

## General Terms and Conditions Business Loan

### 1. Loan

The Creditor agrees to lend and the Borrower agrees to borrow the Amount Financed described in this Agreement and on the terms and conditions set out in this Agreement.

### 2. Security Interest

The Borrower grants to the Creditor a security interest in the Collateral 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 and Related Matters

3.1 The Borrower and any Guarantor agree that the Creditor can ask for any information about the Borrower and any Guarantor in accordance with the Privacy Act 2020 and the Creditor's Privacy Statement. To find out more please refer to the Creditor's Privacy Statement on the Creditor's website at <https://dffl.co.nz/privacy-statement/>.

### 4. Payments

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

- (a) As provided for in the Payment Schedule set out in this Agreement; or
- (b) On demand as and when provided for in this Agreement.

4.2 The Borrower agrees to pay any credit fees and charges set out in this Agreement 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 clauses 11 and 12, the Creditor may (in its sole discretion) credit any payment received from the Borrower in accordance with the Payment Schedule notwithstanding the actual time of receipt of any payment.

4.5 Subject to clauses 11 and 12, the Creditor may (in its sole discretion) refuse to accept any payment received from the Borrower before the due date for such payment or any part prepayment by the Borrower of the Secured Monies. If the Creditor refuses any such payment or part prepayment, such amount will not be credited to the Borrower's account and the Creditor will refund the payment to the Borrower 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 Borrower will not sell, assign, transfer, dispose of or grant (to any other party) a security interest in the Collateral, and will not lease or otherwise part with the possession of the Collateral, without the prior written consent of the Creditor.

### 6. Keep in Good Order and Repair

The Borrower will keep the Collateral 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 Collateral and subject to security interest created by this Agreement;
- (b) If any Accession becomes part of the Collateral that Accession may not be removed from the Collateral by the Borrower or any other person other than with the prior written consent of the Creditor;
- (c) Notify the Creditor in writing of any change in the address of the Borrower or the place where the Collateral is kept;
- (d) Ensure that at all times the Collateral 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;
- (e) Not make any alterations to or modify the Collateral without the prior written consent of the Creditor;
- (f) If the Collateral is required to be repaired, allow the Creditor or its nominee to execute the repairs at the Borrower'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 Collateral for such purpose. The Borrower shall not have or be deemed to have any authority to pledge the Creditor's credit for any repairs to the Collateral; and
- (g) Not allow the Collateral to become affixed to any other property or any land.

### 7. Comply With All Laws

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

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

### 8. Insurance

The Borrower shall insure the Collateral under a comprehensive insurance policy with an insurer approved by the Creditor and in the amount and type 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

Borrower 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 Collateral or by any other person in respect of the Collateral shall be applied (at the sole option of the Creditor) either in reinstating, restoring or replacing the Collateral 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 Borrower must not use or permit the Collateral 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 Collateral.

### 9. Default Interest

If the Borrower 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 Borrower 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 this Agreement. Default interest will be charged to the Borrower's account monthly. The default rate shall apply both before and after judgment.

### 10. Default

If:

- (a) The Borrower 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 Borrower contained in this Agreement;
- (b) The Borrower 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 Borrower;
- (d) Any judgment or order against the Borrower remains unsatisfied for more than ten days;
- (e) Any insurance policy in relation to the Collateral is cancelled;
- (f) Any distress, execution is levied or issued against the Collateral or any lien is claimed over the Collateral;
- (g) The Borrower abandons the Collateral 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 Borrower or a Guarantor 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 Collateral in accordance with the provisions of the Act and the Borrower'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 Collateral under Part 9 of the PPSA, the Borrower 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 Collateral.

### 11. Full Prepayment

- (a) The Borrower may not prepay all of the Secured Monies without the Creditor's approval in writing.
- (b) If the Creditor agrees to an early prepayment, the Borrower must pay to the Creditor an amount calculated in accordance with clause 11 (c) to compensate the Creditor for its loss of revenue and any costs incurred as a result of the prepayment.
- (c) The amount payable by the Borrower will be the sum of the following:
  - (i) prepayment of all the Secured Monies, whether or not they are due for payment, including all interest and principal accrued to the date of prepayment; and
  - (ii) an early termination fee equal to three months' interest of the loan comprised in the Secured Monies; and
  - (iii) if at the date of prepayment, there is more than 90 days of the term remaining under this Agreement, the greater of:
    - (1) 30% of the interest that would have otherwise been charged over the remainder of the term of this Agreement on the amount being prepaid; or
    - (2) an amount equivalent to 90 days interest on the amount being prepaid, calculated at the interest rate specified in this Agreement;
  - (iv) if at the date of prepayment there is 90 days or less of the term remaining under this Agreement, the amount of interest that would have otherwise been charged over the remainder of the term on the amount being prepaid.

### 12. Partial Prepayment

Payment of any amounts in addition to or at times (including earlier) other than the payments set out in this Agreement shall only be accepted at the sole discretion of the Creditor and upon payment to the Creditor of the Creditor's early prepayment fee (if any) applicable from time to time. 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 Amount Finance.

### 13. Set-off

The Borrower and any Guarantor authorise the Creditor to apply (without prior notice or demand) any credit balance of the Borrower 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. Costs

(a) The Borrower will pay to the Creditor on demand all reasonable costs, charges, fees (including legal fees as between solicitor and client) and disbursements incurred by the Creditor 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 considers it necessary or desirable to pay any amount or incur any expense in relation to the Collateral to protect its rights under this Agreement, the Borrower authorises and agrees that the Creditor 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 Borrower on demand.

### 15. Contracting Out of PPSA Rights

The Borrower:

(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 Borrower'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.

### 16. 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 Borrower or to any other person present where the Collateral is held.

### 17. Assignment

Subject to compliance with the Act if applicable, the Creditor may assign the rights under this Agreement to any other party without restriction. If the Creditor so assigns this Agreement then the Borrower is directed to pay all monies due under this Agreement to the assignee or as the assignee directs. The Borrower 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 Borrower's rights under this Agreement are personal to the Borrower and may not be assigned.

### 18. Further Assurance

The Borrower agrees that it will, at the request of the Creditor and at the Borrower'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 Collateral 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.

### 19. 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. The fees and charges that apply from time to time will be published on the Creditor's website at <https://dff.co.nz/businessfees>

### 20. Appointment as Attorney

The Borrower hereby irrevocably appoints the Creditor and any director, agent or employee of the Creditor jointly and each of them severally as attorney of the Borrower 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 Collateral. The Borrower 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 Borrower 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 20 (other than due to the fraud or gross negligence of the Creditor or its director, agent or employee).

### 21. 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 Borrower under this Agreement and the due and proper performance of all obligations of the Borrower 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 Borrower or by variation of this Agreement or by the Creditor and the Borrower entering into a new agreement and may be enforced by the Creditor without the Creditor being required to first exhaust any remedy against the Borrower 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 Borrower 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.

### 22. 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 Borrower or the Guarantor is more than one person then the obligations of the Borrower 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.

### 23. Definitions

In this Agreement:

"Accession" has the meaning ascribed to that term by the PPSA.

"Act" means the Credit Contracts and Consumer Finance Act 2003.

"Collateral" means the "Collateral" described in this Agreement and any Accession to that Collateral.

"Creditor" means Dealer Finance Limited and its assigns or transferees

"Payment Schedule" means the schedule of payments set out below the heading "Payments" in this Agreement.

"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 Borrower on any account whatsoever.

"security interest" has the meaning given to it under the PPSA.

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