

## **BORROWER TERMS AND CONDITIONS**

**WHEREAS** the parties have agreed that, upon and subject to the terms and conditions contained herein, the Lender will advance by way of a loan to the Borrower, and the Borrower will borrow a principal sum to be determined by the Lender.

**NOW THEREFORE THIS AGREEMENT WITNESSES** that, in consideration of the mutual covenants and agreements contained herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged by each of the parties hereto, the parties hereto hereby covenant and agree as follows:

### **ARTICLE 1 - INTERPRETATION**

**1.1 Definition.** In this Agreement, unless the context otherwise requires, the following words and phrases shall have the meanings set out below, respectively: (a) “**Account**” means the bank account of the Borrower; (b) “**Advance**” means the advance of the Loan.

(c) “**Agreement**” means this Loan Agreement, as amended, supplemented, restated or otherwise modified from time to time.

(d) “**Application**” means the application forms for obtaining a loan from the Lender and other document that form part of it.

(e) “**Business Day**” means a day, other than a Saturday, a Sunday or a public holiday, on which banks are open for business in Toronto, Ontario.

(f) “**Borrower**” means the individual or corporation who is taking the loan and accepts an offer to finance.

(g) “**Dealer**” means the Dealer from which the vehicle is being purchased (h) **Lender**- the legal entity that is advancing the funds for the financing.

(i) “**Purchaser**” – Any individual or entity acquiring a vehicle from Finance That

(j) “**Vehicle**” - includes an automobile, a motorcycle, boat, a motor-assisted bicycle, a power assisted bicycle, ATV's, a motorized snow vehicle, a farm tractor, backhoe, excavators, bulldozers, graders, loaders, forklifts, cranes, dump trucks. The Lender may from time to time expand this definition in its sole discretion.

**1.2 Headings, etc.** The division of this Agreement into Articles and Sections and the insertion of headings are for convenience of reference only and shall not affect the construction or interpretation of this Agreement.

**1.3 Number and Gender.** In this Agreement words importing the singular number only shall include the plural and vice versa, words importing a specific gender shall include the other genders, and references to persons shall include individuals, partnerships, trusts, associations, unincorporated organizations and corporations.

**1.4 Currency.** All dollar amounts referred to in this Agreement are in Canadian funds

## **ARTICLE 2 - LOAN**

**2.1 Loan.** The Lender has agreed to advance funds to the Purchaser ("Loan") upon and subject to the terms and conditions contained in this Agreement.

**2.2 Term.** The term of the loan shall be for a specified period of time.

**2.3 Interest.** The Loan shall bear interest at the rate determined by the Lender. The interest shall be the compounded monthly.

**2.4** The Borrower may cancel this agreement up to the time of advance of the Loan without any penalty.

**2.5** Once the loan is advanced, the Borrower cannot change any of the repayment terms.

## **ARTICLE 3 – LOAN REPAYMENT**

**3.1 Repayment of Loan.** The repayment schedule for the Loan shall be either on a bi-weekly or monthly basis.

Monthly payments are due one month after the date of the Advance and continue every month thereafter until all amounts due under or in connection with this Agreement have been paid in full. If a monthly payment would fall due on a day that is not a Business Day, the due date will be the next available Business Day. If a monthly payment would fall due on a day that is outside the applicable calendar month, the due date will be the last Business Day of that month. The loan may be paid off in full at any time without penalty or bonus. There will be a fee of \$250.00 for the preparation of each final payout statement requested.

**3.2 Pre-Authorized Payments.** Payments shall be made using a pre-authorized payment service. The Borrower authorizes the Lender to make withdrawals from its Account the details of which shall be provided to the Lender upon the acceptance of an offer to finance from the Lender. The Borrower shall advise the Lender of any changes to the Account at least fifteen (15) days before the next pre-authorized payment is due.

**3.3 Dishonoured Payments.** Should any payment not be honoured for such amounts as may be due under this Agreement, the Borrower must within 24 hours of the date the payment was due, replace that payment and if required provide new banking information from which all further payments will be taken. The Lender may charge the Borrower a dishonoured payment fee of \$150.00 for each such dishonoured payment. At the sole discretion of the Lender, the dishonoured payment fee may be increased, decreased or waived without notice to the Borrower or the Guarantors.

**3.4 Advance Payments.** In addition to the agreed monthly payments, the Borrower or any Guarantor may, at any time, repay the amount owing on the Loan in whole or in part without notice, penalty or bonus, provided that any and all interest accrued to the date of repayment has

been paid in full. Any overpayment shall be applied against scheduled repayments in inverse order of the payment due date and shall reduce the term of the loan.

**Payment on Demand.** The Lender may, in its sole discretion, demand early repayment of the Loan for any reason whatsoever. If the Lender demands early repayment, the Borrower and the Guarantors shall be liable for and pay, within seven (7) days of the date of demand:

- (a) the total balance of the unpaid principal, together with all accrued interest and fees; and
- (b) all reasonable costs and charges, including legal fees of a solicitor incurred by or on behalf of the Lender, for action taken to recover the full amounts owing under this Agreement.

#### **ARTICLE 4 - REPRESENTATIONS AND WARRANTIES**

The Borrower hereby represents and warrants to the Lender as follows, and acknowledges and confirms that the Lender is relying on such representations and warranties in connection with the Loan:

**4.1 Corporate Status.** If the Borrower is incorporated, then the Borrower was incorporated under the laws of Ontario and has not been dissolved.

**4.2 Corporate Power.** If the Borrower is an incorporation, the Borrower has all requisite corporate power and capacity to own or lease its property, to carry on its business, to enter into each of the Loan Documents and to complete the transaction provided for herein.

**4.3 Corporate Authorization.** The execution and delivery of each of the Loan Documents by the Borrower and the completion of the transaction provided for herein have been duly authorized by all necessary corporate action and proceedings of the Borrower.

**4.4 No Contravention.** The execution and delivery of the Loan Documents and the performance by the Borrower of its obligations thereunder will not result in the violation of any indenture or other agreement, written or oral, to which the Borrower is a party or by which it is bound.

**4.5 Enforceability.** This Agreement and the other Loan Documents have been duly executed and delivered by the Borrower and constitute legal, valid and binding obligations of the Borrower enforceable against the Borrower in accordance with their respective terms, subject only to any limitation under applicable laws relating to bankruptcy, insolvency, arrangement or creditors' rights generally, and the discretion that a court may exercise in the granting of equitable remedies.

**4.6 Title of Assets.** The property and assets, other than leased assets, of the Borrower are to be beneficially owned by it, with good and marketable title thereto, free and clear of any mortgages, charges, pledges, assignments, liens, security interests or encumbrances whatsoever. The Lender does not warrant the mechanical or other condition of the vehicle.

**4.7 No Representation as to Fitness:** The Lender does not warrant the physical or mechanical fitness of the vehicle and accepts the vehicle on an "as is" basis.

#### **ARTICLE 5 – COVENANTS**

So long as the Loan or any part thereof remains outstanding, the Borrower covenants and agrees with the Lender as follows:

**5.1** The Borrowers shall during the term of this loan advise the Lender of any changes it is banking information or contact information.

**5.2** The Borrower(s) shall ensure that the Vehicle is fully and properly insured and shall have a valid policy of insurance during the term of the loan and shall have the Lender or as they may further direct noted as a loss payee on the insurance policy prior to funding.

**5.3** The Borrower(s) consent to the registration of security interest in favour of the Lender pursuant to the Personal Property Security Act, RSO 1990, c P.10 against the purchased vehicle.

**5.4** The Borrower cannot licence the vehicle themselves and this process is the sole responsibility of the Lender.

**5.5** The Borrower shall be responsible for making their own arrangements for pickup up the vehicle.

## **ARTICLE 6 - CONDITIONS PRECEDENT**

**6.1 Conditions of Advance.** The obligations of the Lender to make available the Advance to the Borrower are subject to compliance, with each of the following conditions precedent, which conditions precedent are for the sole and exclusive benefit of the Lender and may be waived in writing by the Lender in its sole discretion:

- (a) the Borrowers shall have completed an Application form for this Loan;
- (b) the Borrower shall have verified that the information contained in the Loan Documents and the representations and warranties set out in Article 4 shall be true and correct on the date of the Advance as if made on and as of such date;
- (c) the Borrower consents to the Lender, and any of its third party service providers, collecting and using the information provided by the Borrower or collected with the Borrower's prior authorization, for the following purposes: (a) processing the Application; (b) providing the Borrower with services, and (c) advertising, media relations, marketing, social media and promotions in connection with the Lender's operations; and
- (d) The borrowers and/or guarantors consent to and authorize the Lender to obtain their credit reports and/or credit scores from the credit Bureau.

## **ARTICLE 7 - EVENTS OF DEFAULT**

**7.1 Events of Default.** The occurrence of any of the following events shall constitute an event of default under this Agreement:

- (a) default by the Borrower in the payment when due of any amounts owing to the Lender;
- (b) default by the Borrower or any Guarantor in the performance or observance of any covenant, condition or obligation contained in any Loan Document to which it is a party that does not require the payment of money to the Lender unless such default is remedied within 5 Business Days after the Borrower or any Guarantor learns of the breach or receives written notice of the breach from the Lender;

- (c) default by the Borrower in the performance or observance of any covenant, condition Or obligation contained in any agreement between the Borrower and any person, where such default gives rise to a right to enforce security against the Borrower and steps are taken or threatened to enforce such security;
- (d) any representation, warranty or certification under any of the Loan Documents is found to be incorrect, incomplete or misleading when made or deemed to be made by the Borrower or Guarantor, as applicable;
- (e) the Borrower takes any action or commences any proceedings, or any action or proceeding is taken or commenced by another person against the Borrower, in respect of the insolvency, liquidation or dissolution of the Borrower and same is not contested in good faith by the Borrower;
- (f) the Borrower commits or threatens or is subject to any act of bankruptcy proceeding including a consumer as set out under the provisions of the *Bankruptcy and Insolvency*;
- (g) The Borrower becomes subject to any court proceeding involving the vehicle; or receiver, receiver and manager, agent liquidator or other similar administrator is appointed in respect of the assets of the Borrower or any part thereof or a secured party, lien claimant, other encumbrancer, judgment creditor or a person asserting similar rights takes possession of the assets of the Borrower or any part thereof. (h) a

**7.2 Remedies Upon Default.** Upon the occurrence of any event of default, the Lender may:

- (a) declare the entire principle amount of the Loan, and all interest thereon, to be immediately due and payable; and
- (b) take such actions and commence such proceedings as may be permitted at law or in equity at such times and in such manner as Lender in its sole discretion may consider expedient and;
- (c) require the borrower to immediately provide possession of the vehicle to the Lender.

## **ARTICLE 8 - GENERAL PROVISIONS**

**8.1 Reliance and Non-Merger.** All covenants, agreements, representations and warranties of the Borrower made herein or in another related document are material, shall be deemed to have been relied upon by the Lender notwithstanding any investigation before or after made by the Lender or any employee or other representative of the Lender and shall survive the execution and delivery of this Agreement and the other Loan Documents until the Borrower shall have satisfied and performed all of its obligations under this Agreement.

**8.2 Notices.** Any notice or other communication to be given hereunder to any of the parties hereto shall be in writing and may be given by any means of electronic communication to the last email provided. The email shall be deemed to be effective service.

Any notice or other communication shall be deemed to have been given, if delivered, on the date of delivery, or if sent by facsimile or other similar means of electronic communication, on the

Business Day next following the date of sending, or if mailed by registered mail as aforesaid, on the third Business Day following the date of the mailing.

**8.3 Proper Law.** This Agreement shall be construed in accordance with and governed in all respects by the laws of the Province of Ontario, Canada.

**8.4 Successors and Assigns.** This Agreement shall ensure to the benefit of and be binding upon the parties hereto and their respective successors and assigns

**8.5 Further Assurances.** Whether before or after the happening of an event of default, the Borrower shall at its own expense do, make execute or deliver, or cause to be done, made executed or delivered by other Persons, all such further acts, documents and things in connection with the Loan and the Loan Documents as the Lender may reasonably require from time to time for the purpose of giving effect to the Loan Document including, without limitation, for the purpose of facilitating the enforcement of the Guarantees, all immediately upon the request of Lender.

**8.6 Rights and Remedies.** The rights and remedies of the Lender under any Loan Document are cumulative and are in addition to and not in substitution for any rights or remedies provided by applicable law. Any single or partial exercise by the Lender of any right or remedy for a default or breach of any agreement, term, covenant or condition in this Agreement shall not be deemed to be a waiver of or to alter, affect, or prejudice any other right or remedy or other rights or remedies to which the Lender may be lawfully entitled for the same default or breach. Any waiver by the Lender of the strict observance, performance or compliance with any agreement, term, covenant or condition in this Agreement and any indulgence granted by the Lender shall be deemed not to be a waiver of any rights and remedies of the Lender under this agreement or any subsequent default.

**8.7 Waiver and Release.** the Borrower and each of the Guarantors release and discharge the Lender from any and all claims, demands and causes of action arising out of or in connection with the disclosure or use of any information or personal information, including without limitation any and all claims for libel, invasion of privacy or right of publicity, or any other right arising out of or relating to the recording, use or disclosure of such information.

**8.8. Counterparts.** This Agreement may be executed in counterparts, each of which when so executed and delivered shall be deemed to be an original and such counterparts together shall constitute one and the same Agreement.

**8.9 No Other Terms.** Other than the terms set out herein there are no other verbal or other representations of warranties or conditions that form part of this loan agreement.