

# Terms and Conditions



## 1. Why these terms and conditions are important

These Terms and Conditions form the basis of your agreement with . Please read them carefully.

## 2. What the words in these Terms and Conditions mean

In these Terms and Conditions, unless the context otherwise requires:

**Address** means your address as specified in the Specific Terms (or as subsequently notified to us in writing).

**Agreement** means the hire purchase agreement between you and us relating to the Product, comprising (i) the Specific Terms; (ii) the Disclosure Statement; and (iii) these Terms and Conditions.

**Business Day** has the meaning given to the term 'working day' in the CCCFA.

**CCCFA** means the Credit Contracts and Consumer Finance Act 2003.

**Default Interest Rate** means the default interest rate specified in the Disclosure Statement. This rate can change in accordance with clause 10.2 of these Terms and Conditions.

**Disclosure Statement** means the statement containing certain information that the CCCFA requires us to tell you (as attached, and forming part of the Agreement).

**Event of Default** means an event outlined in clause 11 of these Terms and Conditions.

**Interest Rate** is the annual interest rate specified in the Disclosure Statement. This rate can change in accordance with clause 10.1 of these Terms and Conditions.

**PPSA** means the Personal Property Securities Act 1999.

**PPSR** means the Personal Property Securities Register (established by the PPSA).

**Product** means the product you purchase from us, as identified in the Specific Terms and the Disclosure Statement, or the proceeds of such Product (such as what you receive for selling the Product or from insurance payment made because the Product is damaged, lost or stolen).

**Specific Terms** means the specific terms forming part of the Agreement.

**Statement** means the regular statement we send you about your account.

**Terms and Conditions** means these terms and conditions.

## 3. What we include in a meaning

In these Terms and Conditions, unless the context otherwise requires, each of the following words has the meaning given below:

(a) 'Us', 'we' and 'our' means .

(b) 'You' and 'your' means the person whose name appears as 'Your Details' in the Specific Terms.

(c) When the Agreement refers to you, us, or anyone else, it also means anyone to whom legal responsibility passes; that is, an executor, administrator, successor or assignee.

(d) References to legislation (which includes all related regulations) are also references to that legislation as amended or re-enacted, or as its application is modified by other legislation.

(e) Words that are in the singular also carry the plural meaning and vice versa.

(f) Words referring to any gender also include the other genders.

(g) References to persons include corporations.

(h) References to any agreement or document (including a reference to the Agreement) is to the agreement or document as amended, varied, supplemented, novated or replaced.

## 4. By entering into the Agreement, you agree that certain things are true

By entering into the Agreement, you agree to all of the following:

(a) You accept the obligations in the Agreement, and you understand that these obligations can be enforced according to these Terms and Conditions;

(b) You have told us everything about your circumstances that anyone lending you money needs to know; and

(c) You have not defaulted on any other loan, and you are not about to default.

## 5. By entering into the Agreement you make a commitment to us

You commit to:

(a) give us any information about your finances that we have a reason to ask for, at any time during the term of the Agreement;

(b) let us know straight away if anything happens (including pending legal action) that may prevent you from carrying out your obligations under the Agreement;

(c) not interfere with, add to, or modify the Product without our prior written consent;

(d) use the Product in a careful and proper manner and make sure that the building you keep the Product in, is secure against unauthorised entry;

(e) satisfy yourself at the beginning of the term of the Agreement that the Product is suitable for the purposes for which you intend to use it and in good working order and condition;

(f) ensure that the Product is always used in a manner which prevents it from being damaged;

(g) notify us immediately by telephone if the Product is stolen, damaged, requires repairs or maintenance, has or develops a defect and/or is involved in an accident;

(h) operate the Product safely, strictly in accordance with the law, only for its intended use, and in accordance with any manufacturer's instructions whether supplied by us or attached to the Product;

(i) (except with our prior written consent) keep the Product in your own possession and control, to use the Product for your own personal use only, and to keep the premises located at the Address secure against unauthorised entry;

(j) not sell, lend or lease the Product to any person;

(k) not create or allow to be created any security interest over the Product (other than the security interest in our favour). If a security interest is created over the Product in breach of the Agreement,

we may pay the holder of the security interest the amount necessary to discharge it and we may recover any such costs from you;

(l) not move the Product from the Address (including, without limitation, pursuant to any attempt to return the Product to us) without our prior written consent;

(m) not alter or make any additions to the Product or allow it to be interfered with including (without limitation) altering, defacing, concealing or erasing any identifying mark or number on or in the Product, and not to allow any accessories or extra parts to be added to the Product;

(n) provide us and/or our agents with access to the Address or any other property leased, licensed, occupied or owned by you where the Product is located in order to inspect the Product to confirm its existence and condition;

(o) protect the Product against distress, execution or seizure; and

(p) not allow the Product to become an accession or affixed to any property.

## 6. When and how to make payments

6.1. You agree to pay all amounts payable by you to us under the Agreement in the amounts and on the dates for payment set out in the Specific Terms and the Disclosure Statement.

6.2. Payment is to be made to us in cleared funds by direct debit from your bank account to the bank account notified to you by us (or in such other manner as the Agreement provides, or as we may agree or direct from time to time).

6.3. Payments must be paid free of any set-off, deduction or counterclaim and you waive unconditionally any right of set-off, deduction or counterclaim against us under the Agreement.

6.4. If a payment is due on a day which is not a working day, then the due date will be the next working day.

6.5. We may apply any amounts we receive from you in reduction of your liabilities in respect of sums payable by you to us under the Agreement at our absolute discretion, notwithstanding any purported appropriation by you.

6.6. If there is more than one of you, you are each liable for the amount due under the Agreement.

6.7. The obligations in this Agreement continue notwithstanding your death or insolvency.

## 7. We can turn down early payment of part of what you owe us

We have the right to refuse a payment of part of what you owe us made before the payment date (part prepayment). We will notify you if we refuse a part prepayment.

## 8. We will accept early payment of the total amount you owe us, but will charge for our costs

### 8.1 You can make full prepayment

You may at any time before the last payment date repay the total unpaid balance in full (full prepayment). We stop charging interest on the total unpaid balance on the actual day you make full prepayment.

### 8.2 We can charge costs

If you make a full prepayment, you agree to pay us any administrative costs we incur as a result of the full prepayment. Because this is a fixed-rate contract, you also agree to pay us a fee to reflect a reasonable estimate of our loss as a result of the full prepayment.

## 9. We will send Statements to you regularly

We will send Statements to you at least once every 6 months. Unless there is an obvious error, any Statement given by us or our agent will be evidence of the amount you owe under the Agreement.

## 10. You may have to pay interest, default interest, or fees and charges

### 10.1. You may have to pay interest

Interest charges are calculated by multiplying the unpaid balance at the end of the day by a daily interest rate. The daily interest rate is calculated by dividing the Interest Rate by 365. Interest is charged to your account weekly in arrears.

### 10.2. You may have to pay default interest

Default interest will be at the Default Interest Rate, and will accrue from the date of the Event of Default until the date that the Event of Default is remedied.

### 10.3. You may have to pay fees and charges

The credit and default fees and charges that apply at the date of the Agreement are set out in the Disclosure Statement. We can vary the amount, frequency, time for payment or method of calculation of any fees or charges or introduce new fees or charges. If we do, we will notify you as required by law. A full schedule of all fees is available from us on request.

10.4. In the event where your overdue account is referred to a collection agency and/or law firm, you will be liable for all costs which could be incurred as if the debt is collected in full, including legal demand costs.

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## 11. If you do not keep to the Agreement, you are in default

You are in default if any of the events listed in this clause 11 happens.

### 11.1. You breach the Agreement.

- (a) You breach the Agreement in any way, and fail to remedy that breach within 15 Business Days of a notice from us asking you to do so; or
- (b) Any provision of the Agreement is no longer enforceable against you, or you claim that this is so.

### 11.2. We decide you cannot meet the Agreement

You have a change of circumstances that gives us reasonable grounds to decide that you will not be able to meet your obligations under the Agreement.

### 11.3. You do not look after the Product

You do or allow anything that might negatively affect our security interest in the Product, including:

- (a) modifying the Product in any way;
- (b) losing possession of the Product (for example, by loaning, gifting, selling, or pawning it);
- (c) attempting to take the Product out of New Zealand; or
- (d) allowing any part of the Product to be seized or removed to satisfy other debts.

### 11.4. You do not, or cannot, pay

- (a) You fail to make a payment when due as required by the Agreement;
- (b) You are deemed unable to pay your debts under any relevant legislation, such as if you become bankrupt or go into liquidation;
- (c) A court issues a warrant to allow seizure of any of your property or assets to cover a debt in excess of \$2,000;
- (d) A court issues a judgment against you for an amount in excess of \$2,000, and the judgment is not cancelled within 14 days;
- (e) You allow someone other than us to take security over the Product, or you allow a financing statement (as defined in the PPSA) to be registered against the Product; or
- (f) An order is made for the seizure of the Product for non-payment.

## 12. If you are in default, we can take the Product

### 12.1. We can require immediate payment

If you are in default, we can require immediate payment of the total unpaid balance under the Agreement, or any other agreement you have with us. You must immediately pay us the amount required as soon as you receive notice from us, whether or not the time for payment has arrived.

### 12.2. You will pay all losses, costs and expenses

You agree that you will pay all losses, costs or expenses that an Event of Default might cause. This includes legal costs, any interest, fees, penalties, expenses, or other sums paid or payable. It also includes solicitor/client costs, repossession fees, dishonour fees, door-knocking fees, debt collection agency costs, and costs for locksmiths, collection, storage, or disposal.

### 12.3. We can cancel the Agreement, sue, and repossess the Product

If you are in default, we may do any or all of the following:

- (a) cancel the Agreement;
- (b) without notice, sue for recovery of the total unpaid balance; and/or
- (c) enforce our security interest and take possession of and sell any or all of the Product.

### 12.4. You will pay default interest

If you fail to make a payment when due as required by the Agreement, you will be charged default interest as described in clause 10.2 of these Terms and Conditions.

### 12.5. We can repossess if we think the Product is at risk

In addition to any other rights that we have under the Agreement, if at any time we consider the Product to be at risk (within the meaning of section 83E(2) of the CCCFA), we may take and keep possession of all or part of that Product. We will follow the provisions of the CCCFA when taking and repossessing the Product.

## 13. We have security interests in the Product

### 13.1. The Product is our security that you will keep during the term of the Agreement

You grant us a security interest in the Product, as security for the payment of the money you owe us, now or in the future under the Agreement and the performance of all of your other obligations to us under the Agreement at any time.

### 13.2. You will help us obtain and maintain priority in respect of the Product

You will do whatever we ask you to do to enable us to maintain the security interests intended to be created under the Agreement and the priority of those security interests.

Doing whatever we ask you to do includes providing any information we reasonably require to complete and register on the PPSR a financing statement or a financing change statement and paying the cost of any registration.

### 13.3. You waive any right to receive a copy of a verification statement under the PPSA.

### 13.4. You agree that nothing in sections 114(1)(a), 133 and 134 of the PPSA applies to the Agreement.

### 13.5. You agree that your rights as debtor in sections 116, 120(2), 121, 125, 126, 127, 129 and 131 of the PPSA do not apply to the Agreement.

### 13.7. You will not move the Product without our written consent

While you owe any money (including advances, interest, charges, or fees) under the Agreement, you will not remove the Product from the Address, unless we have given our consent in writing. This includes loaning, selling, or pawning the Product.

## 14. Amendments to these Terms and Conditions

We may at any time (without your prior agreement) change any term in these Terms and Conditions where, in our reasonable opinion, the change:

- (a) is necessary or expedient to comply with any applicable law;
- (b) is of a formal, technical or administrative nature; or
- (c) will not prejudice or disadvantage you in any material respect.

We will give you notice of any change as required by law.

## 15. We do not waive any of our rights

### 15.1. Even if we do not exercise a particular right under the Agreement, we still have that right.

### 15.2. If we exercise any right under the Agreement, we can still exercise that right again, or any other right.

### 15.3. In addition to any and all of the rights under the Agreement, we can also seek any other remedies allowed us in law.

## 16. You cannot assign your rights under the Agreement but we can

### 16.1. You may not assign to anyone else any of your rights under the Agreement or any rights to the Product.

### 16.2. We may at any time assign our rights under the Agreement or any of our rights to the Product. We can assign to anyone we choose to, on any terms we consider fit.

We do not have to let you know (unless required by the CCCFA or any other applicable law).

## 17. You must tell us if you are in financial difficulty

You must contact us immediately if you realise you're in financial difficulty and think you will not be able to meet future payments. We will try to help you through this period.

You can contact us as set out in the Disclosure Statement.

## 18. You will communicate with us and we will communicate with you

Unless otherwise specified, all notices or other communications from us to you (including statements), or from you to us, must be:

- (a) in writing (which may be by means of an electronic message);
- (b) delivered, forwarded or sent by personal delivery, post or electronic message to the address specified in the Agreement or otherwise given by the addressee; and
- (c) deemed to have been received by the addressee:
  - (i) if served personally, at the time of service;
  - (ii) if sent by post, on the fourth Business Day after being posted, correctly addressed, by prepaid postage; and
  - (iii) if sent by electronic message, on the second Business Day after sending to the correct address.

You agree that the conditions relating to sending and receiving information in electronic form are those in Part 4 of the Contract and Commercial Law Act 2017 (and any other mandatory law applicable from time to time) and you agree to receive notices and other communications from us in electronic form. Where you have given us an electronic message address, you acknowledge and agree that (unless you ask otherwise):

- (a) we will typically use that address as the primary means of communicating with you; and
- (b) we may send you electronic messages allowing you to access your statements from a website or by means of the internet.

## 19. You need to buy insurance

### 19.1. You agree to keep the Product insured

You take the sole risk of damage to or loss of the Product from the date you purchase the Product (unless the relevant damage or loss is covered by the relevant manufacturer's warranty, as described in clause 25 of these Terms and Conditions). You agree to keep the Product insured to its full insurable value with an independent insurer.

The insurance will be against damage or loss due to lightning, windstorm, flood, smoke, fire, bursting of fixed water installation, burglary or housebreaking, and such insurance shall be in the joint names of you and us. You agree to show us evidence of that insurance if we ask to see it.

### 19.2. Any money paid under a claim must be paid to us

If you make a claim on the policy of insurance, whatever the insurance company pays you must be paid to us. We can use the money either to make good any damage to the Product, or to reduce the total unpaid balance under the Agreement. If there is still any money left owing under the Agreement after we have used the insurance money, you will need to pay it to us.

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## 19.3. You must pay whatever is owed under the Agreement

If you fail to keep the Product insured, or if your insurer declines any insurance payment or any claim, any damage or loss is at your own risk.

If the Product is lost, damaged, or destroyed before you have paid what you owe under the Agreement, you are still obliged to pay all amounts you owe under the Agreement.

## 20. Title to the Product

We will retain ownership of the Product and the Product remains our property until all moneys due under the Agreement have been paid in full and we release our security interest in the Product.

## 21. Delivery

21.1. We will deliver the Product to the Address on the agreed delivery date.

21.2. We shall not be liable for any delays in the delivery of the Product.

## 22. Consumer Guarantees Act 1993

The Agreement is subject to the provisions of the Consumer Guarantees Act 1993, unless you are purchasing the Product for the purposes of a business, in which case the conditions, warranties and guarantees of the Consumer Guarantees Act 1993 will not apply to the Agreement (in accordance with clause 43(2) of that Act).

## 23. Liability

We promise to meet our legal obligations in respect of the Product. Except as otherwise required by the Consumer Guarantees Act 1993 or other applicable law:

(a) in the event that the Product causes any loss or damage, howsoever arising, our liability shall be limited to the repair or replacement of the Product (at our option);

(b) our liability arising directly or indirectly from any breach of our obligations hereunder shall not in any event exceed an amount equivalent to the purchase price of the Product; and

(c) we shall not be liable for any consequential, indirect or special damage or loss of any kind.

## 24. Servicing and repair of the Product

Servicing, maintenance and repair of the Product may only be carried out by us (or the relevant manufacturer or an agent of the manufacturer) and not by you (or any third party chosen by you).

## 25. Manufacturer's warranty

The Product will have the benefit of the relevant manufacturer's warranty (if provided by the relevant manufacturer), but you will be fully responsible for any damage or costs related to the following:

(a) Normal maintenance, cleaning, lubrication, alignment, tuning, reprogramming, or adjustment;

(b) Failure caused by improper or unauthorised modification or repair;

(c) Failure caused by using the Product for something they were not originally designed or intended for;

(d) Failure caused by not following the manufacturer's instructions on installing, operating, and maintaining the Product (including blocked pipes, hoses, and filters);

(e) Failure caused by external sources. This includes, among other things: infestation, flood, fire, interference, external wiring and connections, or accessory items that are not compatible;

(f) Failure caused by a computer virus of any kind;

(g) Failure caused by:

(i) accidental or deliberate damage;

(ii) neglect;

(iii) abuse;

(iv) wilful acts;

(v) misuse;

(vi) theft;

(vii) sand;

(viii) water or liquid damage;

(ix) fire;

(x) liquid spillage;

(xi) corrosion or battery leakage;

(xii) use on an incorrect voltage;

(xiii) power surges and dips;

(xiv) thunderstorm activity;

(xv) acts of God (for example, earthquake or flood);

(xvi) voltage supply problems;

(xvii) use of defective or incompatible accessories;

(xviii) exposure to abnormally corrosive conditions;

(xix) entry by any insect, vermin or foreign object;

(xx) rust;

(xxi) mildew or mould;

(xxii) a burned phosphor in a computer monitor, TV monitor, or Plasma screen caused by no screen saver being used;

(xxiii) failure of speakers caused by overloading;

(xxiv) consumables (including batteries, cartridges, bulbs, toner, and cables), lost parts, or accessories;

(xxv) any software in or provided with the Product. (Please refer to the software licence agreement to see if the licensor of the software will repair or replace failed software.);

(xxvi) wear and tear that affects the look of the goods, but not their function or operation;

(xxvii) goods or components that are recalled by the manufacturer. (If this happens, contact us for the remedies available to you.);

(xxviii) the cost of us coming to inspect the Product (We may ask you to pay any costs for work we do if we inspect the goods and do not find them to be in good working order.);

(xxix) any third-party costs, unless we approve them before you spend the money; and

(xxx) any loss, damage, cost, or expense relating to loss of use, or otherwise resulting, from any failure of the goods.

## 26. You agree to be responsible for some specific types of damage or loss

26.1 Damage to your property is not our responsibility

If there is damage or loss to anything used in or with the Product, and that thing is not the Product, paying for the damage or loss is your responsibility. To the maximum extent permitted by law, we do not need to pay, whether the damage or loss is caused by the Product or not.

26.2 Damage caused by faulty wiring or moving is not our responsibility

You agree that, to the maximum extent permitted by law, we are not responsible for any damage or expense:

(a) caused by wiring that doesn't meet the In-Service Safety Inspection and Testing of Electrical Equipment Standard AS/NZS 3670:2010, or any replacement or updated Standard; or

(b) if the Product is moved from the Address, or is in any way modified.

## 27. Privacy Act 1993

27.1. You authorise us to:

(a) collect, retain, use and disclose any information about you, for the purpose of assessing your creditworthiness or for the purpose of providing you with details of other products or services; and

(b) disclose information about you, whether collected by us from you directly or obtained from any other source, to any other credit provider or any credit reporting agency for the purposes of providing or obtaining a credit reference, debt collection, or notifying a default by you.

27.2. We and our agents or contractors may use or disclose this information before, during or after the term of the Agreement.

27.3. We will use, disclose and make accessible your personal information in accordance with the Privacy Act 1993.

27.4. You have the right to request a copy of the information about you retained by us and the right to request that we correct any incorrect information about you held by us.

27.5. We will store your personal information at .

## 28. Enforceability

If any provision of this Agreement is found to be unenforceable or illegal then that will not affect the legality or enforceability of any other clause in this Agreement.