

# Conditions of Sale

## 1. General

- 1.1 This document Contains all the terms of the contract and no amendment hereto shall be valid unless agreed in writing by an authorised official of HTC. Nothing contained in this document is intended to affect or restrict nor shall it affect or restrict the statutory rights of a consumer
- 1.2 In these conditions
- 1.2.1 'Contract' means the contract made by the order set out in the Order Form and the acceptance of the order by HTC;
- 1.2.2 'Customer' means the customer described below;
- 1.2.3 'Manufacturer' means the manufacturer or imported of the Vehicle(s);
- 1.2.4 'Part Exchange Allowance' means the part exchange allowance (if any) described overleaf;
- 1.2.5 'Part Exchange Vehicle' means the part exchange vehicle or vehicles (if any) described overleaf;
- 1.2.6 'HTC' means Heathrow Truck Centre Limited which trades under various trading names in the UK
- 1.2.7 'Order Form' means the Order form relating to a particular vehicle or vehicles;
- 1.2.8 'Vehicle(s)' means the vehicle or vehicles described in an Order Form.

## 2. The Order and basis of the Contract

- 2.1 These conditions ('Conditions') apply to the Contract between HTC and the Customer to the exclusion of any other terms that the Customer seeks to impose or incorporate, or which are implied by law, trade custom, practice or course of dealing.
- 2.2 Any quotation supplied by HTC shall be regarded as an invitation to treat and shall not constitute an offer. Unless otherwise stated, quotations provided by HTC remain valid for 30 days from their date of issue.
- 2.3 The Order constitutes an offer by the Customer to purchase the Vehicles in accordance with these Conditions. The Customer is responsible for ensuring that the terms of the Order and any applicable Specification submitted by the Customer are complete and accurate. In particular the Customer should ensure that the description of the Vehicle(s) in the Order Form is completely accurate.
- 2.4 The Order shall only be deemed to be accepted when HTC issues a written acceptance of the Order, at which point the Contract between HTC and the Customer shall come into existence.
- 2.5 The Customer waives any right it might otherwise have to rely on any term endorsed upon, delivered with or contained in any documents of the Customer that is inconsistent with these Conditions.
- 2.6 Any samples, drawings, descriptive matter or advertising produced by the Manufacturer and any descriptions or illustrations contained in the Manufacturer's catalogues or brochures are produced for the sole purpose of giving an approximate idea of the Vehicle(s) referred to in them. They shall not form part of the Contract nor have any contractual force.
- 2.7 HTC reserves the right to call for a Deposit with the order.
- 2.8 Should the Purchaser cancel or purport to cancel his order after it has been accepted by HTC or fail to take or accept delivery of the goods as provided In Section 3.6. below, then without prejudice to any other right or remedy HTC shall be entitled to require payment by the Purchaser of any costs and expenses incurred by HTC incurred with respect to the Purchaser's order. HTC may retain all or part of any deposit paid by the Purchaser in satisfaction or diminution of any liability attaching to the Purchaser as a result of the cancellation of his order.

## 3. Delivery

- 3.1 HTC will endeavour to deliver the Vehicle(s) by the estimated delivery date described in the Order Form but does not guarantee the time of delivery and time shall not be of the essence.
- 3.2 HTC will notify the Purchaser verbally or in writing that the goods are ready giving the date of availability for delivery. Unless otherwise stated in HTC's acceptance of the order, the Purchaser is wholly responsible for making the necessary arrangement\* for delivery of the goods.
- 3.3 HTC shall not be liable for any damages, costs or other claims of any nature arising out of a delay in delivery
- 3.4 As with all products, the goods may at any time be the subject of alteration In design or specification by their manufacturer(s) and HTC may supply goods conforming to such altered design or specification in fulfilment of an order for goods of a previous design or specification provided always that the altered goods are not materially different from and are designed for the same purpose as the goods ordered.
- 3.5 If HTC are unable to supply any accessory (factory fitted or otherwise) HTC may at their option either substitute a reasonable equivalent or delete the accessory from this contract and reduce the Purchase Price by the price of such accessory and the Customer acknowledges that the inability of HTC to supply an accessory shall not constitute a breach of contract or entitle the Customer to reject the Vehicle(s).
- 3.6 If the Purchaser fails to take or accept delivery, HTC shall be entitled to demurrage charges at the actual rate incurred by HTC per day per unit of the goods while the Purchaser shall be in default. Such charges to be added to and form part of the price of the goods. Should the Purchaser fail to take or accept delivery within the period of 10 working days after the date of availability for delivery HTC shall be entitled to cancel the contract by written notice to the Purchaser and any deposit paid by the customer shall be returned to it and HTC shall have no further liability.
- 3.7 Any employee of HTC who, at the request or with the consent express or implied of the Customer drives any Vehicle(s) to be delivered to the Customer shall be deemed to be an employee of the Customer and the Customer shall discharge and keep HTC indemnified against all liabilities claims and/or incidents to or arising out of such driving.

## 4. Purchase Price

- 4.1 The purchase price ('Purchase Price') for the Vehicle(s):
- 4.1.1 excludes amounts in respect of value added tax (VAT), which the Customer shall additionally be liable to pay to HTC at the prevailing rate, subject to the receipt of a valid VAT invoice; and
- 4.1.2 excludes the costs and charges of delivery to the Customer (if applicable) which shall be payable by the Customer in addition to the Purchase Price.
- 4.2 applicable accessories, road fund licence delivery, car tax current at the date of the order is set out in the Order Form.
- 4.3 If the rate or amount of car tax or import tax or value added tax or the road fund licence changes between the date of order and the date of delivery the Customer shall pay in respect of any such taxes duties or charges the amount which HTC is required to pay in respect of the Vehicle(s)
- 4.4 If the price recommended by the Manufacturer, importer or other supplier for the Vehicle(s) or any part increases before delivery of the Vehicle(s) then if HTC intends to

increase the Purchase Price by the amount of such increase HTC shall serve written notice ('Change Notice') on the Customer specifying the amount of such increase. The customer may within 14 days of receipt of a Change Notice cancel the contract by written notice.

If after a receipt of a Change Notice the Customer gives no written notice of cancellation within 14 days the purchase price specified in such Change Notice by HTC shall be the Purchase Price under this contract.

## 5. Payment of the purchase price

- 5.1 The Customer shall pay the Purchase Price (less the Part Exchange Allowance) and shall take delivery of the Vehicle(s) within 14 days of being informed by HTC that the Vehicle(s) is/are ready for delivery.
- 5.2 If the Customer shall fail to take and pay for the Vehicle(s) within the 14 day period referred to in the preceding sub-clause, HTC may:-
- 5.2.1 take action to recover the purchase price;
- 5.2.2 treat the contract as repudiated by the Customer and thereupon HTC's shall be entitled to recover from the Customer by way of damages any loss or expense which HTC may have suffered. Such damages may be deducted from any deposit which has been paid by the customer and any balance of the deposit returned to the customer.
- 5.3 Subject to the following clauses, the Purchase Price shall be paid by Bank Transfer before delivery of the Vehicle(s). Payment by cash is not permitted.
- 5.4 Where HTC have agreed to allow to the customer credit terms ('Credit Terms'), HTC shall be entitled to invoice the Customer for the price of the Vehicle(s) on or at any time both before and after delivery/ collection of the Vehicle(s).
- 5.5 The Customer shall strictly observe any express conditions of any Credit Terms and shall pay the price of the Vehicle(s) (less any discount to which the Customer is entitled, but without any other deduction) within 10 days of the date of HTC's invoice or within the credit period recorded in the Credit Terms, whichever shall be later and HTC shall be entitled to recover the price, notwithstanding that delivery may not have taken place and the property in the Vehicle(s) has not passed to the Customer. The time of payment of the price shall be of the essence of the Contract. Receipts for payment will be issued only upon request.
- 5.6 If the Customer fails to make any payment on the due date then, without prejudice to any other right or remedy available to HTC, HTC shall be entitled to:
- 5.6.1 cancel the contract or suspend any further deliveries of Vehicle(s) to the Customer;
- 5.6.2 suspend any Credit Terms, in which case any sums payable to HTC from the Customer for vehicles shall become due and payable immediately;
- 5.6.3 appropriate any payment made by the Customer to such of the Vehicles (or the vehicles supplied under any other contract between the Customer and HTC) as HTC may think fit (notwithstanding any purported appropriation by the Customer); and
- 5.6.4 charge the Customer interest (both before and after any judgment) on the amount unpaid, at the rate of 4 per cent per annum above Danske Bank Base rate from time to time, until payment in full is made (a part of a month being treated as a full month for the purpose of calculating interest).

## 6. Title and risk

- 6.1 The risk in the Vehicle(s) shall pass to the Customer on completion of delivery.
- 6.2 The Purchaser acknowledges that title in the goods may be held by HTC any PACCAR, LVEC, LDV Maxus or Flat group company. All rights set out In this Clause may be exercised by such company jointly or severally with the Dealer
- 6.3 Title to the Vehicle(s) shall not pass to the Customer until HTC receives payment in full in cleared funds for the Vehicle(s) and any other Vehicle(s) that HTC has delivered to the Customer in which case title to the Vehicle(s) shall pass at the time of payment of all such sums and this sub-clause shall apply even where Customers have been granted credit terms.
- 6.4 Until title to a Vehicle has passed to a Customer the Customer shall not be entitled to resell Vehicle(s) delivered to it.
- 6.5 Until title to a Vehicle has passed the Customer shall:
- 6.5.1 be in possession of the Vehicle as bailee only and not purchaser;
- 6.5.2 store the Vehicle separately from all other Vehicles held by the Customer so that they remain readily identifiable as HTC's property;
- 6.5.3 not remove, deface or obscure any identifying mark or packaging on or relating to the Vehicle(s);
- 6.5.4 maintain the Vehicle in satisfactory condition and keep it insured against all risks for their full price from the date of delivery;
- 6.5.5 notify HTC immediately if it becomes subject to any of the events listed in clauses 11.1.2 to 11.1.4; and give HTC such information as HTC may reasonably require from time to time relating to the Vehicle; and the ongoing financial position of the Customer.
- 6.6 HTC may require the Customer to deliver up all Vehicle(s) in its possession where title has not passed and if the Customer fails to do so promptly, HTC may enter any premises of the Customer or of any third party where the Vehicle(s) are stored in order to recover them.

## 7. Converters etc

- 7.1 Where Vehicle(s) have been supplied to a Customer to enable the Customer to convert or modify the Vehicle(s) the Customer
- 7.2 the Customer shall:
- 7.2.1 until a sale permitted by clause 7.2.3 below, be in possession of the Vehicle(s) as bailee only and not purchaser;
- 7.2.2 store the Vehicle(s) separately from all other Vehicle(s) held by the Customer so that they remain readily identifiable as HTC's property;
- 7.2.3 not be entitled to sell the Vehicle(s) to third parties until the Customer has received HTC's consent in writing and HTC have delivered an invoice in respect of the Vehicle(s);
- 7.2.4 not be entitled to deliver and/or purport to pass title to Vehicle(s) , even where a sale has been permitted until payment in full for the Vehicle(s) has been made;
- 7.2.5 not remove, deface or obscure any identifying mark or packaging on or relating to the Vehicle(s);
- 7.2.6 maintain the Vehicle(s) in satisfactory condition and keep them insured against all risks for their full price from the date of delivery;
- 7.2.7 notify HTC immediately if it becomes subject to any of the events listed in clauses 11.1.2 to 11.1.4; and
- 7.2.8 give HTC such information as HTC may reasonably require from time to time relating to: the Vehicle(s); and
- 7.2.8.1 the ongoing financial position of the Customer.
- 7.3 Where title to a Vehicle is vested in HTC, any modifications and/or additions to the Vehicle will also vest in HTC.

## 8. Part Exchange Vehicle(s)

- 8.1 Where part payment of the Price is to be made by the sale to HTC of a part Exchange Vehicle, HTC shall only be bound to accept the Part Exchange Vehicle (if

- any):
- 8.1.1 If the Part Exchange Vehicle is/are free from any hire purchase agreements, charges or other encumbrances (together Encumbrances) provided that if such Encumbrances have been fully disclosed by the Customer, HTC shall subject to this clause accept the Part Exchange Vehicle if the level of the Part Exchange Allowance has taken into account any payment necessary to release the Part Exchange Vehicle absolutely from any Encumbrances and pass title to the Part Exchange Vehicle to HTC (if the payment required to release such vehicle absolutely from any encumbrances is greater than that disclosed to HTC, HTC may with the agreement of the Customer reduce the Part Exchange Allowance by an appropriate amount and accept the Part Exchange Vehicle); and
- 8.1.2 If the Part Exchange Vehicle is delivered to HTC's place of business before delivery of the Vehicle(s) to the Customer, and if upon delivery of the Part Exchange Vehicle by the Customer to HTC the Part Exchange Vehicle is in the same condition (subject only to fair wear and tear and reasonable increase in mileage) as when examined by HTC prior to fixing the Part Exchange Allowance (provided that if the Part Exchange Vehicle is delivered in a worse condition or with an unreasonable increase in mileage HTC may, with the agreement of the Customer, reduce the Part Exchange Allowance by an appropriate amount and accept the Part Exchange Vehicle).
- 8.2 If the Part Exchange Allowance is reduced or withdrawn for any reason the Customer remains bound to pay the Purchase Price less such reduced Part Exchange Allowance (if any).
- 8.3 Property in the Part Exchange Vehicle will pass to HTC on acceptance by it of the Part Exchange Vehicle.
- 9. Finance Arrangements**
- 9.1 The Customer may within 7 days of receipt of notification that the Vehicle(s) is/are ready for delivery, arrange for a finance company to purchase the Vehicle(s) from HTC for the Purchase Price and the Vehicle(s) will then be delivered to the order of such finance company and all references to delivery of the Vehicle(s) shall be construed accordingly.
- 9.2 Upon the purchase of the Vehicle(s) by such finance company the provisions of this contract relating to the Part Exchange Vehicle (if any) shall continue to be effective but HTC shall, on behalf of the Customer, account for the Part Exchange Allowance and any deposit paid under this contract to the order of such finance company.
- 10. Warranty and Liability**
- 10.1 The Vehicle(s) is/are sold with the benefit of any manufacturer's warranty which applies to it subject to any conditions in relation to such warranty as may be applied by the manufacturer from time to time.
- 10.2 No claim by the Purchaser concerning errors in the invoicing or dispatch of the goods will be considered by HTC unless such claims are fully notified to HTC within 10 working days of receipt by the Purchaser of the goods or invoice in question.
- 10.3 Once 10 days have elapsed from the delivery of a Vehicle the Customer shall be deemed to have accepted it.
- 10.4 The restrictions on liability in this 10 apply to every liability arising under or in connection with the Contract including liability in contract, tort (including negligence), misrepresentation, restitution or otherwise.
- 10.5 Nothing in the Contract limits any liability which cannot legally be limited, including liability for:
- 10.5.1 death or personal injury caused by negligence; fraud or fraudulent misrepresentation; breach of the terms implied by section 12 of the Sale of Goods Act 1979; or, defective products under the Consumer Protection Act 1987; Subject to 10.4, the following types of loss are wholly excluded; loss of profits; loss of sales or business; loss of agreements or contracts; loss of anticipated savings; loss of or damage to goodwill; and; indirect or consequential loss.
- 10.6 As the Vehicles are sold with the benefit of any manufacturer's warranty, save as provided in clause 10.3 above all conditions, warranties, and representations, express or implied (by statute, law or otherwise) in relation to the Vehicle(s) (including representations and/or the giving of advice) are hereby excluded and HTC shall be under no liability to the Purchaser or for any claims or proceedings made or brought against the Purchaser by any third party, for any loss, damage or injury direct or indirect resulting from defective material, faulty workmanship or otherwise howsoever arising.
- 10.7 This 10 shall survive termination of the Contract.
- 11. Termination**
- 11.1 Without limiting its other rights or remedies, HTC may terminate this Contract with immediate effect by giving written notice to the Customer if:
- 11.1.1 the Customer commits a material breach of any term of the Contract and (if such a breach is remediable) fails to remedy that breach within 14 days of being notified in writing to do so;
- 11.1.2 the Customer takes any step or action in connection with its entering administration, provisional liquidation or any composition or arrangement with its creditors (other than in relation to a solvent restructuring), obtaining a moratorium, being wound up (whether voluntarily or by order of the court, unless for the purpose of a solvent restructuring), having a receiver appointed to any of its assets or ceasing to carry on business or, if the step or action is taken in another jurisdiction, in connection with any analogous procedure in the relevant jurisdiction;
- 11.1.3 the Customer suspends, threatens to suspend, ceases or threatens to cease to carry on all or a substantial part of its business; or
- 11.1.4 the Customer's financial position deteriorates so far as to reasonably justify the opinion that its ability to give effect to the terms of the Contract is in jeopardy.
- 11.2 Without limiting its other rights or remedies, HTC may suspend provision of the Goods under the Contract or any other contract between the Customer and HTC if the Customer becomes subject to any of the events listed in 11.1.2 to 11.1.4, or HTC reasonably believes that the Customer is about to become subject to any of them, or if the Customer fails to pay any amount due under this Contract on the due date for payment.
- 11.3 Without limiting its other rights or remedies, HTC may terminate the Contract with immediate effect by giving written notice to the Customer if the Customer fails to pay any amount due under the Contract on the due date for payment.
- 11.4 On termination of the Contract for any reason the Customer shall immediately pay to HTC all of HTC's outstanding unpaid invoices and interest and, in respect of Goods supplied but for which no invoice has been submitted, HTC shall submit an invoice, which shall be payable by the Customer immediately on receipt.
- 11.5 Termination of the Contract, however arising, shall not affect any of the parties' rights and remedies that have accrued as at termination, including the right to claim damages in respect of any breach of the Contract which existed at or before the date of termination.
- 11.6 Any provision of the Contract that expressly or by implication is intended to come into or continue in force on or after termination of the Contract shall remain in full force and effect.
- 11.7 The goods are sold subject to the condition that the Purchaser shall not alter, displace or remove any manufacturer identity plates, numbers, marks, warning or operating instruction labels on the goods without the Dealer's prior written consent.
- 11.8 Any fitment of the goods or any alteration to or fitment of equipment to the goods otherwise than by the Dealer or not in accordance with the standards published by the manufacturer(s) of the goods shall be at the entire risk and responsibility of the Purchaser
- 12. Force majeure**
- Neither party shall be in breach of the Contract or otherwise liable for any failure or delay in the performance of its obligations if such delay or failure results from a Force Majeure Event. The time for performance of such obligations shall be extended accordingly. If the period of delay or non-performance continues for 4 weeks, the party not affected may terminate the Contract by giving 14 days written notice to the affected party.
- 13. Severance**
- 13.1 If any provision of this agreement is declared by any judicial or other competent authority to be void, voidable, illegal or otherwise unenforceable the parties shall amend that provision in such reasonable manner as achieves the intention of the parties without illegality the remaining provisions of this agreement shall remain in full force and effect.
- 14. General**
- 14.1 HTC may perform any of its obligations or exercise any of its rights hereunder by itself or through any other member of its group.
- 14.2 It is a condition of sale that the Purchaser shall not export the goods nor knowingly sell them for export outside the UK prior written approval.
- 14.3 Goods manufactured or supplied by DAF Trucks Limited, Fiat, LDV Maxus, or LEVC are sold by the HTC on condition that the Purchaser may only participate with the goods at exhibitions or competition with the prior written consent of the HTC, such consent to be withheld only if such participation is likely in HTC's opinion to be prejudicial to HTC or to DAF Trucks Limited, Fiat, LDV Maxus or LEVC.
- 15. Notices**
- 15.1 Any notice given to a party under or in connection with the Contract shall be in writing and shall be:
- 15.1.1 delivered by hand or by pre-paid first-class post or other next working day delivery service at its registered office (if a company) or its principal place of business (in any other case); or
- 15.1.2 sent by email to the receiving Parties published e-mail address or any e-mail address or addresses previously notified.
- 15.2 Any notice shall be deemed to have been received:
- 15.2.1 if delivered by hand, at the time the notice is left at the proper address;
- 15.2.2 if sent by [pre-paid first-class post or other] next working day delivery service, at 9.00 am on the second Business Day after posting; or
- 15.2.2 if sent by email, at the time of transmission, or, if this time falls outside Business Hours in the place of receipt, when Business Hours resume.
- 15.3 This clause does not apply to the service of any proceedings or other documents in any legal action or, where applicable, any arbitration or other method of dispute resolution.
- 16. Whole agreement**
- 16.1 Each party acknowledges that these Conditions contain the whole agreement between the parties and that it has not relied upon any oral or written representation made to it by the other or its employees or agents and has made its own independent investigations into all matters relevant to it.
- 17. Third party rights.**
- 17.1 Unless it expressly states otherwise, the Contract does not give rise to any rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of the Contract.
- 18. Arbitration**
- 18.1 All claims against HTC which shall arise at any time arise whether during the Term or afterwards touching or concerning the Contract or its construction or effect or the rights duties or liabilities of HTC under or by virtue of it or otherwise or any other matter in any way connected with or arising out of the Contract shall be referred to a single arbitrator to be agreed upon by the parties or in default of agreement to be nominated by the President for the time being of the Society of Motor Manufacturers and Traders (SMMT) in accordance with the Arbitration Act 1996 or any statutory modification or re-enactment of it for the time being in force.
- 19. Proper law and jurisdiction**
- 19.1 The Contract, and any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with it or its subject matter or formation, shall be governed by and construed in accordance with the law of England and Wales.
- 19.2 Each party irrevocably agrees that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with the Contract or its subject matter or formation.