

**Terms and Conditions – Finance Lease/Hire Purchase/Agility/Hire Purchase with Balloon Agreement**

Unless otherwise specified “I”, “me”, and “my” refer to the Lessee or Hirer (as the case may be), and “you” and “your” refer to the Lessor or Owner (as the case may be).

**1. WARRANTIES, REPRESENTATIONS AND ACKNOWLEDGEMENTS**

- 1.1 I confirm and acknowledge that:-
- by signing this Agreement, I have read and understood all the terms and conditions of this Agreement and I agree to be bound by them;
  - you have not made, and do not make, any representation, warranty or undertaking to me as to the age or condition or quality or merchantability of the Goods, their suitability or fitness for the purpose(s) for which the Goods are required by me or their safety and you shall not be liable for any representation, warranty or undertaking made by you in relation to the Goods;
  - I am responsible for obtaining and maintaining at all times all licenses or registration required by law in connection with the Goods or their use; and
  - I alone am responsible for examining the Goods before accepting them and for satisfying myself with them, including:
    - their compliance with their description(s);
    - their condition, suitability and fitness for my purpose(s);
    - the validity of any manufacturer’s dealer’s or supplier’s warranties or guarantees; and I am satisfied as to their fitness for the purpose(s) for which they are required by me.

- 1.2 It is agreed and declared that:-
- any liability which you might otherwise incur and any right or immunity which I might otherwise possess in respect of any conditions, warranties or representations relating to condition, age or state of repair of the Goods or their merchantable quality or fitness for the particular or any purpose(s) for which they are or may be required, whether such conditions, warranties or representations are expressed or implied, and whether arising under general law or under this Agreement or under any prior agreement or in oral or written statements made by or on behalf of any person in the course of negotiations in which I or my representative may have been concerned prior to this Agreement, are expressly excluded and no breach of any such condition, warranty or representation shall entitle me to rescind this Agreement nor to absolve from any obligation to continue to pay all amounts (including the monthly rental payments) due hereunder on their due dates;
  - you are not responsible for the delivery of the Goods to me nor for arranging for the delivery of the Goods to me, and you shall not incur any liability to me in connection therewith but shall be entitled to exercise or enforce in full all rights and claims hereunder against me irrespective of whether I have taken delivery of the Goods. It shall be my sole responsibility to arrange with the relevant dealer/supplier for the delivery of the Goods to me and I hereby acknowledge and agree that the dealer/supplier is my agent for the purpose of accepting or taking delivery of the Goods, and that delivery of the Goods to the dealer/supplier shall be regarded as delivery of the Goods to me, irrespective of whether the dealer/supplier or any other person has handed over the Goods to me, nor shall I be entitled to rescind this Agreement if the Goods delivered to me do not correspond to their description as contained in this Agreement;
  - neither the dealer/supplier through whom this Agreement may have been negotiated or by whom the Goods may have been supplied to you for leasing or hiring the same to me nor any person in the employ of the dealer/supplier is or is to be deemed your agent or acting on your behalf for any purpose, and no liability is to be attached to you for any actions, omissions, deeds, conduct, conditions, guarantees, warranties or representations made by the dealer/supplier or person in the employ of the dealer/supplier including any loss or damage arising directly or indirectly out of or in connection with such breach; and
  - all information given by me in connection with this Agreement is true and is full disclosure of all relevant information.

- 1.3 I represent, acknowledge and agree that:
- (if the Lessee/Hirer is a company) the Lessee/Hirer is validly existing as a legal entity under the laws of the jurisdiction in which it is incorporated and is duly qualified to do business in each jurisdiction where failure to qualify would have a material effect on its business or operations, and (if the Lessee/Hirer is a company or an individual), the Lessee/Hirer has full power, capacity and legal right to own its property and assets, has full power and authority to enter into and perform its obligations under this Agreement and consummate the transaction contemplated by this Agreement;
  - I am able to pay my debts as they fall due and the aggregate of all my assets exceeds the aggregate of all my liabilities;
  - I have taken all necessary action to ensure that the execution, delivery and performance of this Agreement and any Security and the consummation of the transactions contemplated by this Agreement and any Security have been duly authorised;
  - the execution, delivery and performance of this Agreement and any Security, and the consummation of the transactions contemplated by this Agreement and any Security do not:
    - require the consent or approval of, the giving of notice to, or the registration with, or the taking of any other action in respect of, any governmental, fiscal, exchange control or regulatory body or agency to which I am subject or any other person; or
    - contravene any law or regulation or order binding on me or (if the Lessee/Hirer is a company) its constituent documents, or contravene the provisions of, or constitute a default under, any other agreement by which I am bound, or result in the creation of any Security interest upon my property;
  - this Agreement and any Security provided by me constitutes legal, valid and binding obligations on my part enforceable in accordance with their terms subject to equitable principles and insolvency law;
  - I have not relied on your advice but only my own skill or judgment and any independent legal advice I have obtained in deciding to enter into this Agreement, any Security and any related documents;
  - unless I have told you otherwise, I do not enter into this Agreement as trustee of any trust or settlement;
  - you may disclose details of any agreement between me and you to any credit reference bureau or agency, bank, credit card company or entity which provides financial services and I agree that any of those entities may use that information in the course of its business; and
  - you may conduct checks of Sanctions Lists from time to time for the purpose of determining whether an event of default under Clause 9.1(o) has occurred.

- 1.4 I acknowledge and undertake to you that my warranties, representations and acknowledgements as set out in Clauses 1.1 and 1.3 above and Clause 20 below will remain true, accurate and unchanged throughout the term and any secondary term (as defined in Clause 13.3(b) (d)ii) (if applicable) of this Agreement.

**2. PROVISION OF INFORMATION AND COMPLIANCE**

- 2.1 I agree to give you any information you may reasonably ask about:
- my financial position; and
  - the Goods or insurances relating to the Goods; and if you ask, promptly deliver to you original or certified copies of documents in relation to Clause 2.1(a) and (b).
- 2.2 (If the Lessee/Hirer is a company and if required by law to produce such financial statements), the Lessee/Hirer agrees that it shall give you a copy of its audited profit and loss account and balance sheet for each financial year within 180 days of the end of that year.
- 2.3 I agree to comply with any supplemental provisions set out in the Details.

**3. COSTS AND PERFORMANCE**

- 3.1 Anything which I must do under this Agreement shall be done at my own cost.
- 3.2 Anything which I must do under this Agreement (including payment of rentals or other sums) shall be done, notwithstanding the following:
- that the Goods are defective or deficient;
  - that the Goods fail to comply with the warranties or representations of the seller or manufacturer;
  - that the Goods or any part of them are lost, stolen, damaged or destroyed; and
  - that there are any changes in law or circumstances of any nature whatsoever, unless any of the same results from your gross negligence, fraud or wilful default.

**4. COVENANTS**

- 4.1 I shall ensure that:
- if the Lessee/Hirer is a company:
    - the Lessee/Hirer does not become insolvent;
    - the Lessee/Hirer and any other companies belonging to the same group of companies as it (each such company a “fellow group company”) does not enter into any amalgamation, demerger, merger or corporate reconstruction, without your consent; and
    - no change of Control in the Lessee/Hirer occurs without your consent;
  - I and any Surety will not be in default under any Security;
  - I pay on time any amount due under any agreement I have with you and do not do anything under any other agreement I have with you entitling you to terminate it;
  - I, any Surety or any other person gives you correct and not misleading information in connection with this Agreement or any Security (I, any Surety and/or any other person (as the case may be), may incur civil and/or criminal liability by making intentional or negligent misrepresentation(s) and/or providing fraudulent information in this Agreement or a Security, and/or omitting to provide relevant information);
  - my financial position and the financial position of any Surety does not deteriorate so that in your reasonable opinion my ability to meet my obligations under this Agreement or any Security or the ability of any Surety to meet its obligations under any Security is materially adversely affected;
  - I and any Surety comply in all respects with all laws to which I and any Surety may be subject, if failure so to comply would materially impair my or the Surety’s ability to perform my or its obligations under this Agreement or a Security;
  - I and any Surety notifies you in writing as soon as I or any Surety becomes aware of the occurrence of any event or circumstance which might adversely affect my or its ability to perform my or its obligations under this Agreement or a Security.

- 4.2 Any Security provided by me or any Surety for the purposes of this Agreement shall also secure all other indebtedness owed by me and any fellow group company, including any Surety (if applicable) to you and/or any financing you may subsequently make available to me and any fellow group company (if applicable) and the indebtedness that results from the same.

**5. REGISTRATION AND LICENSE FEES**

- 5.1 I shall at my own expense register the Goods in my name and keep the Goods so registered and licensed and deliver the registration certificate for the Goods (duly signed or endorsed if requested by you) to you for your retention until payment in full of all sums due to you under this Agreement. I shall seek your written consent before applying for any Hong Kong-China dual license.
- 5.2 I shall punctually pay in full all license fees, registration charges, duties, taxes and all other outgoings payable in respect of the Goods or their use at all relevant times during the term and any secondary term (if applicable) of this Agreement. I shall comply with all laws and regulations affecting the Goods or the use or possession thereof. I shall produce to you on demand the latest receipts for all such payments.

- 5.3 If I default in making any payment required under this Clause 5, you shall be at liberty, but shall not be obliged, to make all or any such payments on my behalf and I shall forthwith on demand reimburse you for the amount of such payments.

**6. INSURANCE**

- 6.1 During the term and any secondary term (if applicable) of this Agreement, I shall at my own expense (i) comprehensively insure and continue to insure the Goods both in Hong Kong and (if the Goods are to be used cross-border as stipulated in the Details or as permitted by you in accordance with Clause 8.4(b)) the PRC against all risks of loss or damage from every cause whatsoever, in amounts

- determined by you provided that in no event shall such insurance be less than the full replacement value of the Goods; and (ii) insure against public liability, personal injury and property damage for such amount as you reasonably require. Such insurance shall be with a reputable insurance company and under such terms and conditions as may be approved by you.
- 6.2 All such insurance shall be registered under the names of both parties to this Agreement, with you named as the first loss payee and with my respective rights and interests noted on the policy. The insurance shall provide that losses, if any, shall be payable to you and require that the insurer give you at least 10 days written notice prior to the effective date of any modification or cancellation thereof.
- 6.3 I shall pay all premiums under the insurance punctually and provide you with the original insurance policy (including certificate of insurance) and the receipts. If I default in making payment of any premium, you may (but shall not be obliged to) make payment in respect of such premium and take any other action you consider necessary in respect of such non-payment or delay in payment, and immediately upon your demand, I shall reimburse you on a full indemnity basis for any payment made or expense incurred in respect of such payment or action.
- 6.4 I shall not:
- do, or permit or suffer to be done anything, or fail to do anything, which might, or could prejudice any insurance as aforesaid;
  - vary the insurance without your consent; or
  - enforce, conduct, settle or compromise any claim under the insurance without your consent.
- 6.5 I hereby agree that I shall notify you in writing within 3 days of the occurrence of any circumstances which would, or may, give rise to a claim under the insurance and provide you with such details as you may require.
- 6.6 I hereby irrevocably and by way of security appoint you as my agent to make claim for, receive payment of, and execute and endorse all documents, cheques or drafts received in payment for loss or damage under any such insurance policy.
- 6.7 I agree that the proceeds of such insurance, payable as a result of loss or damage to any item of the Goods, shall be applied to satisfy my obligations as set out in this Agreement.
- 6.8 I agree and undertake immediately to pay over to you any and all monies received or recovered from any insurer or from any other source, and until full payment of all sums owed under this Agreement has been made to you, you shall hold all such monies on trust for me and may apply the same in part or partial settlement of any monies due by me to you under this Agreement.
- 7 OPERATION**
- 7.1 I shall:
- at all times, use and operate the Goods for the purpose(s) for which they are designed and not use them for any other purposes;
  - ensure that the Goods are used in accordance with the manufacturer's instructions and recommendations and in compliance with all laws that apply to the Goods or their use;
  - only permit the Goods to be used by a person qualified to do so;
  - at my own cost, ensure that the Goods are properly maintained in good working order and in good repair, unless this Agreement is an Agility Agreement (in which case paragraph (e) below shall apply) and ensure that the Goods are serviced by qualified personnel according to manufacturer's requirements and my or any insurer's reasonable requirements;
  - if this Agreement is an Agility Agreement only, at my own cost, ensure that the Goods are serviced regularly and at least once in each consecutive period of 6 months within the term at MB Authorized Workshops only by qualified personnel according to manufacturer's requirements;
  - at my own cost, promptly repair, restore or replace all missing, damaged or broken parts of the Goods;
  - keep the Goods in my possession and control within Hong Kong or (if the Goods are to be used cross-border as stipulated in the Details or as permitted by you in accordance with Clause 8.4(b)) the PRC;
  - allow you or your authorised representatives or agents (upon receipt of reasonable notice of your intention to exercise your rights under this Clause 7.1(h)) at all reasonable times to enter in or upon the premises where the Goods are located, placed or kept, or reasonably believed to be located, placed or kept, to inspect the Goods, check whether the terms of this Agreement are being complied with, or exercise any of your other rights under this Agreement;
  - provide you with a written notification on any change in location of the Goods; and
  - assume all risks and liabilities for the Goods and for their use, operation, maintenance, repair and storage and for injuries to or deaths of persons and damage to property howsoever arising from or incidental to such use, operation, maintenance, repair or storage. I shall indemnify you against all losses, damages, claims, penalties, liabilities and expenses including legal costs howsoever arising or incurred because of, or incidental to, the Goods or its use, operation, maintenance, repair or storage.
- 7.2 I shall not:
- make any alterations to or modify the Goods without your prior written consent; or
  - use or permit the use of the Goods in any way that violates the law or the terms of any insurance policy.
- 7.3 I shall not say or imply that you will pay for any work required to be done to the Goods. I shall punctually pay all maintenance costs and expenses and keep the Goods free from any distress, execution or other legal process.
- 8 TITLE**
- 8.1 I acknowledge that I am only leasing or hiring (as the case may be) the Goods from you and the legal and equitable title to the Goods shall at all times be vested in you during the term and any secondary term (if applicable). I undertake to do all such acts or things, at my own cost, as may be necessary or as you may reasonably require in order to preserve your rights and title in and to the Goods, including making clear to others that you own them, and shall not do or authorise anyone else to do any act or thing which may jeopardize your interest in the Goods.
- 8.2 I shall deliver to you all documents of title for your retention and agree to execute and deliver any statement or instrument requested by you for this purpose, and agree to pay or reimburse you for any filing, recording or stamp fees or taxes arising from the filing or recording of any such instrument or statement.
- 8.3 I acknowledge that all parts, accessories, equipment or articles incorporated or installed or affixed to the Goods shall become part of the Goods and title of which shall *ipso facto* passed to you.
- 8.4 During the continuance of this Agreement, I shall not:
- remove, change or interfere with any name plate, identification number, trade mark or any other identification mark affixed or attached to the Goods or any part of them and if you ask, I shall put plates on them that state that you own them;
  - sell, assign, pledge, underlet, lend or part with the possession of the Goods or otherwise deal with the Goods (or purport to do so) and will not remove or permit the removal of the Goods
- out of Hong Kong or (if the Goods are to be used cross-border as stipulated in the Details or as permitted by you in accordance with this clause) the PRC without your prior written consent, provided that such consent shall not be unreasonably withheld by you; and
- apply for or obtain any duplicate or counterpart of any document of title, license or certificate of registration relating to the Goods, without your consent.
- 9 WHAT HAPPENS IF I DEFAULT?**
- 9.1 Events of default
- I shall be in default if:
- I fail to pay any monthly rental payment or other amount or do not do anything required of me under the Agreement, any Security or any other agreement which I have entered into with you;
  - I do or permit any act or thing likely to prejudice or put in jeopardy your rights or interest in the Goods;
  - I fail to keep the Goods registered, licenced and insured (both in Hong Kong and (if the Goods are to be used cross-border as stipulated in the Details or as permitted by you in accordance with Clause 8.4(b)) the PRC) in accordance with the terms of this Agreement;
  - any representation or warranty made or implied under this Agreement (including under Clauses 1.1 and 1.3) or any Security provides to have been incorrect in a material manner or would, if repeated at any time, prove to be incorrect in a material manner at that time;
  - your ownership of the Goods or any part of them is contested in any legal proceedings;
  - I abandon the Goods (which includes purporting to return them to you before the Expiry Date except in circumstances permitted under this Agreement or with your written consent);
  - I do not repay indebtedness owing to my other creditors as it becomes due and for 7 days thereafter;
  - any judgment against me remains unsatisfied for more than 7 days or any distress or execution is levied or threatened against any of my property;
  - an application is made under any statutory provision for the issue of a writ of distress in respect of the Goods or any part of them or any distress is levied or threatened against the Goods;
  - you (acting reasonably) believe I or any other person has acted fraudulently in connection with this Agreement or any Security;
  - I fail to comply with any terms or provisions of any other lease/lease agreement or hire-purchase/hire-purchase agreement (or similar agreement) entered into between me and you;
  - my conduct, in your reasonable opinion, indicates that I no longer intend to be bound by this Agreement;
  - I am in breach of any material provisions of any other agreements between me and you;
  - in your reasonable opinion, there is a material adverse change to my financial position or (if I am a company) management or in the general operation of my business or a change in my ownership structure;
  - I or any of my Associated Parties (i) am/are a Restricted Party or am/are engaging in any transaction that could result in me or any of my Associated Parties becoming a Restricted Party; (ii) am/are subject to any claim, proceeding, formal notice or investigation with respect to Sanctions; (iii) am/are engaging in any transaction that evades or avoids, or has the purpose of evading or avoiding, or breaches or attempts to breach, directly or indirectly, any Sanctions applicable to me/them; (iv) am/are engaging, directly or indirectly, in any trade, business or other activities with or for the benefit of any Restricted Party; or (v) lend, contribute or otherwise make available money to fund any activity or business in any Sanctioned Jurisdiction or fund any activity of or business with any Restricted Party, or in any other manner that results in any violation of Sanctions by me, any of my Associated Parties, or you or any of your Associated Parties;
  - any insurance policy in respect of the Goods is cancelled;
  - the Goods are totally damaged or lost in accordance with Clause 10.1 below; or
  - any of the events set out in paragraph (g) to (o) occurs in relation to any Surety which in your reasonable opinion materially affects either my obligations under this Agreement or the Surety's obligations under any Security.
- 9.2 Upon the occurrence of any of the events of default mentioned in Clause 9.1 above, you may terminate this Agreement by:
- serving a notice in writing on me; or
  - repossessing the Goods (and for this purpose I authorise you and you are entitled to enter using reasonable force (if necessary) upon any premises where the Goods are located or where you believe the Goods may be located and you shall not be responsible for any articles or property left in or attached to the Goods repossessed by you. I shall indemnify you and keep you indemnified against all claims, loss or expenses arising in connection with any such articles).
- 9.3 This Agreement automatically terminates immediately and without notice to me if:
- I and/or any Surety stop(s) payment to my/its creditors generally or am/is unable to pay my/its debts as they fall due or enters into any composition or other arrangement with my/its creditors generally or commit(s) any other act of bankruptcy; or
  - I and/or any Surety become(s) insane or die(s) or any order is made by any competent court or other appropriate authority or any declaration or resolution is made or passed by me and/or any Surety for bankruptcy or winding-up or for the appointment of a liquidator, receiver or trustee of all or a substantial part of my/its assets.
- 9.4 Upon the termination of this Agreement pursuant to Clause 9.2 or 9.3 above:
- I shall immediately deliver up the Goods to you at my sole cost and expense, in good and working order and condition (except where termination results from total damage or loss of the Goods pursuant to Clause 9.1(q)) together with all insurance policies, licences, registration and other documents relating to the Goods and the Transport Department's transfer of registration or licence form(s) signed in blank in relation to such documents (as may be required by you), to such place as you may direct or hold the Goods on trust for you or your nominee's collection;
  - forthwith pay to you the Amount Due on Termination; and
  - you shall be entitled to change the registration of the Goods out of my name and to market, sell or dispose of the Goods to any person and in any manner and deduct the net sale proceeds from the amount due by me to you under this Agreement. In this regard, I hereby authorise you to complete, sign and submit to the appropriate authority on my behalf such documents of ownership transfer as may be required.
- 10 IF THE GOODS ARE TOTALLY DAMAGED OR LOST**
- 10.1 I shall tell you immediately if the Goods are totally damaged or lost. The goods are totally damaged or lost if they are:
- confiscated;
  - lost;
  - stolen (and not found);
  - destroyed; or
  - damaged to an extent which in your or any insurer's opinion renders the Goods incapable of economic repair.
- 10.2 If the Goods are totally damaged or lost (as provided for above), I shall direct and pay over to you all sums recovered (including but not limited to any monies received by me under any policy of insurance taken out by me on the Goods pursuant to this Agreement) and, if I for whatever reasons

fail to pay any of such sums to you, I shall hold the same on trust for you.

- 10.3 I shall instruct the insurer with which an insurance policy in respect of the Goods is taken out to pay all money payable under the policy to you.
- 10.4 If the Goods are totally damaged or lost (as provided for above), I shall forthwith on demand pay to you the Amount Due on Termination together with other amounts due under this Agreement less any insurance proceeds and/or sums recovered. For the avoidance of doubt, my obligation to pay the monthly rental payment and other sums in accordance with this Agreement shall, subject to the above, be unconditional and irrespective of any contingency including any loss, theft, destruction or damage of or to the Goods.
- 10.5 If you receive money from the insurer or any other person after I have paid you the amount due under Clause 10.4, you will refund to me, up to the amount I paid to you, the amount you receive less (i) all money then payable by me under this Agreement, and (ii) any other sums then owed by me to you.
- 10.6 If you determine that the Goods are damaged but not to the extent that Clause 10.1(e) applies, I agree that I shall restore the Goods to the condition they were in before they were damaged and any insurance proceeds or any money recovered from a third party if such party is responsible for causing the damage shall be applied in making good the damage.
- 10.7 If any of the events in Clause 10.1 occurs, I must not compromise any claim without your consent. I must allow you, but you shall not be obliged, to (i) take over the conduct of any negotiation in connection with Clause 10.1 and (ii) take such proceedings in my sole name or jointly with me as you direct, at my own expense.
- 10.8 Without prejudice to the foregoing provisions, I must pay to you all sums recovered from any third party who causes damage to the Goods and all money received under any insurance policy taken out by me in respect of the Goods.

## 11 PAYMENTS

- 11.1 I shall:
- (a) punctually pay to you the first payment and all monthly rental payments (if applicable) on the dates and in the amount set out in the Details or as adjusted pursuant to Clause 26 in such manner as you may from time to time specify and, once paid, these amounts are not refundable under any circumstances;
- (b) if this Agreement is an Agility Agreement only, punctually pay to you the Guaranteed Future Value and any fees, repair costs and excess mileage charges calculated in accordance with the Fair Wear & Tear Guide (if applicable) at such times in accordance with this Agreement and in such manner as you may from time to time specify; and, once paid, these amounts are not refundable under any circumstances;
- (c) (except to the extent forbidden by law) pay and fully indemnify you on demand against all stamp and other duties, taxes and fees imposed or payable, and all costs that you incur, in respect of:
- (i) all reasonable costs in relation to this Agreement;
- (ii) any interest (including overdue interest) arising under this Agreement;
- (iii) any the receipt or deposit by you of any monies payable under this Agreement; and
- (d) punctually pay in full all fines, infringement notices, levies, fees and charges relating to the Goods and/or their use.
- 11.2 Times for payment
- (a) All payments by me shall be paid on the dates provided for in this Agreement or, where no time for payment is provided for, when demanded by you. The stipulations as to time for payment set out herein are of the essence and are terms of this Agreement. Failure to make punctual payment of any monthly payment or other sums payable hereunder shall constitute a repudiatory breach of this Agreement.
- (b) If any payment under this Agreement falls to be made on or as at a day which is not a business day, such payment shall be made on or as at the preceding business day.
- (c) If my monthly rental payments are due on the 29th, 30th or 31st of a month, and a particular month does not have that date, I shall pay the relevant monthly rental payments on the last day of that month.

## 11.3 Adjustments of Payments and Charges

If the amount actually payable by you to a relevant authority for any stamp duty or any other duties or fees differs from the amount (if any) as set out in the Schedule of Fees and Charges, I shall pay to you the amount of the deficiency, or you shall give credit to me for any excess, as the case may be.

## 11.4 Interest on Overdue Payments

- (a) If I default or delay in payment of any sum in accordance with the terms of this Agreement, I shall pay to you overdue interest on the final daily balance of such due and unpaid sum at the rate of 4% per month above the Interest Rate stipulated in the Details (or such other rate as you may in your absolute discretion from time to time determine) from the due day until full payment (inclusive).
- (b) During each month (or any other periods you choose), you may add to the amount I owe you any interest payable under Clause 11.4(a) which is overdue (which is known as 'capitalising' or 'compounding' the interest). I will then be liable for interest under Clause 11.4 (a) on the total amount.
- (c) I shall pay all interest payable under Clause 11.4(a) and (b) upon your demand.
- (d) My obligation to pay an amount on the date it becomes due is not affected by Clauses 11.4(a) – (c) (inclusive).
- (e) If any amount I must pay under this Agreement becomes merged in a court order, I shall pay interest on that amount as a separate obligation. The interest is payable from the date you first ask me for the amount until that amount is paid. This obligation is not affected by the court order.
- (f) The rate applicable in Clause 11.4(e) is the rate specified in Clause 11.4(a) or the rate specified in the court order, whichever is higher.

## 11.5 Payments in full

- (a) All sums payable to you under this Agreement shall be paid to you in full, free and clear of any deduction or withholding and without any set-off or counterclaim. My obligations to pay the monthly rental payments and other sums in accordance with this Agreement shall be unconditional and irrespective of any contingency including defect in title, merchantability, fitness for any purpose, condition, design or operation of the Goods, or any loss, theft, destruction or damage of or to the Goods.
- (b) If I am required by law to make a deduction from any payment due to you, I must pay you an additional amount so that, despite the deduction, you receive the full amount due to you. If practicable, I must rebate to you any tax credit I receive as a result of my making of a deduction.

## 12 OPTION TO PURCHASE OR TERMINATION OF EMPLOYMENT

- 12.1 I have an option to terminate this Agreement and purchase the Goods from you at any time ("Option to Purchase") prior to the Expiry Date by:
- (a) telling you in writing, at least 14 business days before I want to purchase the Goods, that I intend to purchase the Goods; and
- (b) paying to you (i) all monthly rental payments which are still to fall due under this Agreement, (ii) the Early Termination Fee, and (iii) all other amounts owing by me to you under this Agreement (including all accrued interest, costs, commission amount payable under Clause 29), less any discount to be granted by you at your discretion.
- 12.2 If I was your employee, or an employee of Mercedes-Benz Hong Kong Limited at the time I entered into this Agreement, in the event of termination of such employment prior to the Expiry Date:
- (a) I shall notify you in writing at least 14 calendar days in advance of my employment termination date ("Termination Date") or if my contract of employment may be terminated by shorter notice, or I am summarily dismissed from such employment, as soon as possible; and
- (b) I shall terminate this Agreement not less than 14 days before the Termination Date or if my contract of employment may be terminated by shorter notice, or I am summarily dismissed from such employment, as soon as possible, by paying you (i) all monthly rental payments which are still to fall due under this Agreement, (ii) the Early Termination Fee, and (iii) all other amounts owing by me to you under this Agreement (including all accrued interest, costs, commission amount payable under Clause 29), less any discount to be granted by you at your discretion.
- 12.3 If I have exercised my Option to Purchase pursuant to Clause 12.1 or I have terminated this Agreement pursuant to Clause 12.2, when I pay you the amounts in Clause 12.1(b) or 12.2(b) (as the case may be) and if I have done everything I should have done under this Agreement, I will become the owner of the Goods.
- 12.4 For the avoidance of doubt, the options available under Clause 13 shall not be available to me once I have exercised my Option to Purchase pursuant to Clause 12.1 or once I have terminated this Agreement pursuant to Clause 12.2 (as the case may be).

## 13 WHAT HAPPENS AT THE END OF THIS AGREEMENT

- 13.1 This Clause 13.1 only applies if this Agreement is a Finance Lease Agreement or Hire Purchase Agreement.
- (a) Upon:
- i. expiration of the term, and
- ii. payment of all the monies due under this Agreement (including all accrued interest, costs, commission amount payable under Clause 29),
- I shall be deemed to have exercised my Option to Purchase the Goods from you, unless I have notified you in writing prior to payment of the last monthly rental payment due under this Agreement that I do not wish to purchase the Goods.
- (b) If I am deemed to have exercised my Option to Purchase pursuant to Clause 13.1, when I pay you the amounts in Clause 13.1(a) ii. and if I have done everything I should have done under this Agreement, I will become the owner of the Goods.
- (c) If I have notified you that I do not wish to purchase the Goods in accordance with Clause 13.1(a), upon expiration of the term, I shall immediately deliver up the Goods to you at my sole cost and expense, in good and working order and condition together with all insurance policies, licences, registration and other documents relating to the Goods and the Transport Department's transfer of registration or licence form(s) signed in blank in relation to such documents (as may be required by you), to such place as you may direct or hold the Goods on trust for you pending collection by you or your nominee.
- 13.2 This Clause 13.2 only applies if this Agreement is an Agility Agreement. Upon expiration of the term, I shall exercise one of the following options:
- (a) **Return:**
- i. If I wish to return the Goods to you:
- a. I shall tell you in writing within 14 business days prior to the Expiry Date that I wish to return the Goods to you; and
- b. the Goods shall first be inspected by you or your nominee. For this purpose, I shall deliver up the Goods to you at my sole cost and expense, in good and working order and condition together with all insurance policies, licences, registration and other documents relating to the Goods and the Transport Department's transfer of registration or licence form(s) signed in blank in relation to such documents (as may be required by you), to such place and at such time as you may direct in your sole discretion, or hold the Goods on trust for you pending collection by you or your nominee.
- ii. Subject to Clause 13.2(a) iii., I may return the Goods to you only if the Goods meet the return conditions set out in the Fair Wear & Tear Guide, as determined by you in your sole discretion.
- iii. If the Goods do not meet the return conditions pursuant to Clause 13.2(a) ii. above, you shall be entitled at your sole discretion either:
- a. not to accept the return of the Goods, and in such case, I agree that I shall purchase the Goods from you pursuant to Clause 13.2(b); or
- b. to accept the return of the Goods subject to payment to you of the amounts set out in Clause 13.2(a) v.
- iv. Notwithstanding Clause 13.2(a) ii. and iii., I acknowledge, agree and confirm that if the Goods have been seriously damaged for the purposes of the terms of the Fair Wear & Tear Guide, as determined by you in your sole discretion, you shall not accept a return of the Goods, and I shall purchase the Goods from you pursuant to Clause 13.2(b).
- v. Subject to this Clause 13.2(a), if you agree to accept a return of the Goods, I shall:
- a. pay to you any applicable fees, repair costs and excess mileage charge calculated in accordance with the Fair Wear & Tear Guide, as determined by you or your nominee in your or your nominee's sole discretion; and
- b. pay to you all other monies due under this Agreement (including all accrued interest, costs, and the commission amount payable under Clause 29).
- (b) **Purchase:**
- i. I may purchase the Goods from you by paying you the Guaranteed Future Value and all monies due under this Agreement (including all accrued interest, costs, and the commission amount payable under Clause 29).
- ii. Once I have paid you all the amounts in Clause 13.1(b) i. and if I have done everything I should have done under this Agreement, I will become the owner of the Goods.
- (c) **Trade-in:**
- i. If I wish to trade-in the Goods for a new vehicle:
- a. I shall tell you in writing within 14 business days prior to the Expiry Date that I wish to trade-in the Goods for a new vehicle; and
- b. the Goods shall first be inspected by you or your nominee. For this purpose, I shall deliver up the Goods to you at my sole cost and expense, in good and working order and condition together with all insurance policies, licences, registration and other documents relating to the Goods and the Transport Department's transfer of registration or licence form(s) signed in blank in relation to such documents (as may be required by you), to such place and at such time as you may direct in your

- sole discretion or hold the Goods on trust for you pending collection by you or your nominee.
- ii. Subject to Clause 13.2(c) iii., I may trade-in the Goods for a new vehicle only if the Goods meet the return conditions set out in the Fair Wear & Tear Guide, as determined by you in your sole discretion.
  - iii. If the Goods do not meet the return conditions pursuant to Clause 13.2(c) ii. above, you shall be entitled at your sole discretion either:
    - a. not to agree to trade-in the Goods for a new vehicle, and in such case, I agree that I shall purchase the Goods from you pursuant to Clause 13.2(b); or
    - b. to agree to trade-in the Goods for a new vehicle subject to payment to you of the amounts set out in Clause 13.2(c) v.
  - iv. Notwithstanding Clause 13.2(c) ii. and iii., I acknowledge, agree and confirm that if the Goods have been seriously damaged for the purposes of the terms of the Fair Wear & Tear Guide, as determined by you in your sole discretion, you shall not accept a return of the Goods, and I shall purchase the Goods from you pursuant to Clause 13.2(b).
  - v. Subject to this Clause 13.2(c), if you agree to trade-in the Goods for a new vehicle, I shall:
    - a. pay to you any applicable fees, repair costs and excess mileage charge calculated in accordance with the Fair Wear & Tear Guide, as determined by you in your sole discretion;
    - b. pay to you all the monies due under this Agreement (including but not limited to all accrued interest, costs, and the commission amount payable under Clause 29); and
    - c. enter into such further sales contracts with your dealer as required by you or your dealer in respect of the new vehicle.
- (d) Notwithstanding any of the provisions of this Clause 13.2, I acknowledge, agree and confirm that you retain the overriding right to determine which option(s) under Clause 13.2 may be exercisable by me at the expiration of the term, and the manner in which I may exercise such option(s).
- 13.3** This Clause 13.3 only applies if this Agreement is a Hire Purchase with Balloon Agreement.
- (a) At the expiration of the term, I must either:
    - i. extend the term in accordance with Clause 13.3(b) (if applicable); or
    - ii. purchase the Goods from you by paying you the Balloon and all monies due under this Agreement (including all accrued interest, costs, and the commission amount payable under Clause 29).
  - (b) i. At the expiration of the term, provided I have fully complied with all my obligations under, and have not committed a breach of, this Agreement,
    - a. you may, at your sole discretion, offer to allow me to continue to hire the Goods for an extended term; or
    - b. I may request you to continue to hire the Goods to me for an extended term by submitting a written request to do so to you no later than one month prior to the Expiry Date.
  - ii. If I accept an offer of such an extension pursuant to para. (b) i. a. above, or if you, at your sole discretion, decide to agree to my request for such an extension pursuant to para. (b) i. b. above (as applicable), the provisions of this Agreement shall continue in full force and effect for such further term (such period, the "secondary term") to be determined at your sole discretion except that the monthly rental payments payable in respect of the secondary term shall be adjusted to an amount determined at your sole discretion.
  - iii. At the end of the secondary term, I must purchase the Goods from you by paying you all monies due under this Agreement (including all accrued interest, costs, and the commission amount payable under Clause 29).
  - iv. I agree that I shall only be entitled to extend the term under this Agreement once.
- (c) Once I have paid you all the amounts in Clause 13.3(a) ii. or Clause 13.3(b) iii. (as applicable), and if I have done everything I should have done under this Agreement, I will become the owner of the Goods.
- (d) Notwithstanding any of the provisions of this Clause 13.3, I acknowledge, agree and confirm that you retain the overriding right to determine which option(s) I may exercise under Clause 13.3(a) at the expiration of the term, and the manner in which I may exercise such option(s).
- 14 WHAT HAPPENS WHEN THE GOODS ARE RETURNED OR REPOSSESSED?**
- 14.1 As soon as practicable after the Goods are returned to you under Clause 9.4(a), Clause 13.3 or Clause 13.2(a) or Clause 13.2(c) or repossessed by you under Clause 9.2(b), you shall be entitled, but are not obliged, at your sole discretion, to market, sell or dispose of the Goods to any person and in any manner and deduct the net sale proceeds from the amount due from me to you under this Agreement. In this regard, I hereby authorise you to complete, sign and submit to the appropriate authority such documents of transfer as may be required.
- 14.2 You may sell the Goods with any registration plates attached to them and I release you from any claim I may have against you for doing so (even if the registration plates are non-transferable).
- 14.3 I agree that you are not liable for any claims relating to any articles or property left in or attached to the Goods when returned or repossessed by us in accordance with the terms of this Agreement.
- 15 YOUR RIGHT TO ACT**
- 15.1 You may do anything which either (i) I should have done under this Agreement but have not, or (ii) I claim to have done in satisfaction of an obligation under this Agreement but you (acting reasonably) consider I have not done properly.
- 15.2 If I do not return the Goods when I am required to under this Agreement, you may enter the place where the Goods are (using reasonable force) and take possession of the Goods.
- 15.3 Without prejudice to any other provision in this Agreement, if I fail to pay any sum due to you under this Agreement, you may appoint a debt collection agency to collect it. I shall indemnify you against all fees and expenses reasonably and properly incurred by you, including legal fees and debt collection agents' fees, in connection with demanding, collecting or suing to recover any sum payable by you or other remedies resulting from any breach under this Agreement or any other agreement with you.
- 16 HOW YOU MAY EXERCISE YOUR RIGHTS**
- 16.1 You may exercise a right, remedy or power or give or refuse to give your consent in any way you consider appropriate including by imposing conditions.
- 16.2 If you do not exercise a right, remedy or power at any time, this in no way constitutes a waiver and we can still exercise such right, remedy or power later.
- 16.3 You are not liable for any loss caused by the exercise or attempted exercise of, failure to exercise, or delay in exercising, a right, remedy or power, except where the same results from your gross negligence, fraud or wilful default.
- 16.4 Your rights, remedies and powers under this Agreement are in addition to any other rights, remedies and powers provided by law independently of it.
- 16.5 Any termination under Clause 9 does not affect any other right or remedy you have for amounts due to you which remain unpaid.
- 16.6 Your rights and remedies may be exercised by any of your directors or any other person (including any of your employees) you authorise.
- 17 YOUR CERTIFICATES**
- 17.1 You may give me a certificate regarding any matter concerning this Agreement including:
  - (a) the rate of interest under 11.4(a); or
  - (b) any amount payable by me to you;
- 17.2 A certificate issued under Clause 17.1 shall be sufficient evidence of the accuracy of its contents, unless it is proved to be false.
- 18 RIGHTS OF SET OFF**
- 18.1 I agree that, in addition to any general lien or similar right which you may have under the law, you may at any time apply and transfer any sum or sums you owe to me against or in or towards satisfaction of, and/or set-off any such sum against, any of my liabilities to you under or pursuant to any agreement or undertaking with you or in any other respect whatsoever, whether such liabilities be owing under this Agreement or any other agreement or arrangement between us, actual or contingent, primary or collateral or several or joint. I further agree that, in so far as any of my said liabilities are contingent or future, your liability to me to make payment of any sum or sums to me shall to the extent necessary to cover such liabilities be suspended until the contingency or future event happens. You shall notify me as soon as practicable after exercising any such right.
- 18.2 You may apply any amount received from me and/or a Surety (if any) whether under this Agreement, a Security or otherwise towards satisfaction of such sums as are payable by me and/or the Surety (if any) under this Agreement, any guarantee or Security or other agreements or arrangements between me, any Surety and you in such manner as you may in your absolute discretion determine.
- 18.3 Any money you receive from me may be paid into and held in a suspense account for so long as you think fit, and if there are any proceedings in or analogous to bankruptcy, winding up, liquidation, composition or arrangement, you may prove for and agree to accept any dividend or composition in respect of my outstanding obligations as if there had been no suspense account or no money in it.
- 19 SECURITY**
- If my obligations under this Agreement are subject to any Security from a Surety, I hereby give my consent to you providing the Surety with:
  - (a) a copy or summary of this Agreement evidencing the obligation to be guaranteed or secured;
  - (b) a copy of any final demand for overdue payments; and
  - (c) upon request by the Surety, a copy of my statements of account from time to time.
- 20 EXCLUSIONS**
- 20.1 I acknowledge that, to the fullest extent permitted by law:
  - (a) all terms other than express terms which may be implied into this Agreement do not apply to this Agreement;
  - (b) all conditions and warranties relating to the Goods other than those set out in this Agreement are negated and excluded;
  - (c) you are not liable, in contract, tort or otherwise, for any injury to any person or loss or damage to property arising from the possession, operation or use of the Goods (including any injury, loss or damage sustained by any defect in the Goods, whether such defect be latent or apparent on examination), nor are you liable to indemnify me in respect of any claim made against me by a third party for any such injury, loss or damage, except where the same results from your gross negligence, fraud or wilful default, and
  - (d) where the Goods I lease or hire (as the case may be) are second-hand, conditions and warranties implied by law covering Goods' quality, fitness and suitability do not apply.
- 20.2 I acknowledge that by signing this Agreement, this Clause 20 has been brought to my attention.
- 20.3 No representation, warranty or undertaking has been given to me in relation to this Agreement.
- 21 INDEMNITIES AND RELEASES**
- 21.1 Notwithstanding any other provision in this Agreement, I shall at all times indemnify you and keep you indemnified, if necessary by payment in cash on demand, against any loss, liability damage or expense (including legal costs on a full indemnity basis) incurred by you in connection with or arising out of:
  - (a) the Goods or their use, operation or possession by me;
  - (b) in connection with the repossession or attempted repossession or storage of the Goods by you or your agents, including all expenses, customer duties, fines and costs incurred by you in disposing of the Goods within the PRC or in exporting the Goods to Hong Kong;
  - (c) your exercising a right under this Agreement (including reasonable fees for appointing debt collectors and taking legal proceedings to enforce this Agreement on an indemnity basis);
  - (d) your doing of anything (i) I should have done under this Agreement or any other agreement, or (ii) a Surety should have done under any Security or other agreement;
  - (e) failure by me to do what I should have done under this Agreement;
  - (f) your owning the Goods (including registration of your interest as owner);
  - (g) property being damaged directly or indirectly by the Goods or their use;
  - (h) the Goods or any part of them being lost or damaged for whatever cause and whether or not such loss or damage results from your negligence, fraud or default;
  - (i) actions, proceedings, claims or demands for strict liability, or for any other reason being made against you in connection with the Goods or their operation (including those arising by reason of the transport of the Goods from or to, or their presence in or upon, any place, for their use or misuse, whether or not due to any act or omission on my part); or
  - (j) this Agreement terminating before the end of the term or any secondary term (if applicable); notwithstanding your rights under other provisions of this Agreement, your loss may include an amount you call "break costs", which are amounts equal to your reasonable estimate of your loss arising as a result of a termination referred to in this paragraph (j), except where the same results from your gross negligence, fraud or wilful default.
- 21.2 Each indemnity under Clauses 11.1(c) and 21.1 is a continuing obligation, separate and independent from my other obligations. It continues after this Agreement ends or is terminated. It is not necessary for you to incur expense or make a payment before you enforce a right of indemnity.
- 21.3 Without prejudice to the generality of Clauses 11.1(c) and 21.1, I acknowledge that I may become liable to pay you additional amounts under Clauses 11.1(c) and 21.1 when this Agreement is terminated under any of the circumstances described in Clauses 9.2, 9.3 or under Clause 11.5. Where the Early Termination Fee is payable, it does not include these amounts and you remain liable for

them in addition to the Early Termination Fee.

## 22 ASSIGNMENT

This Agreement shall be binding upon me, and enure for the benefit of you and me and our respective successors and assigns and personal representatives (as the case may be), except that I may not assign any of my rights, benefits, or obligations hereunder without your prior written consent. I agree and acknowledge that you shall be entitled (whether or not the leasing or hiring (as the case may be) of the Goods under this Agreement shall have been terminated for whatever reason), subject to the provisions of this Agreement, to transfer the ownership of the Goods and to assign the whole or any part of your rights, benefits or obligations under this Agreement without getting my consent. I agree that you may disclose any information or documents you consider necessary to help you exercise this right.

## 23 YOUR RIGHTS WHEN THE AGREEMENT TERMINATES

The termination of this Agreement, for whatever reason, will not affect(s) your rights, powers and remedies with respect to any prior breach by me under this Agreement or (b) your rights to receive sums following termination of this Agreement under Clause 9.

## 24 PERSONAL DATA (PRIVACY) ORDINANCE

Your policies and practices in relation to personal data and the Personal Data (Privacy) Ordinance (Cap. 486) ("PDPO") are set out in the loose-leaf attached to this Agreement (i.e. your Circular to Customers and Persons Acting as Guarantors relating to the Personal Data (Privacy) Ordinance ("Circular") (and references to customer in the Circular will be deemed also to include references to directors, shareholders or sureties, as the case may be) and are otherwise available on request in writing to our Data Protection Officer at 59/F Central Plaza, 18 Harbour Road, Wanchai, Hong Kong. The said policies and practices form an integral part of this Agreement and shall be deemed incorporated into this Agreement accordingly.

## 25 CHANGE OF ADDRESS AND OTHER MATERIAL INFORMATION

I shall notify you in writing of any temporary or permanent change in my address(es), any material information in relation to this Agreement or circumstances which may prevent you from locating the Goods immediately following such change.

## 26 AMENDMENT

26.1 You shall be entitled at any time by notice to me to amend or change any or all of the terms and conditions of this Agreement (including, for the avoidance of doubt, the Schedule of Fees and Charges).

26.2 Without prejudice to Clause 26.3, I acknowledge and agree that the asset price, licence fee, insurance premium, down payment and agreement number specified in the Details (as applicable) may be subject to change. In the event of any such change, you shall be entitled to notify me in writing of such change as soon as reasonably practicable after the same. For the avoidance of doubt, I understand and agree that I will be bound by any such change to the asset price, licence fee, insurance premium, down payment and agreement number (as applicable) pursuant to this Clause 26.

26.3 If this Agreement is an Agility Agreement, I acknowledge, agree and confirm that if I entered into this Agreement on a non-cross-border basis (as stipulated in the Details) and subsequently during the term, I wish to use the Goods on a cross-border basis and have obtained your prior written consent to do so in accordance with Clause 8.4(b), the monthly rental payments payable thereafter and the Guaranteed Future Value shall be adjusted at your sole discretion. I understand that you will notify me within 14 business days of granting your aforesaid consent of the adjusted monthly rental payments and the Guaranteed Future Value.

## 27 JOINT AND SEVERAL LIABILITY

27.1 If I, the Lessee/Hirer, consist of two or more persons, all such persons shall be jointly and severally liable for the due performance and observance of all the terms and conditions contained in this Agreement and neither the release or nor granting of time or any other indulgence to any one of such persons shall release or discharge the other or others of such persons from his or their obligations under this Agreement, and neither shall bankruptcy, insolvency, winding-up or death of one or more such persons discharge the other or others.

27.2 If I, the Lessee/Hirer, am a firm or otherwise consists of more than one person, my liability under this Agreement shall be deemed to be the joint and several liability of the partners in the firm or of such persons as aforesaid.

## 28 NOTICE

28.1 Any notices, certificates, consent and other communications required to be given herein shall be given to the parties hereto in writing and by either personal delivery or by post to the addresses (not being a P.O. Box number) stated in this Agreement or at such other addresses (not being a P.O. Box number) as the parties hereto may hereafter substitute by notice in writing or by any other way permitted by this Agreement or by law.

28.2 If they are delivered personally, they are taken to be received at the time of delivery, and if they are sent by post, they are taken to be received on the second business day after posting.

28.3 Without prejudice to the above, you may in your discretion (but are not obliged to) accept and rely on requests or instructions made or given by me by telephone, subject to the following:

- I shall provide such information as you may in your absolute discretion require for identification purposes;
- all requests or instructions, once given, shall, subject to your absolute right of rejection or refusal to accept, be irrevocable and conclusively binding on me irrespective of whether or not such requests or instructions are given by me or by any other person on my behalf, whether authorised or unauthorised;
- all requests or instructions made shall be deemed to be made or given on and subject to such terms and conditions as you may from time to time adopt in respect of telephone requests or instructions, including my duty to indemnify you in full against all and any losses, damages, costs which you may reasonably incur or sustain as a result of such requests or instructions or otherwise in connection therewith; and
- you shall be entitled, and I hereby duly authorise you, to record any telephone conversation with me.

## 29 COMMISSION

I hereby acknowledge that it is customary in the leasing or hire-purchase business for an owner to pay commission relating to the supply of goods under a finance lease or hire-purchase agreement and therefore I hereby agree and consent to you paying a commission, fees or other remuneration (as the case may be) to any third party in relation to this Agreement. I acknowledge that any third party which submitted this Agreement to you, or who conducted any prior negotiations with you, is and was not your agent for any purpose. I hereby acknowledge and expressly agree that if this Agreement

is terminated pursuant to Clauses 9 or 10 hereof, you shall be entitled to charge me for the amount of such commission, fees or other remuneration (as the case may be) paid by you in relation to the Goods and this Agreement which is not reflected in the Amount Due on Termination or deduct the same from any amount due to me/us by you.

## 30 CONTRACT PERIOD

This Agreement commences on the date specified in the Details and ends upon the earlier of (i) the Expiry Date or the end of any Secondary Term (if applicable) or (ii) termination of this Agreement pursuant to these Terms and Conditions.

## 31 PRESERVATION OF RIGHTS

I hereby acknowledge and agree that your rights under this Agreement will be in addition to and independent of every other Security which you may at any time hold for my obligations under this Agreement (or otherwise).

## 32 SEVERABILITY

If the whole or part of any clause of this Agreement is deemed to be void, legally unenforceable or illegal, it shall be deemed severed, and the remainder of this Agreement shall not be affected thereby and each term hereof shall be valid and enforceable to the fullest extent permitted by law.

## 33 GOVERNING LAW

33.1 This Agreement shall be governed by and construed in all respects in accordance with the laws of Hong Kong and I submit to the non-exclusive jurisdiction of the courts of Hong Kong.

33.2 If a process agent has been specified in the Details, service of any legal process on the process agent shall constitute service on me.

## 34 APPOINTMENT OF PROCESS AGENT

I hereby appoint the person named in the Details to be my agent to accept on my behalf service of process issued by you in relation to this Agreement. If any action in relation to this Agreement is commenced, I agree that the process by which such action is commenced shall be sufficiently served on me and shall be deemed to have been so served, if addressed to such process agent and left at or sent by post to the address of such process agent set out in the Details or to the registered office of such process agent.

## 35 AUTHORITY TO COMPLETE

I authorise you to complete any blanks in this Agreement and other documents in relation to the Goods (including any title registration or transfer document or certificate) in any manner in which it may be incomplete and to insert such dates or details as are necessary to give effect to this Agreement and to correct any errors therein. You shall notify me of any such variation as soon as reasonably practicable, and I acknowledge and agree that such terms and details as inserted or corrected by you shall be fully binding against me.

## 36 DISCLOSURE OF CREDIT REFERENCE

36.1 Without limitation to Clause 22, you are authorised, if you wish, to obtain references in respect of me from any person, including an employer, and to obtain credit reports on me, when considering whether to grant or continue credit or other facilities or other financial accommodation to me or provide any further service to me for consideration. You shall not approach any proposed referee for me unless I have first confirmed to you that I have obtained the consent of such referee for his name to be used.

36.2 I hereby authorise you to disclose any information regarding my relationship with you and all and any transactions or dealings between us under this Agreement to credit reference agencies (including TransUnion Limited and Dun & Bradstreet (HK) Ltd), and, in the event of default, debt collection agencies (such credit reference agencies and debt collection agencies, collectively, "CDAs", each a "CDA").

36.3 I agree that a CDA may use information you disclose to it in the ordinary course of its business. I shall be responsible for all reasonable costs which you may incur in connection with any engagement you may have with a CDA from time to time in relation to information disclosed to a CDA about me.

36.4 I also agree and confirm that such disclosure shall not constitute violation of your obligations of confidentiality.

36.5 Under and in accordance with the terms of the PDPO and the Code of Practice on Consumer Credit Data, I (if an individual or an "SME") have the right:

- to check whether you hold data about me and request access to such data;
- to require you to correct any data relating to me which are inaccurate;
- to ascertain your policies and practices in relation to personal data and to be informed of the kind of personal data held by you and the main purposes for which the personal data held by you are or are to be used;
- in relation to consumer credit, to request to be informed which items of personal data are routinely disclosed to a CDA, and be provided with further information to enable the making of a data access or correction request to the relevant CDA; and
- in relation to consumer credit data which has been provided by you to a CDA, to instruct you upon termination of an account by full repayment to make a request to the CDA to delete from its database any account data relating to the terminated account, as long as the instruction is given within 5 years of account termination and at no time did the account have a default of payment lasting in excess of 60 days within 5 years immediately before account termination. If the account has had a default of payment lasting in excess of 60 days, the account repayment data may be retained by the CDA until the expiry of 5 years from the date of final settlement of the amount in default or 5 years from the date of discharge of the individual's bankruptcy as notified to the CDA whichever is earlier.

36.6 You may have obtained a credit report on me and any of my Sureties from a CDA when you considered any application for credit. If I or any of my Sureties wishes to access the credit report, you will advise me of the contact details of the relevant CDA.

36.7 Furthermore, you may from time to time access data about me and any of my Sureties held with a CDA in the course of a review of my facilities so as to facilitate your consideration of all or any one or more of the matters specified below:

- an increase in the credit amount;
- the curtailing of credit (including the cancellation of credit or a decrease in the credit amount); and
- the putting in place or the implementation of a scheme of arrangement with a customer.

### 37 INTERPRETATION AND MEANING OF WORDS AND EXPRESSIONS

Unless otherwise expressly provided in this Agreement, or the context otherwise required, this Clause 37 shall apply generally to its interpretation.

#### “Agreement”

means this Finance Lease / Hire Purchase / Agility Agreement (as the case may be) which shall be deemed to include the Details, these Terms and Conditions and the Circular;

#### “Amount Due on Termination”

means an amount by way of liquidated damages calculated as the total amount I would have paid under this Agreement (including all outstanding monthly rental payments, any monthly rental payments due on the day of termination, and all other amounts due under this Agreement up to and on that day (including interest on overdue monthly rental payments, any amounts payable pursuant to Clause 21, any commission amount payable under Clause 29 and any legal costs reasonably incurred by you in enforcing this Agreement on an indemnity basis)), less:

- (i) the best price reasonably obtainable for the Goods at the time of your receiving or taking possession of them less storage and disposal costs and legal costs;
- (ii) the monies paid and other consideration I have provided under this Agreement to you; and
- (iii) a discount for the acceleration of payment computed according to the “Rule of 78” method.

#### “Associated Party”

means, in relation to a person which is a company (“first-mentioned person”), (i) each of the first-mentioned person’s direct and indirect shareholders, including without limitation, any person, by whom the first-mentioned person is owned and/or controlled, (ii) the first-mentioned person’s subsidiaries and (iii) the first-mentioned person’s affiliated companies (being any company which is a subsidiary of a company which is the first-mentioned person’s holding company or by which it is otherwise owned and/or controlled);

#### “Balloon”

means your pre-estimate of the value of the Goods at the Expiry Date, being the amount noted in the Details;

#### “business day”

means any day (excluding Saturdays and Sundays and public holidays) on which banks in Hong Kong are open for normal business;

#### “Control”

includes the possession of power, directly or indirectly, whether or not having the force of law, to control the members of a company’s board of directors or otherwise directly or indirectly control the direction of a company’s management and policies;

#### “costs”

includes charges and expenses, and costs, charges and expenses in connection with legal and other advisers;

#### “Details”

means the Finance Lease Agreement Details, Hire Purchase Agreement Details, Agility Agreement Details or Hire Purchase with Balloon Details (as the case may be) provided to me together with these Terms and Conditions setting out the details of this lease or hire-purchase arrangement (as the case may be);

#### “Early Termination Fee”

means the early termination fee calculated in accordance with the Schedule of Fees and Charges;

#### “Expiry Date”

means the last day of the term;

#### “Fair Wear & Tear Guide”

means the Mercedes-Benz Financial Fair Wear and Tear Guide provided to me at or around the time of execution of this Agreement or otherwise available from your website at [www.mbf.com.hk](http://www.mbf.com.hk), as amended, substituted or replaced from time to time;

#### “Goods”

means the vehicle described in the Details and includes all accessories attached to it, all replacements of it, the registration number, and any documents of title, licences or certificates of registration.

#### “Guaranteed Future Value”

means the Owner’s pre-estimate of the value of the Goods at the Expiry Date, being the amount noted in the Details or as adjusted pursuant to Clause 26.3;

#### “Hong Kong”

means the Hong Kong Special Administrative Region of the PRC;

#### “including”

when introducing a list of items, does not limit the meaning of the words to those items or to items of a similar kind;

#### “insolvent”

means insolvent or insolvent under administration, in receivership, in receivership and management, in liquidation, in provisional liquidation, under administration, wound up, subject to any arrangement, assignment or composition or protected from any creditors under any statute or dissolved (other than to carry out a reconstruction while solvent);

#### “Lessee” or “Hirer”

means the person or persons named in the Details as the Lessee or Hirer (as the case may be), and includes my or its successors and assigns to whom you have consented to under Clause 22.

#### “Lessor” or “Owner”

means Mercedes-Benz Financial Services Hong Kong Limited and its successors and assigns;

#### “MB Authorized Workshops”

means the workshops of Zung Fu Company Limited listed at [https://www.zungfu.com/svcs\\_service\\_centres.shtml](https://www.zungfu.com/svcs_service_centres.shtml), as the same may be amended from time to time;

#### “Option to Purchase”

has the meaning as set out in Clause 12.1;

#### “payable”

in relation to an amount means an amount which is currently payable or will or may be payable in the future;

#### “person”

includes an individual, a firm, a partnership, a committee, an incorporated body and an unincorporated body;

#### “PRC”

means the People’s Republic of China;

#### “Restricted Party”

means a person that:

- (a) is listed on, or is owned or controlled by a person listed on, a Sanctions List;

- (b) is located in or organised under the laws of a country or territory that is the subject of country or territory-wide Sanctions, or a person who is owned or controlled by such a person;
- (c) is currently subject to any Sanctions whose property has been blocked, or is subject to seizure, forfeiture or confiscation, by any published order relating to terrorism or money laundering issued by a Sanctions Authority;
- (d) commits, threatens or conspires to commit or support terrorism; or
- (e) is otherwise a subject of Sanctions;

#### “Sanctioned Jurisdiction”

means any of Belarus, Burma/Myanmar, Crimea, Cuba, Iran, Libya, North Korea, Russia, Sudan, South Sudan, Syria, Zimbabwe or any other country or territory which is the subject (or becomes the subject) of any trade embargo or other prohibition against transaction activity under any Sanctions;

#### “Sanctions”

means any trade, economic or financial sanctions laws, regulations, embargoes or restrictive measures administered, enacted or enforced by a Sanctions Authority to which you are subject including, without limitation, any law of the jurisdiction of a Sanctions Authority relating to terrorism, money laundering or any related seizure, forfeiture or confiscation of assets, each as amended, supplemented or substituted from time to time;

#### “Sanctions Authority(ies)”

means:

- (a) the Security Council of the United Nations;
- (b) the United States of America;
- (c) the European Union;
- (d) the United Kingdom of Great Britain and Northern Ireland;
- (e) the People’s Republic of China;
- (f) the Hong Kong Special Administrative Region of the People’s Republic of China;
- (g) Australia;
- (h) Canada;
- (i) Japan; and
- (j) the governments and official institutions or agencies of any of paragraphs (a) to (i) above, including OFAC, the US Department of State, and Her Majesty’s Treasury.

#### “Sanctions List”

means (i) the Specially Designated Nationals and Blocked Persons list maintained by OFAC, the Consolidated List of Financial Sanctions Targets and the Investment Ban List maintained by Her Majesty’s Treasury, or any similar list maintained by a Sanctions Authority, (ii) a public announcement of a Sanctions designation made by a Sanctions Authority or (iii) any other list issued by a Sanctions Authority of persons designated as subject to the provisions of any laws seeking to prevent terrorism, each as amended, supplemented or substituted from time to time;

#### “secondary term”

means, the extended period of hire commencing on the Expiry Date and referred to in Clause 13.3(b);

#### “Security”

means, collectively or individually, any guarantee or Security (including Security provided by me) provided for the purposes of securing my obligations under this Agreement and any agreement for any of the same;

#### “Schedule of Fees and Charges”

means the Schedule of Fees and Charges annexed to these Terms and Conditions or otherwise available from your office at 59/F Central Plaza, 18 Harbour Road, Wanchai, Hong Kong or at [www.mbf.com.hk](http://www.mbf.com.hk) or [www.mymbf.com.hk](http://www.mymbf.com.hk), as amended from time to time;

#### “Surety”

means any guarantor or other person who provides a Security;

#### “term”

means the term of agreement specified in the Details;

The singular includes the plural and vice versa.

Clause headings are for reference only.

A reference to:

- (a) a document (including this Agreement, any Security and the Circular) includes any variation or replacement of it;
- (b) law means common law, principles of equity and legislation (and includes regulations and other instruments under legislation and consolidations, amendments, re-enactments or replacements of any of them);
- (c) a clause number means a clause number in these Terms and Conditions;
- (d) one gender includes a reference to each and every other gender; and
- (e) any thing includes the whole and each part of it.