



**FIXED INTEREST LOAN
TERMS AND CONDITIONS**

**YAMAHA MOTOR FINANCE NEW ZEALAND LIMITED
1249966**

Fixed Interest Loan Terms and Conditions

This contract comprises these Fixed Interest Loan Terms and Conditions and the Disclosure Statement, which must be read together.

THE LOAN

1. The Loan

- 1.1 We will lend you the total amount of the Loan.
- 1.2 You authorise us to distribute the Loan in the manner set out in the Disclosure Statement.

WHAT YOU MUST PAY

2. The Loan

- 2.1 You must repay the Loan in full.

3. Interest and default interest

- 3.1 You must pay interest on the Loan calculated in accordance with this clause 3 and in accordance with the Payment Frequency.
- 3.2 We debit interest to your Loan Account on each Instalment Payment Date. Interest for the first week, fortnight or month of your Loan will be debited one week, fortnight or month after the Acceptance Date. Interest will accrue from the day the Loan is advanced to you. The interest for each Instalment Payment is the interest amount calculated in accordance with clause 3.3. However, the amount of interest debited to your account on any Instalment Payment Date will not be treated by us as part of any Scheduled Unpaid Balance for the purpose of calculating interest charges for that week, fortnight or month as the case may be.
- 3.3 Interest is calculated at each Instalment Payment Date by applying the Percentage Rate to the Scheduled Unpaid Balance of your Loan Account for that payment date.
- 3.4 Subject to Credit Legislation, you must pay interest on the Outstanding Balance until the Loan is repaid in full.
- 3.5 If you do not pay any amount on time ("Overdue Amount"), the Default Rate (and not the Annual Interest Rate) will apply to that amount from the date that amount becomes due and payable and while it remains unpaid.
- 3.6 Interest at the Default Rate is calculated daily in the manner set out in the Disclosure Statement.
- 3.7 To the extent permitted by law, you must pay default interest even if the obligation to pay the Overdue Amount becomes merged (for example, in a judgment we obtain against you). The interest rate is the Default Rate or the interest rate in the judgment, whichever is the highest.

4. Instalment payments

- 4.1 You must make the Instalment Payments on each Instalment Payment Date.
- 4.2 You agree that we may delay, block or refuse to process any payment or other transaction without incurring any liability, if we suspect that:
 - (a) the transaction or payment may breach, or cause us to breach, any law in New Zealand or overseas, or does not comply with any of our policies; or
 - (b) the transaction or payment may directly or indirectly involve the proceeds of, or be applied for the purpose of, a criminal or unlawful activity including money laundering, financing of terrorism or fraud.

5. Credit fees and charges

- 5.1 You must pay us the credit fees and charges at the times and in the circumstances set out in the Disclosure Statement. If you do not pay us a credit fees or charges when due and payable, we may debit the credit fees

and charges to your Loan Account which will then form part of the Outstanding Balance. If no due date is specified, the applicable fee or charge is payable upon demand.

5.2 We may debit to your Loan Account any Government Charge which becomes payable in respect of this contract, which will form part of the Outstanding Balance.

5.3 Other than Government Charges, the credit fees and charges we debit to your Loan Account from time to time, are debited by us for the provision, to you, of a Service. We will debit those credit fees and charges in the event that we provide you with a Service, for instance, in the event that a payment made by you is dishonored or refused by the paying institution, we will debit the amount of the Dishonour Service Fee to your Loan Account and in return we will monitor your Loan Account and any other loan account you have with us more closely and an operator will attempt to contact you to bring this matter to your attention and assist you with a possible remedy for which a reasonable administration fee may be charged for the provision of such a Service.

6. **Early termination and prepayment**

6.1 You may prepay the whole or any part of the Outstanding Balance at any time before it is due.

6.2 If you repay the whole of the Outstanding Balance, we may require you to immediately pay the prepayment fees specified in the Disclosure Statement upon demand.

6.3 If you prepay part of the Outstanding Balance, this amount will not be credited to your Loan Account and will not reduce your Outstanding Balance until applied to the Scheduled Unpaid Balance on the Instalment Payment Date immediately following the date of your prepayment. It may not reduce the amount of each scheduled Instalment Payment but may reduce the number of repayments and/or the amount of the final scheduled Instalment Payment.

7. **Enforcement Expenses**

7.1 Enforcement Expenses may become payable under this contract if an event of a Default takes place. You must reimburse us for all Enforcement Expenses we reasonably incur in enforcing this contract, any guarantee, Security or Security Interest, or remedying the Default upon demand.

7.2 Enforcement Expenses can include a range of costs such as mercantile agency fees, legal fees (including legal fees and costs incurred on a solicitor and own client basis), fees for paying a repairer's lien over the Secured Goods, taking possession of, preserving and auctioning the Secured Goods and the costs we reasonably incur in the use of our staff and facilities as well as any Government Charges, fees, taxes or duties incurred in relation to those expenses. Enforcement Expenses include any court costs.

7.3 When requested by us, you must pay any Enforcement Expenses we reasonably incur upon demand, but we may, without making demand, debit any Enforcement Expenses to your Loan Account and they will form part of the Outstanding Balance.

8. **How you must pay**

8.1 You must make all payments required under this contract without any deduction, set-off, counterclaim or condition.

8.2 You authorise us to obtain payment of any amounts you owe under this contract under any Direct Debit Authority which you may have signed in connection with this contract.

8.3 You must make all payments by direct debit or by other methods acceptable to us. If your payment is dishonoured, the payment is deemed not to have been made.

9. **How we deal with your payments**

9.1 Subject to clause 9.2 and our obligations under Credit Legislation, we may allocate payments we receive from you to pay scheduled payments and the Outstanding Balance in the order we think fit.

9.2 If you owe amounts under two or more loans (including this Loan), we must follow your written instructions as to allocating your payments among the Loans unless you make a payment which is insufficient to satisfy all your repayment obligations under each Loan in which case we reserve the right to apply the payment to any,

or all, of the Loans in any manner we decide. If you do not give us any written instructions, we may allocate your payments as we think fit.

9.3 We will adjust debits, credits and the balance of your Loan Account:

- (a) if there is a processing error or if a payment has been dishonored;
- (b) if there are refunds or corrections; or
- (c) to accurately reflect the legal obligations between you and us,

and this will occur regardless of the adjustment favoring either you or us.

SECURITY

10. Security Interest

10.1 You grant to us a Security Interest in the Secured Goods, all proceeds, and all of your present and future rights in relation to those Secured Goods and those proceeds under the PPSA to secure payment of the Outstanding Balance and the due performance of your obligations under this contract.

10.2 You will do all things and provide all information we may require to establish and maintain a perfected first ranking Security Interest in the Secured Goods and all proceeds.

11. Security Interest over Goods

11.1 You must not grant any other Security Interest over the Secured Goods nor allow any lien to be created over the Secured Goods.

11.2 We reserve the right to register a "financing statement" in the PPSR to perfect our Security Interest in the Secured Goods.

11.3 The costs of searching the PPSR, registering a "financing statement" or a "financing change statement" or "discharge of financing statement" shall be paid by you.

11.4 You agree that the Security Interest created under clauses 10 and this clause 11:

- (a) is collateral with each and every other Security Interest you have granted to us; and
- (b) shall remain in full force and effect until we have executed a final release.

11.5 You:

- (a) agree that nothing in sections 114(1)(a) (to receive notice of sale of goods), 116 (to receive a statement of account), 117(1)(c) (to receive any surplus), 119 (to recover any surplus), 120(2) (to receive notice of proposal to take goods), 133 (to reinstate security agreement) and 134 (limit on reinstatement) of the PPSA will apply to this contract or the Security Interest created by this contract;
- (b) waive all your rights under sections 121 (to object to proposal), 125 (damage to goods on removing accession), 129 (notice of removal of accession), 131 (court order preventing removal or accession) and 132 (redemption of collateral) of the PPSA; and
- (c) waive your right to receive a copy of the verification statement confirming registration of a financing statement or financing change statement relating to the Security Interest created by this contract.

YOUR PROMISES AND ACKNOWLEDGMENTS

12. Your promises and acknowledgments to us

12.1 You represent to us that the following statements are, and will continue to be true and correct at all times and not misleading:

- (a) you are in the process of purchasing the Secured Goods and once you purchase the Secured Goods you will be the sole legal and beneficial owner of the Secured Goods;

- (b) all the information you or a Guarantor have given us concerning your application for, and otherwise concerning, this contract is true and correct and not misleading;
- (c) this contract is legal, valid, and enforceable and contains binding obligations;
- (d) you have not sold, agreed to sell, offered for sale or given any option to purchase the Secured Goods;
- (e) you have told us about, and have obtained our written consent to, all interests that another person may have in the Secured Goods (for example, an existing lease or a Security Interest);
- (f) the Secured Goods will be kept at the address specified in the Disclosure Statement or such other address you notify us in writing; and
- (g) an Insolvency Event has not occurred concerning you or a Guarantor.

13. What you must do

13.1 You must:

- (a) keep the Secured Goods in good working order, repair, condition and appearance (normal wear and tear accepted), and comply with the specifications and recommendations of the manufacturer, and have the Secured Goods serviced by properly trained personnel at intervals recommended by the manufacturer;
- (b) if any of the Secured Goods is a motor vehicle, motorcycle or Boat, register it in your name, and maintain the registration at all times;
- (c) tell us immediately if the Secured Goods are stolen, lost or defective;
- (d) tell us immediately if any insurance cover has been or could be reduced or cancelled or if an event has occurred which could allow the insurer to refuse a claim;
- (e) comply with all relevant Legislation concerning the Secured Goods including paying all money to any authority in connection with the Secured Goods and this contract when it is due and payable (for example, registration fees and license fees);
- (f) take all reasonable steps to keep the Secured Goods secure against theft or damage while not in use;
- (g) not, without our prior written consent, use the Secured Goods for any race, time trial, speed or other test, rally, pacemaking or contest or in any manner unsuited to it;
- (h) do anything we ask to enable us to register a Security Interest and to provide effective security over the Secured Goods for the payment of the Outstanding Balance;
- (i) not remove any part of any Secured Goods from those Secured Goods other than for servicing them;
- (j) not permit any Secured Goods or any part of any Secured Goods to become an accession to any property, or allow an accession to attach to any Secured Goods. You agree that any accessions attached to any Secured Goods will become our property;
- (k) not use or let anyone else use any Secured Goods in any way that breaches the law or the terms of any insurance policy, or otherwise in a negligent or reckless manner; and
- (l) notify us in writing at least 14 days before you or any Guarantor changes your or their name, address or any other contact details provided to us.

13.2 You must promptly tell us by written notice if any of the following happen:

- (a) any event occurs that materially affects your ability to pay an amount due or owing to us;
- (b) at any time after you have signed this contract, based on the facts existing at that time, a statement or representation that you made to us is no longer true or correct or is misleading;
- (c) an event of Default occurs;

- (d) any person ceases or attempts to cease or take possession of any of the Secured Goods, and also immediately notify that person of our title to, and our Security Interest over, those Secured Goods; or
- (e) you become aware that any of the Secured Goods, or any part of them, is or are no longer able to be used, are not operating or are Totally Destroyed, or otherwise damaged in a way that may affect its safety, value or our Security Interest.

13.3 You must obtain our consent in writing before you:

- (a) sell, assign, lease or otherwise part with the possession of any Secured Goods;
- (b) grant a Security Interest in any Secured Goods;
- (c) alter, or modify any Secured Goods or alter any identifying mark of any Secured Goods (including, without limitation, a serial number);
- (d) if any Secured Goods is a Boat, take those Secured Goods out of New Zealand territorial waters;
- (e) deal in any other way with any Secured Goods, this contract or any interest in them or allow any Security Interest in them to arise or be varied; or
- (f) assign any of your rights under this contract.

14. **Information you must give us**

14.1 You must give us all information or documents that:

- (a) we may reasonably request concerning your financial position;
- (b) we may reasonably request to enable us to exercise our rights under this contract or concerning this contract or to transfer funds to, or withdraw funds from, your Nominated Account (where you have provided us with a Direct Debit Authority); and
- (c) we require to enable us to comply with our duties and obligations under Legislation.

15. **Insurance**

15.1 You **MUST** keep the Secured Goods insured.

15.2 You must take out and maintain at your cost comprehensive replacement and third party insurance unless the Secured Goods:

- (a) is a motor vehicle or motorcycle which is to be used for racing; or
- (b) is to be used for off road purpose; or
- (c) is sold to you in an unregistrable condition; or
- (d) is to be used for any other purpose which prevents you from taking out or maintaining comprehensive replacement insurance; and
- (e) comprehensive replacement insurance has been refused or is unavailable by virtue of one or more of the above uses, in which case, you must take out insurance against fire, theft and any other risk we may reasonably require.

15.3 The exceptions listed in clause 15.2 are the only exceptions allowing for insurance other than comprehensive replacement insurance. You are not entitled to take out third party, fire and theft insurance instead of comprehensive insurance merely because comprehensive replacement insurance has been refused because of your driving record, failure to provide particulars, failure to pay the required insurance premiums or for any other reason.

15.4 Each insurance policy must:

- (a) be taken out in your name and note our interest as a secured party;

- (b) be with an insurer and on terms satisfactory to us;
 - (c) be for at least the Term;
 - (d) be for the full replacement value of the Secured Goods as set out in the Disclosure Statement; and
 - (e) include any other condition that we may reasonably require.
- 15.5 You must pay all premiums on time. You must observe all obligations under the insurance policy. You must not vary the insurance policy without our written consent. You must not do anything that may result in the insurance policy being avoided or cancelled, becoming unenforceable or any additional premium becoming payable.
- 15.6 You must give us evidence of current insurance cover whenever we ask for it including proof that you have paid all premiums due for payment.
16. **If you make an insurance claim**
- 16.1 We may make, negotiate and settle any insurance claims concerning the Secured Goods. You must accept any settlement we agree to with the insurance company. However, we will act reasonably when negotiating and settling any insurance claims.
- 16.2 If you receive any proceeds from an insurance claim you must, at our option:
- (a) use the proceeds to replace or repair the Secured Goods; or
 - (b) pay the proceeds to us, unless we direct you to use or hold the proceeds in a particular way.
- 16.3 We are entitled to any amount paid (or payable) to you from an insurance claim over the Secured Goods. If the proceeds are paid to us, we may apply the proceeds towards repairing the Secured Goods or towards repayment of any amount owing under this contract in accordance with clause 9.
- 16.4 You must tell us immediately once you are aware of an insurance claim being refused either in part or in full and the reasons for the refusal.

THINGS WE CAN DO

17. Things we may do without your consent

- 17.1 We may transfer or assign any of our rights under this contract. We may disclose any information or documents necessary to exercise this right.
- 17.2 We may do anything which you should have done under this contract but which you have not done or have not done to our satisfaction. If we do so, you must pay our reasonable expenses in accordance with clause 7.
- 17.3 You must allow us and any person we authorise to inspect the Secured Goods:
- (a) to obtain a valuation of the Secured Goods;
 - (b) to inspect the condition of the Secured Goods;
 - (c) to assess if you are complying with your obligations under this contract; or
 - (d) after an event of Default occurs,
- and to enter your premises to do so.
- 17.4 If the Secured Goods are not kept on your premises you must do anything necessary to allow us to inspect the Secured Goods, including obtaining consent to enter from the owner or occupier of the premises where the Secured Goods are kept.
- 17.5 We may inspect the Secured Goods at any reasonable time after giving you 24 hours' notice. But no notice is required if a Default has occurred.

17.6 You must indemnify us, our employees, agents and any other person we authorise to exercise our rights under this clause 17 against any claim, action, damage, loss, liability, cost, charge and expense (including legal fees and costs incurred on a solicitor and own client basis) incurred by us, or any of them, or any proceedings brought against us, or any of them, as a consequence of any entry and/or inspection of, or dealing with, any Secured Goods pursuant to this clause 17.

18. Changes we may make to this contract

18.1 We may make changes to this contract in accordance with the provisions of the Legislation.

19. Dating of debits and credits to your Loan Account

19.1 Subject to the requirements of the Credit Legislation, we may assign any date we consider appropriate to a debit or credit to your Loan Account (except that, in the case of a debit, the date must not be earlier than the date on which the relevant transaction occurs).

ENDING THIS CONTRACT

20. When does this contract end?

20.1 The term of this contract is set out in the Disclosure Statement.

However, this contract will end earlier if:

- (a) an event of Default takes place and we terminate this contract (after complying with all notice requirements under the Credit Legislation);
- (b) you end this contract in accordance with Legislation; or
- (c) you pay us the Outstanding Balance, together with the applicable loss arising from the early termination of this contract, as is permitted to be charged by the Credit Legislation.

20.2 When this contract ends and, if required, we have complied with any notice and the requirements under Legislation, you must immediately repay the Outstanding Balance, and all other amounts listed in clause 20.1(c), if you have not already done so.

DEFAULT PROVISIONS

21. When you are in default

21.1 You are in Default if any of the following happen:

- (a) you do not pay on time any amount owing to us under this contract that is due and payable;
- (b) you do not comply with any other obligation in this contract, and where that failure is capable of remedy, you do not remedy it to our satisfaction within 10 Business Days after we give you notice of such non-compliance;
- (c) a representation you or a Guarantor has made including a statement you have made in clause 12.1 is false, incorrect or misleading;
- (d) a default occurs under a Security given by you or a Guarantor;
- (e) any distress, attachment, execution or other process by a Government Body is issued against, or levied or enforced on, any of your assets and is not satisfied or set aside within 7 days;
- (f) you suspend payment of your debts or threaten to do so;
- (g) you become or are likely to become bankrupt or a trustee in bankruptcy is appointed to any or all of your assets, or there is a similar occurrence;
- (h) you breach an obligation in another contract with us or any other person concerning credit or finance;

- (i) all or any part of this contract or a Security is or becomes void, unenforceable or of limited force or effect;
- (j) you cancel your Direct Debit Authority without our prior written consent;
- (k) any representation or warranty provided by you under this contract is, or becomes, untrue, incorrect or misleading in any way;
- (l) any insurance policy is cancelled without our prior written consent, or you commit any act, or any circumstance has arisen, that may in any way prejudice, invalidate or result in the cancellation of any such policy;
- (m) we believe in our sole opinion that any of the Secured Goods are at risk;
- (n) anything occurs which, in our opinion, has or may have a material and adverse effect upon your ability to perform any of your obligations under this contract, including the payment of any Instalment Payments or any other amount payable under this contract; or
- (o) you or any Guarantor die, or a Guarantor revokes its guarantee, fails to perform its obligations to us, or one of the events listed in this clause 21 occurs in relation to that Guarantor.

22. What we may do after a default

22.1 If an event of Default occurs, we may choose to do one or more of the following (after complying with all notice and other requirements under the Credit Legislation and the PPSA):

- (a) require you to immediately pay the Outstanding Balance together with the prepayment fees specified in the Disclosure Statement. You must pay this amount immediately on receiving our written notice;
- (b) end this contract;
- (c) enforce our rights over the Secured Goods including taking possession of the Secured Goods, improving, selling or disposing of the Secured Goods, and, without limiting clause 17, entering any place we believe that the Secured Goods are held in order to do so;
- (d) enforce any other Security;
- (e) debit your Nominated Account with all amounts owing to us; or
- (f) where the Default is a failure to pay an amount that is due and payable, charge interest at the Default Rate on that amount while it remains unpaid;
- (g) provide your personal information, including details of your breach of this contract, to our collection agents, to a credit reporting agency or an unrelated debt recovery organisation;
- (h) after we have taken possession of the Secured Goods:
 - (i) we are entitled at our discretion to cancel any financed insurance over the Secured Goods; and
 - (ii) apply the premium rebate or refund to the Outstanding Balance or refund it to you if the Outstanding Balance is nil.

23. General Indemnity

You indemnify us and our directors, officers, contractors, employees, agents and assignees against all losses, claims, actions, costs, expenses (including legal fees and costs on a solicitor and own client basis), damages, obligations, penalties or liabilities suffered or incurred by, or any proceedings brought against, us or any of our directors, officers, contractors, employees, agents or assignees, in relation to:

- (a) the purchase, ownership, lease, possession, maintenance, repair, use, operation, forfeiture, confiscation or return of any Secured Goods;
- (b) a Default occurring and/or us ending this contract due to a Default;

- (c) you breaching any of your obligations or undertakings under this contract, or any of your representations or warranties under this contract not being true and correct in all respects when made or regarded as made, or our exercising any of our powers or rights under this contract; or
- (d) any other act or omission by you.

This indemnity will continue after the expiry or the earlier termination of this contract.

24. Tax

24.1 You will pay all duties and taxes (including fines, interest and penalties), if any, which may be payable or determined to be payable in connection with the execution, delivery, registration, performance, enforcement or variation of this agreement, and you shall indemnify us against all losses, claims, actions, costs, expenses (including legal fees and costs incurred on a solicitor and own client basis), damages, obligations, penalties or liabilities suffered or incurred by us with respect to, or resulting from, any delay or omission to pay any such duties or taxes.

25. Power of attorney

25.1 To better secure your obligations to us, you separately appoint as your attorney us and each of our employees, directors and secretaries. You may not revoke the appointment. We may cancel or suspend the appointment of an attorney at any time.

25.2 For as long as any amount is owed by you under this contract and the attorney complies with any notice or other requirement under Legislation, the attorney may:

- (a) do anything which you may lawfully authorise an attorney to do concerning the Secured Goods (for example, registering and perfecting a Security Interest or selling or leasing the Secured Goods);
- (b) do anything that the attorney thinks is necessary in relation to the Secured Goods or for securing payment of the Outstanding Balance to us; and
- (c) delegate their powers (including this power) and revoke a delegation.

26. Financial difficulties

26.1 You should tell us immediately if you cannot make any repayments. If you do, we will discuss alternative payment arrangements with you. However, we do not have to agree to any alternative arrangements.

GENERAL PROVISIONS

27. Set-off

27.1 We may set off any debt or monetary liability we owe you against amounts which are due and payable by you under this contract or any other contract, agreement or arrangement you may have with us or our Related Companies.

28. Giving notices

28.1 We may give you notices by:

- (a) giving it personally to you;
- (b) leaving it at your last known residential or business address;
- (c) posting it by ordinary mail in a prepaid envelope to your last known residential or business address; or
- (d) transmitting to the facsimile machine at your last known residential or business address;
- (e) where you have authorised us to provide you with Documents Electronically, by email to your Nominated Email Address. Court Documents may be served the same way.

28.2 A notice is taken to be given to you:

- (a) if given personally, when it is received by you;
- (b) if left at your address, when left;
- (c) if posted, when it would be delivered in the ordinary course of post, but no later than 3 Business Days after it is posted; or
- (d) if transmitted by facsimile, when the machine sending the facsimile reports (for example, by a confirmation of transmission print out) that the notice was sent to your facsimile number; or
- (e) if sent Electronically, on the date it bears or the date it is received at your Nominated Email Address, whichever is the later.

28.3 You must give us notices by:

- (a) posting it by ordinary mail in a prepaid envelope to our office at:

Yamaha Motor Finance New Zealand Limited
Private Bag 94 412
Botany, Manukau;

or

- (b) giving it to, or in the case of Court Documents, serving it on one of our employees at our office at:

Yamaha Motor Finance New Zealand Limited
58 Lady Ruby Drive
East Tamaki
Auckland;

or

- (c) emailing it to customerservice@ymf.com.au or any other email address we tell you; or
- (d) where the Credit Legislation requires or permits a notice or other document to be given, any other means permitted by the Credit Legislation.

29. **Electronic Communication**

29.1 Where you have authorised us to provide you with Documents Electronically relating to this contract:

- (a) we will provide them to you by email to your Nominated Email Address;
- (b) you will not receive a paper copy of the Documents unless you specifically request it;
- (c) you will need to regularly check to see if you have received any emails from us;
- (d) you will need to maintain and check your Electronic Equipment and your Nominated Email Address regularly to ensure it is always capable of receiving Electronic Communication; and
- (e) you are responsible for printing or saving important Documents – and we strongly recommend that you do so.

29.2 We will send all Documents Electronically to the most recent email address that you have nominated. You must ensure that you notify us of any change in your email address. You may do this by notifying us in writing in accordance with clause 28.

29.3 You may cancel your authorisation to receive Documents relating to this contract at any time, by notifying us in writing in accordance with clause 28.

30. **Information**

30.1 You authorise us to make enquiries with, collect, use and disclose commercial, personal or credit information (including credit default information, ongoing credit account information and repayment history information)

about you (**Information**) to and from, a third party (including any of the our associated entities, Related Companies or affiliates, credit reporters, debt collectors, accountants, lawyers, data hosting providers, the Police and any government agency), which we consider necessary to:

- (a) source any required insurances or confirm valid insurance is in place on any Secured Goods;
- (b) make a credit decision about you in relation to this contract, including monitoring the performance of your obligations to us, or to better service you;
- (c) recover any amount you owe us or any of the our associated entities, related companies, affiliates, subsidiaries, and to take enforcement action against you;
- (d) comply with any laws in New Zealand and overseas, including our obligations under the Anti-Money Laundering and Countering Financing of Terrorism Act 2009;
- (e) utilise the services provided by those third parties in connection with this contract and the other purposes listed in this clause 30.1;
- (f) monitor and screen you for anti-money laundering, countering financing of terrorism, fraud or crime detection purposes; and
- (g) provide you information about products and services we, and any of our associated entities, related companies, affiliates, subsidiaries, or any other organisation with which we do business, can provide to you, or for other marketing purposes, unless you tell us not to.

30.2 You agree that Information disclosed by us to credit reporters may be listed on their systems, used by them to provide their credit reporting services, and supplied to customers who use their services to make credit decisions about you. You authorise those parties to hold and disclose such information for the purposes set out in this clause 30.2.

30.3 You must provide all information we believe we require to comply with the Anti-Money Laundering and Countering Financing of Terrorism Act 2009 or any other laws in New Zealand or overseas.

30.4 You warrant all information provided to us is accurate, up to date and complete, and you will update and inform us of any changes to that information.

31. **Our statements**

31.1 We may give you a statement about any matter concerning this contract, including any amount payable in connection with your Loan. Unless you prove that our statement is incorrect, it is sufficient evidence of the matter or amount.

32. **Entire Contract**

32.1 This contract sets out all the terms between you and us concerning the use and operation of this Loan. To the maximum extent permitted by law, this contract supersedes any other representation, promise or statement made by us or any of our employees or agents.

33. **Counterparts**

33.1 This contract may be signed in any number of counterparts. All counterparts taken together will constitute one document.

34. **Your obligations bind all of you**

34.1 If two or more of you are named in this contract, each of you is jointly and individually liable for:

- (a) paying the Outstanding Balance; and
- (b) performing all the obligations under this contract.

35. **Our rights**

- 35.1 If we omit to or do not exercise a right under this contract this does not mean that we have waived or given up that right or that we cannot exercise it later.
- 35.2 Our rights are only waived or given up if the waiver is in writing and signed by our authorised employee or officer. The waiver or consent is only effective for that circumstance and for that purpose.

36. **Protection of our rights**

- 36.1 Subject to clause 37, if this contract is inconsistent with any Legislation, the rights given by Legislation do not apply or are varied as far as they are inconsistent. This applies as far as Legislation does not prohibit it.

37. **If a condition is prohibited or unenforceable**

- 37.1 A provision in this contract that is prohibited or unenforceable in whole or in part is only ineffective to the extent it is prohibited or unenforceable. It does not invalidate any other provision.

38. **Date of performance obligations**

- 38.1 If you or we must perform an obligation (including, but not limited to, making a payment) under this contract on a day that is not a Business Day, then the obligation must be performed on the next Business Day.

39. **Credit Legislation**

- 39.1 This clause 39 applies only to the extent that this contract is regulated by the Credit Legislation.
- 39.2 This contract does not:
- (a) exclude, modify or restrict any rights or duty given to, or imposed on, us or you under the Credit Legislation;
 - (b) require you to perform an obligation that is prohibited by the Credit Legislation; or
 - (c) give us any right which is prohibited by the Credit Legislation, but if a term has this effect, then the term is limited or severed or both to the extent it has that effect.

40. **Governing law**

- 40.1 This contract is governed by the laws of New Zealand including the Legislation that applies to this contract.

41. **Date of Contract**

- 41.1 This contract takes effect on the Acceptance Date.

42. **Defined words**

- 42.1 In this contract:

Acceptance Date

means the date the contract is accepted by us as specified in the Disclosure Statement;

Annual Interest Rate

means the fixed annual interest rate set out in the Disclosure Statement;

Boat

includes a boat, ship, yacht, personal watercraft or other vessel used for transport by water;

Business Day

means a day on which banks are open for business in Auckland. It does not include a Saturday, Sunday or public holiday;

Credit Fees or Charges

means such fees specified in the Disclosure Statement;

Credit Legislation

means:

- (a) the Credit Contracts & Consumer Finance Act 2003, as amended or any other equivalent legislation; and
- (b) any other legislation that we notify to you as included in this definition;

Default

means an event set out in clause 21;

Default Rate

means the default interest rate specified in the Disclosure Statement;

Direct Debit Authority

means the form signed by you authorising us to directly debit your Nominated Account;

Disclosure Statement

means the document titled "Disclosure Statement" provided to you before you entered into this contract;

Dishonour Service Fee

means the fee specified in the Disclosure Statement;

Documents

means and includes those documents and notices relating to this contract as are permitted to be given Electronically under the Credit Legislation;

Electronic Communication or Electronically

means the electronic communication of information in the form of data, text or images including email from us to you which you can retain or later reference such as by printing or storing for later display;

Electronic Equipment

includes, but is not limited to, a computer, telephone or other electronic device, which is capable of receiving Electronic Communication;

Enforcement Expenses

means all reasonable fees and expenses incurred by us in enforcing this contract, any Security Interest, guarantee or Security, including (but not limited to) those expenses referred to in clause 7;

Goods and Secured Goods

means each one or more of the following which the context allows:

- the goods described in the Securities Table;
- replacements for and accessories and additions fitted to the goods at any time;
- your rights at any time in connection with the goods;

Government Body

means a government, semi-government, administrative, judicial or statutory body or person able to exercise legislative or administrative powers;

Government Charges

means any tax, fee, levy or duty levied or imposed by a Government Body including on receipts or withdrawals;

Guarantor

means any person who agrees to guarantee your obligations under this contract;

Insolvency Event

means an event referred to in clause 21.1(e), (f) or (g);

Instalment Payment

means each principal and interest instalment payment that you are required to make under this contract;

Instalment Payment Date

means the day which is the same day of each week, fortnight or month as the Acceptance Date. However, if a month does not contain that day (for example, because the Acceptance Date is the 29th, 30th or 31st of a month), and your payment frequency is monthly, then your Instalment Payment Date will be the last day of that month;

Legislation

includes the Credit Legislation, the *Anti-Money Laundering and Counter-Financing of Terrorism Act 2009* and any law, proclamation, ordinance, regulation, by-law, standard, directive, request or requirement made by a Government Body (whether or not having the force of law) or an industry standard (including an industry code of practice or guidelines that we adopt or that applies to us);

Loan

means the total amount of the credit provided as specified in the Disclosure Statement;

Loan Account

means the account we set up in your name for recording all transactions in connection with this contract;

Nominated Account

means the account nominated by you for the purpose of the Direct Debit Authority;

Nominated Email Address

means the email address nominated by you for the purposes of Electronic Communications between us and as set out in the Disclosure Statement or as nominated by you from time to time;

Outstanding Balance

means at any time all amounts that you owe us under this contract;

Overdue Amount

has the meaning given to that term in clause 3.5;

Payment Frequency

means in respect of payments of principal and interest under the contract the times specified in the Disclosure Statement;

Percentage Rate

means:

- (a) for weekly Payment Frequency the Annual Interest Rate divided by 52;
- (b) for fortnightly Payment Frequency the Annual Interest Rate divided by 26; or
- (c) for the monthly Payment Frequency the Annual Interest Rate divided by 12.

PPSA

means the *Personal Property Securities Act 1999*;

PPSR

means the Personal Property Securities Register;

Related Companies

has the same meaning given to it in section 2(3) of the *Companies Act 1993*;

Scheduled Unpaid Balance

means at any time, the Loan amount reduced by the total of those Instalment Payments that have been applied to the repayment of the Loan, between the Acceptance Date and the time such balance is calculated;

Securities Table

means the table set out in the Disclosure Statement;

Security

means:

- the Security Interest over the Goods and any other Security Interest, guarantee or guarantee and indemnity listed in the Securities Table or which may be given to us at any time in relation to your obligations under this contract;
- any other Security Interest;

Security Interest

has the same meaning given to it in the PPSA;

Service(s)

means those administrative actions we take or may take, on your behalf or for your benefit in order to ensure that you properly maintain your Loan Account and your obligations under this contract including, but not limited to, those actions we undertake for you in the event you require assistance with the maintenance of your Loan Account or meeting your obligations under this contract;

Totally Destroyed

means condemned, taken, compulsorily acquired, totally lost, destroyed, stolen, detained, confiscated, unable to be located after reasonable enquiry subject to distress or execution or so damaged that repair is impractical or uneconomic in our reasonable opinion, or that of an insurer of the relevant Secured Goods;

upon demand

means on demand by written notice signed by any of our officers, employees, contractors or agents;

We, us, our

means **Yamaha Motor Finance New Zealand Limited 1249966**; and

You or your or Borrower

means the person or persons signing this contract as Borrower. A reference to "you" includes all or any of you. If more than one person signs this contract, each person is jointly and severally liable under this contract. This means that we may require one, all, or any combination of you, to pay any Outstanding Balance in full.

42.2 These words and expressions have the following meanings when used in the Disclosure Statement and in these Terms and Conditions:

42.3 Any capitalised terms in this contract that are not defined have the same meaning given to them in the Disclosure Statement.

43. Interpretation

43.1 In this contract:

- (a) headings and underlinings are for convenience only and do not affect interpretation;
- (b) words importing the singular include the plural and vice versa;
- (c) other parts of speech and grammatical forms of a word or phrase defined in this contract have a corresponding meaning;
- (d) a reference to a document includes an amendment or supplement to, or replacement or novation of, that document in accordance with the provisions of that document;
- (e) the expressions "accession", "at risk" "attach", "financing statement", "financing change statement", "verification statement" shall have the meanings given to them in the PPSA;
- (f) a reference to anything (including, but not limited to, any right) includes a part of that thing;
- (g) an obligation imposed on two or more persons binds them jointly and severally;
- (h) a reference to a statute, regulation, proclamation, ordinance or by-law includes all statutes, regulations, proclamations, ordinances or by-laws amending, consolidating or replacing them, and a reference to a statute includes all regulations, proclamations, ordinances and by-laws issued under that statute;
- (i) a reference to a party includes that party's executors, administrators, successors and permitted assigns; and
- (j) no rule of construction applies to disadvantage a party because that party was responsible for the preparation of this contract.

CONDITIONS OF THIS AUTHORITY TO ACCEPT DIRECT DEBITS

1. The Initiator:

- (a) Has agreed to give advance notice of the net amount of each Direct Debit and the due date of the debiting **at least*... business days before** the date when the Direct Debit will be initiated. This advance notice must be provided either:
 - (i) in writing; or
 - (ii) by electronic mail where the Customer has provided written consent to the Initiator

The advance notice will include the following message:- "The amount \$....., will be direct debited to your Bank account on (initiating date)."

* minimum 2 business days.

- (b) May, upon the relationship which gave rise to this Authority being terminated, give notice to the Bank that no further Direct Debits are to be initiated under the Authority. Upon receipt of such notice the Bank may terminate this Authority as to future payments by notice in writing to me/us.

2. The Customer may:-

- (a) At any time, terminate this Authority as to future payments by giving written notice of termination to the Bank and to the Initiator.
- (b) Stop payment of any Direct Debit to be initiated under this authority by the Initiator by giving written notice to the Bank **prior** to the Direct Debit being paid by the Bank.
- (c) Where a variation to the amount agreed between the Initiator and the Customer from time to time to be direct debited has been made without notice being given in terms of 1(a) above, request the Bank to reverse or alter any such Direct Debit initiated by the Initiator by debiting the amount of the reversal or alteration of the Direct Debit back to the Initiator through the Initiator's Bank, PROVIDED such request is made not more than 120 days from the date when the Direct Debit was debited to my/our account

3. The Customer acknowledges that:-

- (a) This authority will remain in full force and effect in respect of all Direct Debits passed to my/our account in good faith notwithstanding my/our death, bankruptcy or other revocation of this authority until actual notice of such event is received by the Bank.
- (b) In any event this authority is subject to any arrangement now or hereafter existing between me/us and the Bank in relation to my/our account.
- (c) Any dispute as to the correctness or validity of an amount debited to my/our account shall not be the concern of the Bank except in so far as the Direct Debit has not been paid in accordance with this authority. Any other disputes lies between me/us and the Initiator.
- (d) Where the Bank has used reasonable care and skill in acting in accordance with this authority, the Bank accepts no responsibility or liability in respect of:
 - the accuracy of information about Direct Debits on Bank statements
 - any variations between notices given by the Initiator and the amounts of Direct Debits
- (e) The Bank is not responsible for, or under any liability in respect of the Initiator's failure to give written advance notice correctly nor for the non-receipt or late receipt of notice by me/us for any reason whatsoever. In any such situation the dispute lies between me/us and the Initiator.

4. The Bank may:-

- (a) In it's absolute discretion conclusively determine the order of priority payment by it of any monies pursuant to this or any other authority, cheque or draft properly executed by me/us and given to or drawn on the Bank.
- (b) At any time terminate this authority as to future payments by notice in writing to me/us.
- (c) Charge its current fees for this service in force from time-to-time.

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YOUR ACKNOWLEDGEMENTS THAT YOU HAVE RECEIVED FROM US

You acknowledge that you received the Terms and Conditions for you to keep.

Signed by:

In the presence of:

Signature of Borrower 1

Signature of Witness

Full Name of Borrower 1 (please print)

Name of Witness (please print)

Date

Date

(If applicable)

Signed by:

In the presence of:

Signature of Borrower 2

Signature of Witness

Full Name of Borrower 2 (please print)

Name of Witness (please print)

Date

Date