

BRANDED FINANCIAL SERVICES (NZ) LIMITED

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

CONSUMER CREDIT CONTRACT - TERMS AND CONDITIONS

Version 052013

General

Unless otherwise specified "you" and "your" refer to the Borrower named in Schedule A, and "we", "us" and "our" refer to the Lender named in Schedule A 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 Schedule A, 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 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.
- (f)

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

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 14 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 the Vehicle is totally damaged or lost (refer to clause 5);
- (g) we believe the Vehicle is at risk; or
- (h) 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 Your 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. 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 Schedule A. We will credit all Repayments received by you in accordance with Schedule A;
- (b) 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 Schedule A 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 Schedule A;
- (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.

You agree to us varying or adding any fees or charges payable under this Contract. We will notify you of any changes by the provision of written notice, posting such changes on our website or by newspaper advertisement. Enclosed with this Contract is a Schedule of Fees applicable at the date of this Contract.

6.2 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.

6.3 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 Schedule A, you must pay us the amount of the deficiency, or we will give credit to you for any excess, as the case may be.

6.4 Interest on overdue payments

If you fail to pay any amount under the Contract on the due date for payment, you will pay interest on the unpaid daily balance (which includes interest and all other applicable fees and charges) at the Overdue 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.

6.5 How payments must be made

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

6.6 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 Schedule A.

6.7 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 Schedule A; 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.

6.8 Days for payment

If a date for payment of money under this Contract 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.

6.9 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.

6.10 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 and 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.

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 you require to establish and maintain a perfected first ranking Vehicle Security Interest.

7.3 You will not change my 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) 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.

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 provided that the Guarantor(s) shall not be liable for any greater amount than the Guarantor(s) would have been liable to pay under the terms of this Contract had it not been varied;
- (b) grant to you 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 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 my 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 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 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 your 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;

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).

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

You, us and each Guarantor may give each other a notice or any other document 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; or
- (b) by facsimile, email or similar facility to the number or address of the addressee last known to the person giving notice.

16. COMMISSION

You consent to us paying a commission to any third party in relation to this Contract. You and each Guarantor, acknowledge that any third party which submitted your application to us, or who conducted any

prior negotiations with us, is and was not our agent for any purpose, and to the maximum extent permitted by law, we are not responsible or liable for any claims, statements or representations those third parties make to you or to any Guarantor about the Vehicle or 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. CHANGING CONTRACT TERMS

You and each Guarantor agree that we may change the terms of this Contract. We will inform you of such changes by the provision of written notice in accordance with the provisions of the Credit Contract and Consumer Finance Act 1993.

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 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.

(f)

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, 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. COUNTERPARTS

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

24. 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;

"**Overdue Rate**" means the aggregate of the Annual Interest Rate and 8% per annum.

"**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;

"**upon demand**" means on demand by written notice signed by any of our 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 us in the manner defined in sections 2(3) or 2(4) of the Companies Act 1993.