

## TERMS AND CONDITIONS

### 1. Laws

This Agreement is governed by New Zealand law, including the Personal Property Securities Act 1999 and any amendments ("the Act"), and the Credit Contracts and Consumer Finance Act 2003 ("the CCCFA"). The terms of this Agreement are binding on the Securityholder and the Debtor except where they may conflict with the Act.

### 2. Security Interest

2.1 This Agreement and the Securities secure the total amount payable and any other moneys owed by the Debtor to the Securityholder under this Agreement, any other agreement for the provision of finance by the Securityholder to the Debtor or otherwise, and until all such moneys have been paid the Securityholder's security interest in the Collateral and the rights under the Securities will continue until released by the Securityholder.

2.2 The Debtor in signing this Agreement grants to the Securityholder a security interest in the Collateral, all proceeds of the Collateral and all after acquired personal property forming part of or becoming an accession to the Collateral as security for the payment of all moneys due and payable under this Agreement and the due performance of the obligations of the Debtor contained in this Agreement.

### 3. Payment, Default Interest, Early Repayment

3.1 The Debtor shall pay on due date each instalment specified in the Schedule (and if not specified, then those amounts so as to amortise repayment of the total amount payable over the term as stated in the Schedule). All payments shall be made to the Securityholder or to such other place as the Debtor is notified by the Securityholder from time to time in writing. The Debtor shall pay interest on any instalment and on the total gross outstanding debt, as a result of a payment default, which becomes payable under this Agreement, which are not paid on the date on which they become due. Such interest shall accrue to and include the date of actual payment at the default rate stated in the Financial Schedule and shall form part of the amount owing under this agreement. All payments by the Debtor shall be made without any deduction, set off or counter claim.

3.2 The Debtor shall, if required, make payments in accordance with a specified schedule of payments ("payment schedule") as provided by the Securityholder to the Debtor. If any payment is received in advance of a date specified in the payment schedule, the Securityholder may credit that payment in accordance with the schedule as anticipated by section 46(3) of the CCCFA.

3.3 The Debtor may repay early the credit provided under this Agreement provided that the Debtor pays administrative costs applicable to the repayment and the reasonable estimate of the Securityholder's loss that is calculated using the formula prescribed in regulation 9 or regulation 11 of the Credit Contracts and Consumer Finance Regulations 2004.

The Securityholder may (at its discretion) review the interest rate by providing 15 days prior notice in writing to the Debtor. The notice to the Debtor shall specify the new rate payable, the date it is effective from, and the amounts of the new instalments then payable under this Agreement.

3.5 For the purposes of calculating interest under section 36 of the CCCFA, each working day shall end at 3.00pm. Where the debtor(s) make a final payment under this agreement earlier than 3.00pm on any given working day, the day shall end at the time that final payment is received.

3.6 The Securityholder may decline to accept any part prepayment within its discretion.

3.7 The Securityholder may consent to a refinance of this facility. If consent is provided a refinance fee may be charged to this facility at the time of the refinance.

### 4. Use of Collateral

4.1 If the Collateral has been acquired by the Debtor for a business use, nothing in the Consumer Guarantees Act 1993 shall apply to the supply of the Collateral (to the extent the Securityholder may be a supplier), and if the Collateral is secondhand, to the extent that the Securityholder is a supplier the Securityholder makes no warranty that such are fit for use or any particular purpose.

4.2 If the loan is required for the Debtor for commercial purposes, nothing in the CCCFA shall apply in respect of an obligation on the Securityholder to provide disclosure under that legislation.

### 5. Maintenance of Collateral

The Debtor shall keep the Collateral in good order and repair, fair wear and tear excepted. If repairs become necessary, the Debtor shall have the Collateral repaired by the Securityholder or by someone nominated or approved by the Securityholder, unless this is not practicable in the circumstances in which event the repairs shall be carried out in a proper workmanlike manner. The Debtor shall pay for all repairs carried out to the Collateral (unless these are carried out under any warranty or insurance cover given by the Securityholder or the manufacturer of the Collateral) and will not allow any charge or lien to be created over the Collateral for any work done upon the Collateral. If the Debtor fails to pay for any repairs carried out or work done to the Collateral, the Securityholder may pay for the same and recover the cost from the Debtor. This clause shall not apply where the Collateral is not in good order and repair or repairs are otherwise required as a result of a breach by the Securityholder of a guarantee implied by the Consumer Guarantees Act 1993 which has not been lawfully excluded by the Securityholder.

### 6. Debtor Covenants

The Debtor shall:

6.1 not remove the Collateral from the address specified on the front of this Agreement without first notifying the Securityholder in writing and shall not remove the Collateral from New Zealand without first obtaining the written consent of the Securityholder;

6.2 notify the Securityholder immediately if the Collateral is taken out of the Debtor's possession for any reason, and shall give full particulars of the address (if known) to which the Collateral has been removed;

6.3 not dispose of, part with possession of, modify or alter the Collateral or Security Property except with the Securityholder's prior written consent;

6.4 immediately give written notice to the Securityholder of any change in the Debtor's address;

6.5 keep the Collateral and the Security Property insured for the maximum insurable value of the Collateral and the Security Property (including replacement value if required by the Securityholder) against fire, accident, theft and such other risks as the Securityholder requires, and if required by the Securityholder, in the names of the Securityholder (including its assignees) and the Debtor for their respective rights and interests with an insurer approved by the Securityholder. The Debtor will punctually pay the premiums for the insurance and will (if the Securityholder requires) deliver the policies and the premium receipts to the Securityholder. The Securityholder shall be entitled to receive all moneys payable under such policy or payable by any other person in respect of damage to or loss of the Collateral or Security Property. For this purpose, the Debtor assigns by way of security to the Securityholder all the Debtor's right, title and interest in and all benefits relating to such policy, the proceeds thereof and any moneys otherwise payable by any person in respect of damage to or loss of the Collateral or Security Property. All moneys payable under any such policy shall be paid to the Securityholder who may apply them at the Securityholder's sole option either in making good damage to the Collateral or Security Property or towards payment of all moneys payable under or secured by this Agreement whether or not the due date for payment has arrived;

6.6 not do or omit to do anything whereby any lien on the Collateral or Security Property shall arise, and will not permit the Collateral to become affixed to any land or to become an accession to any other Collateral or permit the Security Property to become encumbered in any way without first obtaining an acknowledgement or waiver in such form as the Securityholder requires acknowledging the Securityholder's interest to the Collateral and Security Property as separate and paramount;

6.7 permit the Securityholder and any persons authorised by the Securityholder to have access to the Collateral or Security Property and all records, insurance policies and other documents relating to the Collateral and Security Property, and at all reasonable times to test or inspect them;

6.8 comply with the provisions of all laws affecting the Collateral and Security Property or the use or possession of the Collateral and Security Property and shall keep the Collateral registered or licensed as required. The Debtor will indemnify the Securityholder against any claims resulting from the use or installation of the Collateral causing damage to any property.

### 7. Representations Initials

The Debtor represents and warrants to the Securityholder that:

7.1 it has the power to enter into, exercise its rights and perform and comply with its obligations under this Agreement;

7.2 this Agreement constitutes its legal, valid and binding obligations, enforceable in accordance with its terms;

7.3 financial information given, or to be given, to the Securityholder in respect of it does, and will, fairly and accurately represent its financial position at the date as of which such financial information is given;

7.4 it is the legal and sole owner of the Collateral and Security Property;

7.5 except as disclosed to and agreed to by the Securityholder, there are no other security interests over or in relation to the Collateral or the Security Property.

### 8. Priority

The security interest granted under this Agreement has the same priority in relation to all moneys payable or secured under this Agreement.

### 9. Default

A default by the Debtor shall arise if:

9.1 the Debtor fails to make payment of any amount payable or secured under this Agreement;

9.2 the Debtor permits or suffers an act of bankruptcy or, being a company goes into liquidation, or has a receiver appointed over its assets or is deemed to be unable to pay its debts under any relevant legislation;

9.3 any execution is levied upon the Collateral or Security Property, or the Debtor allows the Collateral or Security Property to be seized or removed so as to satisfy other debts;

9.4 any insurance proposal made by the Debtor in respect of the Collateral or Security Property is declined or any insurance policy in respect of the Collateral or Security Property is cancelled;

9.5 the Debtor otherwise makes default in the observance or performance of any of the covenants or conditions contained or implied in this Agreement and fails to rectify such default within 15 days (or any lesser period permitted by law) of receipt of written notice from the Securityholder requiring the Debtor to do so; or

9.6 the Debtor does or causes to be done or permits or suffers any act or thing which prejudices or places in jeopardy the Securityholder's rights in the Collateral, Security Property or under this Agreement, then (subject to the provisions of the Act, the Credit (Repossession) Act 1997, and the Property Law Act 1952) all moneys payable under this Agreement shall immediately become due and payable (whether the due date has arisen) and the Securityholder may exercise any or all of its powers of enforcement.

### 10. Enforcement

10.1 Following a default under clause 9 occurring and the expiry of any notice period required by law, or at any time the Securityholder considers the Collateral or Security Property to be at risk (within the meaning of the Act), the Securityholder may take and keep possession of all or part of the Collateral or Security Property and/or sell or dispose of such Collateral or the Security Property by auction, tender or in such other manner and on such terms as the Securityholder thinks fit, and for this purpose may sell for immediate or deferred consideration, and may buy in or rescind or vary any contract of sale and may resell without being responsible for any loss incurred.

10.2 To exercise, the rights of repossession and enforcement, the Debtor irrevocably gives the Securityholder its managers or its representatives leave and licence without needing to give any notice to enter upon the Security Property and, if necessary, break into any buildings occupied by the Debtor where the Collateral may be or may be supposed to be held and, as the agent of the Debtor, to enter upon any other land, buildings or premises which the Debtor might enter upon and where the Collateral may be or may be supposed to be held and to search for, remove and take possession of the Collateral without being liable in any way to the Debtor or anyone claiming under the Debtor for so doing, including any claims for consequential loss or damage.

10.3 The costs of the Securityholder of and incidental to enforcing or attempting to enforce its rights under this Agreement or the Act shall be payable by the Debtor and may be recovered by the Securityholder as a debt due. Furthermore, the Debtor shall repay to the Securityholder any costs incurred (including legal and administrative costs) in relation to the recovery of any overdue payment. Such costs shall include default administration fees for each default by the Debtor or Guarantor as charged by the Securityholder from time to time. Where the Debtor falls into default, and the Securityholder elects to write to the Debtor to remedy such default, a fee of \$150 shall be charged to the Debtor on each and every occasion the Securityholder elects to write. Where the Securityholder elects to issue a formal legal notice in respect of the Debtor's default, a fee of \$250 shall be charged to the Debtor for each and every notice issued.

10.4 The exercise of the Securityholder's rights and remedies under this clause 10 shall include, and be subject to, the provisions of the Act, the Credit (Repossession) Act 1997, and the Property Law Act 1952, unless lawfully excluded in this Agreement.

### 11. Attorney

The Debtor irrevocably appoints the Securityholder and its agents, managers and directors, severally to be the attorney of the Debtor (each an "Attorney") to in the name of and as the act of the Debtor and at its expense in all things, do anything which the Debtor agrees to do under the provisions of this Agreement or which, in the Attorney's opinion, is necessary or expedient to give effect to any right, power or remedy conferred on the Securityholder by this Agreement, by law or otherwise (including executing deeds, caveats, registering a mortgage under the client authority to mortgage and instruction executed pursuant to this Agreement, and instituting, conducting and defending legal proceedings). Each Attorney may:

11.1 delegate its powers (including this power of delegation) to any person for any period, and revoke a delegation; and

11.2 exercise or concur in exercising its powers even if the Attorney has a conflict of duty in exercising its powers or has a direct or personal interest in the means or result of that exercise of powers.

The Debtor hereby ratifies and agrees to ratify anything done by its Attorney or any delegate in accordance with this clause.

## 12. Contracting Out

The Debtor agrees that:

12.1 if, at any relevant time, the Securityholder does not at that time have priority over all other secured parties in relation to the Collateral, then the Debtor and the Securityholder will, for the purposes of section 109(1) of the Act, be deemed, in accordance with the entitlement to do so under section 107(1) of the Act, to have contracted out of that section. Nothing contained in this clause shall affect the Securityholder's rights under clause 9 and 10;

12.2 nothing in sections 114 (1)(a), 133 and 134 of the PPSA will apply to this Agreement and waive the Debtor's rights to object to the Securityholder's proposal to retain any Personal Property under section 121 of the Act, not have goods damaged when the Securityholder removes an accession under section 125 of the Act, receive notice of the removal of an accession under section 129 of the Act, apply to the Court for an order concerning the removal of an accession under section 131 of the Act, or 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;

12.4 the costs of registering a mortgage, financing statement, financing change statement or discharge of financing statement, will be paid by the Debtor; and

12.5 the costs of any valuation of the Collateral, the Security Property or other prospective security will be paid by the Debtor.

## 13. Credit Fees and Charges

13.1 The costs of completing this Agreement, the Securities, any mortgage or caveat under the Agreement to Mortgage in this Agreement and any document, credit, or other fee or charge specified in the Schedule are payable by the Debtor. The Debtor authorises the Securityholder to pay the fees and charges specified in the Schedule by deduction from the credit provided.

## 14. General Initials

14.1 Notices under this Agreement shall be given and served in accordance with Section 46 of the Act or Section 38 of the Credit (Repossession) Act 1997, as applicable.

14.2 The Securityholder has the full right of assignment of its right, title and interests under this Agreement, and all the rights and powers of the Securityholder under this Agreement may be exercised by any assignee of this Agreement as fully and effectually as they might have been exercised by the Securityholder. Subject to the Act, CCCFA and the Credit (Repossession) Act 1997, unless consented to by the Securityholder in writing, the Debtor may not assign its rights and interests under this Agreement.

14.3 If the Securityholder makes any indulgence or concession to the Debtor under this Agreement, this shall not waive or be deemed to waive any of the Securityholder's rights, or operate or be deemed to operate as a variation of this Agreement. No waiver by the Securityholder shall be effective unless in writing and signed by an authorised signatory of the Securityholder.

14.4 If at any time any provision of this Agreement is or becomes illegal, invalid or unenforceable in any respect under the law of any relevant jurisdiction, that illegality, invalidity or unenforceability shall not affect the ability of the Securityholder to enforce the provisions (or, as the case may be, the remaining provisions) of this Agreement, nor shall such affect or impair the legality, validity or enforceability of those provisions under the law of any other jurisdiction.

14.5 Goods and services tax payable under the Goods and Services Tax Act 1985 (or any modification or substitution tax) by the Securityholder in relation to any goods or services provided in terms of this Agreement or provided by third parties for which the Debtor is liable to make payment in terms of this Agreement shall be passed on to and be payable by the Debtor. The Debtor shall indemnify the Securityholder against any tax liability arising because of any delay or omission by the Debtor to pay such tax. For the purposes of the Goods and Services Tax Act 1985, where "business use" on the front of this Agreement has not been selected, the Debtor covenants with the Securityholder that the Collateral has been acquired for personal use only and will not be used in any taxable activity and that any sale of the Collateral by the Debtor will not be a taxable supply. The Debtor acknowledges that the Securityholder may rely on this covenant for the purposes of Section 5(2) of the Collateral and Services Tax Act 1985.

14.6 In consideration of the advance of the Loan by the Securityholder to the Debtor, the Guarantor guarantees to the Securityholder, and indemnifies the Securityholder against loss incurred by the Securityholder from a breach in the due and punctual payment of the Moneys Owed and the observance and performance of the Debtor's obligations under this Agreement, the Securities and the Security Documents granted in favour of the Securityholder for the payment of the Moneys Owed. The Guarantor is liable under this guarantee and this Agreement as if it were the sole principal debtor and not merely a surety. The Guarantor agrees that no indulgence, granting of time, waiver or forbearance to sue or any other thing whereby the Guarantor would be released as a surety or otherwise shall in any way release the liability of the Guarantor under this Agreement. The guarantee under this clause 14.6 is in addition to and not in substitution for or in replacement of any guarantee and indemnity granted by the Guarantor forming part of the Security Documents.

14.7 In this Agreement unless the context requires otherwise, the following terms shall have the following meanings:

"Act" is defined in clause 1, and references to the Act or any section of the Act or any other legislation shall include any successor or substituted legislation or section.

"CCCFA" is defined in clause 1, and references to the CCCFA or any section of the Act or any other legislation shall include any successor or substituted legislation or section.

"Agreement" means this Agreement and includes any variation or modification of this Agreement.

"Collateral" means the Collateral described on any invoice or sales docket attached to this Agreement, or as described in the Collateral box below, together with all attachments and accessories, which may at any time form part of the Collateral.

"Debtor and Guarantor" includes each and every person, jointly and severally, named as such, their executors and administrators and assigns.

"Personal Property" has that meaning given it in the Act.

"Securities" means the other securities specified in the schedule.

"Securityholder" includes the successors and assignees of the Securityholder, and the representatives and agents of the Securityholder.

"Security Property" means the property charged by the Securities.

## WHAT COULD HAPPEN IF YOU FAIL TO MEET YOUR COMMITMENTS:

### Security interest:

The creditor has an interest in the property listed below or on the dealer / vendor invoice attached to secure performance of your obligations under the contract, or the payment of money payable under the contract, or both. **If you fail to meet your commitments under the contract, then to the extent of the security interest, the creditor may be entitled to repossess and sell this property.**

### Default interest charges and default fees:

In the event of a default in payment and while the default continues you must pay the default interest charges. In the event of a breach of the contract or on the enforcement of the contract, the default fees specified below are payable. Your credit contract may allow the creditor to vary these fees and charges. The following credit fee(s) and charge(s) (which are not included in the initial unpaid balance) are, or may become, payable under, or in connection with, the contract. (Please also refer to Clause 3 of the Terms and Conditions)  
Default interest is 30%. Default interest becomes payable from overdue date.

#### Schedule of Fees:

##### Default Fees:

- Overdue Account Reminder Letter Fee:	\$1.00
- Overdue Account 2nd Reminder Letter Fee:	\$5.00
- Overdue Account 3rd Reminder Letter Fee:	\$5.00
- Dishonoured Payment Fee: (Per Dishonour)	\$20.00
- Repossession Authorisation Fee:	\$40.00
- Termination of Account Fee:	\$50.00

##### In the Event of Repossession, the following charges may apply:

- Statement of Account After Sale Fee:	\$50.00
- Post Repossession Letter Fee:	\$40.00
- Notice of Demand Letter Fee:	\$25.00
- Administration Default Fee:	\$25.00
- Storage Fee:	\$37.50
- Trace Fee:	\$120.00

## FULL REPAYMENT

If you pay the unpaid balance in full before the final payment is due (**full prepayment**), you may be required to pay a fee or charge to compensate the creditor for any loss resulting from the full prepayment. The creditor may have suffered a loss if the creditor's current interest rate is lower than the interest rate applying to your original consumer credit contract. You may also have to pay the creditor's administrative costs relating to the full prepayment.

Administrative costs/fees: \$25.00 closure administration fee. (Waived if balance outstanding less than \$500.00 or Term remaining less than 12 months)

## RIGHT TO CANCEL:

### Statement of Right to Cancel

The Credit Contracts and Consumer Finance Act 2003 gives you a right for a short time after the terms of this contract have been disclosed to you

### How to cancel:

If you want to cancel this contract you must give written notice to the creditor.

\*You must also-

return to the creditor any advance and any other property received by you under the contract (but you cannot do this if you have taken possession of any goods or if you bought any property at an auction or if the contract is for the sale of services that have been performed); or

pay the cash price of the property or services within 15 working days of the day you give notice.

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

### Time limits for cancellation:

If the disclosure documents are handed to you directly you must give notice that you intend to cancel within 3 working days after you receive the documents.

If the disclosure documents are sent to you by electronic means (for example, email) you must give notice that you intend to cancel within 5 working days after the electronic communication is sent.

If the documents are mailed to you, you must give the notice within 7 working days after they were posted.

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

### What you may have to pay if you cancel:

If you cancel the contract the creditor can change you –

the amount of any reasonable expenses the creditor had to pay in connection with the contract and its cancellation (including legal fees and fees for credit reports, etc); and interest for the period from the day you received the property or services until the day you either pay the cash price for the property or services or return the property to the creditor.

Interest for the period from the day you received the advance until the day you repay the advance.

This statement only contains a summary of your rights and obligations in connection with the right to cancel. If there is anything about your rights or obligations under the Credit Contracts and Consumer Finance Act 2003.

## Credit Reporting Privacy Code 2004

I understand that Gilrose Finance Company Ltd have asked me for personal information about me so as to use Baycorp Advantage's credit reporting service to credit check me. I understand that:

- Baycorp Advantage will give you information about me for that purpose.
- You will give my personal information to Baycorp Advantage, and that Baycorp Advantage will hold that information on their systems and use it to provide their credit reporting service.
- When other Baycorp Advantage customers use the Baycorp Advantage credit reporting service, Baycorp Advantage may give the information to those customers.
- If I default in my payment obligations to you, information about that default may be given to Baycorp Advantage, and Baycorp Advantage may give information about my default to other Baycorp Advantage customers.