

AFD Shortfall Waiver Terms and Conditions

AFD's Shortfall Waiver is an optional contractual repayment waiver product. It is not an insurance policy, and You are under no obligation to purchase it.

If You choose to purchase a Waiver, You pay the cost of the Waiver and, in return, We agree to waive Our rights to collect specified amounts otherwise payable under Your Agreement if a qualifying event occurs and these Terms are satisfied.

These Terms apply only to the Shortfall Waiver You have elected to purchase and which is recorded in Your Waiver Certificate.

The Shortfall Waiver applies where Your Vehicle suffers a Total Loss as described in these Terms.

Section A: Shortfall Waiver

1. Total loss

- (a) If You have paid the cost of the Waiver and You have, at Your own expense, obtained and maintained a Comprehensive Motor Vehicle Insurance Policy then, if:
 - (i) the Vehicle suffers a Total Loss before the Loan has been repaid in full; and
 - (ii) We receive the Total Loss Payment for the Vehicle under that Comprehensive Motor Vehicle Insurance Policy, We will waive the shortfall between the Balance Outstanding and the Total Loss Payment, up to the Waiver Limit recorded in Your Waiver Certificate. If the shortfall exceeds Your Waiver Limit, You must pay the amount above that limit immediately.
- (b) You remain responsible for paying:
 - (i) the excess payable under Your Comprehensive Motor Vehicle Insurance Policy;
 - (ii) any unpaid or additional premiums due under that policy; and
 - (iii) any amounts payable under the Loan because of Your default.

2. Added benefits

If, following a Total Loss, You purchase a replacement vehicle and obtain finance from Us, We will apply a Waiver Deduction to reduce the amount that would otherwise be financed under Your replacement Loan.

The Waiver Deduction will be \$500 where Your Waiver Limit is \$5,000, or \$1,000 where Your Waiver Limit is \$10,000. The Waiver Deduction will not be paid to You in cash or treated as a reduction in the purchase price of the replacement vehicle.

3. Notification

You must notify Us of a Total Loss as soon as reasonably practicable by writing to PO Box 137252, Parnell, Auckland 1151, or emailing office@autofinancedirect.co.nz.

Section B: Shortfall Waiver Conditions

1. Who the Shortfall Waiver covers

Where there is more than one Borrower under the Agreement, the benefits of the Shortfall Waiver apply only to the Primary Borrower unless We expressly agree otherwise in writing.

2. Disclosure

- (a) Each Waiver has been offered to You on the basis that You have disclosed all information that is material to Our decision to provide that Waiver. If You fail to provide that information, or provide information that is false or misleading, We may exercise Our rights under clause 4(b).
- (b) When making a Claim, You must provide Us with all information reasonably required to assess the Claim.

- (c) If You fail to provide that information, or provide information that is false or misleading, We may refuse the Claim.
- (d) If You make a fraudulent Claim, the Waiver to which that Claim relates will be void and You will forfeit any entitlement to benefits under that Waiver.

3. Claims

- (a) To make a Claim, contact Us at PO Box 137252, Parnell, Auckland 1151 or email office@autofinancedirect.co.nz.
- (b) You should notify Us of a Claim as soon as reasonably practicable after the relevant Event occurs. Unless these Terms and Conditions provide otherwise, a Claim should be made within 28 days after the Event.
- (c) If a Claim is not made within the applicable period because of circumstances beyond the reasonable control of the person making the Claim, We may accept a late Claim where the delay has not materially affected Our ability to assess it.
- (d) To make a Claim under a Waiver, You must complete a Claim form and provide all information and documentation reasonably required for Us to assess the Claim. You must provide reasonable assistance with the assessment of Your Claim if requested. You are responsible for the cost of obtaining any certificates or other evidence reasonably required to support Your Claim.
- (e) If Your Claim is accepted, the applicable Waiver will operate in accordance with the relevant benefit described in these Terms and Conditions. No cash payment will be made directly to You. Any rebate of the unused portion of the Consideration will be calculated in accordance with the Credit Contracts and Consumer Finance Act 2003 and the Credit Contracts and Consumer Finance Regulations 2004 if the Loan is repaid early.
- (f) We may amend these Terms and Conditions with Your written consent. We may also make any amendment required by law without Your consent.

4. Termination

- (a) Each Waiver will automatically terminate if:
 - The Loan ends or is repaid in full.
 - Ownership of the Vehicle is transferred to a person or entity who is not a borrower under the Agreement.
- (b) We may void the affected Waiver from the Commencement Date or terminate the affected Waiver immediately and decline any Claim affected by that conduct if:
 - You fail to disclose information that is material to Our decision to provide the Waiver, or provide information that is false or misleading;
 - You fail to comply with a material provision of these Terms and Conditions; or
 - You, or anyone acting on Your behalf, make a fraudulent or dishonest Claim.
- (c) If We void or terminate a Waiver under this clause, We will credit any rebate of the unused portion of the Consideration for that Waiver to the Balance Outstanding, calculated in accordance with the Credit Contracts and Consumer Finance Act 2003 and the Credit Contracts and Consumer Finance Regulations 2004.

5. Cancellation

- (a) **Cancellation by You:** You may cancel a Waiver by giving Us written notice within the cancellation period that applies under the Credit Contracts and Consumer Finance Act 2003. If You cancel within that period, We will credit the Consideration for that Waiver against the Balance Outstanding.

You may also cancel a Waiver at any time after that period by giving Us written notice. In that case, We will credit a proportional rebate of the Consideration against the Balance Outstanding, calculated in accordance with the Credit Contracts and Consumer Finance Act 2003 and the Credit Contracts and Consumer Finance Regulations 2004. However, no rebate will be payable for a Waiver if a Claim has already been accepted under that Waiver.

- (b) **Cancellation by Us:** We may cancel a Waiver by giving You 14 days' written notice where We have reasonable grounds to do so, including where We are required to cancel the Waiver by law or continuing to provide the Waiver would be unlawful.

If We cancel a Waiver under this clause, We will credit a proportional rebate of the Consideration for that Waiver against the Balance Outstanding, calculated in accordance with the Credit Contracts and Consumer Finance Act 2003 and the Credit Contracts and Consumer Finance Regulations 2004.

6. Discretion to provide a greater benefit

Despite any other provision of these Terms and Conditions, We may provide You with a greater benefit than You would otherwise be entitled to under a Waiver, including by waiving or electing not to recover an amount that would otherwise remain payable under the Loan. Any decision to provide a greater benefit applies only to the particular Claim and circumstances in which it is made and does not require Us to provide the same or a similar benefit in relation to any other Claim or Borrower.

7. Definitions

Agreement means the Disclosure Statement, the Loan Terms and, where a Waiver has been purchased, the applicable Waiver Terms and any Waiver Certificate issued by Us in relation to that Waiver.

Balance Outstanding means the amount owing to Us under the Loan at the relevant date. It does not include amounts payable under the Loan because of Your default.

Claim means Your request for Us to apply a Waiver following an Event, together with any supporting information or documents We reasonably require.

Commencement Date means, in relation to a Waiver, the commencement date recorded for that Waiver in the Waiver Certificate.

Comprehensive Motor Vehicle Insurance Policy means a comprehensive motor vehicle insurance policy covering the Vehicle against theft and accidental loss or damage, which remains in force at the date of the Total Loss and records Auto Finance Direct Limited as the **Interested Party** in respect of the Loan.

Consideration means, in relation to each Waiver that You have elected to purchase, the price of that Waiver recorded in the Waiver Certificate.

Event means an event giving rise to a Claim.

Loan means the credit provided by Us to You under the Agreement and includes all amounts payable by You to Us under the Agreement.

Total Loss means the Vehicle is either stolen and not recovered, or damaged beyond economical repair, and is determined to be a Total Loss under Your Comprehensive Motor Vehicle Insurance Policy.

Total Loss Payment means a payment made under the Comprehensive Motor Vehicle Insurance Policy for the Total Loss without adjustments or deductions because of a breach of the Comprehensive Motor Vehicle Insurance Policy.

You/Your means the **Primary Borrower** identified in the Agreement.

Us/We/Our means Auto Finance Direct Limited or its assignees.

Vehicle means the motor vehicle identified in the Agreement including its standard equipment, tools and accessories at the Commencement Date.

Waiver means a Shortfall Waiver that You have elected to purchase and which is recorded in Your Waiver Certificate.

Waiver Deduction means the amount We agree to deduct from the amount that would otherwise be financed under a replacement Loan following a Total Loss, as described in clause 2 of Section A.

Waiver Limit means the maximum Shortfall Waiver amount recorded in Your Waiver Certificate.

Governing Law

The laws of New Zealand apply to the Agreement. Any proceedings relating to the Agreement must be brought and heard in New Zealand.

About protecting Your privacy - Privacy Act 2020

We collect, use, hold and disclose Your personal information in accordance with the Privacy Act 2020 and Our Privacy Policy. Information collected in connection with Your Agreement may also be used to administer any Waiver You have elected to purchase. You may request access to and correction of Your personal information in accordance with the Privacy Act 2020. Our Privacy Policy is available at www.autofinancedirect.co.nz.