

MOTOR VEHICLE AGREEMENT

THIS AGREEMENT is made on:

BETWEEN:

CURTIN UNIVERSITY OF TECHNOLOGY
(the "University") of the first part

AND

_____ (the "Employee") of the second part

WHEREAS:

- A. The University and the Employee have entered into an Offer To Salary Package (the "Agreement") under which the University may from time to time, at its absolute discretion, offer to provide the Employee with Fringe Benefits which may result in the Employee's Salary being reduced.
- B. In terms of the Agreement, the University may offer to provide the Employee with a Vehicle in accordance with the Motor Vehicle Plan outlined in the Salary Packaging Guide.
- C. In the event the Employee is provided with a Vehicle under the Salary Packaging Guide Motor Vehicle Plan, the Employee agrees to take the Vehicle on the terms and conditions contained herein.

WHEREBY THE PARTIES AGREE AS FOLLOWS:

1 APPLICATION OF CONDITIONS

These terms and conditions form part of this Agreement and in the event of any inconsistencies between the terms and conditions of this agreement and the terms and conditions of the Offer To Salary Package, the latter shall prevail.

2 CONSTRUCTION

2.1 Definitions

In this Motor Vehicle Agreement and in the Offer To Salary Package unless the context otherwise requires:

"Commencement Date" means the date specified in the Motor Vehicle Schedule that the University has arranged with a Vehicle Supplier to provide a vehicle to the Employee or such other date as specified.

"Expiry Date" means the date that the University's obligations under any agreement or arrangement with the Vehicle Supplier or otherwise cease.

"Salary Packaging Guide" means the Salary Packaging Guide booklet as varied from time to time, and includes any policy statements that may be issued from time to time.

"Fringe Benefits" means any non cash benefit and cash payment (other than Salary) made or expected to be made for the benefit of the employee and any cash payment made or expected to be made to the Employee by way of reimbursement of expenses incurred or expected to be incurred by the Employee.

"Motor Vehicle Plan" means the Motor Vehicle Plan as set out in the Salary Packaging Guide or as varied from time to time, and includes other collateral agreements and application forms signed by the Employee that are incidental to the provision of Motor Vehicle Benefits.

"Package" means Remuneration by way of Salary and Fringe Benefits that an employee has negotiated with the University as part of the Employees Remuneration. Where the Employee is remunerated by reference to more than one Salary classification, the Package is determined by reference to the pro-rated aggregate of the salaries assigned to those Salary classifications.

"Financial Consultant and Consultant" means a firm or individual that has been accredited by the University to provide the Packaging Services as set out in the Salary Packaging Guide.

"Salary" means remuneration by way of regular periodical cash payments subject to PAYG tax.

"Salary Sacrifice" means that part of the Salary set aside to cover the payment of Fringe Benefits and includes liability for Fringe Benefits Tax, Goods and Services Tax, if any, and all costs and charges arising from the provision of Fringe Benefits.

"Term" means the period commencing on the Commencement Date and ending on the Expiry Date or such earlier date as is provided for in Clause 9.

"Vehicle" means the motor vehicle provided to the Employee under the Salary Packaging Guide Motor Vehicle Plan.

"Vehicle Supplier" means the person or entity specified in the Motor Vehicle Schedule.

"Salary Packaging Schedule" means:

- a) The Salary Packaging Schedule issued by the University setting out the Salary and Fringe Benefits to be provided to the Employee and the date from which the Employee's entitlement to receive such Salary and Fringe Benefits begins, and includes any new Salary Packaging Schedule that may be issued from time to time varying the Employee's remuneration; and
- b) includes any Motor Vehicle Agreement and other collateral agreements and other documentation signed by the Employee which are incidental to the provision of Salary and Fringe Benefits.

2.2 Interpretation

In this Agreement unless the context otherwise requires, the singular includes the plural and vice versa and in particular, any word or expression defined in the singular shall have a corresponding meaning when used in the plural and vice versa.

2.3 The headings in these terms and conditions are inserted for convenience and shall not affect the interpretation of the Agreement.

3 EMPLOYEE'S OBLIGATIONS AND RESPONSIBILITIES

3.1 Upon accepting an offer to be provided with a Vehicle under the Salary Packaging Guide Motor Vehicle Plan, the Employee agrees and covenants with the University that they will:

- (a) Ensure that the Vehicle remains registered at all times and that the Employee will not allow the Vehicle to be used for any purpose for so long as it is not so registered.
- (b) Ensure that the Vehicle is regularly serviced in terms of the manufacturers or, if prescribed, the Vehicle Supplier's requirements, and that repairs or any faulty parts are promptly replaced. The Employee acknowledges that any replacement parts are to remain affixed to the Vehicle and are the property of the Vehicle Supplier.
- (c) Save for fair wear and tear not subject to driver abuse, keep the Vehicle in the same condition as at the Commencement Date and properly cleaned, serviced and maintained during the Term.
- (d) Not make any alterations or additions to the Vehicle other than alterations and additions necessary in the course of servicing and maintaining the Vehicle, without the prior written consent of the University.
- (e) Use the University's nominated fuel card supplier or such other Vehicle expense payment facilities as may be nominated by the University from time to time.

3.2 The Employee agrees:

- (a) That the safe custody and operation of the Vehicle is their responsibility.
- (b) To be bound by the Offer To Salary Package, the Motor Vehicle Agreement, the Salary Packaging Guide, policy statements, other collateral agreements and documentation signed by the Employee which are incidental to the provision of Fringe Benefits, and as otherwise directed by the University.
- (c) To indemnify and keep indemnified the University against any claims (contingent or otherwise), suits, actions, losses, damages, judgments, costs, fines, penalties, interest or

expenses incurred in relation to the Vehicle and, in particular, that the Employee will indemnify and keep indemnified the University against:

- (i) any breach of this Agreement;
- (ii) the cessation of any agreement with the Vehicle Supplier;
- (iii) traffic infringement fines and penalties including but not limited to parking, speeding, and red light camera fines, and the University is hereby authorised to deduct at the University's discretion any and all such unpaid sums from the Employee's Salary; and
- (iv) any Fringe Benefits Tax (including any amount of Fringe Benefit Tax levied due to the employee not meeting the scheduled kilometre target for any reason other than the vehicle being unavailable for use) and Goods and Services Taxes, if any, and all and any government taxes, levies or duties and any other costs and charges associated with the Vehicle being provided to the Employee.
- (v) The cost of restoring the provided vehicle to the Vehicle Suppliers standard of "good condition" when returned should the vehicle be deemed upon inspection to be of less than the required "good standard".

3.3 The Employee accepts that the University requires them to seek independent advice from a Consultant on the appropriateness of them being provided with motor vehicle benefits before accepting an offer to take a vehicle.

3.4 The Employee agrees that neither the University, its officers, employees, suppliers, contractors or agents will be liable or held responsible in any way whatsoever to the Employee arising by reason of the Employee entering into this Agreement or the use by the Employee or the Employee's "associate" (as defined in the Income Tax Assessment Act 1997) of the Vehicle including but not limited to:

- (a) Any financial, tax or monetary considerations detrimental or otherwise not of benefit to the Employee; and
- (b) Any fact or circumstances which render the Motor Vehicle Agreement or Offer To Salary Package, in respect of the Employee, onerous, burdensome or inconvenient, by reason of entering into this Agreement,

And the Employee will indemnify and keep indemnified the University, its officers, employees, suppliers, contractors and agents against any such liability or responsibility.

4 EMPLOYEE'S ACCEPTANCE OF VEHICLE

- 4.1 Unless otherwise agreed in writing, the Employee agrees to be bound and to remain bound by the Motor Vehicle Agreement upon signing this Agreement.
- 4.2 The Motor Vehicle Agreement may be terminated by the Employee giving notice in terms of sub-clause 9.1(a) provided that such notice is given prior to the University being bound to a Vehicle Supplier in respect of the provision of a Vehicle for the Employee.
- 4.3 Prior to the delivery of a Vehicle, the University will provide a Motor Vehicle Schedule to the Employee setting out the following:
- Vehicle make and model
 - Registration number
 - Vehicle Supplier
 - Commencement date
 - Expiry date
 - Fringe Benefit Tax Amount
 - Agreed kilometre target to achieve scheduled Fringe Benefit Tax amount

5 VEHICLE USE

- 5.1 It is agreed that the Vehicle is provided to the Employee for private use subject to it being used by the Employee on University business as and when required. The use of the vehicle on University business shall not give rise to a claim for reimbursement of petrol expense or a claim for reimbursement based on kilometres travelled on University business.

6 VEHICLE COSTS

- 6.1 The Employee acknowledges that all maintenance and running costs of the Vehicle (including but not limited to registration fees, insurance premiums, minor repairs, servicing and fuel) incurred during the Term may be deducted via Salary Sacrifice in accordance with the terms of the Agreement unless the parties otherwise agree.
- 6.2 The Employee agrees that they are responsible for all and any Fringe Benefits Tax, Goods and Services Tax and any other government taxes, levies or duties arising from the provision or disposal of the Vehicle.
- 6.3 The University acknowledges that an Employee may wish to make a "recipient contribution" from after tax salary to the running cost of the vehicle. The level of "recipient contribution" will be assessed by the Financial consultant. The agreed "recipient contribution" will be directed by the University to negate the University's obligation to Fringe Benefit Tax on the salary packaged motor vehicle providing that the necessary "recipient contribution" is received in full prior to the 31st March of the Fringe Benefit Tax Year.

7 EMPLOYEE'S FUEL CARD OBLIGATIONS AND RESPONSIBILITIES

- 7.1 The Employee acknowledges and accepts that the safe custody and authorised use of any fuel card issued to them is their responsibility.
- 7.2 The Employee acknowledges and accepts that they are liable for all amounts shown on their fuel card statement including any card issuing or other fees.
- 7.3 The Employee agrees to notify the fuel card issuer immediately they become aware of the loss, theft or the possibility of the unauthorised use of any fuel card issued to them under this Agreement.
- 7.4 The Employee agrees to be bound by the fuel card issuer's terms and conditions of use and to immediately notify the fuel card issuer of any change in their name or address.
- 7.5 The Employee acknowledges and accepts that the fuel card may only be used to purchase fuel and oil for the salary packaged vehicle. Any breach of this clause will result in the fuel card being withdrawn from the Employees use immediately.

8 EMPLOYEE'S INSURANCE OBLIGATIONS AND RESPONSIBILITIES

- 8.1 The Employee agrees to keep the Vehicle comprehensively insured at all times as required by the University.
- 8.2 The Employee declares that the information given in an insurance declaration to an insurer is true and correct .
- 8.3 Where prescribed, the Employee agrees to follow the accident procedures and police reporting guidelines advised from time to time by the insurer, and to advise the insurer and the University immediately of any damage to the Vehicle.
- 8.4 The Employee acknowledges that they have been provided with a copy of the Insurance Policy and that consistent with general insurance company practices, hereby acknowledges that the Vehicle's insurance cover may not extend to:
- (a) claims arising whilst driving the Vehicle under the influence of or when impaired by any drug or intoxicating liquor; or
 - (b) claims arising from using the vehicle in an unroadworthy or dangerous condition; or
 - (c) claims arising from any unlicensed person driving the vehicle with the Employee's consent; or
 - (d) claims for damage to a motor vehicle that has been returned to the lease company at the conclusion of the lease.

Full particulars of the above and all other exclusions are set out in the Policy document.

Motor Vehicle Agreement

8.5 In the event of an insurance claim, the Employee agrees that they are liable for the nominated excess as determined by the insurer.

9 TERMINATION

9.1 The Motor Vehicle Agreement shall commence on the date signed by the Employee and shall continue until:

- (a) terminated by the Employee giving the University four week's notice in writing provided the Employee has satisfied all of their obligations under any Agreement made by the University with the Vehicle Supplier in respect of the Vehicle and any obligation under this Agreement; or
- (b) terminated by the University should the Employee be guilty of any breach of these Terms and Conditions; or
- (c) the Employee ceases employment at the University; or
- (d) Any agreement or arrangement made by the University with the Vehicle Supplier is terminated for any reason whatsoever (other than at the specific request of the University).

9.2 Notwithstanding the above, the University may terminate the Motor Vehicle Agreement at any time should changes in any legislation or the enactment of any new legislation impose on the University financial or other obligations which are, in the University's sole discretion, unacceptable to the University.

9.3 Where the obligations of the University to the Vehicle Supplier survive the termination of the Motor Vehicle Agreement the Employee hereby undertakes to accept and take on all of the then subsisting and all future obligations in respect of any agreement made by the University with the Vehicle Supplier and it is agreed that the University will have no further obligations to the Vehicle Supplier in respect of the Vehicle after the termination of the Motor Vehicle Agreement.

10 CONSIDERATION

10.1 The Employee agrees to pay all administrative costs and charges incidental to the provision of Salary and Fringe Benefits as determined from time to time by the University, including the Administrative Charge set out in the Salary Packaging Guide Motor Vehicle Plan or as varied from time to time.

11 VARIATION OF AGREEMENT

11.1 If any provision of the Motor Vehicle Agreement should be held to be invalid in any way or unenforceable, the remaining provisions shall not in any way be affected or impaired thereby, and the Motor Vehicle Agreement shall be construed so as to most nearly give the effect to the intent of the parties as it was originally executed.

11.2 Notwithstanding the above, the Terms and Conditions of the Motor Vehicle Agreement will not be changed unless the terms of any collateral agreements which are incidental to the provision of Salary and Fringe Benefits are concurrently changed.

IN WITNESS WHEREOF the parties have executed this Agreement on the day and the year as per this document.

SIGNED on behalf of Curtin University of Technology by

**Manager Retention
Human Resources**

in the presence of:

Witness

SIGNED by _____

Employee

Payroll No: _____

in the presence of:

Witness