

TRUCK CENTRE (WA) PTY LTD TERMS AND CONDITIONS OF CREDIT AND SUPPLY

These terms ("**Terms**") apply to all contracts between the Supplier and the Customer for the provision of credit and for provision of vehicle servicing work and maintenance and mechanical repair services ("**Services**") and the sale, supply and installation of all goods, including vehicle consumables and replacement parts ("**Goods**").

1. **Information.** The Customer hereby warrants that the information in Part 1 is true accurate and correct and is supplied for the purpose of obtaining credit.
2. **Customer Consent.** The Customer consents to the provision of the information contained in Part 1 to credit reporting agencies. The Customer authorises the Supplier to obtain from a credit reporting agency a credit report containing personal credit information about the Customer and to use a credit report containing information about the Customer's commercial activities or commercial creditworthiness to assess this credit application.
3. **Consent to Exchange Information.** The Customer authorises the Supplier to provide, receive and exchange information about the Customer's creditworthiness, credit standing, credit history and credit capacity to and with other credit providers. This information may be used to:
 - (a) assess the Customer's credit application;
 - (b) assist the Supplier in avoiding default on the Customer's credit obligations;
 - (c) notify other credit providers of a default by the Customer; and
 - (d) assess Customer's creditworthiness.
4. **Acceptance of Terms.** The Customer's submission of a credit application and/or the purchase of Services or Goods will constitute acceptance by the Customer that these Terms as updated from time to time by the Supplier govern the provision of Services and Goods. The Customer will be provided at least 14 days written notice of such updates to these Terms.
5. **Estimates.** All estimates for Services and for Goods provided by the Supplier are general indications only of the expected Price for Services or for Goods. Estimates are subject to any material fluctuation in the input prices and exchange rates relating to Goods and any unanticipated increase in time or cost necessary to provide Services. The Supplier will provide written notice to the Customer of any material variation to an estimate as soon as reasonably practicable after becoming aware of such variation. If the variation exceeds 5% of the original estimate, the Customer may elect to cancel the order for the affected Services or Goods without penalty by providing written notice to the Supplier within 5 business days of receiving notice of the variation.
6. **Freight.** Freight costs are not included in the prices quoted for Goods. Freight charges will either be charged to the Customer's account with a designated carrier or will be charged to the Customer at the Supplier's standard rates where the Supplier delivers the Goods by its carrier.
7. **Mistake.** The Supplier reserves the right to correct mistakes in any estimate by giving written notice to the Customer at any time prior to the provision of Services or delivery of Goods. The Customer may accept or decline the corrected estimate by giving written notice to the Supplier within 5 business days of receiving the correction. If the Customer does not respond within this period, the Customer is deemed to have declined the corrected estimate, and the Supplier may choose whether to proceed with the original estimate or cancel the order without penalty to either party.
8. **Payment.** All supplies of Goods to Customers are on a cash sale basis unless credit terms have been agreed to in writing, which will be on the following terms:
 - (a) All accounts are to be settled in full within 30 days from end of month in which completed Services/Goods have been provided and in which a valid tax invoice has been issued whichever is the later.
 - (b) If an amount owing by the Customer under these Terms is not paid when due, the Supplier may charge the Customer simple interest on that amount calculated at the official cash rate plus 2% per annum for the period from (and including) the due date for payment to (but excluding) the date the amount is paid. The charging of interest does not limit any other rights the Supplier has against the Customer for default in payment.
 - (c) Any reasonable expenses, costs or disbursements reasonably incurred by the Supplier in recovering any outstanding monies including reasonable debt collection agency fees and solicitor's costs on a solicitor-client basis shall be paid by the Customer, to the extent permitted by law.
 - (d) The Supplier may require additional security from the Customer where the Supplier reasonably believes there is a material adverse change in the Customer's creditworthiness and may withhold supply of Goods until acceptable security has been provided by the Customer.
9. **Delivery.** Delivery dates are approximate and the Supplier will not incur any liability to the Customer arising from any delay in delivery of Goods caused by circumstances beyond the Supplier's reasonable control, except to the extent such liability cannot be excluded by law. Delivery takes place at the Supplier's premises upon handover of the Goods to a carrier notwithstanding that the carrier may be an employee or agent of the Supplier.
10. **Title and Risk.** Risk in relation to Services and Goods passes to the Customer on delivery. Title to Goods does not pass to the Customer until full payment for the Goods has cleared in the account of the Supplier.
11. **Claims.** Any claim by a Customer for faulty provision of Services or Goods must be in writing and given to the manager of the Supplier as soon as practicable after the Customer becomes aware of such fault but in any event within 3 business days.
12. **Liability.** Subject to any rights the Customer may have under the Australian Consumer Law or other applicable law that cannot be excluded, the Supplier's liability to the Customer in relation to the Goods for any claim arising from breach of contract or negligence will not exceed the price paid for the relevant Services/Goods. The Supplier will not be liable for any indirect or consequential loss or damages, including (but not limited to) loss of profit, business revenue, goodwill, or anticipated savings, except to the extent such liability cannot be excluded by law.
13. **Indemnity.** The Customer indemnifies the Supplier against any loss or expense directly arising from the Customer's breach of this Contract or the Customer's negligent acts or omissions. The Customer indemnifies the Supplier against any claims made by a third party in respect of personal injury, death or property damage caused by the Customer, but only to the extent such claims do not arise from the Supplier's negligence or breach of consumer guarantees.
14. **Warranty.** Subject to the Customer's rights under the Australian Consumer Law which cannot be excluded, should the Goods or Services be defective, the Supplier may elect to remedy the defect by:
 - (a) re-supply of the Services and repair of the defective Goods; or
 - (b) the replacement of the Goods; or
 - (c) the refund of the price for the Services/Goods that has been paid by the Customer, upon the Customer returning (at its cost) the defective Goods.
15. **Force Majeure.** If the Supplier is prevented from performing these Terms by an event beyond its control, it may give the Customer written notice, and its obligations under these Terms will be suspended to the extent they are affected by that event provided that the Supplier uses its best endeavours to resolve the event.
16. **No Exclusion.** These Terms do not exclude any provisions required by law to be included.
17. **Severance:** If any of these terms or conditions is or becomes for any reason wholly or partly invalid that term or condition shall to the extent of the invalidity be severed without prejudice to the continuing force and validity of the remaining conditions.
18. **Trust.** In the case of a Customer that is a trust, the trustee of the Customer enters these Terms in its personal capacity as well as in its capacity as Trustee. The Trustee warrants that the trust is lawfully operating and that the assets of the trust shall be available to meet payment of all of the Customer's liabilities under these Terms.
19. **Change of ownership:** The Customer shall notify the other party as soon as reasonably practicable, and in any event no less than 14 days prior to any proposed change in the ownership or control of more than 50% of the shares or voting rights of a party, or a change in the composition of the majority of the board of directors..
20. **Security.** If Chapter 4 of the *Personal Property Securities Act 2009* (Cth) ("**PPSA**") would otherwise apply to the enforcement of a Security Interest (as that term is defined in the PPSA) arising out of this agreement, to the extent permitted by law, the Customer and the Supplier agree that:
 - (a) for the purposes of sections 115(1) and 115(7) of the PPSA:
 - the Supplier need not comply with sections 95, 121(4), 125, 130, 132(3)(d) or 132(4); and
 - sections 142 and 143 of the PPSA are excluded; and
 - (b) for the purposes of section 115(7) of the PPSA, the Supplier need not comply with sections 132 and 137(3) of the PPSA.
21. Notices or documents required or permitted to be given to the Supplier for the purposes of the PPSA must be given in accordance with the PPSA.
22. The Customer consents to the Supplier effecting registration on the Personal Property Securities Register established under the PPSA (PPSR) in any manner the Supplier considers appropriate in relation to any Security Interest arising under or in connection with these Terms and the Customer agrees to provide all assistance reasonably required to facilitate this.
23. The Customer waives the right to receive any notice under the PPSA (including notice of a verification statement) unless the notice is required by the PPSA and cannot be excluded.
24. The Customer further agrees that where the Supplier has rights in addition to those under Chapter 4 of the PPSA, those rights will continue to apply.
25. The Customer irrevocably grants to the Dealer the right to enter upon the Customer's property or premises, without notice, and without being in any way liable to the Customer or to any third party (except if such liability arises out of the Dealer's negligence, wilful misconduct, fraud, or breach of law), if the Dealer has cause to exercise any of its rights under sections 123 and/or 128 of the PPSA, and the Customer shall indemnify the Dealer from claims made by any third party as a result of such exercise.

26. **Director Guarantee.** Where the Customer is a corporation, the directors who execute this Contract on behalf of the Customer may be required to provide a separate personal guarantee in the form attached to this Contract. No personal guarantee will be binding unless executed as a separate deed of guarantee.
27. **Jurisdiction.** The laws of the State of Western Australia apply to this Agreement and all contracts between the Supplier and the Customer, and unless varied by mutual consent all contracts shall be subject to the jurisdiction of the appropriate Courts of Western Australia.