



**rentals, sales & finance**

**1stchoicenow.com.au**

## **Terms & Conditions v1.0**

Fixed Term, Fixed Interest Line of Credit

Tel: 1300 552 558 A.B.N 23 082 914 725

Australian Credit Licence No.: 393676



**A family  
owned  
Australian  
business**

---

## Form 7—Disclosure about credit contracts

subsection 17(16) of the Code  
subregulation 74(3) of the Regulations

### IMPORTANT

#### BEFORE YOU SIGN

- \* READ THIS CONTRACT DOCUMENT so that you know exactly what contract you are entering into and what you will have to do under the contract.
  
- \* You should also read the information statement: 'THINGS YOU SHOULD KNOW ABOUT YOUR PROPOSED CREDIT CONTRACT'.
  
- \* Fill in or cross out any blank spaces.
  
- \* Get a copy of this contract document.
  
- \* **Do not sign** this contract document if there is anything you do not understand.

#### THINGS YOU MUST KNOW

- \* Once you sign this contract document, you will be bound by it. However, you may end the contract before you obtain credit, or a card or other means is used to obtain goods or services for which credit is to be provided under the contract, by telling the credit provider in writing, but you will still be liable for any fees or charges already incurred.
  
- \* You **do not** have to take out consumer credit insurance unless you want to. However, if this contract document says so, you must take out insurance over any mortgaged property that is used as security, such as a house or car.
  
- \* If you take out insurance, the credit provider can not insist on any particular insurance company.
  
- \* If this contract document says so, the credit provider can vary the annual percentage rate (the interest rate), the repayments and the fees and charges and can add new fees and charges without your consent.
  
- \* If this contract document says so, the credit provider can charge a fee if you pay out your contract early.

## STRUCTURE OF THE AGREEMENT

- (a) The Agreement comprises of the Agreement Schedule, these Terms and Conditions and any payment instructions or authorisation you have provided us. Together, these documents form the entire agreement between us and you in relation to the Goods and the line of credit.
- (b) This is a consumer credit loan agreement. The credit facility operates in the following manner:
  - (i) You have made an application for credit;
  - (ii) Pursuant to your application and following our credit assessment as required by the National Consumer Credit Protection Act 2009 (Cth) and its associated Regulations (NCCP Act), we approved a line of credit;
  - (iii) the approved line of credit is the maximum amount you can borrow. You may choose to use some or all of the available credit to acquire Goods;
  - (iv) You will not be charged until you utilise the line of credit. Utilising the line of credit occurs when you order Goods and pay the deposit using the line of credit or pay for the Goods in part or in full using the line of credit;
  - (v) The funds borrowed must be used to acquire Goods from our online shop for the prices quoted unless we agree otherwise;
  - (vi) The amount of credit used will be charged interest as disclosed in the Agreement Schedule;
  - (vii) You set the term in which you wish to repay the loan in full and the term you selected will determine the repayments;
  - (viii) once you accumulated sufficient credit, you will be able to use the available credit in the line of credit facility to acquire additional Goods;
- (c) This line of credit is a credit contract which is governed by the NCCP Act and its associated Regulations.

## 1. INTERPRETATION

### 1.1 WORDS WITH SPECIAL MEANINGS

“Agreement” means the agreement you have with us in respect of the Goods.

“Agreement Schedule” means the schedule to this Agreement describing your financial obligations and any fees and charges you are liable to pay us.

“Australian Consumer Law” being Schedule 2 to the Competition and Consumer Act 2010.

“Business Day” means a day other than Saturday, Sunday or a day on which banks and financial institutions are generally open for business in Sydney. Where the day on or by which any thing is to be done is not a Business Day, that thing must be done on or by the next Business Day.

“Commencement Date” means the date we approve your Agreement Schedule and advance funding to you by way of enabling the purchase of the Goods using the line of credit.

“Enabling Technology” means a technology built into Goods that is capable of connecting to the Internet and enables us to disable the Goods and/or communicate with the user of the Goods remotely.

“Enforcement Expenses” means the legal and administrative expenses as allowed by the Law which we may incur in the process of enforcing our rights under this Agreement against you in the event of a default.

“Event of Default” An event of default occurs if any of the events listed below occurs by or to you:

- (a) You failing to meet your obligations to pay the Payments in full by the Payment due date;

- (b) Any indebtedness or obligation by you (including to us) is not paid, met or satisfied when due or becomes due and payable before its specified maturity;
- (c) A Government Agency takes steps which we, acting reasonably, consider to be adverse or may be prejudicial to our business or reputation or the enforceability of this Agreement;
- (d) A judgement is obtained against you which impacts the Goods and is unsatisfied;
- (e) Any representation, warranty, reply to requisition, or any financial or other information provided to us in connection with this Agreement is or becomes untrue, false, or misleading; or
- (f) Any event or series of events, whether related or not, occurs which, in our view, has had a material adverse effect on your ability to meet your obligations under this Agreement.

“Goods” means goods which are the subject matter of this Agreement, and which are set out in the Agreement Schedule and which are, unless accepted by us, newly acquired goods.

“GST” means Goods and Services Tax imposed under the A New Tax System (Goods and Services Tax) Act 1999 (Cth).

“Interest“ means the interest set out in the Agreement Schedule that applies to the credit you use under the line of credit to purchase the Goods which is calculated annually and added to the credit borrowed and divided to equal Payments depending on the Term.

“Law” means any relevant statute (Federal, State or Territory based), mandatory code of conduct, class orders or other enforceable determinations by a government or semi government agency that applies to the Agreement or the operation of the Goods.

“Line of Credit” (line of credit) means the credit facility described under the Structure of this Agreement provisions.

“Manufacturer’s Warranty” means the warranty that accompanies the Goods as new goods.

“Payments” means each repayment specified in this Agreement which is determined by the credit used to acquire Goods and the selection of the Term.

“Premises” means either your regular place of residence, the place where you are residing at the relevant time or the premises where the Goods are being used.

“Offer” means the offer we make to you, under this Agreement, to enter into this credit contract for the purchase of the Goods and the repayments of the debt by instalments.

“Outstanding Amount” has the meaning given to it in clause 10.

“Tax” means an imposition of any levy or charge applied under any Law by a government or semi government agency in relation to the operation of this Agreement including any GST but excluding any tax (income tax or capital gain tax) imposed on the Company as a credit provider under this Agreement.

“Term” means the term of this Agreement that you determine and as set out in the Agreement Schedule.

“you” means the party signing this Agreement as the Customer (set out in the Schedule). You and yours shall have corresponding meanings. If there is more than one, “you” means each of you separately and all of you jointly.

“we” means 1st Choice Enterprises Pty Ltd ACN 082 914 725 Australian Credit licence 393676, the credit provider under this Agreement and us and ours shall have corresponding meanings.

## 1.2 GENERAL INTERPRETATION

The following rules also apply in interpreting this document, except where the context makes it clear that a rule is not intended to apply:

- (a) Headings are for convenience only, and do not affect interpretation.

- (b) A reference to:
  - (i) legislation (including subordinate legislation) is to that legislation as amended, re-enacted or replaced, and includes any subordinate legislation issued under it;
  - (ii) a document or agreement includes all variations, novations or replacements;
  - (iii) a party to this document or to any other document or agreement includes a permitted substitute or a permitted assign of that party;
  - (iv) a person includes a natural person and a corporation, and includes the person and any successors in title, assigns, transferees, or executors of the person;
  - (v) anything (including a right, obligation or concept) includes each part of it.
- (c) A singular word includes the plural, and vice versa.
- (d) Where any word or expression has a special meaning, any other part of speech or other grammatical form of that word or expression has a corresponding meaning;
- (e) The word agreement includes an undertaking or other binding arrangement or understanding, whether or not in writing.
- (f) A reference to dollars or \$ is to Australian currency.

## **2. CONDITIONS TO BE SATISFIED BEFORE THIS AGREEMENT IS MADE AVAILABLE**

We have the discretion to decide whether or not to accept your application to enter into this Agreement.

We will not accept your application to enter into this Agreement with us if you have not satisfied all of the following conditions:

- (a) You have signed this Agreement;
- (b) You have supplied us with all the information we require to process this Agreement to our satisfaction;
- (d) You have provided us with all the additional documents we require such as privacy consent form.

If we refuse to enter into this Agreement with you, we will not be liable to you for any loss or damage that you suffered or incurred as a result of the refusal.

## **3. DISCLAIMERS OF WARRANTIES**

- 3.1 Subject to clause 4.2, we have agreed to sell you the Goods specified in the Agreement Schedule subject to the terms and conditions set out in this Agreement.
- 3.2 The Goods set out in this Agreement are the Goods you selected from our website following which you submitted your application for credit. You are responsible for ordering the Goods that are suitable and meet your needs and objectives. We will determine whether the credit contract is not unsuitable for your objectives and requirements, but you must ensure that the Goods meet your requirements.
  - (a) the identity, condition and fitness and suitability for any particular purpose.
  - (b) any special instructions for installations; and
  - (c) any services to be provided by third party in relation to the Goods.
- 3.3 If you accept delivery of the Goods, you are taken to have accepted the condition of the Goods. If the Goods are defective in any way, you must inform us as soon as you become aware of the defect

in order to enable us to consider the appropriate remedial measures.

- 3.4 All Goods are subject to Manufacturer's Warranty. We do not warrant the operation of the Goods and we rely on the Manufacturer's Warranty to address any quality defects and operational matters of the Goods.
- 3.5 If we enable the purchase of the Goods from a third party, the seller of the Goods is not our agent and he or she does not have our authority to bind us to any agreement or to provide information to you other than factual information about the Goods.

#### **4. GENERAL OBLIGATIONS, USE, MAINTENANCE AND LOCATION**

- 4.1 You must;
- (a) maintain, at your costs, the Goods at your Premises in safe and good working order;
  - (b) tell us, within 5 Business Days of our written request, where the Goods are used or ordinarily kept and if the Goods are not in your possession and or control, you must give us sufficient details so we can trace the Goods;
  - (c) attend to the repair of the Goods, by a licensed technician, if and when the need arises; and
  - (d) not operate the Goods in any way that is inconsistent or contrary to the Goods manufacturer's instructions and operating manual; and
  - (e) insure the Goods at all times against theft, destruction, and incidental loss with an approved insurance company by the Australian Prudential Regulation Authority.

A breach of any of the obligations in clause 4.1 is a fundamental breach of this Agreement entitling us to terminate this Agreement forthwith as an event of default.

- 4.2 You must pay the Payments in cleared and available funds and not subject any Payments to a set off or counter claim. The obligation to pay the Payments is not dependent on the operation, maintenance, defect, breakdown, accident, loss, status, or your enjoyment of the Goods. Payment obligations are absolute and unconditional and will continue until termination or expiry of this Agreement or until all Payments are made in full even if the Goods have been destroyed, lost, or stolen or you lost enjoyment with the Goods.
- 4.3 You may, at your own expense, make additions or alterations to the Goods provided that any such alterations and or additions;
- (a) are made with our consent;
  - (b) do not change the function of the Goods; or
  - (c) do not void the Manufacturer's or Merchant's Warranty; or
  - (d) diminish the value of the Goods.
- 4.4 Any alterations and or additions to the Goods which are fixed to the Goods form part of the Goods. We do not take any responsibility or liability and you expressly release us from any liability whatsoever and howsoever incurred in relation to any alterations and or additions to the Goods.
- 4.5 You undertake to;
- (a) comply with all relevant Laws in relation to the operation of the Goods and any alterations and or additions thereof; and
  - (b) make the Goods available to us for inspection upon reasonable notice to you.
- 4.6 You authorise us to use your name and to act on your behalf in exercising any rights or instituting, carrying on, enforcing and compromising any legal proceeding or action which we consider desirable to protect our rights to the Goods.

#### 4.7 You undertake to:

- (a) ensure that the Goods are maintained in accordance with the Goods owner manual;
- (b) only allow qualified people to operate the Goods and or maintain the Goods;
- (c) not overload the Goods and use the Goods for their designated purpose;
- (d) be liable for any costs associated with the day-to-day operation of the Goods including any maintenance, running costs, government charges and or infringements issued in relation to or levied against the Goods;
- (e) ensure that only genuine parts are used in maintaining the Goods;
- (f) not take any action which is inconsistent with our rights (as credit provider) to the Goods and ensure that if any third party is attempting to deal with the Goods, to advise them that the Goods are subject to a mortgage;
- (g) store the Goods in a safe location protected against theft and destruction;
- (h) continue to pay us any Payments under this Agreement irrespective of your enjoyment of the Goods or the function or malfunction of the Goods;
- (i) keep the Goods under your control at all times during the Term and not attempt to sell, sublet, encumber or deal with the Goods.

## 5. LINE OF CREDIT AND PAYMENT OBLIGATIONS

### Line of Credit

- 5.1 In reliance on the information you supplied us during the application process, we have assessed your ability to meet your obligations under this Agreement and approved the line of credit. You acknowledge and agree that we are entitled to rely on the information and statements you provided us as complete and accurate information about your income, expenses and financial obligations.
- 5.2 The line of credit is the maximum amount in dollar value you can use subject to the conditions that the line of credit is approved solely for the purpose of exclusively acquiring the Goods from our online shop.
- 5.3 We may refuse to honour and accept any request to purchase or upgrade Goods using the line of credit if the purchase is contrary to this Clause.
- 5.4 You may elect to use part or the whole amount that is available to you in the approved line of credit. If you selected to acquire Goods using a percentage of the available funds in the line of credit, you may elect, at any time, to acquire additional Goods from us using the remainder available but unused balance of the line of credit.
- 5.5 In each purchase of Goods using the line of credit, you can determine the Term by which you wish to repay the credit borrowed and this will determine the Payment amounts you must pay us.
- 5.6 When there is sufficient balance accredited in the line of credit, you may use the available and unused balance to acquire more Goods from us.
- 5.7 If at any time you require the amount we approved under the line of credit to be increased, you will need to submit a fresh application and supporting documents for our assessment and we must conduct a fresh suitability and affordability assessment as required by Law.
- 5.8 The Company at its discretion holds the ultimate authority at any time to assess and determine whether to review the credit limit or the application of a customer. Therefore, the Company has the power to decide whether to increase or decrease the credit limit or to approve or reject the application. Having the final discretion means that the Company's decision is not bound by specific rules or guidelines and can be based on a range of factors such as the customer's credit history,

financial stability, payment patterns, and other relevant information. The Company's review process may involve considering multiple factors and making a judgement based on their assessment of the customer's creditworthiness.

## **Payments**

- 5.9 This Agreement is effective from Commencement Date and shall continue in operation until it either expires or is terminated in accordance with the provisions of this Agreement.
- 5.10 You must repay the outstanding balance of the loan by making the Payments set out in the Agreement Schedule.
- 5.11 You agree to pay us;
- (a) the Payments as set out in the Agreement Schedule;
  - (b) any Tax; and
  - (b) any Interest and fees and charges set out in the Agreement Schedule.
- 5.12 The interest we charge is set out in the Agreement Schedule. We calculate the interest based on the total credit advanced to you. Credit available to you but unused is not charged interest. We then apply the annual interest rate and calculate the total amount owing under this Agreement in accordance with the Term you selected. We then add any regular fees and charges that apply to the account (if any) and divide the total amount owing to create a weekly, fortnightly or monthly equal Payments. The Payments and any fees and charges are fixed for the Term and cannot be varied unless by mutual agreement or as a result of hardship. The dollar value of the Payments is dependent on the Term you selected.
- 5.13 Payment received by you will be applied by us in any manner and order we deem appropriate to cover your liabilities for Payments.
- 5.14 If you have more than one contract with us, each payment obligation under these contracts is independent. If you make a Payment and the amount is insufficient to meet your obligations under either one of the agreements you have with us, then unless you tell us otherwise, we may apply the payment to any one or more of the agreements you have with us.
- 5.15 If you have more than one contract with us and you make a Payment that exceeds your payment obligation, then unless you tell us otherwise, we may apply the over payment to any one or more of the agreements you have with us.
- 5.16 Unless we agree otherwise in writing, you must pay the Payments by direct debit from your financial institution's account or using our Commonwealth BPoint payment. In some circumstances, we may agree for you to directly credit our bank account or to use an alternative payment mechanism.
- 5.17 Payments are fixed for the Term of this Agreement. Payments received by us are not refundable. If a payment was made in error, you will be required to commence the dispute resolution process as set out in Clause 20 of this Agreement so we can investigate the issue and offer a resolution, if one can be found.
- 5.18 You must pay the Payments in cleared and available funds and not subject any Payments to a set off or counter claim. The obligation to pay the Payments is not dependent on the operation, maintenance, defect, breakdown, accident, loss, status or your enjoyment of the Goods. Payment obligations are absolute and unconditional and will continue until termination or expiry of this Agreement even if the Goods have been destroyed, lost or stolen.
- 5.19 If any Taxes apply to the Payments, we will advise you of these Taxes and any changes to them during the term of this Agreement. You must reimburse us for any Taxes paid in relation to Payments except for taxes that relate to our income or capital gain tax liability as a credit provider and seller of the Goods.



- 5.20 In addition to the payment obligations set out above, you must also pay us, within 5 Business Days of a written demand being made to you, our reasonable Enforcement Expenses we incurred in the event you breached this Agreement and we commenced enforcement proceeding or in the event you repudiated this Agreement and we accepted your repudiation.
- 5.21 The obligation to repay us under this line of credit commences when you first use the line of credit. We may charge you a deposit if you order Goods that we do not stock and we must order these Goods from third parties. If you pay the deposit using the line of credit, the repayment obligation will commence from the time you utilised the line of credit.

## **6. LATE PAYMENTS**

- 6.1 If a Payment or any other amount due and payable under this Agreement is not paid in full on time, you are in default, and we are entitled to recover liquidated damages on the overdue amount.
- 6.2 We may charge you a late payment fee by way of liquidated damages as set out in the Agreement Schedule.
- 6.3 In addition, you agree to pay us interest from the date the Payment was due and until such time as the Payment is made in full. If the Schedule provides for a default interest rate, we reserve the right to charge you the default interest rate on all outstanding Payments until the default is remedied.
- 6.4 You agree to reimburse us for the amount that our bank charges us for your dishonoured payment(s).

## **7. LIABILITIES IN RELATION TO GOODS**

- 7.1 Your rights in this Agreement are in addition and this does not vary, limit or adversely affects your rights under any Law particularly the Australian Consumer Law.
- 7.2 To the extent permitted by Law;
- (a) We limit our liability with respect to any defect in the Goods to the remedy we can secure from the manufacturer under a Manufacturer's Warranty. We will liaise with the manufacturer with respect to any defect in the goods or connect you with the manufacturer and allow you to liaise with the manufacture directly;
  - (b) We exclude all liability for indirect and consequential losses or damage such as loss of income, loss of opportunity, inconvenience and interruption;
  - (c) We exclude all liability and you expressly release us from any liability in relation to any alterations, additions or modifications you have made to the Goods;

## **8. OWNERSHIP OF GOODS**

- 8.1 The Goods are owned by you. The ownership passes to you on Commencement Date. You are solely responsible and liable for the use, storage, handling and security of the Goods. You assume the risk in the Goods from the day you took possession of the Goods.
- 8.2 As the Goods are in your possession, you are responsible and liable for the safe handling and operation of the Goods.
- 8.3 We are not liable and you expressly release us from any liability arising from the use or misuse of the Goods.

## 9. TERMINATION AND EARLY TERMINATION

- 9.1 Unless stated otherwise in this Agreement, by paying us the Outstanding Amount as set out in Clause 12, you may terminate this Agreement before the expiry of the Term. You may only terminate this Agreement prior to expiry of the Term by payment of the Outstanding Amount.
- 9.2 Until the expiry of the Term or the payment of the Outstanding Amount, you must continue to make the Payments and all other amounts payable under this Agreement when due.

## 10. DEFAULT

- 10.1 You will be in default under this Agreement if an Event of Default occurred by you.
- 10.2 If you are in default, we will give you notice of the default. If you remedy the default within 20 Business Days (30 calendar days) from the date of the default notice, the default will be considered remedied. If you do not remedy the default, we may exercise any of our rights in this Agreement in relation to default and termination.
- 10.3 If you fail to remedy the default as required under the default notice, we may terminate this Agreement immediately and commence enforcement proceedings against you, including taking possession or attempting to take possession of the Goods. Enforcement proceedings may involve a claim;
- (a) for the return/repossession of the Goods under the mortgage;
  - (b) for any monies owing to us under this Agreement unless we agreed with you on a termination amount; and
  - (c) Enforcement Expenses.
- 10.4 You remain liable to us until such time as you remedy the default and meet your obligations under this Agreement or pay us the Outstanding Amount.
- 10.5 If the default is not remedied, then all monies owing under this Agreement (Outstanding Amount) becomes due and payable immediately. This is an acceleration clause.
- 10.6 You may, before the expiry of the default notice, give us notice requesting a postponement of the enforcement action against you. The notice may be in writing or verbal. We must consider the request and advise you within 21 days of the request whether we agree to postpone the enforcement proceeding against you and if we do not agree to postpone then provide you with reasons for the refusal and details of our external dispute resolution scheme and your rights under that scheme. We do not have to agree to postpone enforcement proceedings.
- 10.7 If this Agreement is terminated as a consequence of your default;
- (a) You agree to execute such forms as we may require from time to time to facilitate the authority to enter the Premises;
  - (b) You must pay us all the Payments and any monies owing under this Agreement including any future Payments plus any fees and charges, interest and Tax; and
  - (c) You must pay us on demand any liquidated damages, including any Enforcement Expenses, for any loss we reasonably incurred in terminating this Agreement;
- 10.8 You agree to indemnify and to continue to indemnify us against all losses, costs and expenses we incur or suffer as a consequence of;
- (a) your breach of this Agreement including, without limitation, to any loss of Payments and Enforcement Expenses;
  - (b) your breach of this Agreement including any expenses or liability we may incur as a consequence of gaining access to the Premises to recover the Goods;

(c) us exercising any right under this Agreement;

(d) any action taken by us as a result of your act or omission.

10.9 We are not liable for any loss or damage you may suffer or incur arising out of us exercising any power under this Agreement after an Event of Default.

10.10 In the event this Agreement is terminated due to your default, for valuable consideration and by way of security, you (including any guarantor under this Agreement) irrevocably appoint us as your attorney for the purpose of taking such steps as are necessary to give effect to this Agreement including executing such documents and forms as are necessary in any enforcement or repossession proceedings including gaining access to the Premises.

## **11. END OF TERM OPTIONS**

11.1 If this Agreement expires and you are not in default and your circumstances (financial and personal) have not changed, we invite you to make a fresh application for other products you wish to acquire and we will streamline the application to the extent it is permitted by Law.

## **12. OPTION TO REPAY THE AGREEMENT PRIOR TO EXPIRY OF TERM**

This clause applies only to a situation that the customer wishes to terminate the Agreement prior to maturity.

12.1 You have the option to give us an offer to terminate this Agreement prior to the expiry of the Term.

12.2 You must notify us of your offer to terminate the Agreement no less than 30 days before the intended termination date.

12.3 You can only terminate this Agreement early by paying the Outstanding Amount in full. Generally speaking, the Outstanding Amount is the total Payments still owing under this Agreement including any accrued and unpaid interest and any outstanding fees and enforcement expenses (as relevant). The Outstanding Amount is the amount we would have received had the Agreement gone to its full Term, however, if you provide us with notice that you wish to terminate this Agreement early by payment, we undertake to provide you a discounted termination amount but the level of discount is not known as at the date of this Agreement as it depends on the remaining term.

## **13. PERIODIC STATEMENTS**

13.1 We will not send you paper based statements of account. You agree that any statement of account will be sent to you by electronic communication.

13.2 You may, at any time, request us to issue you with a statement of account. We will issue the statement within 14 Business Days of the request. If the request was oral the statement can be given orally however if the request was in writing, the statement of account will be provided to you by an email.

13.3 You may request a statement of amounts payable on termination to be provided to you. If you request such a statement, we will provide you with such statement within 14 Business Days of your request.

13.4 We will issue a statement of account biannually or as required by law.

## 14. DISPUTED AMOUNTS AND HARDSHIP

- 14.1 If you disagree with any amount debited to your account or credited by you to our account, you may dispute that liability.
- 14.2 We will consider the transaction and provide you with details in relation to the transaction and the debit or credit to the account.
- 14.3 If you dispute a transaction in accordance with this clause, we will not commence enforcement proceeding against you before the expiry of 30 days from the date we provided you with an explanation in regard to your account.
- 14.4 If you experience difficulties or you are unable to meet your obligations under this Agreement, you may give notice to us with details of the difficulties or inability. The notice can be given verbally or in writing (Hardship Notice).
- 14.5 You may request that;
- (a) we extend the term of your Agreement;
  - (b) reduce the Payments or Fees;
  - (c) postpone any Payments.
- 14.6 We may require you to provide additional information in relation to the Hardship Notice within 21 days of our notice. We may require this information to better assess your request for changes to this Agreement due to hardship. You must provide this additional information. If you fail to provide us with additional information, we will decline your request for hardship consideration.
- 14.7 We will consider the information given and will advise you whether we agree to amend this Agreement as requested or what options we offer to resolve the hardship.
- 14.8 We do not have to comply with your request under the Hardship Notice or agree to amend this Agreement, but we must consider your request.
- 14.9 If we agree to vary this Agreement following the Hardship Notice then we will, no later than 30 days after the agreement to vary is made, give you notice setting out the particulars of the change.

If we do not agree to change the Agreement following the Hardship Notice, we will give you notice and reasons for the refusal. You may apply to our external dispute resolution details of which are set out in our Credit Guide. You may also apply to the court to change the terms of this Agreement.

## 15. WARRANTIES AND REPRESENTATIONS

- 15.1 You irrevocably warrant and represent that;
- (a) the information you have provided us in the application process and as requested by us is true and accurate and is not misleading;
  - (b) You will not remove, deface or change the Goods serial number, alter power cords or temper with the Goods in any way whatsoever;
  - (c) You will not misuse or improperly install or inadequately or improperly maintain the Goods, connect to the wrong voltage, or abuse the Goods in any way whatsoever;
  - (d) You will not mortgage or allow the Goods to be mortgaged by any person unless authorised by us;
  - (e) You must not deal with the Goods in any manner that is inconsistent with our interest in the Goods;
  - (f) You will immediately advise us if you become aware of an issue that may result in a claim against us or the Goods;
  - (g) this Agreement constitutes a legally binding and enforceable agreement against you; and

## 16. ENABLING TECHNOLOGY

- 16.1 We reserve the right to install Enabling Technology on Goods that are capable of connecting to the Internet.
- 16.2 The Enabling Technology is built into the hardware of the Goods and cannot be disabled, and its function cannot be distinguished or isolated from the operation of the Goods.
- 16.3 You acknowledge and agree that we may use the Enabling Technology in the following circumstances;
- in the Event of Default;
- (a) We may use the Enabling Technology to disable the device and render it inoperative or otherwise restrict its full functionality;
  - (b) We may use the Enabling Technology to send a message to you or the person in possession of the Goods;
  - (c) We may use the Enabling Technology to locate the whereabouts of the Goods;
- 16.4 We will not use the enabling technology;
- (a) in any circumstance unless there is an Event of Default;
  - (b) to view any of your information on the Goods;
  - (c) to use any information on the device;
  - (d) to transmit or install any information or data on the device; or,
  - (e) to gain access to any photos stored on the device or to any camera installed
- 16.5 If the Goods are blocked, the Goods cannot be used to access Mobile Services except to make emergency call.

## 17. PRIVACY DECLARATION

This Privacy Declaration sets forth the principles and guidelines regarding the collection, use, disclosure, and protection of personal information by 1st Choice Enterprises Pty Ltd (“We,” “Us,” or “Our”). This Declaration is in accordance with applicable privacy laws and regulations and is legally binding upon all users (“Users” or “You”) who access or use Our services, website, applications, or other related features. Access to our Privacy Consent and Privacy Policy can be found on our website [www.1stchoiceNOW.com.au](http://www.1stchoiceNOW.com.au).

## 18. WARRANTY CLAIM FOR THE GOODS

- 18.1 Unless other provisions in this clause apply in relation to your liability for the Goods, if the Goods malfunction and it is a warranty claim we rely on the Manufacturer’s Warranty for any repairs and warranty claim. This is our sole liability in relation to warranty matters. We do not attend to regular servicing of the Goods that are not Manufacturer’s Warranty related.
- 18.2 We will liaise with the manufacturer of the Goods with respect to any defect or malfunction claim or connect you with the manufacturer to claim under the Manufacturer’s Warranty.
- 18.3 Clause 18 does not apply if you are in default under this Agreement or the malfunction of the Goods is as a result of your act or omission or misuse of the Goods. In this context misuse of the Goods can be proven if it can be shown on reasonable grounds that the damage to the Goods was as a result of mishandling or lack of care by yourself or anyone who operate the Goods under your consent including as a result of rust, oxidation, insect or vermin, physical damage (other than fair wear and tear), cold, heat or any chemicals.

- 18.4 Notwithstanding any warranty claim, unless the defect or malfunction in the Goods is as a result of our act or omission, you must continue to meet your obligations under this Agreement.
- 18.5 If we incur cost as a result of a warranty claim which is then proven to be not a warranty claim, we reserve the right to claim that cost from you.

## 19. AUTHORITY TO COMPLETE

- 19.1 You expressly authorise us to complete any blanks or correct any errors in this Agreement that are clearly incorrect provided that the amendments and or completion of blanks does not materially change the terms of this Agreement or adversely affect you.

## 20. DISPUTE RESOLUTION

- 20.1 If you have a compliment, inquiry or complaint that you wish to raise with us in relation to this Agreement, you can contact us by:

- (a) calling 1800 552 558;
- (b) writing to us Complaints Officer PO Box 100 Macarthur Square NSW 2560; or
- (c) emailing [customercare@1stchoiceNOW.com.au](mailto:customercare@1stchoiceNOW.com.au)

and informing us of the nature of the compliment, inquiry or complaint. If you have special needs including limited literacy skills, please let us know and we will provide further assistance.

- 20.2 We will deal with the dispute or complaint in accordance with our complaint policy which can be accessed at [www.1stchoiceNOW.com.au](http://www.1stchoiceNOW.com.au).

## 21. GENERAL

- 21.1 You must not assign or dispose of your interest in the Goods unless we consent to this in writing. We may, at our discretion, refuse consent or grant consent with such conditions as we deem appropriate to protect our interest in the Goods. We may assign our interest in this Agreement, and we will give you notice if this happens.
- 21.2 If a provision of this Agreement is declared unenforceable void or voidable, this provision is severed from this Agreement and such act shall not adversely affect the operation and enforceability of the remainder of the document.
- 21.3 This Agreement shall be governed by the laws of New South Wales and the parties submit to the exclusive jurisdiction of the court of the state of New South Wales and any courts taking appeals from these courts.
- 21.4 Notices:
- (a) We will not change any Payments that applies to your Agreement.
  - (b) We can give any information, notice or other document to you at the address you nominate to us or in any other way the Law allows.
  - (c) To the extent permitted by Law, you consent to receiving any information, document or notice in relation to this Agreement by electronic communication (including without limitation by email).

(d) You acknowledge that:

- (i) we may not give you a paper copy of the Agreement (including these Terms and) or any other documents in relation to this Agreement;
- (ii) you must regularly check your email account nominated to us for any information, documents or notices in relation to this Agreement; and
- (iii) you may withdraw your consent to the giving of information, documents or notices by electronic communication (including email) at any time.

(e) You must notify us of any change to your address or financial circumstances.

21.5 The failure of a party to enforce the provisions of this Agreement or to exercise any right expressed in this Agreement is not a waiver of such provisions or rights and does not affect the enforcement of this Agreement at a later time.

21.6 You acknowledge and represent that:

- (a) All information supplied to us in order for us to assess the suitability of this Agreement to you is true and correct and no relevant information has been omitted.
- (b) You have not been induced to enter this Agreement by any statement made by us or any of our representatives which is not included in this Agreement.
- (c) You are satisfied that this Agreement is suitable for your needs, requirements and objectives.
- (d) You reviewed and understand the terms and conditions of this Agreement and had signed this Agreement freely and voluntarily.

21.7 This Agreement is the only agreement between the parties in relation to the subject matter and it supersedes any other arrangement or understanding in relation to the subject matter. The terms of this Agreement can only be amended by agreement of the parties.

21.8 If GST is payable by a party as a consequence of any supply made (or deemed to be made) by it to the other party in connection with this Agreement, the recipient of the supply must pay to the supplier an amount equal to the GST payable, in addition to the cost of the supply. If any payment under this Agreement is considered a supply under the GST Act, you must pay us the Payment plus any applicable GST.



**rentals, sales & finance**  
[1stchoicenow.com.au](http://1stchoicenow.com.au)



**A family  
owned  
Australian  
business**

Tel: 1300 552 558 A.B.N 23 082 914 725

Australian Credit Licence No.: 393676