

Owner: BMW Financial Services (GB) Limited trading as Alphera Financial Services Address: Europa House, Bartley Way, Hook, Hampshire RG27 9UF

Company Name:  
Company Number:  
Address:

**Key Financial Information**

Advance Rentals: £2,000.00 (exc VAT)  
Hire Arrangement Fee: £175.08  
Followed by 35 Monthly Rentals, each of: £249.39 (exc VAT)

The Advance Rental and Hire Arrangement Fee are payable when you sign this agreement.

The subsequent 35 Monthly Rentals are payable on the same date of each consecutive month (or if this date falls on a weekend or bank holiday, the next working day), starting 1 month(s) after the start date of this agreement (which will be notified to you).

Subsequent Yearly Rentals, each of: £98.17 (exc VAT)  
The first Yearly Rental is payable on the day after the end of the Minimum Hiring Period and the subsequent Yearly Rentals are payable on the same date in each following year, until the Subsequent Hiring Period ends (see Clause 9).

**All Rentals above are shown exclusive of VAT, which shall be payable in addition at the rate prevailing from time to time.**

The above payments are based on the assumption that there will be no changes in Corporation Tax or the rate of capital allowances. Under Clause 2(i), if the rate of Corporation Tax or capital allowances changes during the Hiring Period, we can vary the subsequent Rentals by giving you reasonable advance notice.

If the Vehicle is declared a total loss or is stolen, the sums referred to in Clause 5(f) will be payable.

The Vehicle is to be hired under this agreement for a Minimum Hiring Period of 36 months from the start date of this agreement.

**Description of the Vehicle**

Make: Citroen  
Model: Enterprise 75 ps  
New/used: New  
Vin/chassis/frame no.:  
First registered in UK:  
Registration number:

**Key Information**

**Default Charges:**

- (a) If you fail to pay any sum when it is due under this agreement, interest is payable on such sum at Finance House Base Rate (as published by the Finance and Leasing Association) current from time to time plus 2% per year, from the date it is due until its receipt by us, such interest to accrue from day to day and after as well as before any judgment.
- (b) If you break this agreement, we will charge you any amounts we reasonably incur enforcing our rights, including legal costs (other than in small claims cases), court fees and costs incurred locating and communicating with you and in locating, recovering, storing or insuring the Vehicle.
- (c) If you return the Vehicle at the end of this agreement and it is not in good repair and condition (allowing for fair wear and tear) in accordance with Clause 4, or you do not return any of the Vehicle documents or items referred to in Clause 8, we will charge you the resulting reduction in the Vehicle's value. If we replace a missing document or item we will charge a £12 fee with the replacement cost. We will also charge a £12 fee and delivery costs for returning any personal item left in the Vehicle.
- (d) If we end this agreement early due to you breaking this agreement (see Clause 6), you must pay us on demand:
  - (i) all unpaid Rentals and other sums which were due before this agreement ending; and
  - (ii) any other sum payable after this agreement ends under any of paragraphs (a) to (c) above; and
  - (iii) to compensate us for this agreement ending early, all the Rentals (excluding VAT) which (but for the termination) would have been payable from the date this agreement ends to the end of the Hiring Period, less: (a) any discount we may apply (calculated in accordance with our standard practice from time to time) for our accelerated receipt of such Rentals, and (b) the amount (if any) by which the sale proceeds we receive for the Vehicle (less our reasonable sale expenses) exceed our reasonable estimate of the net resale value if it were returned in accordance with this agreement at the end of the Hiring Period.

Other Charges: Please see Clauses 5(e)(iv) and 8(d) and (e) for other charges.

**IMPORTANT - PLEASE READ BEFORE SIGNING**

**Please ensure:**

- (1) the information you have provided is correct
- (2) the agreement has been fully completed; and
- (3) you have read the agreement carefully, including all the terms and conditions overleaf, and understand it. If you do not, please contact us.

**By signing you declare that you are entering into this agreement in the course of your business.**

This agreement is made and becomes binding on you when you sign it.

**Your Signature**

Signature

**Sign & Date**

Date:

for and on behalf of: Biofresh UK Ltd

This is a Hire agreement.

Under this agreement the goods do not become your property, and you must not sell them.

**Important - Use of Your Information**

During this agreement we may obtain information about you and your directors from credit reference and fraud prevention agencies to help make decisions about you, and we may record information about you and your directors with them. It is important that you read the "Use of your Information" notice overleaf before you sign this agreement.

We may also contact you by post and phone with news on vehicles and other products and services which may interest you and for market research purposes and may pass your information for these purposes to our Group Companies, authorised dealers and other selected suppliers of our products and services. You can opt out of receiving this information at any time by calling us on freephone 0800 0137654 or writing to us at Alphera Customer Information Services, Europa House, Bartley Way, Hook, Hampshire RG27 9UF.

**Signature on behalf of the Creditor**



## Use of your Information

### Our use of your information:

- a) We may give details of this agreement, the payments you make under it and any default or failure to keep to its terms, and any change of name or address, to credit reference agencies.
- b) We may make periodic searches at credit reference agencies, and of our own Group records, for information on your business accounts to help us manage this agreement, including to take decisions regarding your identity and whether to make further credit available or to continue or extend existing credit. If you tell us you have 3 or less directors and give us information about your directors we may also search and obtain information on their personal credit accounts. So you must be sure you have their agreement to disclose their information. We may also check the record of any guarantor of your obligations under this agreement.
- c) We may check at fraud prevention agencies for information on you and your directors to prevent or detect fraud. If you give us false or inaccurate information or we suspect or identify fraud, we will record this and may also pass this information to our Group Companies, fraud prevention agencies and other organisations involved in fraud prevention.
- d) We may pass your information to our Group Companies, agents and others for the administration of your account, enforcement or settlement or providing a service you have requested related to this agreement, to any guarantor of your obligations under this agreement, any organisation demanding payment of any fines, duties, tolls, congestion charges or other sums which become payable related to your use of the Vehicle, to other third parties when required or permitted by law, such as in relation to any legal proceedings or to investigate or prevent crime, or where you give your permission, or in the process of us transferring this agreement or our business to another organisation. If any of these organisations are in other countries in the European Economic Area, they will have similar standards of data protection as in the UK. If any of these organisations are outside of the European Economic Area, we will make sure they agree to apply the same level of protection of your information as we are required to apply in the UK.
- e) We and our Group Companies may use your information to undertake periodic statistical analysis, testing and customer profiling to help us improve the quality of existing and future products and services. If you do not repay us in full and on time, we may take steps to trace your whereabouts and recover payment from you.
- f) We may contact you by post and occasionally by phone (and, if you give us your agreement, by email and other electronic means) with news on vehicles and other products and services which may be of interest to you and for market research purposes. We may also pass your information to our other Group Companies, authorised dealers and other selected providers of our products and services for these purposes. Our Group products currently include vehicles, vehicle finance, other vehicle related products and personal finance products. Our Group Companies trade under the BMW, MINI, Motorrad, Alpera and Alphabet brands. You can opt out of receiving this information at any time.

### What the credit reference agencies will do:

- a) Credit reference agencies will record the details that we give them on this agreement and how you manage it. If you do not repay in full and on time, they will record the outstanding debt. Account information given to these agencies remains on file for 6 years after the account is closed, whether settled by you or upon default.

- b) If we make a search of your company record at credit reference agencies, the agencies will place on your company credit file a record of our search. This record of that search (but not our name) will be seen by other organisations when you apply for credit in the future. If we make a search of the personal records of any director, the agencies will place on their personal credit file a record of our search. This record of that search (but not our name) will be seen by other organisations when the director applies for credit in the future
- c) The agencies will link the records of the directors we search with those of their financial associate(s), including any previous and subsequent names. A financial associate is a person with whom the director has, or has had, joint personal financial arrangements such as joint accounts or have made joint credit applications. It may be a spouse or partner (not a business partner). These links will remain on their files until they successfully file for a disassociation at the credit reference agencies.
- d) The agencies may supply to us credit information such as previous applications and the conduct of accounts in your name, and the name of any directors we search and of their financial associate(s) and any public information such as County Court Judgements and bankruptcies and Electoral Register information, and fraud prevention information.

### How we and others use the agency information:

Some information about you and any directors we search held by the credit reference and fraud prevention agencies will be disclosed to us and other organisations to, for example:

- prevent fraud and money laundering by, for example, checking details on applications for credit and credit related or other facilities; checking details on proposals and claims for all types of insurance; checking details of job applications and employees;
- verify your identity if you or any director we search or their financial associate(s) applies for other facilities including all types of insurance applications and claims;
- make decisions on credit, insurance and other facilities, about you, any director we search and their financial associate(s) or members of their household;
- trace your whereabouts and recover debts that you owe;
- manage credit and credit related accounts and other facilities; and
- undertake statistical analysis and system testing.

We and other organisations may access and use from other countries the information recorded by fraud prevention agencies.

The information held by these agencies may also be used for other purposes for which you give your specific permission or, in very limited circumstances, when required by law or where permitted under the Data Protection Act 1998.

If you want to receive details of the credit reference and/or fraud prevention agencies from whom we obtain and with whom we record information about you, please write to us at Alpera Customer Information Services at the above address. You have a legal right to these details. You have a right to know the information we hold about you if you apply to us in writing. A fee will be payable.

## Terms and Conditions

We, BMW Financial Services (GB) Limited trading as Alpera Financial Services, agree to hire the Vehicle to you for the Minimum Hiring Period shown under "Key Financial Information" and any Subsequent Hiring Period (which we will refer to together as the "Hiring Period"), on the terms set out above and below:

### 1. Definitions

"Vehicle" and "goods" means the vehicle described under "Key Financial Information" and includes the registration mark, all keys, all accessories whenever fixed to the Vehicle, all replacement parts of the Vehicle, all additions to the Vehicle, and any replacement vehicle.

"Group Companies" means all our holding and subsidiary companies from time to time and those of all such holding companies.

"Hiring Period" means the Minimum Hiring Period and any Subsequent Hiring Period.

"Minimum Hiring Period" means the minimum hiring period referred to in "Key Financial Information."

"Subsequent Hiring Period" applies if the hiring does not end at the end of the Minimum Hiring Period, and means the period from the end of the Minimum Hiring Period until the date this agreement ends.

All other words in these Terms and Conditions with initial capital letters shall refer to those items stated on page 1.

### 2. Payment and Fees

- (a) You must, on signing this agreement, pay any Advance Rental and Hire Arrangement Fee shown under "Key Financial Information".
- (b) You must pay all the Rentals shown under "Key Financial Information" in full when they are due in accordance with the timings set out under "Key Financial Information". This is of fundamental importance: if you fail to make payment when due, we may charge you interest on the overdue amount (see "Key Information") and we may also be entitled to terminate this agreement (see Clause 6).
- (c) The charges stated or referred to under "Key Information" are payable on demand.
- (d) All Rentals shown in this agreement are exclusive of VAT, which will be charged at the rate in force from time to time.
- (e) It is your responsibility to pay all vehicle excise licence fees, parking and speeding fines, other fines, duties, tolls, congestion charges and other sums that become payable to third parties in respect of the Vehicle until its return to us.
- (f) We will apply your payments to sums in the order in which they fall due.
- (g) We may change the amount of our administration fees payable under this agreement. We will notify you in writing at least one month before we make any change.

## 2. Payment and Fees (Continued)

- (h) Our preferred method of payment is direct debit and if you pay by any other means, it will be your responsibility to ensure we receive your payment and, if necessary, to prove that we have received your payment.
- (i) If any change to the rate of Corporation Tax or capital allowances results in a reduction of our after tax rate of return from this agreement, we may adjust the amount payable by you in order to preserve our rate of return. If we do so, we will give you reasonable notice of any adjustment we make. The adjusted amount will be payable from the date stated in the notice.

## 3. The Vehicle

- (a) You must accept delivery of the Vehicle at the supplying dealer's premises, unless the supplying dealer agrees otherwise. If the Vehicle is defective on delivery, you should tell us as soon as possible after you become aware of the defect.
- (b) Where reasonably possible, we will transfer to you the benefit of any applicable warranties or guarantees relating to the Vehicle which are provided to us as owner of the Vehicle.
- (c) If you are dealing as a consumer in entering into this agreement: nothing in this agreement affects your statutory rights relating to title or faulty or misdescribed goods or services, and any warranties or guarantees relating to the Vehicle which we transfer to you will be in addition to your statutory rights.
- (d) If you enter into this agreement in the course of a business: you shall indemnify us and hold us harmless against all claims, actions, costs, expenses, damages and liabilities which may arise in respect of the Vehicle from the time you take possession of it until it is returned to us, unless caused as a result of our breach of this agreement, our negligence or our breach of any other legal duty of care owed by us to you.
- (e) If necessary, we may replace the Vehicle with a vehicle of the same model and similar age and condition at any time during this agreement. In this case, the terms of this agreement will then apply to the substituted vehicle instead of the original Vehicle. This will not affect your or our rights and obligations under this agreement.

## 4. Your Care of the Vehicle

During this agreement you must (from when you receive the Vehicle until we receive it back at the end of this agreement):

- (a) keep the Vehicle in good repair and condition and have it serviced, maintained and repaired in accordance with the manufacturer's recommendations or any manufacturer warranty (including any requirement to have a interim running-in service). You must have the Vehicle repaired and serviced by one of the Vehicle manufacturer's franchised dealers or authorised repairers or, if repair work is covered by your Vehicle insurance, by a repairer authorised by your insurer. You must keep a full service and repair history, which you must supply to us if we ask you. We will not be responsible for servicing, maintaining or repairing the Vehicle, or for providing any other vehicle services or for paying for these services;
- (b) ensure that the Vehicle always displays a valid vehicle excise licence (tax disc);
- (c) if applicable, keep in force a current MOT certificate;
- (d) allow us to inspect the Vehicle at all reasonable times and if we ask you, you must tell us where the Vehicle is;
- (e) keep the Vehicle in your possession and under your control and not sell or dispose of it or attempt to do so or allow someone other than you to become registered at the Driver and Vehicle Licensing Agency as the Vehicle's registered keeper;
- (f) tell us as soon as reasonably practicable if the Vehicle suffers any accident damage, is written off or stolen or if the registration mark of the Vehicle is changed;
- (g) not use the Vehicle as security for a loan or allow anyone to have any other rights over it and tell us as soon as possible if anyone tries to seize or claim it;
- (h) not use or permit the Vehicle to be used for hire, professional driving instruction or other financial reward, or for motor sports;
- (i) not alter the Vehicle in any way without first obtaining our prior written consent, and if we consent you must restore the Vehicle to its original condition (at your cost) before returning the Vehicle to us;
- (j) not allow the Vehicle to be taken outside the UK, except that you may take it to any country within the European Union for periods not exceeding 30 days each on condition that you ensure your Vehicle insurance provides fully comprehensive cover including repatriation expenses for each country you visit (see Clause 5);
- (k) if the Vehicle's milometer fails, as soon as reasonably practicable, have it repaired or replaced and inform us of the dates when it was not working. For the purpose of calculating any excess mileage charges, we will calculate an average mileage for this period, based upon the recorded mileage at the time of failure, or if unavailable, the Vehicle's service history;

## 4. Your Care of the Vehicle (Continued)

- (l) not drive the Vehicle if you become aware that any defect or damage makes its continued use inadvisable, until the defect or damage has been repaired;
- (m) check the Vehicle's tyres regularly to make sure they comply with the current legal requirements and the tyre pressures conform with the levels shown in the manufacturer's handbook; and
- (n) check regularly between regular servicing the levels of fuel, oil lubricants and anti-freeze and replenish at your cost.

## 5. Insurance of the Vehicle

During this agreement (from when you receive the Vehicle until we receive it back at the end of this agreement):

- (a) you will be responsible for any loss or damage to the Vehicle, even if this happens without your fault unless caused as a result of our negligence or our breach of this agreement;
- (b) you must pay for and maintain comprehensive insurance cover for the Vehicle's full value against all insurable risks (including fire, theft, damage, loss in transit, seizure and the cost of repatriation if the Vehicle is taken outside the UK). You must inform the insurer of our interest in the Vehicle. You must produce the policy to us if we request this;
- (c) you must ensure the Vehicle is used within the terms of the insurance policy. You must be covered by the policy to drive the Vehicle. You must inform us immediately if you become disqualified from driving or for any other reason become no longer insured under the policy to drive the Vehicle;
- (d) if the Vehicle is damaged, you must use any insurance money you receive to repair the Vehicle. If you receive insurance money after the Vehicle is returned to us, you must promptly pay it to us;
- (e) if the Vehicle is declared a total loss by the insurer or is stolen during the Minimum Hiring Period:
  - (i) you must inform us immediately;
  - (ii) you must claim under your vehicle insurance policy for the loss of the Vehicle and ask the insurer to pay us the insurance money for the Vehicle. By signing this agreement you are authorising the insurer to pay the insurance money direct to us. If the insurer pays the insurance money to you for the Vehicle, the insurance money will be ours and you must promptly pay it to us (unless this agreement has been settled in full);
  - (iii) if we decide, we may (we are not obliged to) negotiate and agree the insurance claim for the Vehicle with the insurer. If we decide to do this, we will tell you, and we will accept the best insurance payment we can reasonably negotiate with the insurer. You will be bound by this and must still pay us any shortfall owing under this agreement (see below);
  - (iv) this agreement will not end, and you must continue to pay Rentals, until we receive full payment of the sums set out in Clause (f) below. If the insurer does not pay these sums in full or at all, you must pay us the shortfall on demand (we will take into account the Rentals you have paid after the date of the total loss or theft). We will pay to you any surplus we receive over the sums due to us;
- (f) The sums referred to in Clause (e) (iv) are:
  - (i) all unpaid Rentals and any other sums which were due before the date of the total loss or theft, and
  - (ii) the Rentals payable from the date of the total loss or theft to the end of the Minimum Hiring Period, less the VAT included in such Rentals and any applicable discount (calculated in accordance with our standard practice from time to time) for our accelerated receipt of such Rentals, and
  - (iii) our estimated value of the Vehicle if (but for the total loss or theft) it were returned to us in good repair and condition (allowing for fair wear and tear) at the end of the Minimum Hiring Period.
- (g) If the Vehicle is declared a total loss by the insurer or is stolen during the Subsequent Hiring Period, you must inform us immediately and provide any evidence of this which we reasonably require (and this agreement will not end until we receive such evidence).

## 6. Ending this Agreement Early

In the event of any default referred to in Clause 7 below, you will be considered to have repudiated this agreement. This means we may accept your repudiation and end this agreement and you must then return the Vehicle to us in accordance with Clause 8 and pay the sums stated in paragraph (e) under Default Charges in "Key Information".

## 7. Events of Default

The events of default referred to in Clause 6 are:

- (a) you fail to pay any Advance Rental or Rental in full on the date it is due; or
- (b) you breach Clause 4 or 5, which are also (along with your payment obligations under Clause 2) of fundamental importance, or commit any other serious breach of this agreement) or repeatedly break this agreement; or

## 7. Events of Default (Continued)

- (c) you make an untrue statement or give false information or documents on which we have relied, where had we known the truth, we would not have entered into this agreement with you or we otherwise have good reason to suspect fraud by you; or
- (d) any step which affects our ownership or rights in respect of the Vehicle is attempted or taken (including selling, parting with possession or abandoning the Vehicle, or someone else acquiring any rights over it) or the Vehicle is seized or arrested; or
- (e) you suspend payment of your debts, or are unable to pay your debts as they fall due or, if you are a partnership, any of the foregoing applies to any of your partners; or
- (f) you commence negotiations, or (being a body corporate) convene a meeting of your creditors, or make a proposal for or enter into any compromise or arrangement, with one or more of your creditors with a view to rescheduling any of your debts (due to your actual or anticipated financial difficulties); or
- (g) a petition is filed, a notice is given, a resolution is passed, or an order is made, for or in connection with your winding up (if you are a body corporate), dissolution or the bankruptcy of any of your partners (if you are a partnership) or bankruptcy (if you are an individual); or
- (h) an application is made to court, or an order is made for, the appointment of an administrator, or a notice of intention to appoint an administrator is given, or an administrator is appointed over you, or an administrative receiver or receiver is appointed over your assets; or
- (i) a creditor or encumbrancer attaches or takes possession of, or a distress, attachment, execution, sequestration or other such process is levied, enforced on or sued against, the whole or any part of your assets or the Vehicle and such attachment or process is not discharged within 7 days; or
- (j) in Scotland, Northern Ireland or any jurisdiction outside of the UK to which are you subject, any of the events mentioned in Clauses (e) to (j) occur (or analogous events or proceedings specific to the any of those jurisdictions are taken), or (in Scotland) you have a judicial factor or trustee appointed over any of your estate or effects or an arrestment, charge, lien, attachment or diligence is issued, served or levied on any of your estate or effects or your landlord, if applicable, enforces or threatens to enforce his right of hypothec, or (in Northern Ireland) the Enforcement of Judgments Office issues a Certificate of Unenforceability against you; or
- (k) you suspend or cease to carry on all or a substantial part of your business; or
- (l) you breach any other agreement you have with us or any of our Group Companies and as a result we or our Group Company become entitled to terminate that other agreement; or
- (m) any event occurs or circumstances arise which, in our reasonable opinion, is likely to materially and adversely affect your ability to perform all or any of your obligations under, or otherwise comply with, this agreement.

## 8. Return of the Vehicle

- (a) When this agreement ends you will no longer have any right to keep the Vehicle and, if you do not sell it on our behalf under Clause 10, you must return it to us by making it available for us to collect from you or, only with our prior agreement, return it to us at your expense at the location in the UK which we reasonably specify.
- (b) If you fail to return the Vehicle to us in accordance with Clause (a) above, we will be entitled to repossess it. Additional Rentals may be payable until we receive the Vehicle (see under "Key Information" on page 1).
- (c) You must return the Vehicle in good repair and condition (allowing for fair wear and tear) and you must return with the Vehicle all items stated after "Vehicle" in Clause 1 together with all documents relating to the Vehicle, including the V5C Registration Certificate, service record, vehicle manual, the current MOT Certificate (if applicable), radio codes and any satellite navigation disc. See "Key Information". Your obligations under Clauses 4 and 5 continue until we receive the Vehicle.
- (d) If the returned Vehicle contains personal effects, we will (at our discretion) either return these to you and charge you our delivery costs or ask you to collect them by arrangement with us. In each case an administration fee will also be payable. If we ask you to collect the personal effects and you fail to do so within 30 days of our request, we will be entitled to dispose of them in a manner we reasonably decide without further notice to you. We will credit any sale proceeds towards any money you owe us and pay any balance left over to you.
- (e) If you wish to retain any cherished (personalised) registration mark, you must both notify us and provide us with the required Driver and Vehicle Licensing Agency fee no less than 8 weeks before the Vehicle is due to be returned to us, whereupon we will apply on your behalf to the DVLA for you to retain the mark (at your cost). If you do not do this and the Vehicle is returned with a cherished registration mark, then you irrevocably authorise us to sell the vehicle with the cherished registration mark (or we may decide to sell the registration separately).

## 9. Subsequent Hiring Period

- (a) You may end the hiring of the Vehicle at the end of the Minimum Hiring Period shown under "Key Financial Information" by giving us at least 7 days notice prior to the end of that period.
- (b) Subsequent Hiring Period: If you do not end the hiring at the end of the Minimum Hiring Period, the hiring will continue from year to year upon the terms of this agreement. You will pay to us in advance the Yearly Rentals for the Subsequent Hiring Period. You may end the Subsequent Hiring Period at any time by giving us at least one month's prior notice.

## 10. Sale of the Vehicle and Rebate of Rentals

- (a) If the hiring ends at, or after, the end of the Minimum Hiring Period and if you have not broken this agreement, you may negotiate a sale of the Vehicle on our behalf provided:
  - (i) you are not connected with the buyer (see below); and
  - (ii) the purchase price is no less than the open market value of the Vehicle at that time.
- (b) Meaning of "connected with": If you are an individual, you are connected with the buyer if:
  - (i) you are the buyer's spouse or civil partner,
  - (ii) you are a relative of the buyer,
  - (iii) you are the spouse or civil partner of a relative of the buyer,
  - (iv) you are a relative of the buyer's spouse or civil partner,
  - (v) you are the spouse or civil partner of a relative of the buyer's spouse or civil partner, or
  - (vi) the buyer is a company and you have control of the company, or you together with persons connected with you have control of the company. "Control" means you have the power to secure, by means of the holding of shares or the possession of voting power or as a result of any powers conferred by articles of association or other document, that the affairs of the company are conducted in accordance with your wishes.If you are a partnership or company, you are connected with the buyer if you are connected within the meaning given in Section 993 Income Taxes Act 2007.
- (c) If the Vehicle is sold in compliance with Clause (a) above, you:
  - (i) must promptly provide us with a copy of your sale invoice or receipt and inform us of the name and address of the purchaser, the mileage of the Vehicle at the time of sale and any damage to the vehicle other than fair wear and tear;
  - (ii) must ensure all sale proceeds are paid to us. We will then refund to you the lesser of (a) the Rentals paid to us by you; or (b) a sum equivalent to 95.00% of the net proceeds of sale (exclusive of VAT) received by us. This refund shall not exceed the amount of all Rentals paid to us by you in respect of the Vehicle;
  - (iii) must disclose any defect in the Vehicle (of which you are aware) to the intended purchaser prior to the sale and not make any misrepresentation to the purchaser in relation to the condition or use of the Vehicle; and
  - (iv) will be responsible to us for any claims, actions, costs, expenses, damages and liabilities whatsoever which we may suffer or incur in connection to your sale of the Vehicle or otherwise in connection to the Vehicle after your sale, unless caused as a result of our breach of this agreement, our negligence or our breach of any other legal duty of care owed by us to you.

## 11. Our Liability

- (a) If we break this agreement or are negligent, we will not be liable for any loss or damage which is not reasonably foreseeable to you and us when this agreement is made;
- (b) If you enter into this agreement in the course of a business: the express terms and conditions of this agreement are in lieu of all warranties, conditions, terms, representations, statements, undertakings and obligations, whether express or implied, all of which are hereby excluded, except for the terms implied by Sections 7 (title), 8 (hiring by description) and 9 (quality and fitness) of the Supply of Goods and Services Act 1982, and if we break this agreement or are negligent or breach any other legal duty of care owed by us to you:
  - (i) we will not be liable for any loss of profit, loss of business or other economic loss (in each case whether direct or indirect loss) or for any indirect or consequential loss or damage which arises out of or in connection with this agreement;
  - (ii) we will not be liable for the cost of any repairs to the Vehicle which are covered under any manufacturer's warranty, where you have the benefit of that warranty (or are not covered due to your breach of that warranty);
  - (iii) our total aggregate liability per event or series of connected events in connection with this agreement shall not exceed the Rentals payable under this agreement;
  - (iv) you must notify us in writing of any claim against within 12 months of you first becoming aware of your loss or damage; and
  - (v) you must not set-off (against the money payable under this agreement) any money you claim against.

## 11. Our Liability (Continued)

- (c) We will not be liable for events outside our reasonable control, such as office computer system or telecommunication failures outside our reasonable control, or acts of God, government authorities or terrorism.
- (d) The supplying dealer and any broker involved in connection with this agreement are not part of BMW Financial Services. They do not act as our agent and we will not be responsible for their representations, acts or omissions, except the supplying dealer will be our agent for the purpose of delivering the Vehicle to you after this agreement is made. We may pay commission to a supplying dealer or other intermediary who introduces a customer to us.
- (e) Nothing in this agreement will exclude or restrict any liability we may have for death or personal injury caused by our negligence, or for any fraud by us.

## 12. General Terms

- (a) If you break this agreement and we decide not to enforce any of our rights against you, this will not prevent us from doing so later.
- (b) You must not transfer this agreement to anyone, as it is personal to you. We may transfer our rights and obligations under this agreement at any time without telling you first. This will not detrimentally affect your rights and obligations under this agreement.
- (c) You must tell us promptly if your name, address or any other details you have provided changes and (if you tell us on the telephone) confirm such changes in writing. We will not update our records until we receive written notice from you.
- (d) Any notice under this agreement must be in writing and may be given by hand-delivery, post, fax or e-mail addressed to the recipient's last known postal or e-mail address or fax number. E-mails and faxes must be followed up with signed notices sent by post or hand-delivery. Notices delivered by hand before 4.00pm will be treated as received on the day of delivery, and if after 4.00pm, on the following day. Notices sent by first class post will be treated as having been received 48 hours after posting. Notices sent by second class post will be treated as having been received 72 hours after posting and notices sent by e-mail or fax on the following working day.
- (e) A person who is not a party to this agreement will not have any rights under or in connection with it.
- (f) If any term of this agreement is found to be invalid or unenforceable, it will be severable from, and shall not affect, the remaining terms.
- (g) You agree that we may but are not obliged to monitor and/or record telephone conversations between you and us for use in staff training, to improve our standards of service and as a record of the call.
- (h) English law applies to this agreement. If we/you wish to take court proceedings, we/you must do this in the United Kingdom. In interpreting this agreement in Scotland or Northern Ireland, any expression not in use in Scotland or Northern Ireland shall be treated as having its nearest equivalent meaning.