

# CONDITIONS OF SALE



## 1. INTERPRETATION

1.1 Definitions. In these Conditions, the following definitions apply:

**Conditions:** these terms and conditions as amended from time to time in accordance with clause 9.4

**Contract:** the contract between the Supplier and the Customer for the supply of Goods and/or Services in accordance with these Conditions.

**Customer:** the person, firm, company or partnership who purchases the Goods and/or Services from the Supplier.

**Goods:** any goods or products (or any part of them) sold or supplied by the Supplier to the Customer.

**Job Sheet:** form issued by the Supplier titled Job Sheet which sets out the details of the job, the products supplied, and the products removed.

**Services:** the services supplied by the Supplier to the Customer.

**Supplier:** New Bridgegate Tyres Limited registered in England and Wales with company number 8847545.

## 2. APPLICATION OF CONDITIONS

2.1 All sale or supplies of Goods and Services by the Supplier are subject to these Conditions of Sale and no other terms and conditions shall apply to any sale or supply by the Supplier unless it is expressly agreed in writing by a person so authorised to act on behalf of the Supplier.

2.2 The Contract constitutes the entire agreement between the parties. The Customer acknowledges that it has not relied on any statement, promise, representation, assurance or warranty made or given by or on behalf of the Supplier which is not set out in the Contract. These Conditions apply to the Contract to the exclusion of any other terms that the Customer seeks to impose or incorporate, or which are implied by trade, custom, practice or course of dealing.

2.3 Acceptance by the Customer of the Supplier's Goods or Services shall constitute acceptance of these conditions of sale.

## 3. BASIS OF CONTRACT

3.1 The Customer and the Supplier shall agree verbally what Goods and Services are to be supplied to the Customer. At this stage the Contract shall come in to existence and shall be subject to these Conditions.

3.2 Once the Goods and/or Services have been supplied to the Customer, the Supplier shall complete a Job Sheet setting out the products supplied and products removed. The Customer shall sign the form to certify that the details on the form are correct and that the Goods and Services have been supplied and fitted to the Customer's satisfaction. One copy shall be kept by the Supplier and one given to the Customer.

## 4. DELIVERY OF GOODS

4.1 The Supplier shall deliver the Goods to the location agreed by the parties (**Delivery Location**) at any time after the Supplier notifies the Customer that the Goods are ready, or shall make the Goods available for collection by the Customer from the Supplier's premises if agreed.

4.2 Any dates quoted for delivery of the Goods are approximate only, and the time of delivery is not of the essence. The Supplier shall not be liable for any delay in delivery or failure to make delivery.

## 5. TITLE & RISK

5.1 The risk in the Goods shall pass to the Customer when the Goods arrive at the Customer's premises or are fitted to a Customer's vehicle or leased vehicle in possession of the Customer.

5.2 Title to the Goods shall not pass to the Customer until the Supplier receives payment in full (in cash or cleared funds) for

the Goods and any other goods that the Supplier has supplied to the Customer in respect of which payment has become due, in which case title to the Goods shall pass at the time of payment of all such sums

5.3

Until title to the Goods has passed to the Customer, the Customer shall hold the Goods as bailee for the Supplier and ensure that at all times they are clearly identified as property of the Supplier.

## 6. SUPPLY OF SERVICES

6.1

The Supplier shall provide the Services to the Customer in accordance with the Contract.

6.2

The Supplier shall use all reasonable endeavours to meet any performance dates for the Services, but any such dates shall be estimates only and time shall not be of the essence for the performance of the Services.

6.3

The Supplier shall have the right to make any changes to the Services which are necessary to comply with any applicable law or safety requirement, or which do not materially affect the nature or quality of the Services, and the Supplier shall notify the Customer in any such event.

6.4

The Supplier warrants to the Customer that the Services will be provided using reasonable care and skill.

## 7. CHARGES & PAYMENT

7.1

The price for Goods shall be the price agreed between the Customer and the Supplier verbally in accordance with clause 3.

7.2

The price for the Services shall be in accordance with the Supplier's price list.

7.3

In respect of Goods and Services, the Supplier shall invoice the Customer on or at any time after completion of delivery or completion of the Services.

7.4

The Customer shall pay each invoice submitted by the Supplier:

(a) within 28 days of the end of the month in which the invoice is issued; and

(b) in full and in cleared funds to a bank account nominated in writing by the Supplier and shown on the face of the invoice, and

time for payment shall be of the essence of the Contract.

7.5

Each month the Supplier shall issue the Customer with a statement listing the invoices raised within that month.

7.6

If the Customer fails to make any payment due to the Supplier under the Contract by the due date for payment, then the Customer shall pay compound interest on the overdue amount at the rate of 5%. Such interest shall be applied to the account on the 14<sup>th</sup> day of each month. The Customer shall pay the interest together with the overdue amount.

7.7

If any payment owing to the Supplier is overdue in whole or part the Supplier may with or without prior notice (without prejudice to any of its other rights) recover and resell the Goods or any part thereof and may enter upon the Customer's premises for the purpose of inspecting and/or labelling the Goods to identify them clearly and to recover the Goods for resale.

7.8

If the Customer fails to make payment to the Supplier in accordance with Clause 7.4, the Supplier shall have the right to bring Court proceedings against the Customer for the recovery of all monies due to the Supplier. The Customer shall pay the costs and expenses of the Supplier including any solicitors' costs and court costs in connection with the recovery of payment due under these Conditions on an indemnity basis.

## 8. TERMINATION

8.1 Without limiting its other rights or remedies, the Supplier may terminate the Contract with immediate effect by giving written notice to the Customer if:

- (a) the Customer suspends, or threatens to suspend, payment of its debts or is unable to pay its debts as they fall due or admits inability to pay its debts or (being a company or limited liability partnership) is deemed unable to pay its debts within the meaning of section 123 of the Insolvency Act 1986 or (being an individual) is deemed either unable to pay its debts or as having no reasonable prospect of so doing, in either case, within the meaning of section 268 of the Insolvency Act 1986 or (being a partnership) has any partner to whom any of the foregoing apply;
- (b) the Customer commences negotiations with all or any class of its creditors with a view to rescheduling any of its debts, or makes a proposal for or enters into any compromise or arrangement with its creditors;
- (c) a petition is filed, a notice is given, a resolution is passed, or an order is made, for or in connection with the winding up of the Customer (being a company) other than for the sole purpose of a scheme for a solvent amalgamation of the other party with one or more other companies or the solvent reconstruction of that other party;
- (d) the Customer (being an individual) is the subject of a bankruptcy petition or order;
- (e) a creditor or encumbrancer of the Customer attaches or takes possession of, or a distress, execution, sequestration or other such process is levied or enforced on or sued against, the whole or any part of its assets and such attachment or process is not discharged within 14 days;
- (f) an application is made to court, or an order is made, for the appointment of an administrator or if a notice of intention to appoint an administrator is given or if an administrator is appointed over the Customer (being a company);
- (g) the holder of a qualifying charge over the assets of the Customer (being a company) has become entitled to appoint or has appointed an administrative receiver;
- (h) a person becomes entitled to appoint a receiver over the assets of the Customer or a receiver is appointed over the assets of the Customer;
- (i) any event occurs, or proceeding is taken, with respect to the Customer in any jurisdiction to which it is subject that has an effect equivalent or similar to any of the events mentioned in clause 8.1(a) to clause 8.1(h) (inclusive);
- (j) the Customer suspends, threatens to suspend, ceases or threatens to cease to carry on, all or substantially the whole of its business;
- (k) the Customer's financial position deteriorates to such an extent that in the Supplier's opinion the Customer's capability to adequately fulfil its obligations under the Contract has been placed in jeopardy; or
- (l) the Customer (being an individual) dies or, by reason of illness or incapacity (whether mental or physical), is incapable of managing his own affairs or becomes a patient under any mental health legislation.

8.2 Without limiting its other rights or remedies, the Supplier may terminate the Contract with immediate effect by giving written

notice to the Customer if the Customer fails to pay any amount due under this Contract on the due date for payment.

8.3 Without limiting its other rights or remedies, the Supplier may suspend the supply of Services or all further deliveries of Goods under the Contract or any other contract between the Customer and the Supplier if the Customer fails to pay any amount due under this Contract on the due date for payment, the Customer becomes subject to any of the events listed in clause 8.1(a) to clause 8.1(l), or the Supplier reasonably believes that the Customer is about to become subject to any of them.

8.4 On termination of the Contract for any reason:

- (a) the Customer shall immediately pay to the Supplier all of the Supplier's outstanding unpaid invoices and interest and, in respect of Services supplied but for which no invoice has yet been submitted, the Supplier shall submit an invoice, which shall be payable by the Customer immediately on receipt;
- (b) the Customer shall return all of the Supplier's Goods which have not been fully paid for. If the Customer fails to do so, then the Supplier may enter the Customer's premises and take possession of them. Until they have been returned, the Customer shall be solely responsible for their safe keeping and will not use them for any purpose not connected with the Contract;
- (c) the accrued rights and remedies of the parties as at termination shall not be affected, including the right to claim damages in respect of any breach of the Contract which existed at or before the date of termination or expiry; and
- (d) clauses which expressly or by implication have effect after termination shall continue in full force and effect.

## 9. GENERAL

9.1 **Notices.** Any notice or other communication given to a party under or in connection with the Contract shall be in writing, addressed to that party at its registered office (if it is a company) or its principal place of business (in any other case) or such other address as that party may have specified to the other party in writing in accordance with this clause, and shall be delivered personally or sent by prepaid first-class post or other next working day delivery service.

9.2 **Severance.** If any provision or part-provision of the Contract is or becomes invalid, illegal or unenforceable, it shall be deemed modified to the minimum extent necessary to make it valid, legal and enforceable. If such modification is not possible, the relevant provision or part-provision shall be deemed deleted. Any modification to or deletion of a provision or part-provision under this clause shall not affect the validity and enforceability of the rest of the Contract.

9.3 **Third parties.** A person who is not a party to the Contract shall not have any rights to enforce its terms.

9.4 **Variation.** Except as set out in these Conditions, no variation of the Contract, including the introduction of any additional terms and conditions shall be effective unless it is agreed in writing and signed by the Supplier.

9.5 **Governing law.** This agreement and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims) shall be governed by and construed in accordance with the law of England and Wales.

9.6 **Jurisdiction** Each party irrevocably agrees that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim arising out of or in connection with this Contract or its subject matter or formation (including non-contractual disputes or claims).