

## GENERAL TERMS AND CONDITIONS FOR CREDIT SALE

1. It is agreed that payment will be made to Wadsco Motorworld Ltd by the 20<sup>th</sup> of the month following date of invoice.
2. It is acknowledged that Wadsco Motorworld Ltd will provide credit only so long as it remains satisfied at the creditworthiness of the account. And at anytime without prior notice withdraw credit and require payment in full in cash or any order, should it feel necessary to do so.
3. It is acknowledged that if payment is not made by due date that a default has occurred and Wadsco Motorworld Ltd shall be paid all costs and/or expenses incurred-to recover such amounts overdue monies by any other legal process.
4. The Purchaser also agrees to pay any interest which may be charged, at the rate of 2.5% per month, calculated daily. Such interest does not constitute an extension of the due date for payment, and accordingly does not preclude any rights of Wadsco Motorworld Ltd to seek recovery of overdue monies by any other legal process.
5. All goods/services supplied will remain the property of Wadsco Motorworld Ltd until payment in full or to Wadsco Motorworld Ltd's satisfaction. And that Wadsco Motorworld Ltd is hereby given by the purchaser the irrevocable right, without necessity of notice to enter onto premises occupied by the purchaser to search for and retake possession of any goods/services that Wadsco Motorworld Ltd has ownership of as stated in this agreement and to hold such goods/services until the conditions herein are met without liability. Wadsco Motorworld Ltd are also entitled to dispose of any repossessed goods/services to defray payment and take legal steps to recover any deficiency.

Unless agreed to in writing payment is due in full on the 20<sup>th</sup> of the month following invoice. Otherwise the above terms and conditions agreed to by the purchaser and Wadsco Motorworld Ltd herein will be introduced.

Parts ordered ex overseas at instruction of the customer and all electrical parts are not eligible for credit. Other parts returned for credit within 5 working days and in n condition will be accepted with a 10% of goods cost.

## RISK TITLE & LIABILITIES

- a) The risk in the goods supplied by the seller to the purchaser shall pass to the purchaser upon delivery but the ownership in them shall not pass to the purchaser until the purchaser has paid for the same and discharged all outstanding indebtedness to the seller whatsoever. Receipt by the seller of any cheque or other bill of exchange or any promissory note shall not be deemed to be payment or conditional payment until the same has been honoured or cleared and until such time all not prejudice or affect the sellers' rights, powers or remedies against the purchaser and/or the goods.
- b) In the event that the purchaser is not purchasing the goods for the purchaser's own use or consumption then until payment in full of the purchase price and all outstanding indebtedness has been made, the purchaser acknowledges and agrees as follows:
  - 1) that the goods supplied are held by the purchaser as bailee to be sold by it as agent for and on behalf of the seller;
  - 2) that the purchaser shall if directed by the seller store the goods supplied in such a way that it is clear that they are the property of the seller;
- c) Goods/services are supplied with all conditions, warranties and limitations implied by law and in any written warranties, and that oral warranties are excluded. Wadsco Motorworld Ltd shall not be liable for consequential loss, whether intentional, accidentally or by act of god.

It is acknowledged that unless otherwise contracted, in all cases the liability of Wadco Motorworld Ltd is strictly limited to replacing any goods/services proved to be defective or crediting the purchaser with an amount not exceeding the price charged for same.

(3) Goods services returned for claim will be subject to the terms and conditions of replacement goods/ services and labour charges as laid out by Wadco Motorworld Ltd's suppliers and /or their agents.

## CONDITIONS OF SALE – PARTS AND SERVICE

**1. Returns:**

All goods returned are subject to a 20% handling charge.

**2. Procured Items:**

"Procured" items are not returnable including Air Freight and Special Indent orders.

**4. Warranties:**

The Company gives no warranty on any product or service performed beyond that offered by the manufacturer or supplier. The judgement of the manufacturer or supplier as to the validity of any claim is final and binds both the Company and purchaser.

**5. Non Genuine Parts and Accessories:**

Non genuine parts and accessories are not covered by manufacturers warranties and may impact on the performance, specifications or quality of the vehicle.

**6. Consumer Guarantees Act:**

Except for the clause below nothing in this agreement limits the rights you may have under the Consumer Guarantees Act 1993. Business Uses: If any goods purchased are for use in, or purpose of, a business in any way, or you held yourself out as acquiring the goods for use in, or purposes of, a business in any way, you agree to the following terms:

- (a) The guarantees set out in the Sales of Goods Act 1908 and the Consumer Guarantees Act 1993 will not apply and are excluded from this agreement.
- (b) You may not claim any of the remedies set out in the Consumer Guarantees Act 1993 from the Company or from the manufacturer of the vehicle or from any manufacturer of any components or parts in the vehicle.
- (c) Neither the Company, nor the manufacturer(s) of the goods or any of its components, will be liable to you for any consequential loss or damage however that loss or damage is caused or arises. This exclusion of liability includes, but is not limited to, consequential loss or damage caused by or arising from negligence (including failure to do something which should have been done or to prevent something from happening), faulty design and faulty material, equipment or a component part in the goods. The exclusion also includes costs incurred in returning the goods to the Company or to any manufacturer.

**7. Liability:**

The Company's liability in the event of a valid claim will not exceed the sale price of the goods concerned.

The Company is not responsible for any damage resulting from the goods being:

- (a) fitted by unqualified tradesmen;
- (b) fitted in an untradesmanlike manner;
- (c) adapted to a use for which they were not intended.

**8. Deliver:**

All goods are consigned by the best route and become the purchaser's responsibility at the time they leave the Company's premises.

**9. Insurance:**

Insurance is the purchaser's responsibility.

**10. Packing:**

Whilst every care is taken in packing we can accept no responsibility for goods in transit.

**11. Parts Procured from Other Sources:**

Freight costs incurred in procuring parts from other sources and incidental expenses are the purchaser's responsibility.

**12. Terms of Payment:**

Net cash, unless prior arrangements made for payment, by the 20<sup>th</sup> of the month following date of invoice.

**13. Interest:**

The Company reserves the right to charge interest and collection costs on overdue accounts without specific or prior notice.

**14. Title:**

Title for the goods purchased remains with the supplier until all amounts owing in respect of such purchases have been made in full.

**15. Disputes:**

All queries or disputes in respect of work performed must be communicated to the Company within within 14 Days of the work being performed.

**16. Other Terms and Condition:**

Apart from transactions governed by either the Motor Vehicle Dealers Act, the Hire Purchaser Act, or the Consumers Guarantee Act 1993, the Company recognises no other terms of conditions than those stated above.

## TERMS AND CONDITIONS OF SALE – MOTOR VEHICLE

**1 MOTOR VEHICLE TRADER:** wherever used the term "Motor Vehicle Trader" shall mean the vendor Motor Vehicle Trader as defined under the Motor Vehicle Sales Act 2003.

**2 DELIVERY:** The Motor Vehicle Trader will deliver the vehicle to the Purchaser at the time on the day or so soon thereafter as is reasonably possible and the Purchaser will take delivery thereof forthwith upon it becoming available. The Motor Vehicle Trader shall not be liable for non-delivery nor for delay in delivery on the part of the Motor Vehicle Trader from whatever cause nor for any direct or consequential loss or damage arising there from.

### **3 TITLE and POSSESSION:**

3.1 The Purchaser shall acquire possession of the vehicle on the express condition that title to the vehicle shall be retained by the Dealer and shall not pass to the Purchaser until:

3.1.1 All monies owing by the Purchaser under this Agreement have been paid, including payment of any cheque on presentation.

The Trade-in (if any) has been delivered to the Dealer in accordance with Clause 4 below, together with the Certificate of Registration, Vehicle Inspection Certificate, and properly executed Transfer of Ownership.

All documents required in respect of any balance of payment outstanding are properly executed by the Purchaser and any other party:

3.1.2 All of the Purchaser's obligations contained or implied in or arising out of this Agreement have been duly and completely performed.

2. Until such time as Title to the Vehicle passes to the Purchaser in accordance with 3.1:

2.1. The Purchaser will hold the vehicle on trust for the Dealer as bailee of the Dealer;

2.2. If the Purchaser is in default of any of its obligations under this Agreement the Dealer, or the Dealer's agent, may enter into or upon any buildings or premises owned, occupied, used by or under the control of the Purchaser where the vehicle is situated and retake possession of the vehicle.

2.3. The Purchaser shall not deal with the vehicle including attempting to sell, selling, or charging the vehicle in any way or giving any interest in the vehicle to any party, whether by way of security or otherwise;

2.4. Where contrary to the terms of this agreement the Purchaser is in breach of its duty under 3.2.3 above, the Dealer shall not be liable in any way to any person with whom the Purchaser so deals;

2.5. Where contrary to the terms of this Agreement the Purchaser sells or otherwise deals with the vehicle, the Purchaser shall hold the entire proceeds of sale or other dealing in respect of the vehicle in trust for the Dealer;

2.6. The Purchaser shall insure and keep insured the vehicle to the full purchase price against all risks for the benefit of the Dealer.

3. Notwithstanding 3.1 and 3.2 above the Dealer shall be entitled to take action against the Purchaser for the price of the motor vehicle.

**4 TRADE IN:** Subject to the provisions of this clause, the Motor Vehicle Trader's willingness to accept the vehicle described as the Trade-in is conditional upon the Motor Vehicle Trader obtaining unencumbered title to it and on compliance by the Purchaser with condition 3.2.2 above and further upon the Trade-in being delivered to the Motor Vehicle Trader in at least the same or better condition as when inspected by the Motor Vehicle Trader and carrying a Warrant of Fitness issued not more than 30 days prior to the date of delivery to the Motor Vehicle Trader. If the Purchaser fails to deliver the Trade-in in accordance with the foregoing conditions, the Motor Vehicle Trader may nonetheless require the Purchaser to complete the purchase from the Motor Vehicle Trader in accordance with the terms set out in this agreement save that the Purchaser shall pay the Net Allowance for the Trade-in in cash except insofar as the Motor Vehicle Trader may agree to finance the same to the extent permitted by law as additional Balance Outstanding. If the Purchaser fails to complete the purchase from the Motor Vehicle Trader, the Motor Vehicle Trader shall be entitled to cancel this contract entirely or to require the Purchaser to sell the Trade-in to the Motor Vehicle Trader for a price equivalent to the Net Allowance and otherwise on the conditions hereinbefore set out.

**5 RISK:** The goods shall be and remain at the Purchaser's risk in all respects as from the time when the Purchaser receives delivery of same.

**6 PURCHASER'S ACKNOWLEDGEMENT:** The Purchaser acknowledges that the Trade-in has been made freely and has not been demanded of the Purchaser as a condition of sale.

**7 TITLE:** Title to any Trade-in shall not pass to the Motor Vehicle Trader until delivery thereof to the Motor Vehicle Trader.

**8 DEPOSIT ON SIGNING:** The amount shown as the Deposit on signing is the consideration binding the parties to this Agreement. The amount shall be applied against the purchase price. In the event that the Agreement becomes unconditional and the Purchaser does not complete the transaction, the deposit shall be forfeited to the Motor Vehicle Trader.

**9 SPECIAL CONDITIONS:** This Agreement shall be conditional only on any condition specifically endorsed on the face of this Agreement as a Special Condition. On the fulfillment of the Special Conditions and in the absence of any Special conditions this Agreement is unconditional.

**10. CONDITIONS RELATING TO NEW STOCK:**

- 10.1 AVAILABILITY OF STOCK: The Motor Vehicle Trader shall not be bound to import goods to fulfill this contract. If at the same time of delivery the Motor Vehicle Dealer has no or insufficient stocks in New Zealand, the Motor Vehicle Trader shall be excused from performance.
- 10.2 ALTERATION IN PRICES: The Motor Vehicle Trader's prices may be altered at any time and all goods, components and parts thereof, and other products are sold subject to the prices ruling at the time of delivery. In the event of the total gross cost on the date of delivery being greater than that shown on the face hereto this Order shall be construed as if the total gross cost at the date of delivery was substituted for the total cost shown on the face hereto. In any such event the Purchaser shall have the option within 24 hours of receiving notification of such price increase of canceling the order and having the cash deposit refunded and the Trade-in, if any, returned, provided that where the Trade-in has been sold or otherwise disposed of, the Purchaser shall be entitled only to the amount set out on the face hereto as the allowance on the Trade-in in lieu of its return.
- 10.3 ALTERATIONS IN SPECIFICATION: In the event of any alteration by the manufacturer or assembler in the design of specification of any model the Motor Vehicle Trader shall be entitled but not bound to deliver goods conforming to the altered design or specification in fulfillment of any order.
- 10.4 WARRANTIES AND CONDITIONS: Where this contract is a supply for business purposes in terms of the Consumer Guarantees Act 1993 and subject to the Motor Vehicle Sales Act 2003, it is expressly agreed that no representation of warranty or promise, expressed or implied, applies to this Agreement or the sale to be effected pursuant to it other than the manufacturer's written warranty (if any) given to the purchaser on delivery.

**11 WARRANTY CONDITIONS RELATING TO SECONDHAND MOTOR VEHICLES:**

- 11.1 Consumer Guarantees Act 1993: The statutory warranties given in the Consumer Guarantees Act 1993 apply in this contract.
- 11.2 Betterment: Repair of a defect may involve work or replacement of a necessary part which increases the running life and/or value of the vehicle. This is called a betterment increment. Where work done either by the Dealer or the Purchaser results in a betterment increment the Dealer is entitled to recover such sum from the Purchaser, or to refuse to pay such sum to the Purchaser, whichever is applicable provided:
- (a) The cost of repairs exceeds \$300.00
  - (b) The betterment increment exceeds \$200.00
  - (c) Where the work is done by the Dealer, the Dealer has given written notice to the Purchaser and obtained his written consent to such work. If the Purchaser refuses to give such consent, the Dealer no longer has an obligation to repair or make good the defect.
  - (d) Where the work is done by the Purchaser, the Purchaser has given written notice to the Dealer of his intentions to carry out such work and has given him a reasonable opportunity to inspect the vehicle prior to commencing the work.

**12 OBTAINING AND RELEASING INFORMATION- THE PRIVACY ACT 1993:** Information as to credit worthiness and manufacturer's customer satisfaction indexes.

- 12.1 The purchaser consents to the Motor Vehicle Trader, any financier, or credit-rating agency or Manufacturer or Distributor making enquiry of and obtaining any information from any person whatsoever about the financial standing and credit worthiness of the Purchaser.
- 12.2 The purchaser hereby requests and authorises any person from whom the Motor Vehicle Trader, financier or credit-rating agency or Manufacturer or Distributor request such information to provide that information:
- 12.3 The Purchaser agrees that the Motor Vehicle Trader, financier or credit rating agency or Manufacturer or Distributor may supply any information about the financial standing and credit worthiness of the Purchaser, however obtained, to any other person whom the Motor Vehicle Trader, financier or credit-rating agency or Manufacturer or Distributor considers has a legitimate interest in such information;
- 12.4 The Purchaser agrees that the authorisations, consents and requests contained in this agreement shall continue in favour of the Motor Vehicle Trader, financier, or credit-rating agency or Manufacturer or Distributor as long as those persons have a legitimate interest in the information which is subject to those authorisations, consents and requests.

**13 UNINVITED DIRECT SALES**

- 13.1 An "uninvited direct sale agreement" is defined in section 36K of the Fair-Trading Act 1986 (the FTA) ("uninvited Direct Sale Agreement"). Subject to that statutory definition, Uninvited Direct Sale Agreement

means (to summarise in broad terms, without limiting the full statutory definition) an agreement for the supply, in-trade, of goods and services to a consumer –

(a) that is made as a result of negotiations (whether they are the only negotiations that precede the making of the agreement) between the supplier and the consumer, in person in the consumers home or workplace, or over the phone where the supplier was not invited (by the consumer) to come to their home or workplace, or to make the telephone call, to negotiate the supply of goods and/or services; and

(b) where the price paid or payable by the consumer under the agreement is more than \$100; or cannot be ascertained at the time of supply (regardless of whether the price ultimately paid or payable is \$100 or less).

13.2 Consumers may cancel an Uninvited Direct Sale Agreement pursuant to section 36M of the FTA;

(a) within five (5) working days of the agreement date; or

(b) at any time, if the Trader has failed to comply with the disclosure requirement in section 36L of the FTA (including obligations as to the form and content of such agreements, provision of copies to the consumer and notice of consumer's rights to cancel) unless the Trader's failure is "minor"; and

(c) notice of cancellation or notice of an intention to cancel or withdraw from the agreement, can be given either in writing or orally to the Trader, using the Trader's contact details on the front page of this VOSA.

13.3 I/we acknowledge that the Trader has orally informed me/us of our rights to cancel the agreement in accordance with the FTA as outlined above; and confirm that I believe this:

i. was an Uninvited Direct Sale; or

ii was not an Uninvited Direct Sale

Purchaser; \_\_\_\_\_  
(Purchaser to delete one and sign)

**NOTE TO THE PURCHASER:**

Nothing in this agreement shall limit or abrogate the Purchaser's rights and remedies under the Consumer Guarantees Act 1993 except to the extent that:

- (a) Contracting out is permitted under the Act; and
- (b) That the Act is contracted out of this Agreement.

**Initials** \_\_\_\_\_