

## **HIRE PURCHASE**

### **INTRODUCTION**

Buying a car under hire purchase is one of the most common ways to own a car. This booklet provides the basics, explains the common terms used in hire purchase agreement and gives some tips on hire purchase financing.

### **WHAT IS HIRE PURCHASE (HP)?**

HP is the hiring of goods with the option to buy the goods at the end of the hire purchase term. If you take on HP financing, you are the hirer and financier is the owner. As a hirer, you will have to repay the financier based on the agreed duration while you have possession of the vehicle. When all the instalments are paid up, ownership is then transferred to you.

### **GOVERNING LEGISLATION – THE HIRE PURCHASE ACT 1967**

HP transactions are governed by the Hire Purchase Act 1967 (HP Act). The HP Act sets out the forms and contents of HP agreements, the legal rights, duties, obligations of hirers and financiers. The HP Act is administered by the Ministry of Domestic Trade and Consumer Affairs.

### **HOW MUCH CAN I AFFORD?**

As a guide, your monthly repayment on your housing loan and motor vehicle financing should not exceed 33% of your monthly household income. However, you should also budget for other payments associated with owing a motor vehicle, such as insurance, road tax and expenses for periodical maintenance.

### **WHERE TO GET FINANCING?**

You can apply for HP financing from a banking institution. You will receive a financial statement called Second Schedule Part I, which states your financial obligations under the proposed HP Agreement.

If you apply for HP financing through a motor vehicle dealer (which will submit your application to a banking institution), you will receive another statement called the Second Schedule Part II. This statement states the consent of the banking institution to be a party to the agreement.

You need not pay for the cost of preparing and obtaining the Second Schedule, if you decide not to sign the HP agreement. The Second Schedule statement is also not binding on you yet. If you agree to take the HP financing, you will need to enter into a HP agreement with your banking institution.

### **THE HP AGREEMENT**

You should receive the HP agreement within 14 days after you have signed it.

The HP agreement must have the following information:

- Description of motor vehicle;
- Computation of the total sum payable;
- Minimum deposit;
- Term charges and annual percentage rate for term charges;
- Late payment charges;
- Date on which hiring commences;
- Number of instalment repayments;
- Amount of each instalment repayment;
- Person to whom repayments are to be made, time and place of repayments; and
- Address where the motor vehicle is to be kept.

You do not need to engage a lawyer when entering into a HP agreement. However, do ensure that the particulars in the agreement are similar to the Second Schedule statement received earlier.

### **MINIMUM DEPOSIT**

The minimum deposit is 10% of the cash price of the motor vehicle. However, your banking institution may ask for a higher deposit at its discretion.

## TERM CHARGES AND LATE PAYMENT CHARGES

The HP Act sets the maximum term charges and late payment charges allowed.

	<b>Fixed rate financing</b>	<b>Variable rate financing</b>
<b>Term charges (max.)</b>	Not more than 10% flat per annum. Term charges are calculated on initial amount financed over the entire HP tenure.	Not more than 17% per annum. Term charges are calculated at a margin percentage above the base lending rate (BLR) of the banking institution.
<b>Late payment charges (max.)</b>	Not more than 8% per annum calculated on a daily basis on overdue instalments.	A rate of 2% above the prevailing rate of term charges imposed.

## GUARANTOR

The need to have a guarantor for HP financing would depend on the banking institution's credit assessment of your ability to repay the instalments. If you default on your repayment, the guarantor is liable for the unpaid portion of the HP financing and the interest due. A person who agrees to be a guarantor will need to sign a letter of guarantee. He will also be given a copy of the HP agreement within 14 days after the agreement is signed.

## INSURANCE

Your banking institution will arrange for an insurance cover for the motor vehicle for first year. For subsequent years, you will need to get the insurance yourself. In practice, most banking institutions would need a comprehensive insurance policy on the motor vehicle.

## FIXED RATE FINANCING

### Calculation of term charge and HP instalments

**Term charges** on a fixed rate HP financing is calculated on the **initial amount financed**. See example:

Amount financed	RM50,000
Term charges (Interest rate)	10% per annum
Tenure (Repayment period)	5 years (60 months)
Interest charged	(Amount financed) x (Rate) x (Years) = RM50,000 x 10% x 5 = RM25,000
Annual percentage rate	= 17.3%

The monthly instalments is calculated as follows:

$$\begin{aligned}
 &\text{Monthly Instalment} \\
 &= \frac{\text{Amount financed} + \text{Total interest on amount financed}}{\text{Repayment period (months)}} \\
 &= \frac{\text{RM50,000} + \text{RM25,000}}{60} \\
 &= \frac{\text{RM75,000}}{60} \\
 &= \text{RM1,250}
 \end{aligned}$$

Since term charges are calculated on the initial amount financed, you will get a rebate on the term charges if you repay in full the balance due under the HP agreement.

Using the earlier example, where your HP tenure is 5 years (60 months) and you would like to pay off your loan after paying 48 monthly instalments, you will get a rebate on the term charges for the remaining 12 months (i.e. 60 months - 48 months = 12 months). The calculation of rebate is as follows:

Total term charges on the amount financed is RM25,000.

Calculation of rebate on interest:

Rebate on interest

$$= \frac{\text{RM}25,000 \times (1 + 2 + 3 + \dots + n)}{(1 + 2 + 3 + \dots + k)}$$

where:

n = remaining repayment period (in months)  
i.e. 12 months

k = original repayment period (in months)  
i.e. 60 months

$$\begin{aligned} \text{Rebate on interest} &= \frac{\text{RM}25,000 \times (1 + 2 + 3 + \dots + 12)}{(1 + 2 + 3 + \dots + 60)} \\ &= \frac{\text{RM}25,000 \times 78}{1,830} \\ &= \text{RM}1,066 \end{aligned}$$

## VARIABLE RATE FINANCING

Term charges on variable rate financing are calculated on the outstanding balance at the end of the month.

## FIXED OR VARIABLE RATE HP FINANCING?

In variable rate financing, your interest repayments will vary according to the movements of the BLR. If BLR increases, your term charges will increase, resulting in a higher monthly instalment. However, if BLR reduces, your repayments will be lower due to lower term charges. You will have to decide which mode is more beneficial to you based on your expectation of how the interest rate will move in the future.

## REPOSSESSION

Your banking institution can repossess the motor vehicle hired to you when:

- You default in two successive monthly instalments or the final instalment;  
or
- In the case where the hirer is deceased, defaults in four successive monthly instalments.

## **STEPS TO REPOSSESSION**

### *Step 1: Pre-repossession notice*

A pre-repossession notice (Fourth Schedule) will be served on you (personally delivered or send by registered mail to your last known address) and your guarantor. This is a 21 days notice in writing from your banking institution to inform you that it intends to repossess the vehicle. This will be followed by a second notice, 14 days after the Fourth Schedule notice.

#### **What can you do?**

You have two choices, both of which must be acted upon before the expiry of the 21 days stated in Fourth Schedule notice to avoid repossession:

- Pay the outstanding arrears as stated in the Fourth Schedule notice; or
- Return the motor vehicle to your banking institution and pay any outstanding debt.

### *Step 2: Repossession of your vehicle*

Upon the expiry of 21 days stated in the Fourth Schedule notice, repossession is allowed if you fail to pay the outstanding arrears.

### *Step 3: Post-repossession notice*

Upon repossession of the motor vehicle, your banking institution will send a notice in writing informing you that it has taken possession of the vehicle. This will be followed by a Fifth Schedule notice to you and your guarantor within 21 days after the repossession has taken place.

#### **What can you do?**

You have three options, all of which must be acted upon before the expiry of the 21 days as stated in the Fifth Schedule notice.

- Pay all outstanding arrears and out of pocket expenses (includes cost of storage, repair or maintenance, cost of repossession and re-delivery) incurred by the banking institution to take back possession of the motor vehicle; or
- Repay in full, the balance due and settle all out of pocket expenses (includes cost of repossession, storage, repair or maintenance); or
- Introduce a buyer to purchase the motor vehicle at the price indicated on the notice.

#### *Step 4: Notice on disposal of motor vehicle*

If the amount due under the Fifth Schedule notice is not paid within 21 days after the Fifth Schedule notice, your banking institution can sell the motor vehicle through a public auction by giving you a notice 14 days before the date of the auction or conduct a private sale to sell the motor vehicle.

#### *Step 5: Selling the motor vehicle*

Sale of the motor vehicle can take place after the 14 days given in the notice in Step 4. As auction prices are based on forced sale value, it will be lower than the prevailing market value. The auction price may also reduce at each subsequent auction carried out. If proceeds from the sale of the motor vehicle are inadequate to pay the outstanding amount due, your banking institution will recover the shortfall from you. You will also need to bear the auction expenses.

### **REPOSSESSION PROCEDURES IN SUMMARY**

See Appendix 1.

## **WHO CAN REPOSSESS?**

Repossession of motor vehicles are generally carried out by reposseors who are registered members of the Association of Hire Purchase Companies Malaysia (AHPCM). All reposseors must comply with the rules set by AHPCM when carrying out their duties. Among others, the rules required a reposseor to:

- Show hirer the Repossession Order and his authority card issued by the banking institution before he repossesses the motor vehicle;
- Obtain permission of the resident/hirer before he enters into the premises to repossess the motor vehicle;
- At all times appear and act in a professional manner;
- Not use strong arm tactics and force when carrying out his duties;
- Give hirer enough time to clear his personal belongings from the motor vehicle to be repossessed;
- Immediately make a police report after he has repossessed the motor vehicle and bring it to the place indicated by the banking institution.

## **ADVICE TO HIRERS**

### **Your rights**

- To receive a copy of the HP agreement.
- To obtain any information regarding the account.
- To request a statement of outstanding balance (once every 3 months).
- To settle early the full outstanding amount.
- To terminate the agreement at any time.

### **YOUR RESPONSIBILITES**

- Read all the fine print in the written agreement.
- Check that the purchase price and HP terms in the agreement are as agreed. Do not sign blank or incomplete agreement/ forms.

- Ensure that you can afford the instalment payments for the duration of the HP financing and pay your instalments on time.
- Know your rights and obligations under the HP contract so that you do not commit any actions leading to a breach.
- Keep all documents pertaining to the HP financing such as agreement, receipts, etc. in a safe place.
- Not to remove, sell or dispose off the motor vehicle without the consent of your banking institution.
- Inform your banking institution of any change of address.
- Insure the motor vehicle after the first year and to update your banking institution within 14 days before the current policy expires.

### **RIGHTS OF YOUR BANKING INSTITUTION**

The rights of your banking institution include:

- To repossess the motor vehicle when you default in payment.
- To ask you to insure the motor vehicle.
- To charge you any fees relating to the enforcement of the HP agreement.

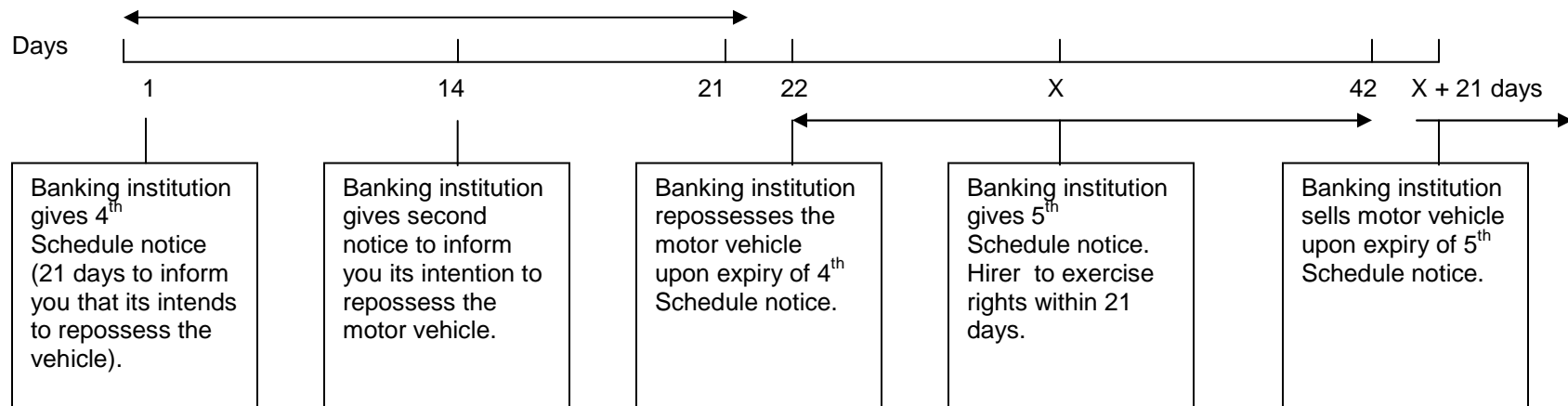
### **RIGHTS OF A GUARANTOR**

A guarantor under a HP agreement would have the following rights:

- To receive a copy of the HP agreement.
- To be discharged from liability once the amount due is fully paid.
- To take legal action against the hirer for breach of obligation.
- To be indemnified by the hirer against claims by the banking institution after he has paid the amount due.

## Appendix 1

### REPOSSESSION PROCEDURES IN SUMMARY



Note: X is the day the banking institution sends the Fifth Schedule notice which must be within 21 days from the date the motor vehicle was repossessed.

## **FREQUENTLY ASKED QUESTIONS**

### **How much can I borrow from the banking institution?**

The margin of financing will depend on your credit standing subject to a maximum of 90% of purchase price or any other lower margin of financing fixed by the banking institution.

### **What is the minimum deposit required?**

The minimum deposit is 10% of purchase price. However, a banking institution may fix a higher amount.

### **What are the term charges for a HP facility?**

The maximum term charges for a HP facility under fixed rate financing is 10% flat per annum while term charges for variable rate financing will be quoted at a margin above the base lending rate of the lending banking institution.

### **Do I require a guarantor for my HP facility?**

The need for a guarantor depends on the credit assessment of the banking institution. The guarantor should be one who is acceptable to the banking institution.

### **What should I do if the guarantor or I did not get a copy of the HP agreement 14 days after entering into the agreement?**

You should contact your banking institution to get a copy of the agreement.

### **Can my banking institution insist that I insure with an insurance company on its panel?**

You can either insure with an insurance company on the panel of your banking institution or an insurance company of your choice. Normally, a banking institution has at least four insurance companies on its panel for the convenience of its hirers.

### **Can I keep the motor vehicle registration card to enable me to renew my road tax upon expiry?**

Generally, banking institutions will keep the registration card until the HP financing has been fully settled in order to prevent any inconveniences that may arise due to damage, misplacement or theft of card. As such for the convenience of their hirers, most banking institutions will provide insurance and road tax renewal services to their hirers.

**Can I modify the monthly repayment amount if I have financial difficulties?**

This is subject to your banking institution's discretion and you are advised to discuss the matter with your banking institution.

**What happens if I settle my fixed rate HP financing earlier than the date originally agreed upon?**

If you settle your outstanding balance earlier, you are entitled to a rebate on the term charges.

**When can my banking institution repossess my motor vehicle?**

Under a HP agreement, a banking institution can repossess a motor vehicle after the hirer had defaulted two successive instalments or the final instalment.

**What is the time limit for banking institutions to repossess the motor vehicles after serving the Fourth Schedule notice?**

Banking institutions can repossess the motor vehicles anytime after 21 days from the date the Fourth Schedule notices were served if the overdue instalments are not paid.

**How do I determine the identity of the reposessor?**

The reposessor will have to show you an authority card, which has the name and address of the reposessor and your banking institution, nature of appointment of the reposessor and the signature of an authorised representative of your banking institution.

**How do I get my motor vehicle back after it was repossessed by my banking institution?**

After the repossession, your banking institution will issue you a Fifth Schedule notice. This notice gives you a chance to settle the amount outstanding within 21 days. You can get the motor vehicle back provided that, before the expiry of 21 days, you:

- pay all outstanding arrears with interest due and the costs incurred by the banking institution (costs of storage, repair or maintenance, repossession and re-delivery); or
- settle the balance in full including the costs of repossession, storage, repair or maintenance.

**When can the banking institution sell the repossessed motor vehicle?**

The banking institution can sell the repossessed motor vehicle when the hirer does not make any payment after the 21 days stated in the Fifth Schedule notice.

**Can I introduce a prospective buyer to buy the repossessed motor vehicle?**

Yes. Before the expiration of the Fifth Schedule notice, you can introduce a buyer to buy the repossessed motor vehicle at the price indicated in the Fifth Schedule notice.

**Whom and where can I complain if I am not satisfied with the manner in which my motor vehicle was repossessed?**

You may lodge your complaint with the banking institution. Alternatively, you may also lodge your complaint with the Association of Hire Purchase Companies Malaysia at the address below:

Unit 605 Block C,  
Phileo Damansara 1,  
No. 9 Jalan 16/11,  
Off Jalan Damansara,  
46350 Petaling Jaya, Selangor

**If I have defaulted on the monthly instalments, can my banking institution claim from the guarantor?**

Yes. Your banking institution can claim the payment from the guarantor because the guarantor has agreed to undertake the liability to repay your debt in the event of your default.

**What are the rights and responsibilities of a guarantor under the HP Act?**

A guarantor has the following rights under a HP agreement:

- To receive a copy of the HP agreement.
- To receive all notices on payment issued by the banking institution to the hirer.
- To be discharged from liability once the amount due to the banking institution is fully paid.
- To take legal action against the hirer for breach of obligation.
- To be indemnified by the hirer against claims by the banking institution after paying the amount due.

**Can my banking institution claim any amount from me after the repossessed motor vehicle is sold?**

Yes. If the proceeds from the sale of the repossessed motor vehicle are not enough to cover your liabilities, your banking institution can claim the amount outstanding from you.

**Do I still have to pay my monthly instalments if my motor vehicle is stolen?**

Yes. This is because your liability to pay the monthly instalment does not cease with the loss of your motor vehicle. However, you may claim from the insurance company, the market value of the insured motor vehicle or the sum insured, whichever is lower.

**What happens to the HP agreement in the event of the death of the hirer?**

If the personal representative has obtained a Letter of Administration or Grant of Probate, the rights, title and interest will be transferred to the personal representative who will take over the responsibilities of the hirer. Otherwise, the banking institution will repossess the motor vehicle after defaults in four successive monthly instalments.

**How can I transfer/sell/part possession of the motor vehicle to a third party even though the motor vehicle is still financed under my name?**

It is illegal to transfer/sell/part possession of the motor vehicle without the permission of your banking institution, who is the legal owner. If you do so, you may incur substantial losses and penalties as you are still fully responsible for the liability and losses incurred. Ensure that you have fully settled your HP debt before you sell your motor vehicle. If you wish to use the proceeds of the sale of your motor vehicle to pay the outstanding balance of your HP financing, get the consent of your banking institution to sell the motor vehicle and arrange for the proceeds of the sale to be paid directly to the banking institution to settle your outstanding balance. If there is any shortfall, you will be responsible for repaying the balance. If there is a surplus, it will be refunded to you by the banking institution.