any claims, statements or representations those third parties make to me or to any Guarantor about the Vehicle or in relation to this Lease/Agreement.

21. ABILITY TO BIND

- 21.1 If I or a Guarantor enter into this Lease/Agreement 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 Lease/Agreement and fully bind the trust to the maximum extent permitted by law.
- 21.2 I, and each Guarantor, acknowledge that if any of us have entered into this Lease/Agreement as a trustee of a trust, we are personally liable under this Lease/Agreement unless we are an independent trustee. If we are an independent trustee, we will only be personally liable to you if you are unable to recover any amount you are owed from the trust assets because a warranty we gave you is incorrect or due to our 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.

22. ENTIRE AGREEMENT

I, you and each Guarantor agree that this Lease/Agreement contains the entire agreement between us, concerning the 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.

23. INFORMATION

- 23.1 I and each Guarantor authorise you to collect, use and disclose credit information and personal information about me 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 you consider necessary to:
- (a) identify and verify mine or any Guarantor's identity and any other information about me or a Guarantor that you may require from time to time;
 - (b) make a credit decision about me or a Guarantor in relation to this Lease/Agreement, including reviewing, managing, and monitoring the performance of mine or any Guarantor's obligations under it;
 - (c) recover any amount I or any Guarantor owes you, and to take enforcement action against me or a Guarantor;
 - (d) comply with any laws in New Zealand and overseas;
 - (e) utilise services provided by third parties (including credit reporters) in connection with this Lease/Agreement and the other purposes listed in this clause 22.1; and

- (f) give me and each Guarantor information about other products and services you, or your related companies, or any other third party with which you do business, offer or for other marketing purposes, unless I or a Guarantor tell you not to.

23.2 I, and each Guarantor, acknowledge that the Information (including our regular repayment history information (good and bad)) you disclose and share with credit reporters is used by them to help other third parties to decide whether to provide credit or other goods or services to me or a Guarantor, and to recover money and property from me or any Guarantor. I and each Guarantor authorise those credit reporters to use and disclose the Information for this purpose and for the purposes listed in clause 22.1.

24. SURVIVAL

24.1 Clauses 4, 6, 8, 9, 10, 11, 12, 13, 14, 17, 24 and all other clauses which by their nature, survive termination or expiry, shall survive the expiry or termination of this Lease/Agreement.

25. GOVERNING LAW

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

26. COUNTERPARTS

This Lease may consist of a number of counterparts and the counterparts taken together constitute one and the same instrument.

27. AUTHORITY TO COMPLETE

I authorise you to complete Schedule A of this Lease/Agreement in any manner in which it may be incomplete and to insert

such dates or details as are necessary to give effect to this Lease/Agreement and to correct any errors therein.

28. UNDERSTANDING THIS LEASE/AGREEMENT

Special Terms

In this Lease/Agreement:

“Finance or Security Agreement”

means any agreement or other document recording a loan, lease, hire or other financial accommodation you have given me or any Guarantor, and any guarantee or other security I or any Guarantor have granted in your 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;

“Overdue Rate” means the aggregate of 4% and your finance rate set by you at the commencement of the Lease/Agreement Term;

“Security Interest” means any mortgage, encumbrance, charge, present or future security interest for the purposes of the Personal Property Securities Act 1999, lien (other than a lien arising by operation of law) or any other security arrangement;

“Termination Amount” in the case of a Business Lease means, in your absolute discretion, the combined sum of the Residual Value and all other amounts which I am obligated to pay you under this Lease and in the case of a Business Credit Agreement means in your absolute discretion, the combined sum of the Net Balance Due and all other amounts which I am obligated to pay you under this Agreement, and in either case, including, in the case of the loss or damage of the Vehicle (clause 8.4), or my default (clause 6) or my early return

of the Vehicle (clause 7), all amounts you would have been obligated to pay me had this Lease/Agreement run the full Lease/Agreement Term, less (where applicable):

- (a) the price for the Vehicle following its sale by you after deduction of all tax, duties, repossession, storage, and other costs incurred by you. I acknowledge that you may sell the Vehicle for a price that you believe is reasonable;
- (b) all amounts I have paid you under this Lease/Agreement;
- (c) in the case of the loss or damage of the Vehicle, any insurance proceeds you have received in respect of the Vehicle;
- (d) all statutory rebates for term charges, or arising from the cancellation of any insurance or maintenance contract;

“Termination Date” means the earlier of: the last day of the Lease/Agreement Term, or, the day on which this Lease/Agreement is terminated in accordance with its terms;

“Upon Demand” means on demand by written notice signed by any of your officers;

The terms **accession, at risk, financing statement, financing change statement, proceeds and verification statement** have the meanings given to them under the Personal Property Securities Act 1999; and

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



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