

## TERMS & CONDITIONS (TERMS)

These are the terms on which Supercat Automotive ("we" or "us" or "our") is willing to trade or agree with you ("Account holder" or "your").

All repayments will be made to each Lender without any deduction whether on account of tax or otherwise.

### 1. Structure and Formation

- 1.1. We will grant you an account where you can purchase Goods or Services from us where you pay for the goods or services at a date agreed as set out in the Account Particulars (defined below) and in accordance with terms of trade (your **Account**).
- 1.2. The terms of trade (**Terms of Trade**) as referred to in clause 1.1 are comprised of:
  - a) Clauses 1-30 of these Terms of Trade;
  - b) The terms of service, a copy provided to you and available at <http://www.supercat.com.au/terms>;
  - c) Account Particulars, a schedule issued to you either on execution of this agreement or upon your purchases or on a monthly basis by us
  - d) Any terms set out on any statement set to you or addressed to you and accessible on the website <http://www.supercats.com.au> or its related website pages;
  - e) A declaration, indemnity & charge by account holder; and
  - f) The privacy policy, a copy provided to you and available at <http://www.supercat.com.au/privacy>.
- 1.3. The Terms of Trade comprised of those documents described in clause 1.2 (together described as "the Agreement"), will be entered into by you either by electronic or physical hard copy or both. If by electronic means, you agree that this method of agreement formation will have the same effect as if a paper copy of the Agreement was signed and dated by each party and not required to be witnessed.

### 2. Price & Description

- 2.1. Any description of Goods or Services is given by way of identification only and the use of that description does not constitute a sale by description. You are responsible for ensuring that the type of Goods or Services ordered are suitable for your intended use of them and we are not liable to you for any Goods or Services you order which are unsuitable for your intended use.

### 3. Rebates/Discounts

- 3.1. You, on your own behalf or on behalf of your buying group, may be entitled to rebates or credits from us or our Supplier for any reason (collectively call Rebates);
- 3.2. You agree to that any entitlement to Rebates is assigned to us, and grant us an irrevocable authority to the Supplier to pay Rebate or any other form of payment related to the Supplies including any credit to us. You agree to sign any documents necessary to assign the Rebates to us.
- 3.3. We agree to pay the Rebates less any deductions for any interest accrued on the outstanding payments or any loss suffered by us as a result of your default to you upon finalisation of all outstanding payments by you.

### 4. Payment and Repayment

- 4.1. A Credit Provider will pay us for the Goods or Services upon delivery to you, and you, the Account Holder, agree to repay us, the amounts paid by the Credit Provider, in the payments detailed in the Account Particulars or communicated to you from time to time.
- 4.2. All payments are made by direct debit, however if, under exceptional circumstances you pay any of your payments by way of credit card we are entitled to require you to reimburse us for any fees incurred by us or deducted from the payment to us.
- 4.3. Unless we expressly agree to the contrary in writing, if one or more payments are outstanding, all of the proceeds of any payment made by you (or on your behalf) will be allocated according to clause 4.6 below.
- 4.4. Each payment must reach us in cleared funds on or before the due date for payment as prescribed in the Account Particulars.

- 4.5. All payments made by the Account Holder must be:

- a) Free of any set off or counterclaim; and
- b) Without deduction or withholding for present or future taxes, unless the Account Holder is compelled by law.

- 4.6. Each Payment are applied in the following way:

- a) first, in paying any balance of default interest;
- b) second, in paying any collection or legal costs or both;
- c) third, in paying any interest;
- d) fourth, in discharging any overdue Payments;
- e) fifth, in paying the latest Payment which is due for payment.

- 4.7. Any payment made will be at the Account Holder's risk until it is actually received by the Lender.

### 5. Early Repayment

- 5.1. You may repay the whole of the Account at any time before the end of the Term ('Early Repayment').
- 5.2. Upon Early Repayment, the Account Holder will repay the aggregate of the following amounts:
  - a) the balance of the Account Holder's capital outstanding;
  - b) all Interest accrued up to and including the end of the month in which Early Repayment is made;
  - c) any Default Interest.

### 6. Interest

- 6.1. The interest will be calculated at the commencement of the Terms of Trade on the assumption that the Account Holder will pay each payment on its due date ('the Account Holder Interest'). The Account Holder Interest will be paid monthly, weekly, daily or otherwise as set out in the Account Particulars.
- 6.2. For the purposes of clause 6.1, the Account Holder's Interest on the Limit will be deemed to accrue on a daily basis.
- 6.3. Default interest shall be charged on any overdue Payments of the Limit in accordance with clause 7.

### 7. Default Interest

- 7.1. Interest on overdue payments shall accrue daily at a rate of interest (however described) advised by us to you from time to time (currently 26% per annum) from the date when payment becomes due until the date of payment, calculated on daily rests, and accrue at such a rate after as well as before any judgment.

### 8. Account Limit

- 8.1. The Credit Provider will pay invoices to your Supplier as long as:
  - a) the total of your Account including the cost of services we provide (if any) does not exceed your approved Limit,
  - b) the term of your Account has not expired,
  - c) the Credit Provider is able to do so, and
  - d) no Event of Default as described in clause 27 has occurred.
- 8.2. If you wish to increase your Limit, you will need to apply to increase your Limit. An increase is considered a new application. In no circumstances are we obliged to accept any application for an increase in the limit of your account and we are not obliged to give you reasons for our decision to approve or disapprove the increase.

### 9. Administration Fee

- 9.1. An administration fee may be payable for the administration of your account, the provision of loss protection either in the form of insurance or some other form, and all external searches necessary to complete the rating of the note, including but not limited to the verification of your

identity. It is payable upon application and any increase of Limit or extension of term of the Account.

#### 10. Assignment

- 10.1. You must not assign any rights or benefits under these Terms unless you have obtained our prior written consent. Any change in any ownership interest is treated as an assignment. Any assignment by you without our consent releases us (at our discretion) from our obligations under these Terms and clause 14.3 will apply.
- 10.2. Notwithstanding any other provision of these Terms or any related document, we may assign, novate or otherwise transfer our rights and obligations contained in these Terms without your consent. You agree to sign such documents as may be necessary to give effect to this clause.

#### 11. Ownership

- 11.1. The ownership of Goods and Services and Assets supplied to you shall not pass to you and shall remain with us until the later of:
  - a) unconditional payment in full to us for those Goods, Services or Assets; and
  - b) unconditional payment in full of all other monies, fees or charges owing or unpaid by you to us on any account including in respect of Goods previously or subsequently supplied to you
- 11.2. You will hold the Goods or Assets as a fiduciary and as bailee for us and will be responsible for any loss damage or conversion of our Goods or Assets.
- 11.3. The Goods or Assets shall be stored by you in a manner as to show clearly that they remain our property until such time as the Goods or Assets have been paid for in full.
- 11.4. You agree that we may enter onto your premises to inspect the Goods or Assets or inspect your books or records regarding the Goods at any time.
- 11.5. You may sell the Goods or Assets in the ordinary course of your business for full market value at arms' length to a bona fide purchaser for value without notice of this clause provided that:
  - a) you must hold all monies you receive for the sale of the Goods (proceeds) as bailee, fiduciary agent and trustee for us and not by way of security. We have the right to trace and claim Proceeds. Receipt by you of payment shall be treated as conclusive evidence that you have received Proceeds; and
  - b) you account to us for all Proceeds which must be kept in a separate account on trust for us for that purpose until accounted for to us.
- 11.6. For the purpose of identification of different shipments of Goods or Assets purchased from us and receipt of Proceeds you agree that the principle of "last in, First Out" shall be applied to any items that cannot be distinguished.
- 11.7. You shall ensure that the Goods or Assets are not and will not be subject to any security interest, including a lien, granted or created in favour of any third party (whether under contract, statute or common law) without our prior written consent. Without limiting our rights, if you become aware of a third party's interest in or relating to a security interest, including a lien, in respect of the Goods or Assets, you shall notify us immediately in writing and provide us with all relevant details relating to the security interest, including the third party's full name and contact details, the nature of the security interest and the Goods or Assets subject to the security interest
- 11.8. Where you sell those Goods or Assets you will sell as principal and you have no power to commit us to any contract or otherwise or liability but as between you and us you will sell as fiduciary agent.
- 11.9. Despite this clause we are entitled to maintain an action against you for the purchase price of the Goods or Assets.

#### 12. Claims

- 12.1. You are not entitled to make any claim upon us if any amounts are outstanding from you to us. You are not entitled to set-off

any amounts against your outstanding debts to us. We may at any time set-off amounts owed by us, or any of our related companies to you against any sums owed by you to us, or any of our related companies.

- 12.2. You shall not deduct any sum from the amount due on any of our invoices or statements for any reason whatsoever including any equitable or statutory right, which may be excluded by agreement.

#### 13. Joint and Several Liability

- 13.1. Where the Account Holder comprises more than one person, or legal entity the covenants and agreements on their part contained or implied on this Agreement bind them jointly and each of them severally.

#### 14. Overdue Accounts

- 14.1. If your Account is not settled on the due date advised by us, you agree that, in addition to any other right we may have, we may suspend all sales and delivery of Goods or Services to you and/or close your Account with us.
- 14.2. You will be charged interest on overdue payments at default interest as set out in clause 7 above.
- 14.3. Without prejudice to any other remedies we may have, if at any time you are in breach of any obligation (including those relating to payment), we may suspend or terminate the supply of Goods or Services to you and any of our other obligations under these Terms. We will not be liable to you for any loss or damage you suffer because we exercise our rights under this clause or any other clause herein.

#### 15. Your Relationship with Us

- 15.1. Nothing in these Terms creates any relationship of employment, agency or partnership between you and us.

#### 16. Intellectual Property

- 16.1. These Terms do not give you any Intellectual Property rights in or in relation to the Goods or Services.
- 16.2. Your details and information that you provide us about yourself may be retained by us on our database. You have no rights in that database. We may use such database in the conduct of our business, subject to our Privacy Policy and relevant laws.
- 16.3. We are not liable for any infringement or unauthorised use of any Intellectual Property rights arising from these Terms and Conditions. If any dispute or claim is made in respect of any infringement or unauthorised use of Intellectual Property we may terminate these Terms and Conditions by notice to you and without liability to you or any other person.

#### 17. Governing Law

- 17.1. These Terms and any contract between us shall be governed by the laws of the State of NSW. The parties submit to the exclusive jurisdiction of the courts in NSW. The parties agree that the proceedings may be commenced in any court in NSW and consent to that court having jurisdiction, despite that the court would not have such jurisdiction without this clause.

#### 18. Whole Agreement

- 18.1. Account application and the statement provided to you by Super Cat Automotive from time to time including but not limited to Account Particulars; Section A - declaration, indemnity & charge by account holder; Section B - guarantee, indemnity & charge by related persons; these Terms of Trade; any terms set out on any statement sent to you or addressed to you and accessible on the website <http://www.supercats.com.au> or its related website pages; the terms of service located at <http://www.supercats.com.au/terms>; and Super Cat Automotive Privacy Policy (collectively T&C) form the entire agreement between you and us. All or any previous agreements or understandings we may have had with you are superseded by these Terms.

#### 19. Your Obligations

- 19.1. You acknowledge that:
  - a) you are not an Associate or Related Body Corporate or Related Party or Related Entity of ours; and
  - b) the National Credit Code does not apply to these Terms and Conditions.

19.2. If, at any time a notifiable event, as set out and in (a) to (e) below, occurs:

- a) you believe that you may not or may be unable to perform or comply with your obligations under these Terms;
- b) there is a breach by you of these Terms and Conditions;
- c) a cheque or bill of exchange received from you is dishonoured;
- d) your account is overdue and is not settled within our trading terms;
- e) there is a change or a change is proposed to your shareholding, shareholders or directors,

**you agree that:**

- f) you will immediately notify us that one or more of the above notifiable events has occurred and you will keep us notified on a monthly basis until such notifiable event no longer exists;
- g) we may cease to deliver to you any Goods or Services you have purchased while a notifiable event exists;
- h) we may close your account with us;
- i) we may request payment for all amounts outstanding immediately; and
- j) we have no obligation to respond to any offer you make to purchase any Goods or Services an Event of Default found in clause 27 exists.

**20. Warranties**

20.1. The Account Holder warrants and undertakes to the Lender that:

- a) The information submitted by the Account Holder throughout the process in answer to enquiries made of it and in any other respect is true and accurate and not misleading;
- b) The Account Holder does not have any borrowings other than the loans specifically disclosed by the Account Holder and set out in the Account Particulars.

20.2. We exclude all warranties in connection with Goods or Services (or advice regarding Goods or Services) supplied to you other than those which may not be excluded under the *Competition and Consumer Act 2010* or other relevant legislation. For the avoidance of doubt, this exclusion includes an exclusion of all conditions and warranties implied by custom, the general law or statute, for damages suffered by you arising in any way out of the supply, delay in supplying or failure to supply Goods or Services.

20.3. We are not liable for indirect or consequential loss however described.

**21. Indemnity**

21.1. You agree to indemnify us in full against any liability, loss, claims, costs, charges or expenses. Any indemnity provided in favour of us is not affected by:

- a) our making any variation or alteration in the terms of any agreement made with or to be made with you including a change in credit limit;
- b) any agreement between you and us becoming wholly or partly unenforceable;
- c) any negligence or mistake by us;
- d) our granting of time, or other indulgence to, or compounding or compromising with, or releasing you, or any co-indemnifier, or any other person, or corporation whatsoever, or the release, abandonment, variation, relinquishment, loss or renewal in whole, or in part, or any security, asset or right held by us; or
- e) anything else which might prejudice or discharge the indemnifying party's liability under such indemnity.

**22. PPSA**

22.1. You agree that this Agreement and in particular the provisions that relate to the personal property securities law and the Charge.

22.2. You agree to do all things necessary and execute all documents reasonably required by us to register the personal property security interest (PMSI) or Charge or both granted by you under this Agreement and ensure that we acquire a perfected security interest in the Goods or Services under the PPSA.

22.3. The personal property security interest does not lose its priority as a result of the renewal, refinancing, consolidation, transfer, novate or restructure of the subject matter of this Agreement and any purchase money obligations.

22.4. You, until ownership of the Goods or Services passes, waive your rights under the following provisions, of the PPSA, to the extent that it is permitted by law:

- a) receive a notice of intention of removal of an accession (s95);
- b) receive a notice that we have determined to enforce our security interest in accordance with land law (s118);
- c) receive a notice of enforcement action against liquid assets;

d) receive a notice of disposal of Goods or Services by us purchasing the Goods or Services (s129);

e) receive a notice to dispose of the Goods or Services (s130);

f) receive a statement of account following disposal of the Goods or Services (s132(2));

g) to receive a statement of account if no disposal of the Goods or Services, six monthly (s132(4));

h) to receive notice of any proposal by us to retain the Goods or Services (s135(2));

i) to object to any proposal by us to either retain and dispose of the Goods or Services (s137(3));

j) to redeem the Goods or Services (s142);

k) to reinstate the security agreement (s143); and

l) to receive a notice of any verification statement (s157(1) and 157(3)).

22.5. We may also contract out of any other provisions of the PPSA not specified in clause 21.4 above, as may be permitted by the PPSA as we determine from time to time.

22.6. You further agree that where we have rights in addition to those under Part 4 of the PPSA, those rights continue to apply.

22.7. You agree that repossession and retention of the Goods or Services or any other Assets pursuant to the PPSA will only satisfy so much of the monies which may become payable by you to us as is equivalent to our estimation of the market value of the Goods or Services as they are to be used by us as at the date of repossession and the repossession and retention will immediately extinguish any rights of interest you have on the Goods or Services.

22.8. Until ownership of the Goods or Services or Assets passes or payment of all monies outstanding to Super Cat Automotive, you must not give to us a written demand or allow any other person to give to us a written demand requiring us to register a financing change statement under the PPSA or enter into or allow any other person to enter into the personal property securities register a financing change statement under the PPSA.

22.9. You agree that you will be responsible for payment of any fees (and any other costs) that we incur in relation to investigating, perfecting or registering our security interest in the Goods or Services or Assets, and that those fees and costs may be added as a charge on invoices issued to you.

22.10. You agree not to change your name or undertake any changes to any PMSI or Charge registered without our prior written consent.

**23. Trusts**

- 23.1. This clause applies if you are a Trustee and whether or not we have notice of the Trust.
- 23.2. Where you comprise 2 or more persons and any of those persons is a Trustee this clause applies to such Trustee.
- 23.3. You agree that even though you enter into these Terms as Trustee of the Trust, you also shall be liable personally for the performance and observance of every covenant to be observed and performed by you expressed or implied in these Terms.
- 23.4. You warrant your complete, valid and unfettered power to enter into these Terms pursuant to the provisions of the Trust and warrant that your entry into these Terms is in the due administration of the Trust.
- 23.5. You covenant you have a right of indemnity against the property of the Trust and it has not, and in the future will not be, excluded, modified, released, lost or diminished (whether by agreement, breach of trust or otherwise).
- 23.6. You shall not, without our prior written consent from us:
- a) resign or be removed as Trustee of the Trust or appoint or allow the appointment of a new or additional Trustee of the Trust;
  - b) amend or revoke any of the terms of the Trust;
  - c) vest or distribute the property of the Trust or advance or distribute any capital of the Trust to a beneficiary or resettle any of the property of the Trust;
  - d) permit a beneficiary to have the use, occupation, employment or possession of the property of the Trust;
    - e) do or permit or omit to do an act or thing in breach of the Trust or which would permit the Trustee to be removed as Trustee of the Trust;
    - f) exercise or permit or allow to be exercised a power to change the vesting date of the Trust or provide for an early determination of the Trust;
    - g) lend any money, give any guarantee or incur any debt other than in the ordinary course of business of the Trust; or
    - h) pay any of the income of the Trust to any beneficiary of the Trust if such payment will prejudice or affect your ability to pay all monies due to us.
- 24. Force Majeure**
- 24.1 Neither party shall be liable for any default due to any act of God, war, terrorism, strike, lock out, industrial action, fire, flood, drought, storm or other event beyond our reasonable respective control.
- 25. Privacy**
- 25.1. By making an application with us at Super Cat Automotive, you agree to the collection, use and disclosure of your personal information in accordance with our Privacy Policy available at [www.supercats.com.au](http://www.supercats.com.au).
- 26. Termination**
- 26.1. If any of the events described in clause 27 occurs, the Account, together with all interest accrued on the Account that has not been paid and all other amounts payable but unpaid under this Agreement is, immediately become due and payable without the necessity for any demand or notice to the Account Holder/become due and payable upon demand by the Lender.
- 27. Default Events**
- 27.1. Each of the following events is an Event of Default:
- a) Payment default: if the Account Holder fails to repay the Loan on the Repayment Date or fails to pay any interest payment on the relevant interest payment date or fails to pay any other money payable under these Terms & Conditions on the due date for payment of that money and such failure continues for more than 5 days; or
  - b) Other default: if the Account Holder fails to perform or observe any of the covenants or provisions of this Agreement on the part of the Account Holder to be performed or observed and (if capable of remedy) such default continues for more than 7 business days (or such longer period as the Lender in its absolute discretion permits) after notice from the Lender requiring the Account Holder to remedy the default, unless the non-performance or non-observance has been waived or excused by the Lender in writing; or
  - c) False or misleading statement: if we ascertain that the Account Holder has made any false, inaccurate or misleading statement having, in our opinion, a material effect on the provision by the Lender of the Account Holder or the maintenance of the Loan or the acceptance of the Security or in relation to the making of this Agreement or the Security or any related or collateral document; or
  - d) Winding up: if an application for the winding up or bankruptcy of the Account Holder or any Related Body Corporate is presented and the Account Holder or Related Body Corporate cannot within 10 Business Days reasonably satisfy the Lender that the application is frivolous or vexatious or an order is made for the winding up or bankruptcy, or any resolution is passed for the winding up, of the Account Holder or any related body corporate, except that it will not be an Event of Default where the winding up of the Account Holder or the Related Body Corporate is for the purpose of reconstruction or amalgamation and has the Lender's prior written consent (not unreasonably withheld); or
  - e) Receiver, etc: if a receiver or receiver and manager or provisional liquidator of the assets and undertaking or any part of the assets and undertaking of the Account Holder or any Related Body Corporate is appointed; or
  - f) Execution: if any execution or other process of any court or authority is issued against, or levied upon, the assets of the Account Holder or any Related Body Corporate for an amount exceeding A\$2000 and is not discharged or a stay of execution is not obtained within 20 Business Days or, a stay of execution having been so obtained, the execution or process is not discharged within 10 weeks after the issue or levy of the execution or process (as the case requires); or
  - g) Ceasing to carry on business: if without the Lender's prior written consent the Account Holder or any Related Body Corporate suspends payment generally or ceases to carry on its business or is unable to pay its debts within the meaning of section 460 of the *Corporations Act 2001 (Cth)*; or
  - h) Continued registration: if any action is initiated by any competent authority with a view to striking the name of the Account Holder or any Related Body Corporate off the register of companies; or
  - i) Insolvency schemes: if without the Lender's prior written consent the Account Holder or any Related Body Corporate enters into any arrangement, reconstruction or composition with its creditors or any of them; or
  - j) Administrator or inspector: if the Account Holder, any related body corporate or any other person appoints an administrator to the Account Holder or any Related Body Corporate or takes steps to do so or if an inspector is appointed to investigate the affairs of the Account Holder or any Related Body Corporate; or
  - k) Loss of capacity: if the authority or power of the Account Holder to perform its obligations under this Agreement or any security is revoked or so amended that the Account Holder is unable to fully and duly perform and observe those obligations or, if the Account Holder is a natural person, the Account Holder dies or becomes incapable of managing his or her own affairs; or
  - l) Illegality: the continued performance of the obligations of the Account Holder under this Agreement or of the Account Holder under the Security contravenes, or might in the Lender's opinion contravene, any applicable statute, ordinance, proclamation, rule, order, regulation, moratorium or decree of any governmental or other authority; or
  - m) Material adverse change: if there is a material adverse change, in the our opinion, in the business or financial condition of the Account Holder.
- 27.2. If an Event of a Default occurs then, without prejudice to our other remedies under these Terms or at law,
- a) we are entitled to cancel all or any part of any of your requests to purchase Goods or Supplies;

- b) all amounts owing to us whether or not due for payment immediately become payable; and
  - c) we may cancel any reimbursement entitlements given to you.
- 27.3. In the event that:
- a) we retain possession or control of the Goods or Services or any assets of the Account Holder;
  - b) payment of the price of the Goods or Services is due to us;
  - c) we have made demand in writing of you for payment of the price of the Goods or Services; and
- then, whether the property in the Goods or Services has passed to you or remains with us, we may engage a third party (at our sole discretion) to dispose of the Goods or Services and may claim from you our loss on such disposal.

## 28. General

- 28.1. In the event that any of these terms or part of a term cannot be given effect for any reason then the term or part of a term which cannot be given effect shall be severed and read down respectively and the remaining terms and part of any term shall remain valid and binding on the parties.
- 28.2. You agree pay to us any and all of our expenses including any legal costs (on an indemnity basis), stamp duties and other expenses payable under these Terms together with any collection costs incurred in connection with the enforcement of, or preservation of any rights under these Terms. Such costs, duties and other expenses may be recovered by us from you as a liquidated debt. Any payments received by us from you shall be applied firstly to any legal costs, duties and other expenses, then to interest and the remainder to the balance of monies owed by you.
- 28.3. You agree to promptly, but no later than 5 days after the occurrence of a change, notify us in writing of any change in ownership, directors or address. Notwithstanding any change in your ownership/trading structure or any advice by you to us of such change, you will remain personally liable for any Goods or Services requested by you or on your behalf until you have received written confirmation from us that your account has been closed and full payment received.
- 28.4. We reserve the right to vary any of these Terms at any time. You will be deemed to have accepted these Terms (as varied from time to time) by continuing to place requests for payment for Goods or Services either directly or on your behalf. We will not be bound by any variations to these Terms unless accepted in writing by an authorised officer of ours. For your convenience, copies of our these Terms (and any variations from time to time) can be accessed via <http://www.supercats.com.au> or by contacting us by email at [wayne.chiert@supercatconverters.com](mailto:wayne.chiert@supercatconverters.com)
- 28.5. The failure by us to insist upon compliance with any of these terms or any parts of a term does not constitute a waiver of that term or part of a term and we shall be entitled to insist upon compliance with all of these Terms and Conditions at any time.
- 28.6. Any notice required to be given by you to us must be delivered personally or sent by post to our Credit Manager at our head office and shall only be taken as delivered when received by us.
- 28.7. Any notice to be given to you by us may be delivered personally or sent by post to your last known address and shall be taken as delivered to you 4 Business Days following posting. Our invoices and statements are deemed to be received by you 4 Business Days after posting by ordinary prepaid post.
- 28.8. Service by us of any document will be treated as having been effected when sent to the addresses shown in the application for a credit limit:
- a) for the fax number, by facsimile transmission; or
  - b) for the email address, by email,

and for the purpose of section 13(1) of the *Electronic Transactions Act 2000 (NSW)* and any similar legislation in any other jurisdiction, you agree that in the case of facsimile or email transmission, production by us of a copy of a facsimile transmission or email message bearing the time and date of dispatch shall be conclusive evidence that the facsimile transmission or email message was sent on that date and time shown.

## 29. Definitions

**Application** means the document or website that you entered information which was headed New Account Application and located at [www.supercats.com.au](http://www.supercats.com.au) or its related website address.

**Account** means a Limit provided in compliance with the Terms and as advised to you by Super Cats Automotive from time to time.

**Account Holder** means persons named in the execution clause, or you.

**Account Particulars** means all information provided by you in the New Account Application or Application or upon settlement and entitled Account Particulars or as communicated to you from time to time and headed Account Particulars.

**Borrower** means Account Holder

**Credit Provider** means Super Cats Automotive Pty Ltd or an entity appointed by Super Cats Automotive Pty Ltd.

**Lender** means Super Cats Automotive Pty Ltd.

**Direct Products** mean products supplied directly to you by the supplier.

**Goods or Services** mean any item (including any services) provided to you by us.

**Intellectual Property** includes the full benefit of any rights in any copyright, trade mark, registered design, patent, trade and business names, inventions, knowhow, inventions, improvements, discoveries, confidential processes and information and includes artistic works, images, designs, motifs and photographs and any adaptation or concept relating to it.

**Law** means any Commonwealth or Australian state legislation regulations and the general laws and includes in particular the *Competition and Consumer Act 2010 (Cth)* and regulations as amended and the *Personal Property Securities Act 2009 (Cth)* and regulations as amended.

**Lender** means Super Cats Automotive Pty Ltd, trusts where Super Cats Automotive Pty Ltd is the seller or any investor who has an interest in the receivable sold by or originated by Super Cats Automotive Pty Ltd.

**Non-complying order** means an order of yours that does not meet our requirements.

**Payment** means monies payable to Super Cats Automotive Pty Ltd.

**PPSA** means *Personal Property Securities Act 2009 (Cth)*, as amended.

**PPSI** means a security interest taken in collateral, to the extent that it secures all or part thereof, of the purchase price as defined in section 14 of the PPSA.

**Related Receivables** means

1. any security interest held by Super Cats Automotive Pty Ltd or its assigns;
2. guarantee, indemnity or other assurance or
3. asset;
4. chose in action

which in either case secures or otherwise providers for the repayment of the amount payable under the Receivable.

**Receivable** means right, title and interest in, to and under any asset, including without limitation: A commercial line of credit or other commercial revolving facility where the debt is provided to the Account Holder or Related Securities and other rights in respect of such an asset.

**Repayment Date** is time advised in Account Particulars, the expiration of the term displayed on your [Account Holder dashboard](#) from the settlement date or advised by Super Cats Automotive Pty Ltd from time to time.

**Trustee** means the trustee of any trust where an interest is held by the Lender including Australian Executors Trustees Limited.

### 30. Interpretation

30.1. In these Terms and Conditions unless the context otherwise requires:

- a) The singular includes the plural and vice versa and a gender includes any gender.
- b) Reference to these Terms and Conditions includes the Application for Credit Account.
- c) References to clauses, paragraphs, recitals, schedules, annexures and exhibits are references to clauses, paragraphs, recitals, schedules, annexures and exhibits in these Terms and Conditions.
- d) Headings are for convenience only and must be ignored when construing these Terms and Conditions.
- e) Reference to a party includes that party's successors, permitted assigns or substitutes, executors and administrators.
- f) Other parts of speech and grammatical forms of a word or phrase defined in these Terms and Conditions have a corresponding meaning.
- g) Reference to a person includes any company, firm, partnership, joint venture, association, corporation or other body corporate and any governmental agency and vice versa.
- h) A reference to any agreement or document is also a reference to that agreement or document as amended, notated, supplemented or replaced from time to time.
- i) A reference to a law includes regulations and other instruments under it and amendments or replacements of any of them whether now or in the future.
- j) Any reference to "writing" includes an electronic communication and "written" is to be interpreted accordingly.
- k) Terms defined in the *A New Tax System (Goods or Services and Services Tax) Act 1999* or the *Corporations Act 2001* have the same meaning in these Terms and Conditions unless provided otherwise.
- l) "Month" means a calendar month.
- m) "Business Day" means a day that is not a Saturday, Sunday or public holiday or bank holiday in Melbourne or Sydney.
- n) "Including" and any other similar words are not words of limitation.
- o) An agreement, deed, covenant, representation or warranty on the part of 2 or more persons is for the benefit and responsibility of them jointly and severally.
- p) Any indemnity is an irrevocable, continuing and unconditional indemnity and remains enforceable despite any variation to the obligations of the Customer.
- q) General words following words describing a particular class or category are not restricted to that class or category.