

# General Terms and Conditions

## 1. Sale of Vehicle

The Vendor agrees to sell to the Purchaser and the Purchaser agrees to purchase from the Vendor the Vehicle described in the Disclosure Statement on the terms and conditions set out in this Agreement.

## 2. Ownership and Possession

Until payment to the Creditor of all Secured Monies, ownership of the Vehicle shall not pass to the Purchaser. The Purchaser also grants to the Creditor a security interest in the Vehicle as security for payment of the Secured Monies (including the Amount Financed) and the performance of all covenants, conditions or agreements contained in this Agreement.

## 3. Privacy, Credit Checking and Advertising

3.1 The Creditor may collect, hold and use personal information about the Purchaser and any Guarantor and any information required to allow the Creditor to comply with its obligations under the Anti-Money Laundering and Countering Financing of Terrorism Act 2009 for the purposes of establishing or assessing the Purchaser or Guarantor's identity, credit capacity, eligibility or history in connection with an application for a loan, collecting payments from the Purchaser and managing the credit relationship between the Purchaser and the Creditor. This information may be shared by the Creditor with the Vendor, credit reference agencies, companies related to or shareholders of the Creditor, agents, contractors, professional advisers, guarantors or assignees or anyone who is considering becoming a guarantor or assignee, brokers, insurers providing insurance services incidental to your the Agreement and as required to ensure the Creditor meets its obligations under the Anti-Money Laundering and Countering Financing of Terrorism Act 2009. The Creditor may also at any time publicly advertise in a newspaper or online media the name of the Purchaser and/or Guarantor together with details of the Vehicle and the fact that the Creditor is seeking the recovery or repossession of the Vehicle.

3.2 The Purchaser and any Guarantor authorise any person or company to give to the Creditor such information as the Creditor may require in response to the Creditor's credit and other enquiries.

3.3 The Purchaser and any Guarantor understand that the Creditor may use a credit reference agency to credit check the Purchaser and any Guarantor. In such case:

- (a) the agency may give the Creditor information about the Purchaser and any Guarantor for that purpose;
- (b) the Creditor will give the Purchaser's and/or Guarantor's personal information to the agency, and the agency will hold the information on its systems and use it to provide their credit reporting service;
- (c) when other customers use the service, the agency may give the information to those customers; and
- (d) if the Purchaser and/or Guarantor defaults on payment obligations to the Creditor, information about the default may be given to the agency, and the agency may give the information to other customers.

3.4 The Purchaser and any Guarantor have a right of access to, and may request correction of, his or her personal information.

## 4. Payments

4.1 The Purchaser agrees to pay the Creditor the Balance Payable as follows:

- (a) By paying the cash portion of the deposit (if any) to the Creditor on the date of this Agreement;
- (b) By delivering to the Creditor any goods in respect of which a trade-in allowance has been made. The Purchaser agrees that such goods shall be free from any security interest and will be the exclusive property of the Creditor. The Creditor shall apply the allowance on account of the deposit; and shall pay the balance either:
  - (c) As provided for in the Payment Schedule set out in the Disclosure Statement; or
  - (d) On demand as and when provided for in this Agreement.

4.2 The Purchaser agrees to pay any credit fees and charges set out in the Disclosure Statement and all other payments due under this Agreement at the times required under this Agreement.

4.3 Receipt by the Creditor of any cheque, direct credit or other electronic payment shall not be deemed to be received by the Creditor until cleared and shall not prejudice or affect the Creditor's rights, powers or remedies under this Agreement.

4.4 Subject to clause 10, the Creditor may (in its sole discretion) credit any payment received from the Purchaser in accordance with the Payment Schedule notwithstanding the actual time of receipt of any payment.

4.5 Subject to clause 10, the Creditor may (in its sole discretion) refuse to accept any payment received from the Purchaser before the due date for such payment or any part prepayment by the Purchaser of the Secured Monies. If the Creditor refuses any such payment or part prepayment, such amount will not be credited to the Purchaser's account and the Creditor will refund the payment to the Purchaser as soon as practicable.

4.6 If any payment is due on the 29th, 30th or 31st day of any month and there is no

corresponding day in any month, the payment shall be due and payable on the last day of that month. If any payment is due on a day which is not a business day the payment shall be due the following business day.

## 5. No Sale, etc

The Purchaser will not sell, assign, transfer, dispose of or grant (to any other party) a security interest in the Vehicle, and will not lease or otherwise part with the possession of the Vehicle, without the prior written consent of the Creditor.

## 6. Keep in Good Order and Repair

The Purchaser will keep the Vehicle in good repair and condition and stored/parked in a safe place and will:

- (a) Replace any defective or worn out parts with new parts and any such replacement parts or accessories shall upon attachment become part of the Vehicle and subject to security interest created by this Agreement;
- (b) Notify the Creditor in writing of any change in the address of the Purchaser or the place where the Vehicle is kept;
- (c) Ensure that at all times the Vehicle is used solely for the purposes intended by the manufacturer and having regard to the design capabilities and limitation thereof and in accordance with the manufacturer's instructions;
- (d) Not make any alterations to or modify the Vehicle without the prior written consent of the Creditor; and
- (e) If the Vehicle is required to be repaired, allow the Creditor or its nominee to execute the repairs at the Purchaser's expense (such cost to be fair and reasonable) if the Creditor requires and the Creditor or its nominee shall be entitled to possession of the Vehicle for such purpose. The Purchaser shall not have or be deemed to have any authority to pledge the Creditor's credit for any repairs to the Vehicle.

## 7. Comply With All Laws

The Purchaser will during the term of this Agreement comply with all laws relating to the Vehicle or the use or possession thereof and will:

- (a) Not allow any unlicensed person to use the Vehicle;
- (b) Ensure that the Vehicle has a current warrant of fitness at all times; and
- (c) Complete all registrations and pay all licence fees in connection with the Vehicle.

## 8. Insurance

The Purchaser shall insure the Vehicle under a comprehensive motor vehicle policy with an insurer approved by the Creditor and in the amount of cover from time to time required by the Creditor. The Creditor must be noted on the insurance policy in respect of its rights and interests under this Agreement. The Purchaser must punctually pay the premiums for the insurance and must (if the Creditor requests) deliver the policy and premium receipts to the Creditor. All monies payable by an insurer in terms of any insurance policy in relation to the Vehicle or by any other person in respect of the Vehicle shall be applied (at the sole option of the Creditor) either in reinstating, restoring or replacing the Vehicle or repaying the amounts owing to the Creditor under this Agreement whether the due dates for payment of such monies have arrived or not. The Purchaser must not use or permit the Vehicle to be used contrary to the terms of any insurance policy or do or permit anything to be done which might invalidate any insurance in respect of the Vehicle.

## 9. Default Interest

If the Purchaser fails to make payment of any amount (whether interest or otherwise) due under this Agreement on the due date or (if applicable) on demand, the Purchaser will pay interest on demand on any such overdue sum or sums from the due date until the date of payment at the default interest rate as set out in the Disclosure Statement. Default interest will be charged to your account monthly. The default rate shall apply both before and after judgment.

## 10. Default

If:

- (a) The Purchaser fails to pay any of the monies payable under this Agreement on the due date or defaults in the observance or performance of any covenant condition or agreement on the part of the Purchaser contained in this Agreement;
  - (b) The Purchaser commits or suffers any act of bankruptcy, is placed into liquidation or becomes insolvent;
  - (c) A receiver is appointed over any of the assets of the Purchaser;
  - (d) Any judgment or order against the Purchaser remains unsatisfied for more than ten days;
  - (e) Any insurance policy in relation to the Vehicle is cancelled;
  - (f) Any distress or execution is levied or issued against the Vehicle or any lien is claimed over the Vehicle;
  - (g) The Purchaser abandons the Vehicle and it is "at risk" (as determined in accordance with section 109(2) of the PPSA or section 83E of the Act (as applicable)); or
  - (h) The Purchaser dies or becomes of unsound mind,
- the Secured Monies shall immediately become due and payable and the Creditor may, where the Agreement relates to consumer goods, repossess and sell the

Vehicle in accordance with the provisions of the Act and the Purchaser's right to reinstate or settle the Agreement conferred by sections 83ZB and 83ZE of the Act, or, where the Agreement does not relate to consumer goods, exercise any or all rights conferred on the Creditor under Part 9 of the PPSA. On the exercise of any power of repossession, or the exercise of any power to take the Vehicle under Part 9 of the PPSA, the Purchaser will execute in favour of the Creditor or its nominee, any transfer, renewal, application or other instrument relating to any licence or registration for the Vehicle.

#### 11. Full Prepayment

If the Purchaser wants to repay the Agreement in full prior to the last payment date as set out in the Disclosure Statement, the Purchaser will be liable to pay:

- (a) The outstanding balance of the Amount Financed;
  - (b) All accrued interest and charges to the date of payment including the day of payment;
  - (c) An Early Termination Fee of the amount set out in the Disclosure Statement;
  - (d) The Creditor's administration costs/fees in the amount set out in the Disclosure Statement,
- less an amount equal to a proportionate rebate of the premium paid under any consumer credit insurance financed under this Agreement and arranged by the Creditor (if any).

#### 12. Partial Prepayment

Payment of any amounts in addition to or at times (including earlier) other than the payments set out in the Disclosure Statement shall only be accepted at the sole discretion of the Creditor. Any prepayment amounts accepted by the Creditor will be applied upon receipt by the Creditor

- (i) firstly in reduction of any arrears comprising of any unpaid interest, default interest charges, default fees or any other fees that have been applied in accordance with the terms of this Agreement and
- (ii) secondly in reduction of the unpaid balance under the Loan.

#### 13. Set-off

The Purchaser and any Guarantor authorise the Creditor to apply (without prior notice or demand) any credit balance of the Purchaser or any Guarantor on any account in any currency in or towards satisfaction of any indebtedness then due to the Creditor and unpaid under this Agreement or any other credit sale agreement or credit arrangement. The Creditor's rights under this clause are contractual rights affecting the terms upon which a credit balance is held and the creation of those rights does not constitute the creation of a security interest in that credit balance.

#### 14. GST

- (a) For the purposes of the Goods and Services Tax Act 1985 ("the GST Act"), the Purchaser confirms that where the Purchaser has answered "no" to the GST declaration contained in this Agreement, the Vehicle has been acquired for private or domestic use only and will not be used in the course or furtherance of any taxable activity. The Purchaser further confirms that any supply of the Vehicle (if the Vehicle is sold by the Purchaser) would not be a taxable supply and the Purchaser acknowledges that the Creditor may rely on this confirmation for the purposes of section 5(2) of the GST Act.
- (b) The Purchaser must give written notice of its GST number to the Creditor immediately if, during the terms of this Agreement, the Purchaser becomes registered for GST purposes.

#### 15. Costs

- (a) The Purchaser will pay to the Creditor or Vendor on demand all reasonable costs, charges, fees (including legal fees as between solicitor and client) and disbursements incurred by the Creditor or Vendor in connection with this Agreement, including any variation or discharge of this Agreement or any security interest and in connection with enforcing or attempting to enforce any of its rights or powers under this Agreement.
- (b) If the Creditor or Vendor considers it necessary or desirable to pay any amount or incur any expense in relation to the Vehicle to protect its rights under this Agreement, the Purchaser authorises and agrees that the Creditor or Vendor may take such action, pay such amounts and/or incur such expenses, and that any amount paid or expense incurred shall form part of the Secured Monies and shall be payable by the Purchaser on demand.

#### 16. Contracting Out of PPSA Rights

The Purchaser:

- (a) Acknowledges that where the Creditor has rights in addition to, or existing separately from, those in Part 9 of the PPSA, those rights will continue to apply and, in particular, will not be limited by section 109 of the PPSA;
- (b) Agrees that (if Part 9 of the PPSA applies to the enforcement of the security interest under this Agreement) nothing in sections 114(1)(a), 133 and 134 of the PPSA will apply to this Agreement, or the security under this Agreement; and
- (c) Waives the Purchaser's right to do any of the following:
  - (i) Receive a statement of account under section 116 of the PPSA;
  - (ii) Receive notice of the Creditor's proposal to retain any Collateral under section 120(2) of the PPSA or object to such proposal under section

121;

- (iii) Not have collateral damaged when the Creditor removes an accession under section 125 of the PPSA;
- (iv) Receive notice of the removal of an accession under section 129 of the PPSA;
- (v) Apply to the Court for an order concerning the removal of an accession under section 131 of the PPSA; and
- (vi) Receive a copy of the verification statement confirming registration of a financing statement or a financing change statement relating to the security interest created by this Agreement.

#### 17. Notices

Notices under this Agreement shall be given in accordance with sections 185 to 189 of the PPSA or, as the case may require, the Act. Any notice not required to be given in writing may be given verbally to the Purchaser or to any other person present where the Vehicle is held.

#### 18. Assignment

Subject to compliance with the Act, the Creditor may assign the rights under this Agreement to any other party without restriction. If the Creditor so assigns this Agreement then the Purchaser is directed to pay all monies due under this Agreement to the assignee or as the assignee directs. The Purchaser agrees that the Creditor may disclose any information or documents it considers desirable (including any "personal information") as that term is defined in the Privacy Act 1993 and any credit-rating information to a potential assignee.

The Purchaser's rights under this Agreement are personal to the Purchaser and may not be assigned.

#### 19. Further Assurance

The Purchaser agrees that it will, at the request of the Creditor and at the Purchaser's cost, execute any additional or replacement security agreements or amendments to security agreements, or do any other thing, as the Creditor may reasonably require to protect or perfect the security interest in the Vehicle created (or intended to be created) by or under this Agreement (with the same priority as required by or under this Agreement), or to assist in the enforcement of the security interest or protect any other rights the Creditor has under this Agreement.

#### 20. Variation

The Creditor may vary the amount of any administration or credit fees and charges and/or default fees and charges payable under this Agreement at any time on providing written notice of such variation to the Purchaser (such written notice will be in accordance with the Act if applicable).

#### 21. Appointment as Attorney

The Purchaser hereby irrevocably appoints the Creditor and any director, agent or employee of the Creditor jointly and each of them severally as attorney of the Purchaser to do all things as the Creditor may consider to be necessary or desirable in order to fully protect its legitimate interests under this Agreement (to the maximum extent permitted by law) including, without limitation, to make, settle, query, compromise or finalise an insurance claim in relation to the Vehicle.. The Purchaser ratifies and confirms (and agrees to ratify and confirm) any actions which may be taken by such attorney.

To the maximum extent permitted by law, the Purchaser indemnifies the Creditor against any claims, demands, charges, monies or losses it may suffer by reason of or in consequence of exercising its rights pursuant to this clause 18 (other than due to the fraud or gross negligence of the Creditor or its director, agent or employee).

#### 22. Guarantee and Indemnity

In consideration of the Creditor agreeing to enter into this Agreement at the request of the Guarantor, the Guarantor:

- (a) Guarantees the due and punctual payment of all monies payable by the Purchaser under this Agreement and the due and proper performance of all obligations of the Purchaser contained or implied in this Agreement;
- (b) Acknowledges that the liability under this guarantee shall not be affected by reason of any time or other indulgence granted to the Purchaser or by variation of this Agreement or by the Creditor and the Purchaser entering into a new agreement and may be enforced by the Creditor without the Creditor being required to first exhaust any remedy against the Purchaser or enforce any security the Creditor may hold;
- (c) Acknowledges that this is a continuing guarantee, and shall not be released or terminated until actual payment and fulfillment by the Purchaser of his/her obligations under this Agreement;
- (d) Acknowledges that the Guarantor has been advised to obtain independent advice in respect of its liability under this guarantee; and
- (e) As a separate and independent agreement, the Guarantor shall hold the Creditor fully indemnified at all times against all loss or damage which the Creditor may suffer or incur as a result of entering into this Agreement as if the Guarantor was liable as the principal obligor.

#### 23. Interpretation

In this Agreement:

- (a) Unless the context otherwise requires, words importing the singular shall include the plural and vice versa and words importing the

masculine such include the feminine and neuter genders.

- (b) Where the Purchaser or the Guarantor is more than one person then the obligations of the Purchaser or the Guarantor, as the case may be shall be joint and several and notice to one shall be deemed to be notice to all (subject to any applicable law).
- (c) A reference to an Act of Parliament or Regulations means a reference to that Act or those Regulations, or any reenactment thereof, together with any amendments thereof.
- (d) A reference to this Agreement includes any variation or modification thereof.

#### 24. Definitions

In this Agreement:

“Accession” has the meaning ascribed to that term by the PPSA.

“Collateral” has the meaning ascribed to that term by the PPSA.

“Creditor” means the Creditor or, immediately following the assignment notified in the Disclosure Statement, DFL.

“DFL” means Dealer Finance Limited.

“Payment Schedule” means the schedule of payments set out below the heading “Payments” in the Disclosure Statement.

“PPSA” means the Personal Property Securities Act 1999.

“Secured Monies” means the monies from time to time owing under this Agreement and all other monies, costs charges, interest, expenses and fees, both accrued and contingent, now or at any time owing to the Creditor by the Purchaser on any account whatsoever.

“Security Interest” has the meaning given to it under the PPSA.

“Vendor” means the vendor named on the front page of this Agreement.

“Working Day” has the meaning given to that term in the Act.