



LEASE AGREEMENT TERMS & CONDITIONS

www.afs.com.au

Automotive Financial Services Pty Limited
ABN 73 003 622 375
AFSL & Australian credit licence 383762

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**SCHEDULE TO BE ATTACHED
TO THIS PAGE**

LEASE AGREEMENT TERMS AND CONDITIONS

Acceptance of offer

You agree that:

- (a) Automotive Financial Services Pty Limited ABN 73 003 622 375 ("AFS" or the "Lessor") may accept your offer by an authorised officer of AFS signing the Memorandum of Acceptance on the Lease Agreement Schedule or by AFS arranging for payment to purchase the goods or paying any of the amounts listed in the schedule to the payees named in the schedule, whichever is the earlier;
- (b) it is not necessary for AFS to communicate such acceptance to you for it to be effective;
- (c) such acceptance will of itself and without notice to you, immediately create a valid and binding contract governed by the law of the State or Territory you were living in when you signed it.

If AFS accepts your offer, you and AFS agree as follows:

1 Provision of goods under this Lease Agreement

- 1.1 Subject to clause 1.3, the Lessor will lease the goods and you will take the goods on lease for the term of the agreement for the total rental payable, on the terms and subject to the conditions set out in this Lease Agreement Terms and Conditions and in the Lease Agreement Schedule.
- 1.2 Nothing in this lease confers any right or property or interest in or to the goods on you. Title to the goods will always be and remain with the Lessor and you will be a bailee of the goods only. You acknowledge that neither the supplier nor the Lessor has agreed or inferred that the Lessor is willing to negotiate the sale of the goods to you during the lease term or at the expiry of the lease term.
- 1.3 The Lessor' obligation to lease the goods to you or to do anything else under this lease is subject to and conditional upon the Lessor being satisfied that:
 - (a) this lease complies with all legal requirements relating to it;
 - (b) you have received all statements and information required by law to be given to you;
 - (c) any guarantee required by the Lessor has been given and is valid and binding on the guarantor; and
 - (d) no event of default has occurred and is continuing.The Lessor may at its option terminate this lease if the conditions in this clause 1.3 have not been satisfied within two months from the date the Lessor accepts this lease whereupon the Lessor's obligations under this lease will cease.
- 1.4 The term of the lease commences on the commencement date.

2 Other Terms and Conditions

- 2.1 You agree with, and declare to, the Lessor that, subject to any conditions and warranties implied by the Australian Consumer Law and any applicable statute of any State or Territory which implies conditions or warranties which cannot be excluded, or any statutory guarantees under the Australian Consumer Law which apply to the supply of goods or services under this lease:
 - (a) this lease contains all of the terms and conditions of the transaction between you and the Lessor;
 - (b) without limiting paragraph (a), no other condition, warranty, guarantee or representation, express or implied, is or has been given by the Lessor, its servants or agents whether in relation to:
 - (i) the condition or suitability of the goods, date of delivery of the goods or otherwise;
 - (ii) the disposal of the goods upon expiry of the lease term; or
 - (iii) taxation;
 - (c) all conditions, warranties and guarantees by or on behalf of the Lessor as to merchantable quality, fitness for purpose, roadworthiness, placing or maintaining the goods in good order and repair or otherwise with respect to the goods prior to, or at any time during, the term of the lease are excluded;
 - (d) all conditions, warranties and guarantees as to the level of care and skill with which any services will be rendered by or on behalf of the Lessor or as to the fitness for purpose (whether or not the purpose is made known to the Lessor) of the services or any materials supplied in connection with those services are excluded;
 - (e) to the extent that liability for any condition or warranty or statutory guarantee referred to in this clause 2 cannot be excluded and the goods and services under this agreement are not of a kind ordinarily acquired for personal, domestic or household use or consumption, the liability of the Lessor in respect of the breach of such condition, warranty or statutory guarantee is limited, at the option of the Lessor:
 - (i) where the breach relates to the goods, to a liability to:
 - (a) replace the goods or supply equivalent goods;
 - (b) repair the goods;
 - (c) pay the cost of replacing the goods or of acquiring equivalent goods;
 - (d) pay the cost of repairing the goods;

- (ii) where the breach relates to services, to a liability to:
 - (a) supply the services again for a period corresponding to the period of the breach; or
 - (b) pay the cost of having the services supplied again for that period.

3 Supplier Negotiations and Possession of the Goods

- 3.1 You acknowledge that negotiations about this lease were conducted with you by, or on behalf of, the supplier and broker (if any) but that, except as provided by law, the Lessor is not responsible for any representation or promise made to you as part of, or during those negotiations. Similarly, you acknowledge the Lessor is not responsible for any representation or promise made to you by any other person who may have introduced this transaction to the Lessor or who may have otherwise been involved in this leasing transaction.
- 3.2 You acknowledge that you understand that the Lessor is not a dealer in goods of the description of the goods and that the supplier (if any) has supplied the goods, or will supply or cause the goods to be supplied, to the Lessor or to you on the Lessor's behalf as a consequence of your negotiations with the supplier. You agree that you will take delivery of the goods without the Lessor having first taken physical possession of them and accordingly, you acknowledge that the Lessor has not seen the goods or had physical possession of them.

4 Ownership of the Goods

- 4.1 The goods remain our property. You are a bailee and have no title or interest in the goods.
- 4.2 You must not create any security interest over the goods or allow any other person to acquire an interest in the goods.
- 4.3 You must not do anything which could prejudice or jeopardise our rights in respect of the goods.
- 4.4 You must not conceal the goods, alter them or any identifying number or mark (including any serial number) on them.
- 4.5 You must not grant a lease or licence of any goods.
- 4.6 You must not waive any rights or release any person from any obligation in connection with the goods.
- 4.7 You must not cause or permit any other personal property in which another person has a security interest or other interest or right to become an accession to the goods or commingled with any goods, or affix any of the goods to land or buildings.
- 4.8 You must not sell, transfer or otherwise dispose of your rights in respect of the goods or attempt to do so without our prior written consent.
- 4.9 Any replacement or repair or addition to the goods forms part of the goods and becomes our property.

5 Security Interest in the Goods

- 5.1 You acknowledge that our interest in the goods provided for by the transaction contemplated by this agreement:
 - (a) secures the payment of all moneys and the performance of all obligations owing or assumed by you under this agreement; and
 - (b) is a security interest.
- 5.2 Our security interest in the goods is effective and attaches to the goods:
 - (a) when you sign this agreement; or
 - (b) immediately after you acquire any right or interest in the goods, if you have not acquired the goods when you sign this agreement.
- 5.3 We may, at your expense, take all steps as we consider reasonably advisable to register, amend or remove the registration of, protect, perfect or record our security interest in the goods, or to better secure our position in respect of this agreement under the PPS law.
- 5.4 If we ask, you must deposit with us any documents of title (including chattel papers) relating to the goods or other documents which evidence your rights in the goods.
- 5.5 Without affecting the priority of our security interest under this agreement, you must take any action necessary to register, perfect, preserve and maintain any security interest in the goods which you hold, or have the benefit of, under and in accordance with the PPS law.
- 5.6 You must procure the removal of any registration in relation to any security interest that affects the priority of our interest in the goods.
- 5.7 You must immediately notify us if you become aware of any person taking steps to register, or registering, a financing statement in relation to the goods.

6 Rent Payments, Stamp Duty and GST

- 6.1 You agree to pay the Lessor:
 - (c) the total rental payable under this lease by the rent payments and at the times set out in the Schedule; and
 - (d) at the same time as each rent payment, the Government duties payable on that rent payment and any GST on that rent payment (which at the date of this lease is the amount set out in the Schedule);
- 6.2 Your obligations to pay the rental payments under this lease are absolute and unconditional and will not, except to the extent prohibited by law, be affected by anything, including any defect in the goods or the condition, operation or fitness for use of the goods or any damage to or loss of the goods or any lien or other encumbrance over or with respect to the goods or any prohibition, interruption or other restriction

of or against the customer's use, operation or possession of the goods for any reason whatsoever. Except where it is prohibited by law, it is agreed by the parties that the rental payments will continue to be payable in all events in the manner and at the times agreed.

- 6.3 Any payments under this lease may only be made:
- (a) to the Lessor by cheque at its address in the State or Territory where this agreement is signed or such other place as the Lessor may direct in writing;
 - (b) to the Lessor by means of a direct debit request; or
 - (c) by any other means advised by and acceptable to the Lessor.
- Any payments made to any person, to be forwarded to the Lessor, will constitute the person as your agent for the purposes of making payment to the Lessor. A payment will not be considered to have been made by you if the cheque, direct debit or other method or instrument for the payment (electronic or otherwise) is dishonoured or otherwise not completed.
- 6.4 Payments made by you under this lease which are received by the Lessor after the close of business will be taken to be received on the next business day.
- 6.5 Where the Lessor makes any supply of any thing to you under this agreement or in conjunction with the goods, and the consideration for the supply is exclusive of GST, you agree to pay to the Lessor an additional amount equal to the GST payable by the Lessor in relation to that supply at the same time that the consideration for the supply is required to be paid by you.
- 6.6 Where you are required to pay or reimburse an expense or outgoing of the Lessor, the amount to be paid or reimbursed by you will be the sum of:
- (a) the amount of the expense or outgoing less any input tax credits in respect of the expense or outgoing to which the Lessor is entitled; and
 - (b) if the payment or reimbursement is subject to GST, an additional amount equal to that GST.

7 Payment of Other Amounts

7.1 You agree to:

- (a) pay to the Lessor or, where another payee is indicated in the Schedule, to the indicated payee, each amount set out in the Schedule which is to be paid or provided by you prior to delivery of the goods;
- (b) pay to the relevant person immediately it becomes due and payable each amount required by this agreement to be paid by you during the term of the agreement (for example, the cost of insurance under clause 11 and the cost of registration, repair and maintenance of the goods under clause 12);
- (c) indemnify the Lessor (except to the extent prohibited by law) against, and pay to the Lessor immediately on demand the amount of, any stamp duty, GST and other government charges in addition to the amounts set out in the Schedule which become payable during the term of the lease under, or in connection with, this lease or the leasing or use of the goods or any payment under this lease. Where the supply of any thing by the Lessor to you under this lease or in connection with the goods is subject to GST, the amount you are required to pay to the Lessor in respect of that supply shall be increased by the amount of the GST;
- (d) indemnify the Lessor against, and pay to the Lessor immediately on demand the amount of any costs, losses, expenses or liabilities including any GST payable except to the extent that the Lessor is entitled to an input tax credit;
 - (i) which the Lessor incurs acting reasonably or reasonably sees fit to pay in order to rectify, or as a result of, any breach by you of any obligation under this lease;
 - (ii) which the Lessor incurs acting reasonably following a voluntary early termination of this lease under clause 15, including without limitation, all reasonable costs of and associated with disposing of the goods pursuant to clause 20;
 - (iii) which the Lessor otherwise incurs acting reasonably in enforcing this lease or protecting its rights in the goods or under this lease (including, without limitation, any legal costs on a solicitor-own client basis, any costs incurred in registering its security interest in the goods renewing any insurance, releasing any lien claimed, justifiably or not, over the goods and in taking or attempting to take possession of the goods, storing the goods or serving any notice or demand); and
 - (iv) which the Lessor incurs acting reasonably due to any claim of any kind being made against the Lessor relating to the goods or their use including all claims arising out of injury or damage to person or property or any liability arising under any law relating to the protection of the environment;
- (e) pay to the Lessor any fees or charges set out in the Schedule; and
- (f) pay to the Lessor overdue interest, at the overdue rate specified in the Schedule, on any money payable under this agreement which is overdue by way of liquidated damages. This interest is payable from the time the amount is due to be paid until it is actually paid.

8 Commission

- 8.1 Commission relating to this agreement, the referral of your offer to the Lessor, the goods or products and services (including insurance) offered in connection with this agreement of the goods may be payable by the Lessor to, or payable to the Lessor by:
- (a) the supplier or the supplier's owner;
 - (b) the manufacturer of the goods;
 - (c) a provider of products or services offered in connection with this agreement or the goods;
 - (d) an insurer or its representative, distributor or administrator;
 - (e) a broker, introducer, or originator; or
 - (f) any employee, agent or related corporation of these people, of the owner or its related corporations.
- You consent to the payment of this commission and any other commission specifically disclosed in the Schedule.

9 Delivery

- 9.1 It will be your obligation to find out from the supplier when the goods will be available for delivery to you and for you to then obtain delivery of them at your cost and risk. If the goods are available for delivery when you are notified that the Lessor has accepted your offer, you must take delivery of them immediately after that notification. If not, you must take delivery of them within seven days of them becoming available for delivery to you.

10 Failure to Take Delivery

- 10.1 If there is any delay or refusal of delivery of the goods, the Lessor will not be liable for any losses suffered and this agreement will not be affected by that delay or refusal, unless it is caused by wilful and unreasonable refusal by the Lessor to pay the supplier for the goods or to permit the goods to be delivered or both.
- 10.2 The Lessor may at its option treat this agreement as repudiated by you if you refuse to take delivery of the goods as required by this agreement. If this agreement is repudiated you must pay to the Lessor (including any GST payable except to the extent that the Lessor is entitled to an input tax credit):
- (a) the amount determined under clause 20 if the Lessor has paid or is liable to pay for the goods; or
 - (b) if the Lessor has not acquired the goods, an amount equal to the aggregate of any amount payable by the Lessor to the supplier under any contract between the Lessor and the supplier including any damages payable to the supplier and any amount paid to the supplier to cancel such a contract and/or to compromise any claim by the supplier under such contract and any reasonable expense incurred by the Lessor (including legal costs on a solicitor-own client basis) relating to and in connection with the termination of this agreement including negotiations with the supplier.

11 Your Insurance Obligations

- 11.1 You must:
- (a) insure the goods at your own expense, including any applicable GST payable on the insurance premium and with an insurance company approved by the Lessor and keep them insured with such a company during the term of this lease on the following basis:
 - (i) the policy must contain such terms, conditions, exclusions and exceptions as the Lessor approves, must be taken out in your name and the Lessor's interest as the Lessor of the goods must be noted on the policy;
 - (ii) the goods must be insured for not less than their full insurable value or any other amount agreed by the Lessor against fire, accident, theft and any other usual risks and, in addition, against third party and all risks required by law and such other risks as the Lessor may reasonably require if it were arranging and paying for the insurance itself;
 - (iii) the policy must be enforceable and current and you must ensure that it is not voided by reason of any non-disclosure, misrepresentation or breach of warranty;
 - (b) pay all insurance premiums, stamp duties, GST and other amounts payable to maintain or effect the policy or policies required under this clause immediately they fall due for payment and, when requested, immediately hand to the Lessor all insurance policies and proof of payment of the premiums and currency of the cover;
 - (c) not do or fail to do anything which might allow the insurer to cancel, or refuse a claim under, any insurance policy relating to the goods; and
 - (d) notify the Lessor in writing immediately if the goods are lost, damaged or destroyed and of the occurrence of any event which gives rise to a claim under any insurance policy and of any cancellation, change or rejection of any insurance policy or cover.
- 11.2 If the Schedule indicates that the cost of any insurance premium is financed by the Lessor for any period:
- (a) despite clause 11.1(a), the cost of that insurance for the period has been included in your payment obligations under this lease and you do not have to pay it separately;
 - (b) the Lessor will be entitled at its discretion to cancel that insurance and receive any refund of premium if this agreement is terminated for any reason; and

- (c) the amount of any rebate or refund of the premium allowed by the insurer upon any early termination including, without limitation, any total or substantial loss or destruction of the goods, may be retained by the Lessor.
- 11.3 If you fail to pay any insurance premium required by this clause 11, the Lessor may pay the amount and recover it from you in accordance with clause 7 of this lease.
- 11.4 If there is any damage to, or loss of, the goods, the Lessor is entitled to receive all money payable both under the policy and by any other person in respect of that damage or loss. You hereby irrevocably appoint the Lessor your attorney (with the power to appoint substitutes and remove those substitutes and appoint other substitutes) first, to compromise and/or recover payment for any claim for loss or damage under the policy or otherwise in your name and the Lessor's name and, second, to give releases and receipts for any such claim, including without limitation any GST payable by the Lessor either directly or on your behalf in undertaking the activities contemplated by this agreement. You irrevocably authorise the Lessor to appropriate any insurance or other money received by it at its option towards repair or reinstatement of the goods or towards any money due or payable by you under this lease or on any other account.
- 11.5 If an amount for insurance (which provides cover against the difference between the amounts outstanding under this agreement and the amount paid by the comprehensive insurer of the goods where the goods are stolen or destroyed) is included in the total rental payments in the Schedule, you acknowledge that the insurance is for the benefit of the Lessor and the Lessor is entitled to receive all money payable under the policy.
- 11.6 If the Schedule specifies that an agreement for maintenance and service of the goods is financed under this lease, you agree to assign your rights under that agreement to the Lessor upon the Lessor's request.

12 Looking after the Goods

12.1 You agree:

- (a) at your expense, inclusive of any GST payable, (both as to materials and labour) to keep the goods in good order and repair and to keep the goods regularly serviced in accordance with the manufacturer's instructions and recommendations;
- (b) to use the care of a cautious and prudent Lessor to prevent damage to the goods or their loss or destruction and to indemnify the Lessor in respect of any loss or damage affecting the goods (however it is caused) prior to their return to the Lessor and, except to the extent prohibited by law, against all claims and costs (however they arise) resulting from the use, operation and keeping of the goods including any GST except to the extent that the Lessor is entitled to an input tax credit;
- (c) if the goods are damaged or require repair, maintenance or servicing, to have the goods repaired, maintained or serviced on terms which do not create a lien over the goods and to pay for all repair, maintenance and servicing to the goods promptly;
- (d) to keep the goods properly stored when not in use and, on request, to notify the Lessor of the location of the goods and to produce the goods for inspection;
- (e) to keep the goods registered at all times in your name and to pay all premiums for third party insurances, applicable GST and any other fees and charges required by law;
- (f) not to use, or permit the use of, the goods for any illegal purpose or in breach of any Act relating to their use or keeping;
- (g) not to conceal the goods or part with possession of the goods or to create any lien, charge or mortgage over the goods or purport to do so and not to pledge, sub-hire, assign, sell or part with the goods or any interest or benefit under this agreement or attempt or purport to do so;
- (h) not to permanently remove the goods from the State or Territory where they are registered on the commencement date (or if they are not then registered, where they are first registered) or to re-register the goods in any State or Territory without first obtaining the Lessor's written consent and procuring registration of the Lessor's security interest in the goods under any legislation in force in that State or Territory permitting or requiring registration of security interests in goods;
- (i) not to detach the goods or any part of them from any vehicle or other machine of which they form part or to which they are ancillary unless you first obtain the Lessor's consent in writing and where the Lessor's consent is given, it may be given subject to whatever conditions the Lessor sees fit to impose;
- (j) that all accessories now or in the future supplied with or attached to the goods will be or will become a part of the goods;
- (k) not to alter the goods or any identifying mark or number in any way, including without limitation by adding or removing any accessories without the prior written consent of the Lessor; and
- (l) not to cause or permit the goods to be affixed to any land or building without the prior written consent of the Lessor and where the Lessor's consent is given, you:
 - (i) permit the Lessor to enter onto the land or into the building to which the goods are affixed;
 - (ii) acknowledge that the land is charged, to the extent that you have capacity to give such a charge, in favour of the Lessor by way of security in respect of any obligations you have under this agreement and you authorise the Lessor, to the extent that you are able to do so, to lodge a caveat over the land recognising such charge; and

(iii) indemnify the Lessor in respect of any liability it may have to third parties for entering upon any land to which the goods are affixed.

Where at any time the goods are affixed to any land or building, you will be responsible for any damage caused to the land or building by the affixing or removal of the goods.

13 Your other Obligations

13.1 You must:

- (a) notify the Lessor in writing in advance of any changes to your or any guarantors residential or employer's address or of the address of the premises where the goods are stored;
- (b) notify the Lessor in writing in advance of any changes to your employment details or the employment details of the guarantors, or, if after this lease begins, your sole or principal business becomes a farming business;
- (c) notify the Lessor in writing immediately if the goods are stolen, destroyed, damaged or lost or if the goods' registration number or identification number is changed;
- (d) if the Lessor asks you in writing to do so, inform the Lessor within 7 days where the goods are and, if they are not in your possession, give the Lessor all information in your possession that might assist the Lessor to trace the goods;
- (e) deliver up the goods to the Lessor on the lease expiry date specified in the Schedule or upon any earlier termination of this lease; and
- (f) pay to the Lessor by way of liquidated damages for detention a sum equal to the second last rental payment divided by the number of days in the second last payment period, per day, for each day the goods are not in the Lessor's possession after the lease expiry date or any earlier termination of this lease.

14 Return of Goods at End of Lease

At the lease expiry date you must return the goods at your expense to the Lessor before 4.00pm or at another time agreed with the Lessor, to the Lessor, at its address in the State or Territory in which you live or such other place as the Lessor may advise you for the purposes of this clause. At the time you return the goods you must deliver to the Lessor all keys you have to the goods and execute all documents necessary to transfer the registration of the goods.

15 Loss or Destruction

If the goods are totally or substantially lost, stolen or destroyed the Lessor may, by notice in writing to you, terminate the hiring of the goods. You must then pay to the Lessor any amount, including any GST payable except to the extent that the Lessor is entitled to an input tax credit, by which the greater of the recoverable amount and the value of the goods immediately prior to their loss or destruction exceeds any net proceeds of disposal or insurance money (net of any applicable GST in relation to the supply for which that insurance money was received) received by the Lessor. You must pay that amount immediately on demand by the Lessor.

16 Events of Default

The recoverable amount will become immediately due and payable by you to the Lessor if, during this lease, the Lessor ascertains that any of following events occur:

- (a) you repudiate this lease;
- (b) you do not pay a rent instalment or any other amount by the due date (for any reason) and you fail to pay the amount due within 14 days of receiving notice from us asking you to do so;
- (c) you breach any other obligation under this lease and you fail to remedy the breach within 14 days of receiving notice from us asking you to fix it;
- (d) you commit any one of the following breaches in respect of any other contract between you and the Lessor:
 - (i) you do not pay on time any amount payable under the contract; or
 - (ii) in the Lessor's reasonable opinion, you made a false representation which affected the Lessor's decision to accept your offer and to enter into the contract,and you fail to remedy the breach within 14 days of receiving notice from us asking you to fix it;
- (e) in the Lessor's reasonable opinion, you or any guarantor or both made any false representation which affected the Lessor's decision to accept your offer and to enter into this lease;
- (f) a trustee in bankruptcy, guardian, controller, administrator, receiver, receiver and manager, liquidator or provisional liquidator is appointed to you or to any guarantor or both to administer your affairs or any guarantor's affairs or both or proceedings are commenced or a resolution proposed or passed to do so;
- (g) you or any guarantor or both die or become of unsound mind or are arrested and charged with any offence carrying a maximum period of imprisonment exceeding 3 months;
- (h) you are a partnership and a change occurs in the constitution of the partnership which could reasonably be considered to have a material impact on the exercise of the Lessor's rights under the contract, without the Lessor's consent;
- (i) you are a trustee of a trust and you, without the Lessor's written consent, cease to be the sole trustee, you do or omit to do anything in breach of the terms of the trust which could reasonably be considered to impact the exercise of the Owner's rights under the contract, any capital of the

trust is distributed, the trust is wound up or terminated or steps are taken to do so or an application is made to, or an order sought from, any court concerning the trust assets or administration of the trust; or

- (j) the goods are used for the commission of any offence which might result in their confiscation or forfeiture to the Crown or attachment, execution or distress is levied against the goods, you or any of your goods or property.

17 Personal Property Securities Act

17.1 In respect of the leasing of goods referred to in clause 1 and any other security interest arising under this contract, you agree to promptly do anything (including amending the loan contract, executing any new document, obtaining consents, signing and producing documents, getting documents completed and signed and supplying information) which AFS may at any time require for the purposes of:

- (a) ensuring that the security interest is enforceable, perfected and otherwise effective, or for providing more effective security over the collateral the subject of the security interest; or
- (b) ensuring the security interest is:
 - (i) continuously perfected and/or;
 - (ii) perfected by control; and/or
 - (iii) perfected in a way that will reduce as far as reasonably possible the risk of a third party acquiring an interest in any collateral the subject of the security interest (including providing AFS with all serial numbers for personal property that may or must be described by a serial number in accordance with the regulations under the PPSA), to the extent possible under the PPSA; or
- (c) enabling AFS to apply for registration, or give any notification, in connection with the security interest so that the security interest has the priority required by AFS; or
- (d) enabling AFS to exercise any right or power in connection with the security interest.

You agree you will bear all costs and expenses that you incur in complying with this clause 17.1 and any reasonable costs incurred by AFS for the purposes set out in 17.1.

17.2 If any goods that are subject to a security interest in favour of AFS are or become serial numbered property, the following provisions apply:

- (a) when requested by AFS but in any event as soon as possible after the settlement date, you must provide AFS or ensure AFS is provided with both the serial numbers and a copy of the registration certificate for the goods that AFS would require to make an effective registration (with the priority required by AFS) against that serial numbered property in accordance with the PPSA and its regulations. AFS is relying on this information and you must make sure it remains true at all times. You must tell AFS, if at any time, this information is no longer correct. You will compensate AFS for any loss it suffers as a consequence of you providing incorrect information, including providing an incorrect serial number;
- (b) you must:
 - (i) notify AFS immediately in writing of any serial number when it is allocated if a serial number has not been allocated to a vehicle; and
 - (ii) you must not change or remove the serial number of any goods which are serial numbered property without the consent of AFS.

17.3 To the extent permitted by law, and in respect of each security interest created by the contract:

- (a) if the collateral is not used predominantly for personal, domestic or household purposes the parties contract out of sections 95, 121(4), 125, 130, 132(3)(d), 132(4), 142 and 143 of the PPSA (to the extent, if any, mentioned in section 115(1) of the PPSA);
- (b) if the collateral is commercial property (as defined in section 10 of the PPSA) you irrevocably and unconditionally waive your right to receive any verification statement in respect of any financing statement or financing change statement relating to a security interest;
- (c) you irrevocably and unconditionally waive your right to receive any other notice required under the PPSA unless the provision of such notice cannot be excluded; and
- (d) the parties contract out of the application of subsection 116(2) of the PPSA to any provision of Part 4.3 of the PPSA in relation to a vehicle.

17.4 The parties agree, to the full extent permitted by law, not to disclose information of the kind mentioned in section 275(1) of the PPSA. You agree that you will only authorise the disclosure of information under section 275(7)(c), or request information under section 275(7)(d), if AFS approves.

17.5 You warrant that -

- (a) all information or documentation provided to AFS under this clause 17 is accurate and complete; and
- (b) except where it is specifically agreed to the contrary, you do not and will not hold any vehicle as inventory (within the meaning given to that expression in any section of the PPSA).

17.6 If any collateral that is subject to a security interest created by the contract gives rise to any proceeds (including any proceeds within the definition of that term in the PPSA) derived directly or indirectly from any sale or dealing with the collateral or otherwise arising out of or relating to that collateral whether or not the sale or dealing is permitted under the security interest, AFS' security interest continues in the collateral and attaches to the proceeds whether or not the contract remains in force.

18 Repudiation

- 18.1 Without limiting any other act or event which may amount to your repudiation of this lease, you will repudiate this lease if:
- (a) you inform the Lessor in writing or indicate by your conduct that you are not, or no longer intend to be, bound by this lease;
 - (b) you purport to sell the goods or do any other act inconsistent with the Lessor's unencumbered ownership of the goods;
 - (c) this lease is voidable against your official receiver, trustee in bankruptcy, receiver, receiver and manager, liquidator, provisional liquidator, controller or administrator; or
 - (d) you return the goods to the Lessor or, after the goods have been repossessed by the Lessor, you fail within 14 days after the repossession to exercise your right to resume possession in accordance with clause 19.

19 Repossession of the Goods

- 19.1 The Lessor may repossess the goods if the recoverable amount becomes due and payable by you to the Lessor under clause 16 or if you are required to return the goods to the Lessor pursuant to any other provision in this Lease.
- 19.2 You agree that the Lessor or any agent of the Lessor may enter upon the premises or the place where the goods may be or where the Lessor may believe the goods to be for the purpose of taking possession of the goods.
- 19.3 After the Lessor repossesses the goods, you may, if you have not repudiated this agreement, resume possession of the goods within 14 days from the date of repossession (but no later) if you pay all moneys owing to the Lessor under this agreement, remedy all other breaches of this agreement and secure, to the Lessor's satisfaction, the payment of any money which may become payable under clause 20 or clause 21.

20 Disposal of the Goods

- 20.1 If there is a residual value specified in the Schedule and the Lessor repossesses the goods pursuant to clause 19 or you return them to the Lessor pursuant to clauses 14 or 22.11 or you fail to take delivery of them as contemplated by clause 10, the Lessor will dispose of the goods as soon as reasonably practicable at the best price it can reasonably obtain at the time of disposal.
- 20.2 If there is no residual value specified in the Schedule and the Lessor repossesses the goods pursuant to clause 19 or you return them to the Lessor pursuant to clause 14 or you fail to take delivery of them as contemplated by clause 10, the Lessor will dispose of the goods by any method it considers appropriate.
- 20.3 If the net proceeds of disposal exceed the recoverable amount, the net proceeds of disposal will be set off against the recoverable amount (but only to the extent that the amount set off does not exceed the recoverable amount). If the net proceeds of disposal are less than the recoverable amount, you agree to pay the Lessor on demand (in addition to any other money payable by you) the amount of the deficiency.

21 Sale of the Goods on Expiration of the Lease Term

- 22.1 If, on the lease expiry date or the expiry of any extension of the lease term and subsequent disposal of the goods by the Lessor for the best price it can reasonably obtain at the time, the net proceeds of disposal are less than the residual value, you agree to pay to the Lessor immediately on demand (in addition to any rent or other money payable by you including any amount referred to in clause 7) the amount of the deficiency.

22 Miscellaneous

- 22.1 It is an essential term of this lease that you perform your obligations on time.
- 22.2 Where the description of the goods in the Schedule is incomplete at the time of signing by you, the Lessor is authorised to complete the Schedule with the description of the goods delivered to you and the Lessor is authorised to complete the date of this lease by inserting the date the Lessor believes you signed this lease.
- 22.3 Nothing in this lease limits the Lessor's rights to recover damages for any breach of this lease by you. Where your breach is a failure to pay any amount due and payable under this lease by its due date, the Lessor may agree to defer payment of that amount, but is not obliged to do so. The Lessor may waive any breach by you of any of your obligations under this lease but no such waiver will constitute a waiver or any continuing, recurring or subsequent breach.
- 22.4 The Lessor may at any time assign this lease or any interest or right it has under it free from any equity, set-off or counterclaim.
- 22.5 The Lessor is irrevocably authorised to use your name and to act on your behalf in exercising any rights or instituting or carrying on any legal proceedings or enforcing any court order or judgment which it thinks desirable to protect its rights in the goods.
- 22.6 If you are a trustee of any trust, you shall be liable to pay all amounts payable under this lease in your own right and in your right as trustee.

- 22.7 The Lessor may at its discretion appropriate any moneys it receives or has received from you from any source for your account or in respect of the goods and any moneys payable by the Lessor to you, towards any indebtedness or liability (including contingent indebtedness or liability) to the Lessor and the Lessor may set off all or any of the same against such indebtedness or liability of yours or the Lessor may appropriate all or any of the moneys towards repair or reinstatement of the goods.
- 22.8 A certificate signed by the secretary or any manager, accountant or authorised officer of the Lessor stating, the amount of net proceeds of disposal of the goods, any amount recoverable under this lease and the extent of the Lessor's entitlement to an input tax credit for GST paid in respect of any matter contemplated by this lease will be prima facie evidence of the amount or entitlement as at the date or dates stated in such certificate unless you can establish that such certificate was given in bad faith.
- 22.9 If the goods are provisionally delivered to you, your obligations as to insurance, care and use of the goods and otherwise (except as to payment of rent) under this lease bind you from the time of your execution of this lease and you will be a tenant at will of the goods at a daily rent equal to the first total rent instalment divided by the number of days in the first total rent instalment period, which if your offer is accepted by the Lessor, will be applied by the Lessor in reduction of the total rental payable set out in the Schedule.
- 22.10 The acceptance of your offer on behalf of the Lessor will of itself and without notice of acceptance of your offer to you, create a contract governed by the law of the State or Territory you live at the time of signing.
- 22.11 The Lessor may vary or change the terms of the lease at any time provided always the Lessor has given you at least 30 days written notice of the imposition of the change. The Lessor will only vary or change the terms of the agreement to the extent it is permitted by law. If the change consists of either an increase to the amount or frequency of payment of a fee or charge or rent payment payable under the lease, or the imposition of a new fee or charge, and you do not like the change, you may, by notice in writing to the Lessor, terminate the hiring of the goods. You must then:
- (a) immediately return the goods to the Lessor; and
 - (b) pay to the Lessor any amount, including any GST payable except to the extent that the Lessor is entitled to an input tax credit, by which the recoverable amount exceeds any net proceeds of disposal received by the Lessor. You must pay that amount immediately on demand by the Lessor.
- 22.12 Any provisions in this lease which are prohibited or are void or invalid by law will be ineffective to the extent they are prohibited, void or invalid without invalidating the remaining provisions of this agreement. This agreement must be construed as intended to operate in all respects to the maximum extent to which it can validly apply.
- 22.13 To the extent permitted by law, the Lessor may give or serve any notice or document on you by giving it to you in person, sending it to you at an appropriate address (including your place of residence or business last known to the Lessor) by post, by facsimile transmission or by transmitting it to you by any form of electronic communication which you indicate gives you the capability to receive electronic communications (for example, by providing an e-mail address to the Lessor). You may give or serve any notice or document on the Lessor by:
- (a) prepaid post to the Lessor's principal office in the State or Territory where you live or to the Lessor's registered office; or
 - (b) sending it by any form of electronic communication which the Lessor indicates it has the technical capability of receiving, subject to the notice conforming with any information technology requirements the Lessor imposes;
 - (c) delivering it in person to the place where you are required to make payment.
- 22.14 Without limitation to any other consent you may have given the Lessor in connection with privacy, you agree that the Lessor may give information about you, this lease and your performance of your obligations under this lease to the supplier and any related corporation of the Lessor.
- 22.15 You authorise the Lessor to rectify any error made in processing or calculating any rental payments, payment or debit or credit made, paid or payable under this lease.
- 22.16 To the extent that the Lessor releases you from any obligations under this lease, including a release following payment by you under an indemnity, you shall pay the Lessor an amount that includes the GST payable by the Lessor in relation to the supply connected with the release from your obligations.
- 22.17 You must do all things, including providing invoices or other documentation in such form and detail as may be necessary to enable or assist the Lessor to claim or verify any GST input tax credit, set-off, rebate or refund in relation to the amount attributed to any GST included in any amount payable under this lease, or which is related to this lease.
- 22.18 All payments by you under this lease may be applied by the Lessor at its discretion to any amounts due but unpaid by you under this lease.

23 Defined Terms

23.1 In this lease, the offer to purchase and in the guarantee, unless the context requires otherwise, the following terms have the following meanings: "**lease term**", "**rental payment**", "**lease expiry date**", "**term of the lease**", "**total rental payable**", "**total rental payment**" and "**total number of rental payments**" each mean the amount or period of time or date (as the case requires) set out as such in the Schedule;

"**commencement date**" means the date on which your offer has been accepted on the Lessor's behalf by the Lessor's authorised officer signing the memorandum of acceptance, drawing a cheque or otherwise arranging for payment to the supplier to purchase the goods from the supplier or, in the event that the Lessor is already the owner of the goods, the date the Lessor accepts your offer.

"**electronic communication**" has the meaning given to that expression in the Electronic Transactions Act 1999 (Cth).

"**enforcement expenses**" means all reasonable expenses reasonably incurred by the Lessor in enforcing its rights under this lease, including its rights to protect the goods, and includes amounts incurred or expended by the Lessor in issuing and delivering default notices or notices of intention to repossess, locating the goods for the purpose of inspecting or repossessing them, restoring the goods to saleable condition, discharging any lien or other encumbrance claimed by any person over the goods and otherwise in preserving, storing or maintaining the goods after a breach occurs under this lease and where appropriate, the fees charged by a duly qualified legal practitioner, including, in the case of all such reasonable expenses, any GST except to the extent that the Lessor is entitled to an input tax credit; "**goods**" means the unit or units described and identified in the Schedule and any substituted goods provided with the proceeds of insurance or otherwise, all accessories described in the Schedule and any other accessories and any replacement parts fitted to the unit or units.

"**GST**" means a goods and services tax or any similar tax imposed in Australia.

"**guarantee**" means any guarantee or guarantee and indemnity given by a guarantor in respect of your obligations set out in this lease.

"**input tax credit**" means an input tax credit or other credit allowed to the acquirer of a good, real property, services or any other thing within the meaning of A New Tax System (Goods and Services Tax) Act 1999 (Cth).

"**net proceeds of disposal**" means, in respect of the goods, the amount received by the Lessor upon a sale or other disposal of the goods excluding any applicable GST and after deducting all costs and expenses of and incidental to the recovery and sale or other disposal of the goods, including the cost incurred by the Lessor in storing, moving, cleaning, repairing, registering and insuring the goods including any GST payable by the Lessor except to the extent that the Lessor is entitled to an input tax credit.

"**PPSA**" means the Personal Property Securities Act 2009 (Cth) and includes any regulations connected or issued in conjunction with that Act and any amendments or replacements thereto, from time to time;

"**recoverable amount**" means at any time at which this lease is terminated prior to expiry of the term of the lease, the total of:

- (a) the aggregate of the rent instalments not then accrued due and the purchase payment (if any), less any rebate amount;
- (b) the amount of any overdue rent instalments, together with interest on them in accordance with clause 7; and of any other money accrued due under clause 7;
- (c) an amount equal to any stamp duty, GST as applicable payable in respect of the amounts prescribed in paragraphs (a) and (b); and
- (d) if the Lessor is not reasonably able to sell or otherwise dispose of the goods within 14 days of repossessing or receiving possession of them, interest in accordance with clause 7 on the above amounts from the date of termination of this lease until the date the amount due to be paid by you, is paid; less a rebate or allowance (if any) for any unexpired term of a lease related insurance contract or maintenance lease which is recoverable by the Lessor from a lease related insurer or provider of service and maintenance.

"**residual value**" means the amount stated as the residual value of the goods in the Schedule or in the absence of an amount being stated in the Schedule means the amount stated in a certificate signed by an authorised officer of the Lessor which is the Lessor's estimate of the value of the goods on the lease expiry date;

"**Schedule**" means the schedule to this booklet of terms and conditions which is a physically separate document and includes any Tax Invoice contained within the Schedule.

"**security interest**" has the meaning given to that term in the PPSA;

"**serial number**" has the meaning given to that term in the PPSA;

"**serial numbered property**" means any personal property which may or must be described by serial number in accordance with the regulations for registration in accordance with the PPSA;

"**stamp duty**" means all state and federal duties and taxes of any kind charged in relation to this lease or rent instalments or payments made under it including any debits tax and all stamp duties.

"supplier" means each person who supplies the goods or any services relating to the goods or has agreed to supply or to procure the supply of the goods or any services relating to the goods and every related corporation of that supplier.

"supply" means a supply of any goods, real property, services or any other thing within the meaning of GST Law;

"this lease" or **"the lease"** or **"this agreement"** or **"the agreement"** means the lease agreement formed upon acceptance by the Lessor of your offer, including the terms of the lease being set out in these Lease Agreement Terms and Conditions and the Schedule.

"(the) Lessor" means Automotive Financial Services Pty Limited ABN 73 003 622 375 Australian credit licence 383762 (AFS).

"you" and **"your"** refers to the person or persons described in, and signing the Schedule as, "the Lessee".

"your offer" means your offer to the Lessor to enter into a transaction to lease and purchase goods in accordance with these Lease Agreement Terms and Conditions and the Schedule.

- 23.2 If more than one of you sign this lease as "the Lessee", this lease binds you jointly and each of you severally;
- 23.3 the singular includes the plural and vice versa;
- 23.4 The words "Lessee", "Customer", and "Guarantor" includes the legal personal representatives, successors, nominees and assigns of the lessee and of the guarantor, respectively and " the Lessor " includes the Lessor, its principals, nominees and assigns.

HOW TO CONTACT AFS

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