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**SERVICE AGREEMENT**  
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**STANDARD CONDITIONS**

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**Innovated Leasing Australia Pty Ltd (A.C.N.: 120 526 365)**  
**trading as, Innovated Leasing Australia**

**Customer:** \_\_\_\_\_

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## BACKGROUND

These standard conditions (inclusive of any Schedules and Annexures) are the standard conditions referred to in and forming part of a certain Service Agreement (as dated in item 1 of the Reference Schedule) between Innovated Leasing Pty Ltd ACN. 120 526 365 as "Innovated Leasing", the party named in item 2 of the Reference Schedule as the "Customer" and the party named in item 3 of the Reference Schedule as the "Guarantor".

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## DEFINITIONS AND INTERPRETATION

### Definitions

In the Agreement, unless the context otherwise requires:

**"Agreement"** means: the 'Service Agreement' (inclusive of any Schedules and Annexures), the Standard Conditions and each Quotation, 'Quotation / Order Form' and any other form provided by Innovated Leasing to the customer.

**"Authorised Officer"** means:

- (i) with respect to the Customer, any person/s employed by and/or 'authorised' to act on behalf of the customer (i.e.: assignee). Note: it is the customer's responsibility to ensure that any representation on behalf of the customer and its employees is authorised by the customer.
- (ii) with respect to Innovated Leasing, any person who has been authorised by Innovated Leasing to execute on behalf of the company the Service Agreement or any documentation or notices with respect to the Agreement.

**"Quotation"** means: in relation to an offer to Innovated Leasing by the customer, a form provided by Innovated Leasing whereby a duly completed 'Quotation / Order Form' is provided which indicates, inter alia, the type of facilities and/or services the Customer has requested.

### Interpretation

In the Agreement, unless the context otherwise requires:

1. References to any party include its successors and permitted assigns / agents / representatives (as appropriate) and in the case of Innovated Leasing its principles (whether disclosed or undisclosed),
2. Words importing the singular number will include the plural and vice versa;
3. Words importing one gender will include other genders;
4. "person/al" includes a firm, unincorporated association, partnership (whether incorporated or not), joint venture, governmental, semi-governmental, body corporate, registered charity or statutory body or any other entity, whether having a separate legal entity or not;
5. Where two (2) or more persons are liable under a provision of the Agreement (whether as Customer or Guarantor), that provision binds those persons jointly and severally. Accordingly:
  - (i) the liabilities of the Customer are the joint and several liabilities of the persons comprising the Customer; and
  - (ii) the liabilities of the Guarantor are the joint and several liabilities of the persons comprising the Guarantor.

### Headings

Headings are for reference purposes only, and as such, do not form a part of the Agreement and therefore, shall not be considered in the interpretation of the agreement.

### Rules of Construction

No rule of construction applies to the disadvantage of Innovated Leasing in the interpretation of the Agreement, on the basis that it put forward this document or any part of it.

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## CUSTOMER OBLIGATIONS AND WARRANTIES

(ie: Customer/s, Guarantors and Authorised Officer/s)

### Customer Obligations

The Customer will:

1. **(Financial Statements)**: promptly provide to Innovated Leasing its annual statutory financial statements (including interim financials) and any other such information pertaining to the financial position of the company as Innovated Leasing may from time to time reasonably require. Innovated Leasing agrees to keep confidential (and will not divulge) such information unless consented by the Customer, or if required by law or any stock exchange, or in connection with legal proceedings relating to the Agreement, or to any assignee of its rights under the Agreement where the confidential nature of such information is conveyed to the assignee, or if the information is generally and publicly available.
2. **(Interest)**: pay to Innovated Leasing on demand, any interest on all amounts payable under the Agreement by the Customer, and which remain unpaid. This includes, without limitation, any interest payable under this or any other clause of the Agreement, and on any judgement in which this may be merged, at a Default Interest Rate determined by Innovated Leasing. The Default Interest Rate will be calculated on a daily basis from the date of default to the date of payment and will be compounded on a monthly basis, where such compounding is not contrary to any law applicable to the Agreement.

3. **(Costs):** pay to Innovated Leasing on demand, all duties and taxes, whether direct or indirect, payable in relation to the Agreement or in relation to anything done or to be done (including the receipt and/or payment of money), under the Agreement, whether specified in or included in an amount specified in the Quotation / Order Form or not; and all legal (on a solicitor or own client basis) and other costs and expenses that Innovated Leasing may incur in connection with the (or attempted) stamping, registration or enforcement of, or the exercise of any right or remedy under the Agreement.
4. **(Authorised Officer/s):** any person/s employed by and/or 'authorised' to act on behalf of the customer (i.e.: assignee). Note: it is the customer's responsibility to ensure that any representation on behalf of the customer and its employees is authorised by the customer.

## Warranties

Whenever the customer delivers a Quotation / Order Form to Innovated Leasing, the Customer and each Guarantor jointly and severally warrant, acknowledge and agree (so that no such warranty, acknowledgment or agreement will merge on the formation, performance or termination of the Agreement) that:

1. **(Binding Agreement):** The Agreement is valid and legally binding on the Customer and the Guarantor in accordance with its terms:
2. **(Information):** Except as disclosed to Innovated Leasing in writing, all credit and financial information submitted to Innovated Leasing by, or on behalf of, the Customer or any Guarantor, and statements made and particulars given by the customer or any Guarantor in relation to or as a condition of the Agreement or any matter relating to the Agreement are true and correct and that the Customer's business or finances and that of any Guarantor have suffered no material deterioration since the time that the information was prepared, such statements made and particulars given,
3. **(General Representations):** No representations, warranty, or promise (express or implied) have been given to the Customer or any Guarantor, of any nature whatsoever, by Innovated Leasing.
4. **(No Representations):** No representations, warranty, or promise (express or implied) have been given to the Customer regarding the Customer's rights under the Agreement in respect of any law relating to taxation (whether or not as to the deductibility of payments or be made in accordance with the Agreement) or the accounting treatment of any lease in the Customer's statements or otherwise, by Innovated Leasing.
5. **(Untrue Representations):** All representations, warranties or statements by or on behalf of the Customer or Guarantor is or will prove to be untrue or misleading in any material respect when made or repeated,
6. **(Third Party Rights):** On delivery of any nominated vehicle, where Innovated Leasing performs its obligations or exercises any of its rights under the Agreement, such performance or exercise will not breach the rights, powers or remedies of any third party in respect of the nominated vehicle.
7. **(No Trusts):** except as disclosed to Innovated Leasing in writing, neither the Customer nor any Guarantor is the trustee of any trust or holds any property subject to or impressed by any trust;
8. **(Trustee):** if either the Customer or any Guarantor is a trustee of any trust, that party will be bound in its personal capacity and as trustee of each trust whereof it is a trustee and is not and will not be in breach of the terms of any such trust; and
9. **(Own Judgement):** the Customer has relied solely on its/his/her own skill and judgement in selecting a vehicle and/or services via Innovated Leasing.

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## SUBSIDIARIES AND RELATED CORPORATIONS

### Nomination

Where a Customer has subsidiaries and/or related corporations and the Customer wishes the subsidiaries and/or related corporations to take advantage of the facilities and/or services made available to the Customer by Innovated Leasing under the Agreement, the Customer may notify Innovated Leasing in writing of the names of such subsidiaries and/or related corporations and provide Innovated Leasing with an 'Authorised Officer Notification Form' in respect of such entities. The Customer will procure that the party wishing to take advantage of the facilities and/or services made available to the customer by Innovated Leasing under the Agreement, enters into an agreement with Innovated Leasing in a form acceptable to Innovated Leasing whereby it acknowledges its liability to Innovated Leasing as contemplated in "Liability" below.

### Liability

If Innovated Leasing agrees in writing to a subsidiary and/or related corporation of the Customer being nominated in the manner set out in "Nomination" above, the subsidiary and/or related corporation will:

1. be entitled to request services from Innovated Leasing in the manner set out in the Agreement;
2. be bound by the Agreement;
3. be jointly and severally liable with the Customer for the payment of the monies and all other Customer obligations contained in the Agreement.

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## GENERAL

### No Waiver

No waiver by Innovated Leasing of any breach, failure or default in performance by the Customer or Guarantor, and no failure, refusal or neglect by or of Innovated Leasing to exercise any right hereunder or to insist upon strict compliance with, or performance of, the obligations of the Customer or the Guarantor under the Agreement shall constitute a waiver of the provisions of the Agreement with respect to any subsequent breach, failure or default or a waiver by Innovated Leasing of its rights at any time thereunder to require compliance with the provisions hereof.

### Whole Agreement

The Agreement constitutes the entire agreement of the parties (into which all prior negotiations, commitments, representations and undertakings with respect to the subject matter hereof are merged) and the parties acknowledge that there are no other oral or written understandings or agreements between them relating to the subject matter thereof. The Agreement shall be binding upon the parties thereto, their heirs, executors, administrators, successors and assigns.

### Principle and Agent

Innovated Leasing may enter into the Agreement and any facility (including but not limited to a lease, insurance, etc) as the agent of the principle (vehicle owner). If it does so, all references to Innovated Leasing in the Agreement will include that principle (vehicle owner).

### Notices

Every notice or other communication of any nature whatsoever required to be served, given or made under, or arising from the Agreement, without limitation of any method of service permitted by law and except as otherwise provided in the Agreement:

1. will be in writing;
2. will be deemed to have been duly served, given or made in relation to a party if it is:
  - (i) delivered to the address of that party set out herein (or at such other address as may be notified in writing by that party to the other parties from time to time); or
  - (ii) posted by pre-paid post to such address; or
  - (iii) sent by facsimile to the machine situated at such address;
3. will be sufficient if executed by the party giving serving or making the same or on its behalf by any attorney, director, secretary, other duly authorised officer or solicitor of such party; and
4. will be deemed to be given, served or made:
  - (i) **(in the case of pre-paid post)**: on the fifth day after the day of posting
  - (ii) **(in the case of facsimile)**: on receipt of a transmission report confirming successful receipt at the conclusion of the transmission;  
and
  - (iii) **(in the case of delivery by hand)**: on delivery

### Consents and Approvals

Any consent or approval which may be applied for, to or given by Innovated Leasing under the Agreement may be given or withheld in Innovated Leasing' absolute discretion and, if given, may be unconditional or subject to such conditions as Innovated Leasing may in its absolute discretion determine.

### Commissions

The Customer acknowledges that a broker, agent, dealer or other person may from time to time introduce persons to Innovated Leasing and, in such circumstances, Innovated Leasing may pay commission, fees or other remuneration to such person. If a facility (eg: lease or similar) or service results from any such introduction, the Customer consents to the payment of Innovated Leasing of commission fees and or other remuneration to such person and acknowledges that Innovated Leasing may have taken such payment into account in arriving at the total rent payable under the relevant facility or service.

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## PAYMENTS (FEES & CHARGES)

1. All amounts payable by the Customer to Innovated Leasing under the Agreement must be:
  - (i) Paid in full, without any deduction or withholding and free of any set-off or counterclaim. With any legally required deduction or withholding of payment, the Customer shall pay a net amount equal to the full amount which would otherwise be payable without such requirements;
  - (ii) Paid at the address (or directly into a nominated account) of Innovated Leasing notified to the Customer from time to time;
2. The Customer irrevocably authorises Innovated Leasing (but without any obligation to do so on the part of Innovated Leasing) in the event of any default by the Customer hereunder or any non-payment by the Customer to Innovated Leasing, to apply any moneys on any account whatsoever payable to or standing to the credit of the Customer in or towards satisfaction of any moneys at any time due and payable or which may become due or payable whether presently or contingently or otherwise, to Innovated Leasing.
3. Payments are to be received within 14 days of the Invoice date, unless agreed otherwise;
4. Where a payment due falls on a non-banking business day, or day other than a day in which Banks are open for ordinary banking business, (eg: week-ends, public or other holidays) then such payment shall be made on the last banking business day immediately prior.
5. Fees, duties and charges are to be received one month in advance, unless agreed otherwise and will be variable from time to time.
6. Innovated Leasing reserves the right to vary the monthly fees & payments received from time to time as deemed necessary.
7. The customer will, on demand by Innovated Leasing:
  - (i) **(Indemnity):** pay to the relevant supplier or if paid by Innovated Leasing, indemnify Innovated Leasing with respect to the provision of the full range of services including, but not limited to, purchasing, insurance, finance, tyres, windscreens, fuel, registration, servicing, maintenance, batteries, wheel alignments, LPG conversions, and any other expenses incurred.
  - (ii) **(Additional services):** pay for all other services, materials, parts and monies expended or disbursements incurred by Innovated Leasing or requested by the provider/supplier.
  - (iii) **(Costs of repairs and maintenance):** pay for all costs and expenses relating to any repairs, or maintenance of, or equipment used in connection with the nominated vehicle/s which are not covered by the Manufacturers' Handbook Servicing and which Innovated Leasing believes (in the absolute discretion of Innovated Leasing) are necessary for the roadworthiness, protection and maintenance of the nominated vehicle/s.
  - (iv) **(Termination of services):** pay to Innovated Leasing the portion of any fees and other costs paid in advance by Innovated Leasing on behalf of the Customer.

### Electronic Data Exchange

Where the requisite facilities exist, Innovated Leasing and the Customer may by separate agreement (eg: DDR), agree to use electronic data interchange in relation to the agreement.

### Theft / Loss

In the event of the Innovated Leasing supplied Fuel Card being lost / stolen, the customer will be liable for any charges incurred on the Fuel Card for the period specified by the respective (ultimate) fuel card 'provider' (eg: Motorpass card) after notice is given to Innovated Leasing and/or the provider of the lost / stolen card.

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## CANCELLATION OF SERVICES

1. In the event of the cancellation of the provision of facilities and services, whether wholly or partly, the Customer is required to notify Innovated Leasing in writing.
2. The provision of services will cease, after notification has been received in writing, three months (90 days) after the receipt of notification to Innovated Leasing from the Customer.
3. The customer is required to pay to Innovated Leasing the portion of any fees and costs paid in advance by Innovated Leasing on behalf of the customer.

**Note:** Any outstanding fees, duties and charges will be payable by the customer. For 'Packaged Vehicles', Innovated Leasing will include the necessary fees, duties and charges in relation to the cancellation of services with the outstanding balance.

4. Liability for the expenses / costs incurred on the fuel card supplied by Innovated Leasing will cease in accordance of the requirements of the nominated fuel card provider within the timeframe as specified by the 'provider'.

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## INCREASED COSTS

The Customer hereby agrees to indemnify Innovated Leasing against increased costs by reason of:

1. any change in taxation law, or in the interpretation or administration of the same; or
2. compliance with any request from, or requirement of, any government (Federal, State or Local), quasi-governmental or municipal authority;

which relates directly to any vehicle, service or equipment pursuant to the Agreement, or

3. any change in the cost in the provision of a vehicle and/or services prior to the delivery of such,
4. or any other change including, but not limited to interest rates, purchase price, fees and charges or other costs.

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## Innovated Leasing's RIGHTS

### Making Good Default

Innovated Leasing may, without prejudice to any other right, power or remedy at law, in equity, under the Agreement or otherwise, do all acts and pay all monies necessary to make good any breach or default of the Customer (or any Guarantor) and any expenses (including without limitation, legal costs assessed on a solicitor and own client basis) incurred in making good any breach or default and any moneys so paid will be immediately payable by the customer (or Guarantor) to Innovated Leasing.

### Delegation of Rights

Innovated Leasing may, in exercising any of its rights, powers or remedies, act personally or by its employees, nominees or agents.

### Default

Innovated Leasing reserves the right to cease the provision of services immediately upon the occurrence of an event of Default and to proceed with measures deemed necessary to recover the outstanding payments including, but not limited to any charges relating to the recovery of such payments.

- 1) Innovated Leasing will be entitled to terminate this Agreement in respect of any vehicle where:
  - (a) Any Estimated Charges are not paid within 7 days of the Due Date.
  - (b) The Customer ceases for whatever reason to have further obligation with respect to the vehicle under the relevant lease.
- 2) The Customer will be in default in respect to this Agreement if;
  - a) the Customer fails punctually to pay any Monthly Payment or any other sum due under this Agreement and such sum is not paid within seven (7) days of its due date
  - b) the Customer fails to observe or perform any of the other terms and conditions of this Agreement and, if capable of remedy, such failure is not remedied within fourteen (14) days; or
  - c) if the Customer permits any judgement against the Customer to remain unsatisfied for seven (7) days; or
  - d) the Customer calls any meeting of its creditors or enters into liquidation or has a receiver or administrator appointed to it or to all or any of its assets; or
  - e) any event or circumstance occurs whether in relation to the business or affairs of the Customer or otherwise which in the opinion of Innovated Leasing indicates that the Customer will be unable or unwilling to comply with its obligations under this Agreement.

### Exclusions (*Where Innovated Leasing is not the vehicle owner eg: Fleet Managed / Novated Vehicles*)

1. Innovated Leasing does not provide to the customer or any authorised officer/s of the Customer, warranties express or implied in relation to any vehicle and/or any service, including (but not limited to) the provision of services again or the payment of costs of having the services provided again.
2. Innovated Leasing will not be responsible for and indemnified against any claims/liabilities made in reference to any or all, but not limited to loss (including without limitation indirect, consequential or economic loss), damage, claims, demands, actions, suits, proceedings, penalties, costs and expenses in respect of:
  - (i) Any vehicle or its possession, use, misuse, operation, theft destruction or loss (including seizure and confiscation)
  - (ii) Any matter in relation to which the customer has assumed the risk under the agreement;
  - (iii) Any claim made against Innovated Leasing by any third party in relation to the breach of any term of the agreement by the customer; and
  - (iv) Any breach of any law, statute, by-law, decree, regulation, ordinance or judgement by the Customer or Guarantor.

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## AGREEMENT TO ACQUIRE SERVICES

### Quotation

Where a quotation is either requested by either a customer (existing or prospective) or supplied by Innovated Leasing, the said quotation does not constitute an offer by Innovated Leasing to provide services. Innovated Leasing may therefore, alter, add to, revoke, vary or amend a quotation as required. When variations occur with interest rates, price changes and government charges, etc Innovated Leasing reserves the right to pass on these charges to the customer.

### Quotation and Order Form

Where a customer requires Innovated Leasing to provide / supply services, the customer will complete and deliver to Innovated Leasing the appropriate 'Quotation / Order Form', duly completed and setting out (if not already completed), inter alia, the details of the vehicle that the customer wishes to acquire (lease / finance / purchase), and the services that the customer would like Innovated Leasing to provide. The 'Quotation / Order Form' is to be signed by the customer (or an Authorised Officer of the customer). Each delivery of the Quotation / Order Form to Innovated Leasing will constitute a request by the customer to acquire a vehicle/services of Innovated Leasing, as stated in the said form (on the terms and conditions contained in the agreement).

**Note:** It is the responsibility of the customer to ensure that the Quotation / Order Form is completed correctly and that the said form is received by Innovated Leasing in a timely manner.

## Acceptance

Innovated Leasing may accept the request constituted by the delivery of a Quotation / Order Form by (on behalf of the customer), ordering and acquiring the specified vehicle and causing it to be delivered, and/or providing the services, as requested.

## Authority to Complete Forms

Innovated Leasing may complete any particulars of the vehicle description, financial or other terms of the Quotation / Order Form, which have not been completed by the customer.

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## SERVICES

Innovated Leasing will provide one or more of the following services in respect to the vehicle/s as nominated by the customer.

### Acquisition Services

Innovated Leasing will assist the Customer with vehicle selection and acquisition. The following can be used as a guide:

1. Innovated Leasing will provide information and advice in respect of equipment, performance and reliability, and industry trends;
2. Innovated Leasing will obtain quotes for the supply of any vehicle/s which the Customer wishes to acquire;
3. The Customer will then authorise Innovated Leasing to purchase the vehicle/s in writing;
4. Innovated Leasing will thereupon prepare and arrange for the purchase of the requested vehicle/s;

**PROVIDED HOWEVER** that Innovated Leasing shall not be held liable for any inaccuracies contained in any such information, advice or quotations.

### Vehicle Delivery

Where requested by the customer, Innovated Leasing will arrange for the delivery of a vehicle purchased to a location specified by the customer. Innovated Leasing will not be liable for any delay, loss, theft, damage, claims, demands, actions, suits, proceedings, penalties, costs or expenses howsoever caused.

### Fuel Card

Where requested, Innovated Leasing will arrange for one or more fuel cards to be issued to the Customer and will be administered by Innovated Leasing on the following basis:

1. Innovated Leasing will forward to the Customer invoices in respect of the use of the fuel card/s, unless otherwise arranged by the fuel card 'provider';
2. The Customer will pay Innovated Leasing within 14 days of the invoice date all amounts due in respect of the use of the fuel card/s including all amounts relating to purchases, card fees, government charges and any other costs or expenses incurred in the use of the fuel card/s, unless otherwise arranged by the fuel card 'provider'. Card fees and associated costs will be variable from time to time;
3. The Customer will indemnify Innovated Leasing against any claims made by the fuel supplier pursuant to the terms and conditions attaching to the use of the fuel card/s; and
4. The Customer acknowledges that any fuel rebate and card fees are sensitive and confidential commercial information and agrees not to disclose them in any way.

### Reporting (including FBT Reporting)

Innovated Leasing will provide reporting on a monthly basis unless agreed otherwise. Whilst a concerted effort will be made in providing accurate information, Innovated Leasing will not be held liable for any inaccuracies that may arise.

### Maintenance Control

Innovated Leasing will:

1. Supply each customer with general information with respect to details of the network of suppliers and approved repair centres, and other service providers, and other instructions pertaining to the services provided by Innovated Leasing.
2. Provide a 'pre-authorisation' on repairs and servicing of the customer's vehicles to reduce over-servicing and minimise repair costs.
3. Ensure that all repairs are invoiced to the customer on a monthly basis.

### Third Party Payments

Innovated Leasing will:

**(Payments):** pay to the relevant supplier / financier (as identified in the Customers finance agreement), any monies due by the Customer, at both the request of the Customer and the undertaking of Innovated Leasing to provide such payments. The finance payments are to be received in full by Innovated Leasing prior to the due date as identified in the Customers finance agreement.

**(Indemnity):** Innovated Leasing indemnifies the Customer from any claims relative to the finance amount and payment date, provided the Customer has provided Innovated Leasing with all the correct details pertaining to the payment amount and schedule, in accordance with the customer obligations as stated in the "Payments (Fees and Charges)" section of the "Service Agreement Standard Conditions".



## Registration and CTP/TPI Insurance Management

Innovated Leasing will (at the request of the customer):

1. Pay the registration and third-party insurance fees on behalf of the customer, provided the appropriate documentation has been forwarded onto Innovated Leasing in a timely manner – at least 14 days prior to registration expiry.
2. As required, the customer may need to obtain a roadworthy inspection certificate prior to the registration renewal. It is the customer's responsibility to ensure that any such certificate is provided to Innovated Leasing at least 14 days prior to registration renewal.
3. Vehicles that do not have a roadworthy inspection certificate (where required) will be unavailable for use until such certificate is received and the registration renewal is effected.

## Motor Club / Roadside Assistance

Innovated Leasing will arrange membership in respect of the nominated vehicle with an appropriate motoring association where requested.

## Tyres

Replacement tyres of a type originally fitted to the vehicle (or similar where the original type is unavailable), unless stipulated otherwise by the customer.

## Infringement Notices

Innovated Leasing disclaims any liability of such (Refer to 'exclusions') and will forward any infringement notices received, to the customer or authorised officer.

## Annual Budget – 'Packaged Vehicles'

Whilst every effort is made to accurately estimate the annualised budget of the nominated vehicle/s, Innovated Leasing reserves the right to adjust the budget from time to time to more accurately reflect the usage of the said vehicle/s.

## Disposal Services

Innovated Leasing will assist the Customer with the disposal of its vehicle/s when requested. The following can be used as a guide:

1. Innovated Leasing will arrange for a valuation to be organised on the current value of the vehicle/s;
2. The valuation will be carried out on site where possible;
3. With the consent of the Customer, Innovated Leasing will organise any necessary paperwork and arrange for the disposal of the vehicle/s.

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## GUARANTEE AND INDEMNITY

**Note: Application** - This clause shall apply if item 3 of the Reference Schedule is completed.

### Unconditional Guarantee

The Guarantor irrevocably and unconditionally guarantees to Innovated Leasing the due and punctual performance by the customer of all its obligations

### Primary Obligation

The Guarantor, as a separate, additional and primary liability, irrevocably and unconditionally agrees to indemnify Innovated Leasing and to keep Innovated Leasing indemnified, against any loss or damage suffered by Innovated Leasing arising out of any failure by the customer to duly and punctually perform the Obligations or any obligation or liability that would otherwise form part of the Obligations being void, voidable or unenforceable against or irrecoverable from the Customer by Innovated Leasing in full for any reason whatsoever.

### Preservation of Guarantee

The liability of each Guarantor under the Guarantee shall be absolute and shall not be:

1. subject to the execution of the Agreement or any other instrument or document by any person;
2. subject to the performance of any condition precedent or subsequent;
3. affected by:
  - (i) any act, omission, matter or thing whatsoever that would otherwise operate in law or in equity to reduce, or release the Guarantor from, such liability;
  - (ii) the granting by Innovated Leasing to any person of time waiver or indulgence;
  - (iii) the making of any composition or compromise with any person;
  - (iv) Innovated Leasing forbearing to enforce or neglecting to exercise any right against any person;
  - (v) laches, acquiescence or any other act, neglect, default, omission or mistake by Innovated Leasing;
  - (vi) any variation of any of the Obligations or of the Agreement, made with or without the knowledge of the Guarantor;
  - (vii) the release or compromise of any of the Obligations; or
  - (viii) any failure by Innovated Leasing to disclose to the Guarantor any fact, circumstance or event relating to any person at any time prior to or during the term of the Agreement.

## **Payments**

All payments by the Guarantor under the Guarantee shall be free of any set-off or counter claim and without deduction or holding.

## **No Competition**

The Guarantor shall not prove in the insolvency of the Customer or any other Guarantor for any amount owing to the Guarantor other than on the basis that it will account to Innovated Leasing for any distribution received.

## **No Demand**

Innovated Leasing shall not, before making any demand or claim upon a Guarantor, be required to make any claim upon or take any action against the Customer or any other Guarantor.

## **Guarantor not a Trustee**

Unless Innovated Leasing is otherwise advised in writing by the Guarantor, the Guarantor warrants that it gives the Guarantee in its own right and not as a trustee or in any other representative capacity.

## **Guarantor is a Trustee**

If the Guarantor advises in writing to Innovated Leasing that it is a trustee, the Guarantor:

1. discloses that it gives the Guarantee as the sole trustee of that trust;
2. declares that it has all requisite power to do so;
3. undertakes personal liability under the Guarantee in addition to the liability it assumes as the trustee of the trust;
4. agrees that it will not, prior to the satisfaction of all Obligations, exercise in the Guarantor's own favour any right of recourse, indemnification or charge to which the Guarantor may be entitled personally against or in respect of the trust assets;
5. acknowledges that if any trust assets shall at any time be in the hands of the Guarantor freed of their trust character, by virtue of the exercise or purported exercise of any such right of recourse indemnification or charge, the Guarantor will hold those assets for Innovated Leasing to the extent to which any Obligation has not been satisfied whether or not then due for satisfaction;
6. agrees to notify Innovated Leasing forthwith in writing if it ceases for any reason or at any time to be the trustee of the trust and that it will procure any new trustee thereof to execute in favour of Innovated Leasing a guarantee similar to the Guarantee; agrees to notify Innovated Leasing forthwith in writing if the trust is determined or for any reason ceases to exist or if the Guarantor is required or directed by any of the beneficiaries of the trust to do any act or thing in relation to the trust which affects the Guarantee;
7. undertakes to procure that no distribution of any of the capital of the trust is made without the prior written consent of Innovated Leasing; and
8. agrees to furnish to Innovated Leasing whenever requested by Innovated Leasing, a copy of the current financial statements of the trust certified as correct by an auditor approved by Innovated Leasing and such explanations and verifications thereof as Innovated Leasing may request.

## **No Misrepresentation**

The Guarantor warrants that every statement made and every particular given by or on its behalf in relation to its financial position is true and not misleading by the omission of any relevant matter.

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