

Dealer Name/Trading As: Dalby Nissan
Company Name: I.C. Tresillian Pty Ltd and J.A. Tresillian Pty Ltd
ABN: 39911770992
ACN: 009865196
Dealer Address: 36 Drayton Street Dalby QLD 4405

**TAX INVOICE
CUSTOMER COPY**

Invoice Date: 7/11/2023

Tax Invoice Number: P-20231101045000

Invoice To: Darktime (aust) Pty Ltd
20 Inverai Road Chinchilla QLD 4413

DEALER FACILITATION FEE	
Dealer Facilitation Fee:	\$ 900.00
GST:	\$ 90.00
TOTAL (including GST)	\$ 990.00



FINANCIAL
SERVICES

CUSTOMER COPY

COMMERCIAL LOAN & MORTGAGE

Schedule

Proposal Number: P-20231101045000

Dealer: Dalby Nissan

BORROWER INFORMATION ("YOU", "YOUR")

Borrower 1: Darktime (aust) Pty Ltd ACN: 615809795

Trading As:

Trust 1 (if any):

Borrower 2: ACN:

Trading As:

Trust 2 (if any):

Borrower 3: ACN:

Trading As:

Trust 3 (if any):

ADDRESS DETAILS

Address where goods will principally be located:

20 Inverai Road
Chinchilla QLD 4413

GUARANTOR DETAILS

Guarantor 1 Name / Address: ACN:

Mr Daniel Loyd Davis

21 Frame Street

Chinchilla QLD 4413

Trading as:

Trust 1 (if any):

Guarantor 2 Name / Address: ACN:

Trading as:

Trust 2 (if any):

Guarantor 3 Name / Address: ACN:

Trading as:

Trust 3 (if any):

DESCRIPTION OF GOODS				
New/Used/Demo:	Demo	Body:	2D Coupe	
Year:	2022	Rego No:	DARKZZ	Rego State: QLD
Make:	Nissan	Chassis/VIN No:	JN1GBAZ34A0200151	
Model:	Z	Engine No:	22359A	
Variant:	Rear Wheel Drive	Colour:	Red	
Options/Accessories:				

AMOUNT FINANCED AND DISBURSEMENTS				
Cash Price: (GST exclusive)			\$ 70,900.00	
Goods & Services Tax:			\$ 7,090.00	
Luxury Car Tax:			\$ 0.00	
On Road Costs (including Registration & vehicle stamp duty) & other recovery amounts:			\$ 0.00	
Total Vehicle Price:			\$ 77,990.00	
Less Deposit:			\$ 2,990.00	
Amount Payable to Dealer:			\$ 75,000.00	
Comprehensive Motor Vehicle Insurance to be paid to:			\$ 0.00	
Extended Warranty to be paid to:			\$ 0.00	
Vehicle Repair Plan to be paid to:			\$ 0.00	
Service and Maintenance to be paid to:			\$ 0.00	
Establishment fee: Nissan Financial Services			\$ 549.00	
Dealer Facilitation Fee (Payable to Dealer):			\$ 990.00	
Total Amount Financed (including any insurance premiums if detailed above):			\$ 76,539.00	
Interest Charges:			\$ 14,994.00	
Total Amount Payable:			\$ 91,533.00	
Repayments: To be paid by either Regular or Structured Payments as indicated below.				
Regular Instalment Payments: payable as follows:				
	Number of Instalments		Instalment	Payment Intervals
By	60	Of	1,525.55	Monthly
Followed by	1	of	0.00	
The first Instalment is due when we advance the amount of credit (the commencement date) with each subsequent instalment due on the same day in each successive month.				
In accordance with this Agreement an account keeping fee of \$ 7.00 payable monthly may be debited to your account and forms part of the unpaid loan balance.				
Pursuant to clause 2 of this Agreement, you may also be required to pay during the term of this Agreement other fees and charges such as (but not limited to) Payment Processing Fee (Cheque - \$5.00 per cheque).				
We may vary the fees payable by you or introduce new fees on written notice to you.				
If Insurance Premiums are detailed above, they will be disbursed on your behalf and are included in the Total Amount Financed.				
Interest Rate: 7.54% p.a. fixed				

By signing this Schedule:

1. the Borrower makes an offer to enter into this Commercial Loan & Mortgage on the terms set out in this Agreement, and warrants having received this Schedule and the Commercial Loan & Mortgage Standard Terms; and
2. each Guarantor provides the guarantee and indemnity set out in the Commercial Loan & Mortgage Standard Terms.
3. each Borrower, their authorised signatories and any Guarantors acknowledge they have been given a reasonable period of time to read this document and an opportunity to seek independent legal and/or financial advice.

Individual Borrower		<i>Signature</i>	<i>Date</i>
SIGNED by Borrower 1	_____	_____	_____
SIGNED by Borrower 2	_____	_____	_____
SIGNED by Borrower 3	_____	_____	_____
In the presence of: Name of Witness (please print):	_____	_____	_____

Company			
Signed for and on behalf of:	Darktime (aust) Pty Ltd		615809795
	_____	ACN	_____
Trading as (if applicable):	_____		
By (please print name):	_____		
<input type="checkbox"/> Director <input type="checkbox"/> Secretary <input type="checkbox"/> Sole Director and Secretary (*Select your title)		<i>Signature</i>	<i>Date</i>
By (please print):	_____		
<input type="checkbox"/> Director <input type="checkbox"/> Secretary <input type="checkbox"/> Sole Director and Secretary (*Select your title)		<i>Signature</i>	<i>Date</i>
In the presence of: Name of Witness (please print name):	_____		
		<i>Signature</i>	<i>Date</i>

Guarantor:			
SIGNED by 1	Daniel Loyd Davis		
	_____	_____	_____
SIGNED by 2			
	_____	_____	_____
SIGNED by 3			
	_____	_____	_____
In the presence of: Name of Witness (please print name):	_____		
		_____	_____

COMMERCIAL LOAN & MORTGAGE – STANDARD TERMS

1. The Loan

- 1.1 By signing this document, the Borrower offers to borrow the Total Amount Financed from the Credit Provider on the terms set out in the Schedule and these Standard Terms.
- 1.2 The Credit Provider accepts your offer to borrow on the date of and by virtue of making an advance. This is the commencement date of this contract. The Credit Provider is not obliged to accept your offer.
- 1.3 The Borrower and the Guarantor authorise the Credit Provider to complete any blank spaces in this document and the Schedule.

2. Payments

- 2.1 The Borrower must repay the Total Amount Financed and pay interest, fees and charges in accordance with these Standard Terms and the payment details set out in the Schedule, or if applicable any structured payment schedule. Payments must be made on or before the due dates specified.
- 2.2 The Borrower must pay the establishment fee specified in the Schedule on the commencement date. The Borrower must also pay any other fees and charges levied by the Credit Provider to cover its costs in relation to this Agreement.
- 2.3 Unless the Borrower has a direct debit authority, the Borrower must make the Borrower's repayments to the Credit Provider in a manner approved by the Credit Provider. Whenever the Borrower makes a repayment the Borrower must quote the account number given to the Borrower by the Credit Provider.
- 2.4 Where a repayment is due on a date in a month that has no such date, the repayment will be due on the last day of that month.
- 2.5 Any payment due on a day which is not a Business Day must be made on the previous Business Day.
- 2.6 The Borrower must make all payments free of all deductions and without set-off for any amount the Borrower may consider that the Credit Provider owes to the Borrower, irrespective of any loss, damage, destruction, defect, unsuitability, failure to operate, or anything else relating to the Goods.
- 2.7 The Borrower declares and undertakes to the Credit Provider that the payment of money will not breach any laws in Australia or any other country.
- 2.8 The Borrower must pay Enforcement Expenses which the Credit Provider incurs in exercising any of its rights under this Agreement.
- 2.9 The Borrower must promptly pay any fees and associated costs for this document or any interest it secures to be registered, recorded or amended in any places the Credit Provider reasonably requires.

- 2.10 The Borrower must pay to the Credit Provider on demand all costs associated with the Credit Provider -

- (a) providing written information or a copy of a document when requested by the Borrower;
- (b) dishonour of any payment instruction or cheque drawn in the Credit Provider's favour;
- (c) any letter or notice concerning a breach of this Agreement; or
- (d) any other fee charged by the Credit Provider of which the Borrower has been given written notice.

- 2.11 If this Agreement is terminated for any reason before the expiry of its term, the Borrower must pay to the Credit Provider the principal balance, costs, interest to the date of repayment, plus a further amount of 30 per cent of the remaining Interest Charges calculated by multiplying the Interest Charges stated in the Schedule by the sum of the number of whole months remaining in the Term, divided by the sum of the number of whole months in the Term.

- 2.12 Unless otherwise stated in this Agreement, all amounts payable by the Borrower will be debited to the unpaid balance of the Borrower's loan account.

- 2.13 If taxes, stamp duties, fines or other government charges apply in relation to this Agreement or anything done or supplied under it, or relate to the use, possession or operation of the Goods, then the Borrower must pay, or reimburse the Credit Provider for, the amount of those taxes, stamp duties, fines or other government charges. The Credit Provider may, by written notice, vary the repayments as a consequence of any change to, or imposition of, any tax, stamp duty, fine or other government charge.

- 2.14 The Borrower must pay or reimburse the Credit Provider for the amount of any GST payable on any taxable supply made by the Credit Provider under or in connection with this Agreement.

3. Interest

- 3.1. You must pay us interest on the Loan and any overdue amounts.
- 3.2. If you pay each of the repayments set out in the Schedule in full on its due date, you will have repaid the Loan in full and all interest on the Loan.
- 3.3. The interest component of each scheduled repayment is calculated by applying the Interest Rate to the balance of the Loan outstanding at the beginning of the month leading up to that scheduled repayment date, assuming 30 day months in 360-day years and that each scheduled repayment is made when due. That accrued interest is due for payment on the day the

scheduled repayment is due. The remainder of the scheduled repayment reduces the outstanding balance of the Loan for the purposes of calculating subsequent interest.

- 3.4. If the first repayment is due at the time the Loan is made, it does not include any interest component.
- 3.5. If you are late with or do not fully pay a scheduled repayment when due, or if any other amount (such as Enforcement Expenses, fees, an Early Termination Payment or interest on an overdue amount) is debited to your account and not paid immediately to us, that overdue amount will incur interest at the Default Interest Rate from the day it fell due until it is paid in full. Your obligation to immediately pay an overdue amount is not cancelled by the fact that the Default Interest Rate is being charged on it. That overdue amount remains immediately payable by you.
- 3.6. If a court gives judgment for an amount owing under this Contract, that does not stop interest accruing. You must pay us interest on that amount at the Default Interest Rate (unless a higher rate applies under the judgment or a law, in which case you must pay that higher rate).

4. Mortgage

- 4.1 The Borrower gives and the Credit Provider takes a mortgage of, and a security interest in:
 - (a) the Goods described in the Schedule;
 - (b) any goods acquired in replacement for, and any additions or accessory added to, those Goods;
 - (c) any proceeds of the Goods (for example, any insurance proceeds for loss of, or damage to, the Goods); and
 - (d) any rebate of any insurance, warranty or maintenance services contract financed under this Contract.
- 4.2 The mortgage secures all amounts payable by the Borrower under this Agreement. The mortgage and security interest granted by the Borrower is a first ranking security over the Goods.
- 4.3 If the Credit Provider is satisfied that the Borrower has paid all amounts payable under this Agreement and the Borrower is not in breach of any other obligation under this Agreement the Credit Provider will at the Borrower's cost discharge the mortgage and security interest.
- 4.4 If the Borrower is a company and the Borrower has granted another person a security over all the Borrower's assets or any other security which gives the person an interest in the Goods, then the Borrower undertakes to obtain a release of the Goods from that security and to do as the Credit Provider requires to ensure that the Credit Provider obtains a first ranking legal mortgage and security interest over the Goods.

5. Use and Location

- 5.1 The Goods must be kept in the Borrower's possession and control.

- 5.2 The Goods must be kept at the address specified in the Schedule or such other place as the Credit Provider approves.

- 5.3 The Borrower must promptly notify the Credit Provider if the address at which the Goods are kept changes or, if applicable, of any change in the registration of the Goods (including any loss of registration).

- 5.4 The Borrower must tell the Credit Provider within 7 days of being requested in writing by the Credit Provider the location where the Goods are used or ordinarily kept. If the Goods are not in the Borrower's possession, the Borrower must give the Credit Provider all the information the Borrower has that might assist in tracing the Goods.

- 5.5 The Borrower must not without the Credit Provider's written consent make any alteration, additions or improvements to the Goods.

- 5.6 The Borrower assumes all risks and liabilities arising from the Borrower's possession or use of the Goods. The Borrower indemnifies the Credit Provider against any liability the Credit Provider may incur arising from the use or possession of the Goods by the Borrower or any other person.

6. Repair and Maintenance

- 6.1 The Borrower must keep the Goods in good repair and ensure that the Goods are serviced and maintained in accordance with the manufacturer's specifications and recommendations.
- 6.2 The Borrower must pay for repairs to the Goods immediately, to avoid a repairer's lien over the Goods.
- 6.3 The Credit Provider is entitled to inspect and test the Goods, on giving reasonable notice.
- 6.4 If the Goods are a motor vehicle or any other property that is usually registered, the Borrower must maintain current registration throughout the term and comply with all laws relating to the Goods or the use of the Goods.

7. Loss or Damage

- 7.1 The Borrower bears the entire risk of loss of, or damage to, the Goods from any cause.
- 7.2 The Borrower must tell the Credit Provider immediately if the Goods are stolen, lost, destroyed or damaged to such an extent that the Borrower or the insurer decides that repair is impracticable or uneconomic.
- 7.3 If the Goods are stolen, lost, destroyed, or damaged so that repair is impractical or uneconomic, any insurance money must be paid to the Credit Provider in reduction of the Borrower's liability to the Credit Provider. Payment of the insurance money to the Credit Provider does not release the Borrower from liability for any other amount due under this Agreement. If repair is practical, the Borrower is obliged to repair the Goods promptly.

8. Insurance

- 8.1 The Borrower must maintain insurance of the Goods during the term against such risks as the Credit Provider from time to time requires.
- 8.2 Insurance must be on such terms as the Credit Provider reasonably requires with an insurer approved by the Credit Provider.
- 8.3 Insurance must be for the respective rights and interests of the Borrower and the Credit Provider and for the full insurable value of the Goods as determined by the Credit Provider. The Borrower must produce proof of the terms and currency of insurance over the Goods whenever the Credit Provider requests the Borrower to do so.
- 8.4 The Borrower must not do or permit to be done anything which could prejudice any insurance or any claim under any insurance.
- 8.5 The Borrower must notify the Credit Provider immediately of a claim made under any insurance.

9. Default

- 9.1 The Borrower will be in default if:
 - (a) the Borrower fails to pay any amount payable under this Agreement and also fails to subsequently comply with a notice of default given by the Credit Provider requiring payment to be made;
 - (b) any other Event of Default capable of rectification occurs and the Borrower fails or are unable to rectify the default within 14 days after the Credit Provider gives the Borrower a notice telling the Borrower what the default is and asking the Borrower to rectify it;
 - (c) an Event of Default not capable of rectification occurs; or
 - (d) the Credit Provider believes on reasonable grounds that it was induced to enter into this Agreement by the Borrower providing information that was incorrect or was misleading.
- 9.2 If an Event of Default occurs the Credit Provider may:
 - (a) call up the loan and demand immediate payment of the balance due under this Agreement calculated as if the Borrower is making an early repayment;
 - (b) exercise its rights under this Agreement;
 - (c) perform any of the Borrower's obligations under this Agreement; and
 - (d) enter any premises and take possession of the Goods, by force if necessary.
- 9.3 The Borrower must pay all costs of and incidental to enforcement of this Agreement by the Credit Provider including any costs of repossessing and storing the Goods.

10. Powers the Borrower gives to the Credit Provider

- 10.1 In the exercise of rights by the Credit Provider in relation to this Agreement, under this clause:

- (a) each authorisation and appointment cannot be revoked for as long as any amount remains owing under this Agreement; and
- (b) when the Credit Provider exercises each of those rights, the Credit Provider will do so at the Borrower's cost and in the Borrower's name.

10.2 The Credit Provider is authorised to act on the Borrower's behalf in the exercise of any right and in relation to any legal proceedings to protect the Credit Provider's interest in the Goods.

10.3 The Borrower irrevocably appoints the Credit Provider the Borrower's attorney to do anything the Borrower should do under this Agreement, and to settle any disputes concerning the Goods.

10.4 If the Credit Provider has taken possession of the Goods:

- (a) the Credit Provider may execute any transfer, assignment, discharge or other instrument which the Credit Provider considers necessary for the enforcement or protection of the Credit Provider's rights; and
- (b) the Credit Provider may notify an insurer who is providing insurance in respect of those Goods to cancel the insurance and direct the insurer to pay any rebate of premium to the Credit Provider to repay the money owed under this Agreement; and
- (c) the Credit Provider may notify any person who is providing maintenance services under a maintenance services contract in respect of those Goods that is financed by this Contract and direct that person to pay any rebates payable on termination of that services contract to the Credit Provider to repay the money owed under this Agreement.

10.5 The Borrower must provide all information to the Credit Provider which the Credit Provider reasonably requires in order to manage anti-money laundering and counter terrorism financing or to comply with any laws or regulations in Australia or any other country. The Borrower agrees that the Credit Provider may disclose any information concerning the Borrower to any law enforcement, regulatory agency or court where required by any such law or regulation in Australia or elsewhere. The Borrower agrees that the Credit Provider may refuse to process any transaction without any liability if the Credit Provider suspects that the transaction may breach any laws or regulations in Australia or any other country, the transaction may directly or indirectly involve the proceeds of, or be applied for the purposes of, unlawful conduct.

11. PPS Provisions

- 11.1 The Borrower waives its rights:
 - (a) to receive notice of a verification statement under section 157 of the PPSA;

- (b) to receive notice of the removal of an accession under section 95 of the PPSA;
- (c) to receive notice of a proposal to dispose of Goods under section 130 of the PPSA;
- (d) to receive a statement of account under sections 132(3)(d) and 132(4) of the PPSA;
- (e) to receive notice of any proposal of the Credit Provider to retain collateral under section 135 of the PPSA;
- (f) to redeem collateral under section 142 of the PPSA; and
- (g) to reinstate this agreement under section 143 of the PPSA.

11.2 The rights and powers conferred on the Credit Provider by this document or the law are in addition to any rights and powers conferred by the PPSA. For the avoidance of doubt, in addition to the powers under section 125 of the PPSA, the Credit Provider may take any action after default authorised by this document or the law, including delaying any disposal, leasing or action to retain any goods.

12. The Borrower's warranties

The Borrower warrants to the Credit Provider that:

- (a) all information given by the Borrower to the Credit Provider (or any dealer, agent or representative of the Credit Provider) is correct and is not misleading; and
- (b) the Borrower has not relied on any statement made by the Credit Provider or anyone acting on behalf of the Credit Provider about this Agreement, financial or taxation matters and their affect on the Borrower, or the quality, or the suitability for any purpose, of the Goods; and
- (c) the Borrower is authorised to enter into this Agreement.

13. The Borrower's acknowledgements about introducers and commission

- 13.1 The Borrower may be introduced to the Credit Provider by a broker, agent, dealer or other person. The Borrower acknowledges that any introducing broker, agent or dealer is not the agent of the Credit Provider for any purpose and that no representation or course of conduct or dealing by any introducing broker, agent, or dealer binds the Credit Provider.
- 13.2 The Borrower agrees to the Credit Provider paying commission or other remuneration to any person who introduces the Borrower to the Credit Provider.

14. Limitation of liability

14.1 The Borrower acknowledges that:

- (a) to the full extent permitted by law all express and implied terms, conditions and warranties other than those set out in this Agreement are excluded;

- (b) the Credit Provider is not liable for any injury to any person or loss or damage to property arising from possession, installation, operation, removal, or use of the Goods (including any injury or loss arising from the Credit Provider's negligence); and
- (c) if the Borrower is a consumer (as that term is defined in the *Competition and Consumer Act 2010* or any similar legislation) then nothing in this Agreement is intended to exclude, restrict, or modify any statutory obligations of the Credit Provider if it cannot be lawfully effected.

14.2 Subject to clause 14.1, the Credit Provider's liability for anything in relation to the Goods their use or their installation including damage or economic loss to anyone is limited as much as it can be. Whatever happens, the Credit Provider's liability is no more than either to:

- (a) replace or pay for the cost of replacing the Goods with the same or equivalent Goods; or
- (b) repair the Goods or pay for their repair.

15. Guarantee and Indemnity

- 15.1 The Guarantor guarantees to the Credit Provider the due and punctual performance by the Borrower of the Borrower's obligations under this Agreement.
- 15.2 The Guarantor also indemnifies the Credit Provider against all loss, damage, costs and expenses suffered or incurred by the Credit Provider because of any breach by the Borrower of any of the terms of this Agreement.
- 15.3 This guarantee and indemnity is a continuing guarantee and indemnity (it being the intent of the Guarantor that the guarantee and indemnity will be absolute and unconditional in all circumstances). This guarantee and indemnity is irrevocable and will remain in full force and effect until the obligations of the Agreement have been fully satisfied.
- 15.4 This guarantee and indemnity will not be considered as wholly or partially discharged by any time, credit, indulgence, or concession extended by the Credit Provider to the Borrower, the Guarantor, or any other person or by:
 - (a) any compounding, compromise, release, abandonment, waiver, variation, relinquishment, or renewal of any rights of the Credit Provider against the Borrower or the Guarantor or any other person or by the neglect or omission of the Credit Provider to enforce any of those rights or by winding up or bankruptcy of any party to this Agreement or by any other dealing, matter, or thing or by any alteration, modification, variation or addition to this Agreement;
 - (b) any neglect, omission or delay by the Credit Provider in enforcing any of its rights; or

- (c) liquidation or bankruptcy, death, or any other event occurring to the Borrower or any Guarantor.

15.5 If for any reason the Borrower ceases to be bound by any of the terms and conditions of this Agreement or the obligations of the Borrower under this Agreement are affected or modified other than by the Borrower's performance of them, the Guarantor on a full indemnity basis must pay to the Credit Provider an amount equal to the total direct loss or damage incurred by the Credit Provider as a result. The obligations of the Guarantor under this paragraph are original and independent and are in addition to the Credit Provider's other rights.

15.6 If the Borrower becomes bankrupt or enters into any scheme of arrangement in favour of creditors or being a company enters into liquidation, the Guarantor under this clause assigns to the Credit Provider the whole of its right to claim, if any, against the official receiver or liquidator so that the Credit Provider will be entitled to receive the whole of the entitlement in reduction of the amount due under this guarantee and indemnity. The Guarantor must not exercise any right of subrogation against the Borrower until the Credit Provider has been paid all money actually and contingently due under this Agreement or otherwise by the Borrower.

16. Trusts

If a party has entered into this goods mortgage or given a guarantee under this goods mortgage as trustee then that party warrants:

- (a) that it is sole trustee of the trust; and
- (b) it has the necessary powers to enter into this goods mortgage or give a guarantee and does so with the consent and for the benefit of the beneficiaries of the trust; and
- (c) that it has rights to seek recourse or indemnification from the trust's assets for the obligations so incurred; and
- (d) that it will not without the Credit Provider's consent retire or be removed as trustee from the trust; and
- (e) the trust will not be terminated and the trustee will not be changed without the Credit Provider's consent; and
- (f) that if the Credit Provider requests, it will give the Credit Provider copies of the trust deed and other documents relating to the trust; and
- (g) that it is liable both personally and in its capacity as trustee of the trust.

17. Administrative Provisions

17.1 Notices

If you have to give us a document about this Agreement then you can do so by:

- (a) mailing it to our Locked Bag address as shown above, or any other address we tell you; or

- (b) sending it to our facsimile number, 03 9797 4408; or
- (c) emailing it to an email address we tell you.

17.2 Service

Unless otherwise stated in this Agreement, if we need to give you a document about this Agreement then we can do so by:

- (a) sending it through the post to the address specified in this Agreement, in which case service is effected five days after posting; or
- (b) delivering it to or left at the address of the addressee specified in this Agreement, in which case service is effected on delivery or leaving; or
- (c) sending it by facsimile, in which case service will be deemed to be effected on conclusion of transmission; or
- (d) emailing it to the email address you have authorised and only if you have agreed to receive notices this way, without electronic notification of communication failure.

17.3 Moratorium Legislation

The provisions of legislation at any time operating directly or indirectly to lessen or otherwise vary or affect in favour of the Borrower any liability under this Agreement or delay or otherwise prevent or have a prejudicial affect on the exercise by the Credit Provider of any right are negated and excluded from this Agreement, to the fullest extent permitted by law.

17.4 Certificate

A certificate signed by or on behalf of the Credit Provider or its solicitor as to a matter or as to an amount payable to the Credit Provider in connection with this Agreement is conclusive and binding on the Borrower as to the amount stated in it or any other matter of a factual nature, in the absence of proof to the contrary.

17.5 Assignment

The Credit Provider may assign, without the consent the Borrower or the Guarantor (if any), its rights under this Agreement or the Goods. The Borrower and the Guarantor (if any) agree that if the Credit Provider considers exercising this right, it may disclose any information (including documents) about this Agreement, the Borrower and the Guarantor (if any) to the assignee, or to anyone who is considering becoming the assignee, and that person's advisors and service providers.

17.6 Appropriation of Payments

The Credit Provider may apply any money received from the Borrower or anyone on the Borrower's behalf, to any money owing by the Borrower under this or any other agreement with the Credit Provider. In doing this, the Credit Provider may disregard any directions given by the Borrower as to how the money is to be applied.

17.7 Severability

If any term, agreement, or condition of this Agreement or the application of any term, agreement, or condition of this Agreement to any person or circumstance is or becomes illegal, invalid, or unenforceable in any jurisdiction it will be severed and neither the remaining terms, agreements, and conditions nor the application, validity, and enforceability of the severed term, agreement, or condition in any other jurisdiction will be affected.

17.8 Applicable Law

The law of the State of Victoria applies to this Agreement.

17.9 Perfect security

The Borrower and Guarantor must sign anything and do anything the Credit Provider requires to further or more effectively secure the Credit Provider's rights over the Goods or under this Agreement.

18. Definitions and Interpretation

18.1 Definitions

In this document unless the context otherwise requires:

Agreement means the agreement between the Credit Provider and the Borrower as set in the Schedule and these Standard Terms and, if applicable, any structured payment schedule.

Borrower means anyone who signs the Schedule as a Borrower.

Business Day means Mondays to Fridays excluding public holidays, bank holidays, and any days the Credit Provider is not open for ordinary business in Melbourne.

Contract means the Schedule and these Standard Terms.

Credit Provider means Nissan Financial Services Australia Pty Ltd trading as Nissan Financial Services ABN 70 130 946 794.

Default Interest Rate means the rate equal to the aggregate of 2% per annum and the Interest Rate.

Enforcement Expenses means all costs, liabilities and expenses we incur in exercising our Powers after an Event of Default occurs, including any:

- (a) expenses incurred in taking possession of, and preserving and maintaining the Goods – such as by paying insurance for the Goods;
- (b) expenses incurred in auctioning the Goods;
- (c) mercantile agency fees;
- (d) legal fees;
- (e) fees for paying a repairer's lien over the Goods;
- (f) costs reasonably incurred in the use of our staff and facilities; and

- (g) government charges, fees, taxes or duties incurred in relation to any of the above expenses;

Event of Default means if any one or more of the following occur:

- (a) the Borrower does not pay any amount payable under this Agreement on the due date;
- (b) the Borrower is in breach of any other obligation under this Agreement;
- (c) the Goods are lost or destroyed or the Credit Provider forms the opinion that the Goods are so damaged as to make their repair uneconomical;
- (d) the Borrower deals with the Goods in any way that is inconsistent with the Credit Provider's interest as mortgagee in the Goods;
- (e) if either the Borrower or Guarantor is an individual, the Borrower or Guarantor dies or is made or declared bankrupt or becomes incapable of managing his/her own affairs or is gaoled;
- (f) an Insolvency Event occurs to any Borrower or Guarantor;
- (g) if the Borrower is a company, there is any change in ownership or control of the Borrower;
- (h) if the Borrower is a partnership, the partnership is dissolved or an application is made to a court for dissolution of the partnership;
- (i) if in the Credit Provider's opinion a material adverse change has occurred in the Borrower's business or financial position which is likely to affect the Borrower's ability to meet the Borrower's obligations under this Agreement;
- (j) any distress or execution is levied or enforced against any of the Borrower's assets;
- (k) the Borrower ceases to carry on the Borrower's business;
- (l) any warranty given by the Borrower in relation to this Agreement is false.

Goods means the goods as described and identified in the Schedule, or any part of those goods. It includes any replacement for those goods, or any modifications made to those goods (including any additions made or accessories purchased).

GST means goods and services tax levied under 'A New Tax System (Goods and Services Tax) 1999' and related legislation.

Guarantor means a party named as a Guarantor in the Schedule.

Insolvency Event means the happening of any the following events:

- (a) an application is made to a court for an order or an order is made appointing a liquidator or provisional liquidator in respect of the Borrower or Guarantor (or proceedings are commenced or a resolution passed or proposed in a notice of meeting for any of those things);
- (b) proceedings are initiated with a view to obtaining an order for the winding up or similar process of the Borrower or Guarantor, or an order is made or any effective resolution is passed for the winding up of the Borrower or Guarantor;
- (c) except to reconstruct or amalgamate while solvent on terms approved by the Credit Provider, the Borrower or Guarantor enters into, or resolves to enter into, a scheme of arrangement, deed of company arrangement, or composition with, or assignment for the benefit of, all or any class of its creditors, or it proposes a reorganisation, moratorium or other administration involving any class of its creditors;
- (d) a controller is appointed to or over or takes possession of all or a substantial part of the assets or undertaking of the Borrower or Guarantor;
- (e) the Borrower or Guarantor is or is deemed or presumed by law or a court to be insolvent;
- (f) the Borrower or Guarantor takes any step to obtain protection or is granted protection from its creditors, under any applicable legislation or an administrator is appointed to the Borrower or Guarantor; and
- (g) anything analogous or having a substantially similar effect to any of the events specified above happens in respect of the Borrower or Guarantor under the law of any applicable jurisdiction.

Interest Rate has the meaning in the Schedule.

Loan means the aggregate of all amounts advanced, or to be advanced, to you (including amounts paid to someone else at your request) pursuant to this Contract (being the 'Total Amount Payable' specified in the Schedule)

Power means a right, authority, discretion or remedy.

PPSA means the *Personal Property Securities Act 2009 (Cth)*.

Schedule means the schedule to this Agreement which sets out the specific terms of, and the parties to, the Agreement.

Total Amount Financed means the amount stated as that in the Schedule.

18.2 Interpretation

In this document unless the context otherwise requires:

- (a) clause and subclause headings are for reference purposes only;
- (b) the singular includes the plural and vice versa;
- (c) words denoting any gender include all genders;
- (d) reference to a person includes any other entity recognised by law and vice versa;
- (e) where a word or phrase is defined its other grammatical forms have a corresponding meaning;
- (f) any reference to a party to this document includes its successors and permitted assignees;
- (g) an agreement, representation or warranty on the part of two or more persons binds them jointly and severally;
- (h) an agreement, representation or warranty on the part of two or more persons is for the benefit of them jointly and severally;
- (i) words used in the Schedule have the same meaning when used in this document.

Fair Trading Act 1987 (NSW) Notice (NSW customers only)

Under the Fair Trading Act 1987 (NSW) we must take reasonable steps to ensure that you are aware of the substance and effect of any term or condition relating to our supply of goods or services to you that may substantially prejudice your interests.

Please note:

In these terms and conditions:

- you bear the entire risk of loss of or damage to the vehicle;
- if you are in default:
 - we may take legal action against you to recover the debt;
 - we may also take action to repossess and sell the vehicle given as security; and
 - we may charge you for our enforcement expenses.

The above is a summary only. Our rights are subject to the full terms and conditions in this document and any applicable laws.