

# FUTURE VALUE AGREEMENT (CONSUMER)

## PRINCIPAL TERMS

### DETAILS OF THIS AGREEMENT

**Provider:**

UDC Finance Limited ("**UDC**"), a duly incorporated company having its principal place of business in Auckland  
 Address for notices under this Agreement:  
 Physical Address: ANZ Centre, 23-29 Albert Street, Auckland 1010  
 Email:

**Customer:**

Customer Name: \_\_\_\_\_  
 Physical Address: \_\_\_\_\_  
 Customer No.: \_\_\_\_\_  
 Telephone: \_\_\_\_\_  
 Email: \_\_\_\_\_ (the "**Customer**", "**you**")

**Description of Vehicle:**

Make: \_\_\_\_\_ Model: \_\_\_\_\_ Variant: \_\_\_\_\_  
 Year \_\_\_\_\_ Registration No.: \_\_\_\_\_ Chassis / Serial No.: \_\_\_\_\_  
 Vin No: \_\_\_\_\_ Colour: \_\_\_\_\_  
 together with all accessories, extras and replacement parts and any additional item which are now or at any time attached to the vehicle (the "**Vehicle**")

**Future payment details**

Future Payment Amount: \$ \_\_\_\_\_ (including GST) Future Payment Date: \_\_\_\_\_  
 Maximum Permitted Kilometres: \_\_\_\_\_

### DETAILS OF CREDIT SALE AGREEMENT

**Creditor:**

\_\_\_\_\_ trading as \_\_\_\_\_ and,  
 following an assignment to UDC under the Credit Sale Agreement, UDC

**Customer:**

The person named as "Customer" under "Details of this Agreement" above.

**Ref No:**

\_\_\_\_\_

**Final CSA Payment**

**Amount:** \$ \_\_\_\_\_ to be paid in accordance with the Credit Sale Agreement dated \_\_\_\_\_

**When this Agreement is binding**

This Agreement will be binding on you and us if (and only if) (a) your Credit Sale Agreement has been formally approved; and (b) you have signed this Agreement. We do not need to sign this Agreement in order for it to be binding on us.

**Customer acceptance and acknowledgements**

You acknowledge, accept and confirm:

- (a) the terms and conditions of this Agreement;
- (b) that the Provider will provide a copy of this Agreement to each Guarantor (if any);
- (c) that you have received a copy of the Fair Wear and Tear Guide;
- (d) that the Credit Sale Agreement and this Agreement are separate contracts and that you have independent obligations under each contract;
- (e) that this Agreement does not change your payment obligations under the Credit Sale Agreement, including (without limitation) your obligation to pay the Final CSA Payment in full on the date the Final CSA Payment is due under the Credit Sale Agreement (which is the same date as the Future Payment Date);
- (f) that in certain circumstances, this Agreement will automatically terminate (see clause 4); and
- (g) **that any termination of this Agreement does not change your payment obligations under the Credit Sale Agreement, including (without limitation) your obligation to pay the Final CSA Payment in full.**

\_\_\_\_\_ (Customer Initials) \_\_\_\_/\_\_\_\_/\_\_\_\_ (Date)

## SIGNING BY CUSTOMER

Signed by the Customer / on its behalf by persons authorised to do so:

\_\_\_\_\_  
 Signature of Customer/Authorised Person

\_\_\_\_\_  
 Full name of Customer/Authorised Person

## FUTURE VALUE AGREEMENT (CONSUMER) - OTHER TERMS

### 1. SEPARATE CONTRACTS

The Credit Sale Agreement and this Agreement are separate contracts and your obligations under each contract are independent of each other. This Agreement does not change any of your obligations under the Credit Sale Agreement, including the obligation to pay all amounts due to the Creditor (including the Final CSA Payment on the Future Payment Date) under the Credit Sale Agreement.

### 2. OPTIONS

This Agreement gives you the option of returning the Vehicle to us on the Future Payment Date ("**Return Option**"). In addition to the Return Option, you can seek to trade-in the Vehicle with a dealer ("**Trade-in Option**") or keep the Vehicle ("**Keep Option**"). This Agreement does not govern the Trade-in Option or the Keep Option.

If you decide to trade-in the Vehicle, the relevant dealer will explain what you need to do for the trade-in. The Credit Sale Agreement governs how you purchase the Vehicle under the Keep Option.

### 3. RETURN OPTION

#### 3.1 Return Option

- (a) Under the Return Option, you can return the Vehicle by selling it to us on the Future Payment Date for the Future Payment Amount.
- (b) If you intend to select the Return Option, you must tell us (in writing) by no later than 30 days before the Future Payment Date.
- (c) If you intend to select the Return Option, you must also ensure that, during the term of your Credit Sale Agreement, the Vehicle is:
  - kept registered and warranted;
  - serviced by an authorised dealership or authorised service provider in accordance with the manufacturer's manual and has had all applicable recall campaigns completed through an authorised service facility; and
  - not altered in any way without our prior written agreement.
- (d) **If you do not comply with any of the above requirements or those set out in clause 3.2, the Return Option will not be available to you.**

#### 3.2 Return Option steps

- (a) If you select the Return Option, you must comply with the requirements set out in this clause 3.2.
- (b) **Vehicle Inspection**
  - After you have told us that you intend to select the Return Option, we will contact you to tell you the process (including any timeframes) that must be followed to complete the inspection of the Vehicle.
  - You will need to deliver the Vehicle to a person we nominate ("**Inspector**") who will inspect the Vehicle to determine the Reinstatement and Repair Costs (if any) (see clause 3.4) and the number of kilometres that the Vehicle has travelled (see clause 3.5). Once delivered, the Vehicle will stay with the Inspector and you will not be able to use the Vehicle again before the Future Payment Date (unless we agree otherwise).
  - Following the inspection, we will tell you the Return Charge (see clause 3.3).
- (c) **What will happen on the Future Payment Date**
  - On the Future Payment Date:
    - By no later than 2:00pm, you will pay us, and we must have received, the Return Charge (to the bank account we tell you before the Future Payment Date). If you are registered for GST, you must also give us a GST invoice to reflect the sale of the Vehicle to us at the Future Payment Amount.
    - By no later than 2:00pm, you will pay all amounts outstanding to the Creditor under the Credit Sale Agreement apart from the Final CSA Payment.
    - On your behalf, we (as Provider) will pay the Final CSA Payment to the Creditor under the Credit Sale Agreement (so that the Vehicle then belongs to you under the terms of the Credit Sale Agreement).
    - We agree to pay the Final CSA Payment to the Creditor on your behalf on the basis that, once we have made that payment:
      - you automatically sell us the Vehicle for the Future Payment Amount; and
      - you automatically use the Future Payment Amount to reimburse us for paying the Final CSA Payment on your behalf,and these two automatic steps mean:
      - we do not need to transfer any money to you to buy the Vehicle; and
      - you do not need to transfer any money to us to reimburse us for paying the Final CSA Payment on your behalf.
    - Once the above steps are complete, the Vehicle will belong to us.

#### 3.3 Return Charge

The "**Return Charge**" is the sum of:

- a return fee of \$495;
- any Reinstatement and Repair Costs (see clause 3.4); and
- any Excess Kilometre Charge (see clause 3.5).

The Return Charge includes GST.

#### 3.4 Reinstatement and Repair Costs

- (a) Once you deliver the Vehicle to the Inspector (see clause 3.2(b)), the Inspector will inspect the Vehicle's condition to assess whether there is any damage or excess wear and tear and the cost (if any) of repairing and restoring the Vehicle to the "required fair wear and tear standard" (as determined under the Fair Wear and Tear Guide) (the "**Reinstatement and Repair Costs**"). While not a complete list, the Reinstatement and Repair Costs will include the cost of repairing or replacing:
  - glass or tinting that is damaged or missing;
  - equipment or parts that were in the Vehicle when it was sold to you but are missing from the Vehicle and have not been replaced with equipment or parts of equal quality and design; and
  - any other damage to the Vehicle.

- (b) The Inspector's determination of the Reinstatement and Repair Costs is final and will be binding on both you and us.

### **3.5 Excess Kilometre Charge**

The Principal Terms sets out the Maximum Permitted Kilometres for the Vehicle. This reflects how much we have agreed the Vehicle will be driven by the Future Payment Date. If the Vehicle has travelled more than the Maximum Permitted Kilometres, your Return Charge will include an excess kilometre charge (as calculated by us) ("**Excess Kilometre Charge**") equal to: (15 cents) x (total number of kilometres travelled in the Vehicle over the Maximum Permitted Kilometres).

## **4. TERMINATION**

This Agreement will terminate (unless otherwise agreed to by us in our absolute discretion) immediately if any of the following events occurs:

- (a) the Credit Sale Agreement is terminated (for example, because you meet all your obligations under that agreement before the Future Payment Date);
- (b) the Credit Sale Agreement no-longer relates to the Vehicle (for example, because you and the Creditor agree to swap the Vehicle for another vehicle);
- (c) the Final CSA Payment is due under the Credit Sale Agreement on a date after the Future Payment Date (for example, because you have agreed with the Creditor to reduce your payments under the Credit Sale Agreement, which has extended the due date for the Final CSA Payment);
- (d) the amount of the Final CSA Payment changes so that it is not the same as the Future Payment Amount under this Agreement (for example, because you have made a lump sum payment under your Credit Sale Agreement which has reduced the amount of the final payment under the Credit Sale Agreement so that it is different to the Final CSA Payment); or
- (e) the Vehicle suffers major damage or is written off (for example, as the result of a car accident or other incident requiring significant repair to the Vehicle).

## **5. NOTICES**

### **5.1 Notices in writing**

- (a) We can give you any notice under this Agreement by delivering it to your address or email address set out in the Principal Terms.
- (b) You can give us any notice under this Agreement by delivering it to our address or email address set out in the Principal Terms.

### **5.2 Receipt**

You are treated as having received any notice:

- (a) if sent by post, four working days after we posted it;
- (b) if sent by email when our server records that the email has successfully been sent; or
- (c) if physically delivered to you, at the time it is so delivered.

### **5.3 Reliance**

- (a) You authorise us to act on any information you send by email. The email addresses that we may act on are as set out in the Principal Terms.
- (b) We are not responsible or liable if you or any other person suffers or incurs a loss due to us acting on any information received from an authorised email address.

## **6. MISCELLANEOUS**

### **6.1 Governing law**

**6.2** This Agreement is governed by New Zealand law. In relation to any proceedings about or in connection with this Agreement, the parties agree to submit to the non-exclusive jurisdiction of the New Zealand courts.

### **6.3 Further assurances**

You agree to do all such things requested by us to ensure that we receive the full benefit of this Agreement.

### **6.4 Indemnity**

You will pay us on demand, on a full indemnity basis, any losses, expenses and liabilities incurred by us in connection with this Agreement or any claim against us by any person relating to any of your property or the use of any such property. You will not be obliged to indemnify us in respect of any losses, expenses and liabilities that are incurred as a result of our negligence or wrongful acts. This indemnity is a continuing and independent obligation and survives even if this Agreement is terminated.

### **6.5 Provider's determination conclusive**

Our determination of any amount in connection with this Agreement is conclusive unless there has been a manifest error.

### **6.6 Information about the Customer**

You agree to us collecting, storing, using and disclosing information about you in accordance with our Privacy Statement, which is available at <https://www.udc.co.nz/website-security-privacy>. For example, our Privacy Statement explains how we may need to use your information to provide you services and to improve our services and to:

- (a) obtain information about you from third parties, such as credit reference agencies or NZTA for driver licence information, in order to continue to provide you with services;
- (b) provide your information to third parties, such as credit reference agencies, in order to continue to provide you with services, to companies related to us, to agents, contractors, professional advisers, rating agencies, parties we enter into contracts with, guarantors or assignees or anyone who is considering becoming a guarantor or assignee;
- (c) provide your information (including loan information) to the relevant manufacturer of the Vehicle for the purposes of giving you information about the manufacturer's products or services; and
- (d) send you marketing material, including via email or text message, unless you tell us otherwise.

### **6.7 Variation**

No amendment to this Agreement is effective unless it is made in writing and signed by or on behalf of each party to it.

### **6.8 Inconsistent legislation**

Any legislation that is inconsistent with, or might limit in any way, the terms of this Agreement is excluded, to the extent permitted by law.

## 6.9 Assignment

- (a) You may not assign or transfer any of your rights or obligations under this Agreement unless we consent in writing.
- (b) We may assign or transfer any of our rights or obligations under this Agreement. If we assign or transfer any of our rights or obligations under this Agreement then:
  - you authorise such assignee or transferee to use information about you, disclose information about you and make credit and other enquiries about you to the same extent as set out in this Agreement as if such assignee or transferee was us; and
  - you authorise us (in addition to any assignee or transferee) to continue to use information about you at any time held by us for the purpose of continuing to maintain the relationship between you and us, notwithstanding the assignment or transfer.

## 6.10 Remedies not exclusive

Our rights, powers and remedies provided under this Agreement are in addition to, and not exclusive of, any rights, powers or remedies provided by law.

## 6.11 Severability

If any term of this Agreement is unenforceable or invalid for any reason:

- (a) that term is deemed to be modified to the extent required to remedy the unenforceability or invalidity; or
- (b) if it is not possible to remedy the unenforceability or invalidity, that term is to be severed from this Agreement, and
- (c) this Agreement will otherwise remain in full force.

## 6.12 No deductions

All payments made by you under this Agreement must be made without any:

- (a) set-off or counterclaim;
- (b) deduction; or
- (c) except to the extent required by law, withholding for or on account of tax or duty.

## 7. DEFINITIONS AND INTERPRETATION

### 7.1 Definitions

In this Agreement, unless the context otherwise requires:

"**Agreement**" means the Principal Terms and these Other Terms;

"**Business Day**" means a day (other than a Saturday or Sunday) on which registered banks in New Zealand are open for general banking business;

"**Credit Sale Agreement**" means your Credit Sale Agreement, as described under the heading "Details of Credit Sale Agreement" in the Principal Terms.

"**Creditor**" means the person or persons described as the "Creditor" under the heading "Details of Credit Sale Agreement" in the Principal Terms and any person who legally takes over its rights and/or responsibilities under the Credit Sale Agreement (including all assignees and transferees);

"**Excess Kilometre Charge**" means any excess kilometre charge calculated under clause 3.5;

"**Fair Wear and Tear Guide**" means, at any time, UDC's current Fair Wear and Tear Guide at that time;

"**Final CSA Payment**" means the amount specified as the "Final CSA Payment" under the heading "Details of Credit Sale Agreement" in the Principal Terms, being the final amount payable by you under the Credit Sale Agreement;

"**Future Payment Amount**" means the amount specified as the "Future Payment Amount" under the heading "Details of this Agreement" in the Principal Terms;

"**Future Payment Date**" means the date specified as the "Future Payment Date" under the heading "Details of this Agreement" in the Principal Terms (and, if that date is not a Business Day, it will be the preceding Business Day);

"**GST**" means any applicable goods and services tax;

"**Guarantor**" means, if applicable to your Credit Sale Agreement, any person or persons named as the "Guarantor" in your Credit Sale Agreement;

"**Inspector**" has the meaning given to that term in clause 3.2(b);

"**Maximum Permitted Kilometres**" means the number of kilometres specified as the "Maximum Permitted Kilometres" under the heading "Details of this Agreement" in the Principal Terms.

"**Provider**" means the person described as the "Provider" in the Principal Terms, and any person who legally takes over its rights and/or responsibilities under this Agreement (including all assignees and transferees);

"**Reinstatement and Repair Costs**" means the reinstatement and repair costs calculated under clause 3.4;

"**Return Charge**" means the return charge described in clause 3.3;

"**Vehicle**" means the vehicle described under the heading "Details of this Agreement" in the Principal Terms;

"**we**" and "**us**" means the Provider; and

"**you**" means each Customer.

### 7.2 Construction: In this Agreement, unless the context otherwise requires:

- (a) If a Customer is made up of more than one person:
  - the liability of those persons under this Agreement is joint and several; and
  - a reference to "the Customer" or "you" includes a reference to each of those persons individually and to any two or more of them together.
- (b) A reference to a person includes the person's executors, administrators, successors and transferees.
- (c) A reference to an agreement or a document (including the Credit Sale Agreement) includes that agreement or document as amended, varied or replaced from time to time.