

# Finance Lease Agreement

(being a Tax Invoice for the purpose of the Goods and Services Tax Act 1985)

<b>Lessor</b> (referred to as "BMW")	Name: BMW Financial Services New Zealand Limited Address: PO Box 9510, Newmarket, Auckland 1149 GST No: 61-182-993	<b>Application No:</b>
<b>Lessee(s)</b>	Name: _____ Address: _____ Date of Birth: _____ Phone No: _____ Email: _____	Name: _____ Address: _____ Date of Birth: _____ Phone No: _____ Email: _____
<u>If an organisation</u>	Contact Person: _____ Company Number: _____ GST Number: _____	Contact Person: _____ Company Number: _____ GST Number: _____

## Financial Details:

<b>Cash Price of the Vehicle</b>	\$	
(a) Fees and Charges	\$	
<b>Amount of Credit</b>	\$	(A)
Total Interest Charges (C + B - A)	\$	
Total Rental Payable	\$	(B)
Residual Value (exc GST)	\$	
GST on Residual Value	\$	
Residual Value (inc GST)	\$	(C)
Residual Value Date		

Annual Interest Rate	%	(D)
Default Interest Rate	%	(E)

## Payment Details:

You must pay the rental amount on the same day of each and every month as follows

Number of rentals	Rental Amount			Rental Start Date
	GST exc	GST	GST inc	
Advance Payment				
<b>Total</b>				
Term (months)	Commencement Date			

## Vehicle Details

New/Used	Year	Make	
Model			
Reg No		VIN	
Speedo		Colour	
Accessories			

## Lessee Acknowledgment

- I/We have received a full and complete copy of this Finance Lease Agreement and the Schedule of Terms and agree to be bound by them.
- I/We understand that if I/we have entered into any other agreement with BMW and that I/we default under that other agreement, then that default is also a default under this Finance Lease Agreement and BMW is able to take enforcement action including repossessing the Vehicle financed under this Finance Lease Agreement.

**Signed by each Lessee:** \_\_\_\_\_ **Date:** \_\_\_\_/\_\_\_\_/20\_\_\_\_  
 Signature Signature (If a Lessee is a company, this must be signed by at least one director of the Lessee)

**Guarantee:** By signing this Finance Lease Agreement the Guarantor(s) agree(s) to be bound by the guarantee terms set out in clause 34 and 35 which means, amongst other things, that the Guarantor(s) will become liable as well as, or instead of, the Borrower and that the guarantor will be liable for the full amount of the borrower's liabilities to BMW under this or any other agreement

**Name of Guarantor(s)** \_\_\_\_\_  
**Address(es)** \_\_\_\_\_

**Signed by** the guarantor(s) \_\_\_\_\_ In the presence of: \_\_\_\_\_ Witness \_\_\_\_\_  
 Signature \_\_\_\_\_ Occupation \_\_\_\_\_  
 Signature \_\_\_\_\_ City/Town of Residence \_\_\_\_\_ Dated: \_\_\_\_/\_\_\_\_/20\_\_\_\_  
 (If a guarantor is a company, this must be signed by at least one director of the Guarantor and that signature witnessed)

## Finance Lease - Schedule of Terms

1. **Definitions:** Capitalised terms in this Schedule have the meaning set out on page 1 of this Lease but otherwise:
  - Act** means the Credit Contracts and Consumer Finance Act 2003.
  - Default** has the meaning set out in clause 40.
  - PPSA** means the Personal Property Securities Act 1999.
  - Unpaid Balance** has the meaning set out in the Act.
2. **Interpretation:** Unless the context otherwise requires, in this Lease:
  - (a) If any obligation is due to be satisfied between the 29<sup>th</sup> to 31<sup>st</sup> of any month and in the relevant month there is no such date, the Lessee must make payment on the last day of that month. If a due date is not a working day in Auckland, then the due date is deemed to be the next working day in Auckland.
  - (b) The expressions accession, at risk, attach, proceeds and security interest have the respective meanings given to by the PPSA or where this is a consumer credit contract and those words are defined in the Act, the meaning in the Act applies.
  - (c) Credit contract and consumer credit contract have the respective meanings given to them in the Act.
  - (d) Reference to any legislation or to any provision of any legislation (including regulations and orders) includes that legislation or provision as from time to time amended, re-enacted or substituted and any statutory instruments, regulations and orders issued under any such legislation or provision.
  - (e) Reference to the Lessee includes the Lessee's employees, agent, successor, permitted assigns, executor, administrator and other representative of such party, person or entity;
  - (f) Where there is more than one Lessee, each Lessee is jointly and severally liable to perform the obligations of all Lessees.
3. **Lease:** At the Lessee's request, BMW leases the Vehicle to the Lessee from the Commencement Date for the Term.
4. **Payments:** The Lessee agrees:
  - (a) to pay the Rental amounts in the manner and at the times specified in the Payment Details section, together with all other amounts payable (including interest) under this Lease; and
  - (b) pay all amounts owing under this Lease in cleared funds on or before the due dates to BMW at the address BMW nominates, or, if BMW agrees, by direct debit, electronic payment or automatic payment to the BMW account BMW specifies from time to time
5. **Security Interest:** The Lessee grants BMW a security interest in the Vehicle all accessories, replacement parts, and other goods which now or hereafter are supplied with or attached to the Vehicle and all proceeds to secure the payment and performance of all of the Lessee's past, present and future indebtedness and obligations to BMW under this Lease and under any other agreement or deed BMW has previously entered into with the Lessee or may enter into with the Lessee from time to time.
6. **Variation Agreement:** If the Lessee has entered into any other agreement(s) with BMW which pre dates this agreement, BMW and the Lessee or Borrower (as applicable) agree those other agreements are varied to specifically identify and record that the Borrower or Lessee has granted BMW a security interest in the Vehicle described in this agreement as security for the obligations in each of the other agreement(s).
7. **Bailee:** Nothing in this Lease shall confer on the Lessee any right or property or interest in or to the Vehicle and the Lessee shall be a bailee only.
8. **Servicing and Maintenance:** The Lessee shall at the Lessee's expense both as to materials and labour place and keep the Vehicle in good order and repair so that at all times the Vehicle is in first class working condition compared to a Vehicle of the same description and age and without limiting the foregoing the Lessee shall:
  - (a) use keep and service and permit the use, keeping and servicing of the Vehicle in accordance with the manufacturer's instructions by only competent, properly trained and qualified (and where necessary licensed) personnel and only by recognised and approved methods and standards;
  - (b) change all oils and fluids in accordance with the manufacturer's recommendations;
  - (c) ensure that all oils and fluids are kept a proper level recommended by the manufacturer; and
  - (d) not permit any interchange of parts, tyres or accessories with any other vehicle.
  - (e) if requested by BMW at any time during the Term of this Lease effect and keep effected at the Lessee's expense any agreement for the maintenance of the Vehicle with a qualified and competent person and upon terms acceptable to BMW.
10. **Registration and WOF:** The Lessee shall at the Lessee's expense and at all times during the Term:
  - (a) register the Vehicle and keep the Vehicle registered in the name of the Lessee; and
  - (b) ensure that the Vehicle has a current warrant of fitness and licence label; and
  - (c) if applicable, ensure all road user charges applicable to the Vehicle are paid and that the distance licence for the Vehicle is appropriately displayed on the Vehicle.
11. **General Vehicle Obligations:** The Lessee shall:
  - (a) use or permit use of the Vehicle only by persons that hold a drivers licence valid in New Zealand and who have not been refused Vehicle insurance and who have not been convicted of any offence relating to driving a Vehicle under the influence of liquor or drugs or driving with a blood alcohol content in excess of the limit as may be prescribed from time to time in New Zealand;
  - (b) at all times ensure that the Vehicle is used and operated with care and diligence, and that the Vehicle is not either abused or misused;
  - (c) use and permit the Vehicle to be used only in accordance with the normal usage of a Vehicle of the type having regard to the general purpose for which it was designed and manufactured;
  - (d) use every reasonable precaution to avoid any loss or damage to the Vehicle or to third persons or their property;
  - (e) prevent the Vehicle from being at any time used, kept or otherwise situated in any manner or place which may or could permit the insurer under any insurance policy to decline a claim arising out of such event or events whether under any condition or exclusion contained in the insurance policy or otherwise;
  - (f) ensure that the Vehicle is only used or driven on formed roads;

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- (h) comply with all legislation or other governmental requirements affecting your possession and use of the Vehicle (including the prompt payment of all fines or statutory charges in relation to the Vehicle);
  - (i) protect the Vehicle from loss, detention, seizure or damage;
  - (j) promptly notify BMW of any matter adversely affecting the Vehicle and of any default under this Lease; and
  - (k) be responsible for and satisfy all running costs of the Vehicle.
  - (l) keep the Vehicle at the Lessee's address set out in the front page of this Lease or the address agreed in writing with BMW.
  - (g) be responsible for all cost of towing, transporting or salvage should the Vehicle become unfit for use;
12. **Insurance:** The Lessee shall at the Lessee's expense at all times during the Term effect and keep effected with an insurer approved by BMW under a comprehensive insurance policy not subject to being defeated, avoided or declined by reason of any non-disclosure, misrepresentation, breach of warranty or otherwise in the names of BMW and the Lessee for their respective rights and interests as follows:
- (a) the policy shall be with a reputable insurer for the Vehicle's full replacement value against all risks that it is prudent to insure against;
  - (b) the policy shall note BMW's interest in the Vehicle;
  - (c) include insurance for such amounts as BMW may reasonably require having regard to the nature of the proposed use of the Vehicle against any loss, damage or injury of any kind whatsoever and howsoever caused to any person or property arising out of the Vehicle or its use under a policy covering all such risks including all claims by third parties; and
  - (d) insurance against third parties liability to the extent required by law but in any case a minimum third party liability in respect of property damage caused by use of the Vehicle of \$500,000; and
  - (e) insurance against any other such loss, damage, injury or risk which BMW may require in writing from time to time.
12. **Insurance Premiums:** The Lessee shall pay all insurance premiums due and payable on or before the due date provided that BMW may in its discretion pay such premiums on the Lessee's behalf and if it does so the Lessee shall repay the amount of such premiums to BMW immediately on demand. Nothing herein contained nor any representation by BMW shall relieve the Lessee from its obligations to ensure that all insurance premiums payable are paid on or before the due date. The Lessee shall immediately produce to BMW on demand all cover notes, insurance policies, receipts for premiums paid and details of any claims and payments made pursuant thereto.
13. **Insurance proceeds:** BMW shall be entitled to receive all money payable to the Lessee by the insurer under the relevant policy of insurance or by any other person in respect of damage to or loss of the Vehicle and the Lessee hereby appoints BMW as its attorney to receive and compromise in the Lessee's or the Lessee's and BMW's name or names every claim for loss or damage under the policy or otherwise and to give effectual releases and receipts for the same.
14. **Insurance Subrogation:** Subject to the rights of any insurer, BMW is hereby irrevocably authorised to use the Lessee's name and to act on the Lessee's behalf in exercising any rights or instituting carrying on and enforcing any legal proceedings which BMW thinks desirable to protect BMW's rights in the Vehicle.
15. **Insurance proceeds:** BMW is irrevocably authorised to appropriate any insurance or other money received by BMW in respect of loss or damage to the Vehicle in BMW's absolute discretion towards the repair of the Vehicle or towards any debt or liability of the Lessee to BMW hereunder or on any other account.
16. **Insurance notification:** The Lessee shall notify BMW in writing immediately upon the occurrence of any event which could or might give rise to a claim under any insurance policy effected by the Lessee.
17. **Positive Covenants:** The Lessee agrees and covenants with BMW:
- (a) to make all payments without deduction to BMW as BMW may direct in writing and any payments otherwise made and any payment sent by post shall be at the Lessee's risk until received by BMW;
  - (b) to pay interest at the Default Interest Rate (in accordance with clause 38) on any money payable hereunder which may from time to time be overdue and on any damages which may be recoverable hereunder from the due date for payment to the date of actual payment;
  - (c) to repay to BMW on demand any money which BMW may reasonably pay to make good any failure by the Lessee to comply with any obligation hereunder or any other obligation incurred by the Lessee in respect of the Vehicle and any other reasonable expense BMW may incur in respect of the enforcement or protection of BMW's rights hereunder or in the Vehicle including (without limiting the generality of the foregoing) all money paid by BMW in releasing any lien claimed (whether justifiable or not) over the Vehicle or part thereof;
  - (d) to use all reasonable endeavours not to procure, allow, permit or suffer any other person to do in respect of the goods anything which the Lessee has agreed not to do;
  - (e) that no waiver by BMW of any breach shall be a waiver of any continuing or recurring breach and that the rights of BMW shall not be affected in any way by any time or other indulgence that BMW may grant to the Lessee;
  - (f) that the Lessee shall be responsible for and shall indemnify BMW and keep BMW indemnified against any fines or penalties in connection with the use of the Vehicle;
  - (g) that the Lessee shall indemnify BMW and keep it indemnified against any loss of (including seizure under distress, execution, confiscation or forfeiture) or damage to or destruction of the Vehicle however caused and against all claims, costs and liabilities arising out of the use, operation, maintenance or storage of the Vehicle and including in respect of injuries to or deaths of any persons whatsoever and damage to any property whatsoever;
  - (h) that the Lessee shall not make any claim against BMW for any injury or loss or damage or any other matter arising from the Vehicle or any breakdown or any accident involving the Vehicle and shall indemnify BMW against all claims and costs whatsoever arising out of the Vehicle the use, operation or keeping thereof or in any manner relating thereto.
  - (i) produce the Vehicle to BMW or its agent for inspection whenever reasonably requested;

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(j) provide BMW with access to the Vehicle for the purpose of inspecting or testing the Vehicle, or exercising BMW's rights to take possession of the Vehicle and BMW is authorised to enter upon any premises where BMW believes the Vehicle is located including the address referred to at clause 10(l) or any other address that BMW reasonably believes the Vehicle may be located.

18. **Negative Covenants:** The Lessee must not without BMW's written consent:

- (a) allow the Vehicle to be operated or used:
  - (i) for any illegal purpose, in any race, speed test or contest or in preparation therefore to propel or tow any vehicles or trailer without the prior consent of BMW or to convey any load in excess of that for which the Vehicle was constructed; and
  - (ii) for the carriage of inflammable liquids or solids or of any goods materials or substances of an explosive or corrosive nature.
  - (iii) following any damage or accident likely to have caused structural damage to the Vehicle;
- (b) substantially or materially alter the Vehicle or fit any accessories or equipment which are a departure from standard equipment nor alter, obliterate or conceal or permit or suffer to be altered, obliterated or concealed any identifying name, number, mark or plate appearing on or affixed to the Vehicle nor affix any signs or other insignias on the Vehicle without the prior written consent of BMW and shall remove and pay any costs of restoration required as a result of such fitting or alteration or affixing of signs or other insignia.
- (c) interfere with or modify the Vehicle including, in particular, tampering in any way with the speedometer;
- (d) agree to sell, lease or otherwise part with possession or dispose of, or permit the disposal of, any Vehicle or permit any security interest to attach to any Vehicle other than the security interest provided for in this Lease;
- (e) change its name without first notifying BMW of the new name at least 21 days before the change takes effect;
- (f) relocate any principal place of business outside New Zealand or (if the Lessee is a company) change its place of incorporation;
- (g) move any Vehicle outside New Zealand;
- (h) do, or omit to do, or allow to be done or omitted to be done, anything which could adversely affect any Vehicle or the security interest; or
- (i) make any deduction or withholding from (whether by way of set-off, counterclaim or otherwise), or attach any restrictions or conditions to, any amount payable to BMW.

19. **PPSA:** The Lessee agrees:

- (a) to do anything that BMW reasonably requires to ensure that BMW has a perfected security interest which is a purchase money security interest in the Vehicle at all times; and
- (b) that BMW may allocate amounts received from the Lessee in any manner it determines, including in any manner required to:
  - (i) preserve any security interest in any Vehicle; and
  - (ii) ensure any security interest is a purchase money security interest.

20. **Contracting out:** The Lessee waives the right to receive a copy of the verification statement confirming registration of a financing statement or financing change statement relating to the security interest created by this Lease. The Lessee agrees that nothing in section 114(1)(a), 133 and 134 of the PPSA shall apply to this Lease, and waives any rights the Lessee may have under sections 116, 120(2), 121, 125 to 127, 129, and 148 of the PPSA.

21. **Prepayments:** Subject to clause 22, the Lessee may not prepay or part pay any amount shown in the Payment Details. BMW reserves the right not to accept early payment or part payment of any amount shown in the Payment Details (**Prepayment**). If BMW does accept a Prepayment then BMW will apply the Prepayment to the next payment due on the date the next payment is due as shown in the Payment Details. Nothing in this clause applies to or prevents the Lessee making an early repayment of the Unpaid Balance.

22. **Early Repayment:** The Lessee may repay the Unpaid Balance due under this Lease in full at any time (full prepayment) however the Lessee may not prepay only part of the Unpaid Balance. Where the Lessee does make a full prepayment:

- (a) the Lessee shall pay a fee to compensate BMW for any loss resulting from full prepayment, together with BMW's administrative costs resulting from the full prepayment. The amount you will be required to pay BMW is
  - (i) where this is a consumer credit contract as defined by the Act, set out in the formula prescribed in the Disclosure Statement (including daily interest charged on the Unpaid Balance until the repayment amount is received by BMW); and
  - (ii) in all other cases, an amount calculated using the rule of 78 together with BMW's administrative costs resulting from the full prepayment; and
- (b) On or before the date you make the prepayment in full BMW may require the Lessee to:
  - (i) pay the Residual Value to BMW; or
  - (ii) return the Vehicle to BMW, in which case clauses 25 and 26 shall apply,

23. **Consequences of expiry:** On the expiry of this Lease, the Lessee shall, at BMW's option:

- (a) return the Vehicle to BMW or to any other person undamaged and in an order and condition that BMW reasonably believes is satisfactory for a Vehicle of that age and mileage together with all registration certificates, handbooks, warranty forms and other documents relating to the Vehicle and with all advertising and signage the Lessee affixed to the Vehicle removed; or
- (b) pay to BMW all amounts due under this Lease together with the Residual Value.

24. **Residual Value:** Notwithstanding clause 23(a) but subject to clauses 25 and 26 the Lessee is liable and shall pay the Residual Value to BMW at the earlier of the expiry or termination of this Lease.

25. **Sale of Vehicle:** If BMW requires the Lessee to return the Vehicle to BMW or the Lessee returns the Vehicle to BMW or, BMW or a receiver takes possession of the Vehicle, BMW or the receiver as applicable shall:

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- (a) sell the Vehicle to any person it chooses, in its absolute discretion, using any reasonable method; and
- (b) apply the proceeds of sale of the Vehicle towards:
- (i) any outstanding rental payments, costs of repossession, storage, costs of sale;
  - (i) and any other payments due to BMW under this Lease; and
  - (ii) if the balance remaining (Net Sale Proceeds) exceeds the Residual Value, pay the amount of that excess to the Lessee (after deducting any other money due by the Lessee to BMW).
26. **Shortfall in Net Sale Proceeds:** If the Residual Value exceeds the Net Sale Proceeds, BMW will retain (or if applicable the receiver will pay to BMW) the whole of the Net Sale Proceeds, and the Lessee must immediately pay to BMW the amount of that excess plus interest at the Default Interest Rate (in accordance with clause 39) from the end of the Term until the date of payment calculated on a daily basis.
27. **BMW exercise of right:** BMW is not obliged to exercise any power or right arising under this Lease and BMW is not accountable for any loss arising by its delay or partial exercise of any such power or right.
28. **Title:** The Lessee acknowledges and agrees that:
- (a) BMW makes no representations or warranties to the Lessee in relation to the transfer of title to the Lessee of the Vehicle; and
  - (b) BMW shall not be liable in contract, tort or otherwise for any direct, consequential, indirect or pure economic loss suffered by the Lessee for any claim after the transfer of title to the Vehicle.
29. **Operation of the Vehicle:** The Lessee shall use, operate and possess the Vehicle at the Lessee's risk. BMW shall not be liable to the Lessee for or in respect of any loss or damage whatsoever and whenever caused to the Lessee whether by way of delay, financial loss or otherwise arising directly or indirectly from or incidental to the breakdown of or defect in or any accident to the Vehicle (whether occasioned by the negligence of BMW or otherwise).
30. **Termination:** If the Lessee is in Default under this Lease BMW shall be entitled to immediately terminate this Lease by notice in writing to the Lessee.
31. **Consequences of termination:** On the termination of this Lease by BMW:
- (a) BMW may immediately cancel this Lease;
  - (b) BMW may enforce its security interest in respect of the Vehicle which may include entering any premises where the Vehicle is, or may be expected to be held, by use of force if necessary, to repossess the Vehicle;
  - (c) BMW may appoint any person to be a receiver of the Vehicle. In addition to, and without limiting or affecting any other powers and authorities conferred on a receiver (whether under the Receiverships Act 1993 or at law or otherwise), a receiver has the power to do all things in relation to the Vehicle as if the receiver has absolute ownership of the Vehicle; and
  - (d) the Lessee shall, at BMW's option, but subject to clause 32:
    - (i) return the Vehicle to BMW undamaged and in an order and condition that BMW reasonably believes is satisfactory for a Vehicle of that age and mileage together with all registration certificates, handbooks, warranty forms and other documents relating to the Vehicle and with all advertising and signage the Lessee affixed to the Vehicle removed; or
    - (ii) pay to BMW all amounts due under this Lease together with the Residual Value.
32. **Sale of Vehicle:** If BMW terminates this Lease or takes possession of the Vehicle pursuant to its security interest or BMW appoints a receiver and such receiver takes possession of the Vehicle, BMW or the receiver as applicable shall sell the Vehicle and apply the proceeds in the manner set out at clauses 25 and 26.
33. **Repossession:** Nothing in this Lease is intended to contract out of or limit any of the Lessee's rights under the PPSA or Act if applicable.
34. **Guarantee:** In consideration of BMW entering into this Lease with the Lessee, the Guarantor(s) jointly and severally guarantee the due and punctual payment to BMW by the Lessee, in the manner and at the times agreed upon between BMW and the Lessee, of all amounts owing to BMW at any time by the Lessee or which may otherwise become payable by the Lessee to BMW.
35. **Guarantor Acknowledgement:** The Guarantor(s) jointly and severally acknowledge and agree:
- (a) to be bound as principal debtors;
  - (b) the liability of each Guarantor under this guarantee will not be released by any delay or other indulgence or concession which BMW may grant to the Lessee or any compromise which BMW may reach or variation BMW may agree with the Lessee, or by any other act, matter, circumstance or law whereby the Guarantor(s) may but for the provision of this clause have been released from liability under the guarantee.
  - (c) that the guarantee is a continuing guarantee and will be irrevocable and remain in full force and effect until BMW grants a written release of the guarantee and that this guarantee will bind our respective personal representatives;
  - (d) that BMW may at its discretion enforce the Guarantee without enforcing any other guarantee or security that BMW may hold from time to time;
  - (e) the Guarantee is in respect of all obligations and liabilities (past, under this Lease and future) to the BMW;
  - (f) the interest rate, terms, security and other provisions which relate to this Lease may change from time to time and the Guarantee is not released by such changes; and
  - (g) the Guarantee was shown to the Guarantor and discussed with the Guarantor prior to it being signed.
  - (h) not in any way to compete with BMW for payment in the event of the bankruptcy or liquidation of the Lessee; and
  - (i) the guarantee is in addition to, and not in substitution for, any other security or rights which BMW may presently have or may subsequently acquire and this guarantee may be enforced against each of us without having recourse to any such securities or rights and without making demand or taking proceedings against the Lessee or the other(s) of us.

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36. **Consumer Guarantees Act:** If the Lessee acquired, or held itself out as acquiring, the Vehicle for the purposes of a business, nothing in the Consumer Guarantees Act 1993 applies to the Vehicle or this Lease, and with the exception of any warranty given by the manufacturer, no warranty or condition will be implied against BMW by any statute, at common law or otherwise and no representation, condition or warranty will bind BMW unless it is in writing and signed by BMW.
37. **Notices:** Except where otherwise required by the Act, each notice to be given by one party to another under this Lease may be given in accordance with sections 185 to 189 of the PPSA.
38. **Representation:** The Lessee represents and warrants to BMW that all information provided in any application for credit and other information provided to BMW was and remains true, accurate and complete. These representations and warranties will be deemed to be repeated continuously so long as this Lease remains in effect.
39. **Default interest:** If the Lessee fails to pay any amount payable under this Lease when due, it must pay BMW, default interest calculated on that amount on a daily basis at the Default Interest Rate from its due date until it is paid in full (both before and after any judgment).
40. **Default:** The Lessee is in default under this Lease if the Lessee breaches any term of this Lease, including failing to make any payment when due; if any representation made, or information provided, by the Lessee to BMW is untrue in any material respect; the Vehicle is at risk; or being in default of any other agreement between the Lessee and BMW whenever that other agreement was entered into; or if BMW's security interest in the Vehicle does not have priority over all other secured parties, or the Lessee or any guarantor goes into liquidation or bankruptcy, or a receiver is appointed in respect of the Lessee or any guarantor. The Lessee acknowledges that, every other agreement between BMW and the Lessee whether entered into before or after this Lease, is collateral to this Lease and a default under any other agreement is deemed to be a default under this Lease.
41. **Acceleration:** This clause does not apply to consumer credit contracts. If the Lessee is in default of this Lease, then in addition to any rights or remedies BMW may have all amounts owing, or to become owing, under this Lease shall become immediately due and payable.
42. **Indemnity:** The Lessee indemnifies BMW and any receiver appointed by BMW against all costs, losses and expenses incurred by BMW or the receiver in relation to this Lease, and in exercising any of BMW's rights or recovering any amounts owed to BMW (including any default interest, storage, repossession, legal or recovery costs in relation to the Vehicle); and any claim by any person relating to the Vehicle, or the exercise by BMW or the receiver of any right under this Lease. This indemnity extends to fees for compliance with a demand which is given under section 162 of the PPSA but where this agreement is a consumer credit contract, the indemnity is subject to the Act.
43. **No waiver:** Any indulgence BMW grants, or concession BMW makes, to the Lessee or any Guarantor does not waive any of BMW's rights under this Lease, and the Lessee or Guarantor will not be released from any of its or their obligations under this Lease until BMW expressly grant such a release in writing.
44. **Privacy:** BMW, any other company in the BMW group internationally as well as authorised BMW dealers and the motor vehicle dealer/broker who provided information to BMW in relation to this agreement (**Recipients**) may be provided with and use personal information related to this Agreement for their usual business activities, including promotions, event invitations, individual customer care. BMW will also provide details of the transactions carried out under this Agreement to a credit reporting agency (**CRA**) and report any default under this agreement to the CRA and use the CRA's monitoring service to receive updates if any of the information about you changes and providing information to the CRA. The CRA will hold that information on their systems and use it to provide their reporting service. The CRA may give any information you provide to its other customers. Your personal information may be held by BMW electronically or in hardcopy in New Zealand or elsewhere but in all cases BMW will control that information. You have a right under the Privacy Act 1993 to obtain access to and request correction of any information held by the Recipient and any CRA. For general information about BMW Financial Services privacy policies please see [web address]
45. **Payments on demand/by direct debit:** Except as provided in the "Payment Details" section of this Lease, all amounts payable under this Lease (including, but not limited to, all costs and all amounts payable under any indemnity) are payable on demand and are secured by the security interest. If BMW agrees that the Lessee may make payments by direct debit and a payment is not made when due, the Lessee agrees that BMW can, without prejudice to its other rights under this Lease, action that direct debit from time to time at later dates.
46. **Assignment:** BMW may, at any time, assign its rights, title and security interest in the Vehicle and this Lease or Guarantee without the Lessee's consent and without affecting the Lessee's liability or that of any Guarantor. The Lessee may not assign this Lease without BMW's prior written consent.
47. **Set-off:** The Lessee acknowledges that BMW can, at any time and without any notice, set-off any amounts BMW owes to the Lessee against any of its present and future indebtedness and obligations to BMW under this Lease or set off amounts BMW owes to the Lessee under this Lease against any other agreement between the Lessee and BMW.
- 47.1 **Service Address:** The Lessee agrees that both the physical address and email address provided on this form shall be treated as addresses for service for the purposes of any communications under this Lease, and that if the Lessee moves from that address or ceases using the email address those will continue as addresses for service for the purposes of this Lease until the Lessee notifies the Lender of the new address or new email address, if any. That new address and/or email address shall then be treated in the same manner as addresses for service.
48. **Governing Law:** This agreement will be construed and take effect as a contract made in New Zealand and will be governed by New Zealand law, and the parties submit to the non exclusive jurisdiction of the New Zealand courts.