

# TERMS AND CONDITIONS FOR SALE OF MOTOR VEHICLES

## 1. Definitions

1.1 "The Dealer", the person who is the vendor of the goods to the customer. In this case Southern Mobility Vehicles Ltd.

1.2 "The Customer", the person, their legal appointee, nominated representative or individual acting under Power of Attorney, contracting for goods and services to be supplied by the Dealer.

1.3 "Consumer", a Customer, being an individual who, for the purposes of the purchase, is acting wholly or mainly outside of their trade, business, craft or profession.

1.4 "Goods" means all vehicles as defined, or other things to be sold by the Dealer to the Customer.

1.5 "Vehicle" includes any car and generally each and every accessory to and component thereof.

## 2. Whole Contract

2.1 These terms shall represent the whole contract between the Dealer and the Customer or their legal representative. They may be varied only by written agreement between the parties.

## 3. Interpretation

3.1 The singular shall include the plural and the male shall include the female or business entity as may be appropriate.

## 4. Enforceability

4.1 In the event of any one or more of these terms and conditions being declared unenforceable, the remaining terms and conditions shall nonetheless remain in full force and effect.

## 5. Written Confirmation

5.1 This order and any allowance in respect of a Vehicle offered by the Customer are Subject to acceptance and confirmation in writing by the Dealer and will apply as date specific.

## 6. Delivery Time Not of the Essence

6.2 Unless specifically agreed in writing, time for delivery is *not* essential.

6.2 Where the date for delivery of the goods is not known at time of sale, any date provided is an estimate only and is dependent on the provision of the Goods to the Dealer by the Supplier/ Manufacturer. The Dealer will use its best endeavours to secure delivery of the Goods by the estimated delivery date (if any) but does not guarantee the time of delivery. The Dealer shall not be obliged to fulfil orders in the sequence in which they are placed.

## 7. The Website

7.1 The Website is an invitation to treat, and nothing on this website shall be construed as a unilateral offer by the Dealer to enter into any contractual obligations.

7.1.1 The Dealer cannot be considered liable for any recommendation made by any third party, or external source of information. The Customer must check with the sales team if there are any aspects of the specification which may particularly influence their decision to purchase.

## 8. New Goods

If the Goods to be supplied by the Dealer are new, the following provisions shall have effect:

8.1 This Agreement *and* the delivery of the Goods shall be subject to any terms and conditions which the manufacturer or concessionaire may from time to time lawfully attach to the supply of the Goods or the resale of such Goods by the Dealer, and the Dealer shall not be liable for any failure to deliver the Goods occasioned by his inability to obtain them from the manufacturer or concessionaire.

8.2 The Dealer undertakes that they will ensure that the pre-delivery work specified by the manufacturer or concessionaire is performed and that they will use their best endeavours to obtain for the Customer from the manufacturer or concessionaire the benefit of any warranty or guarantee given by them to the Dealer or to the Customer in respect of the Goods **and**, save where the Customer is acting as a consumer (as defined by Legislation) all statements, conditions or warranties expressed or implied by law or otherwise, are hereby expressly excluded.

8.3 Any figure provided within the contract for Car Tax is provided as guidance only. Notwithstanding the sum for Car Tax specified in the order, the sum payable by the Customer in respect thereof shall be such sum as the Dealer has legally had to pay or becomes legally bound to pay for Car Tax, First Registration Fees, and any additional Taxes or increases in Road Fund Licence, in respect of the Goods. The Customer must provide the Dealer with a valid Certificate of Entitlement for either Disability Living Allowance (DLA), Personal Independence Payment (PIP), Armed Forces Independence Payment (AFIP) or War Pensioners Mobility Supplement (WPMS) prior to registration of the Vehicle in order to claim exemption from Car Tax.

8.4 Any figure provided within the contract excluding Value Added Tax assumes the Customer is exempt of VAT. However, HMRC impose a limit on the number of vehicles that can be purchased under VAT relief, with an eligible individual being able to purchase only one vehicle that meets the qualifying conditions every 3 years. If a Customer intends to purchase more than one new Wheelchair Accessible Vehicle in a 3-year span, they may not qualify for VAT relief on each purchase. Some exemptions may apply to this ruling, for example if a vehicle is stolen or destroyed, or if the Customer's circumstances change dictating the need for a new vehicle. In all cases it is the Customer's responsibility to ensure that they qualify for VAT Relief.

8.5. In the event of the manufacturers or concessionaires recommended price for the Goods being increased, the amount of such increase which the Dealer intends to pass to the Customer shall be notified to the Customer. The Customer shall have the right to cancel the contract within 14 days of the receipt of such notice. If the customer does not give such notice as aforesaid, the increase in the price shall be added to become part of the contract price.

8.6 In the event of the manufacturer of the Goods described in the order ceasing to make the Goods of that type, the Dealer may (whether the estimated delivery date has arrived or not) by notice in writing to the Customer, cancel the contract on the grounds of frustration.

8.7 Save in the case of consumer sales (as defined) all statements, conditions or warranties as to the quality of the Goods or their fitness for any purpose whether express or implied by law or otherwise are hereby expressly excluded.

8.8 The Dealer grants an extended two year warranty on all new Ford Customs it supplies converted and therefore reserves the right to choose the provider. This warranty commences at the point of expiry of the manufacturer's warranty and the Dealer cannot accept any liability for any claims if the servicing plan of the Ford Custom is not adhered to or the warranty company ceases to trade.

8.9 The Dealer includes a ceramic coating with 5 year protection at point of sale on all new Ford Custom Conversions and provides a 5 year warranty which has exclusions we cannot be held responsible for. It is the customer's responsibility to ensure acceptance of these exclusions which are included in the customer pack given at vehicle handover. The Dealer cannot be held liable for any claims if the warranty company ceases to trade.

8.10 It is an express term of this agreement, that, prior to entering into the agreement, the Customer has examined the Goods to be purchased, and is satisfied that they are of satisfactory quality, and reasonably fit for the purpose for which they are required. The Customer is reminded that the condition of satisfactory quality implied by legislation does not operate in relation to such defects which such an examination ought to reveal. If the Goods are sold subject to defects and have been notified by the Dealer to the Customer before the signing of the contract, the condition of satisfactory quality referred to above does not operate in relation to those defects.

8.11 The Customer accordingly confirms that it has satisfied itself as to the suitability of the Goods for its requirements and has not relied upon the Dealers skill or knowledge regarding the Goods' fitness for any particular purpose or use.

## **9. Used Goods**

9.1 If the goods to be supplied by the Dealer are used, the vehicle is supplied as roadworthy at the date of delivery and sold subject to any conditions or warranties that are implied by the Consumer Rights Act 2015 and any amending statutes.

9.2 If the vehicle is purchased in the course of business, trade or profession then the Sales of Goods Act 1979 as amended and any amending statutes shall apply.

9.3 Save in the case of Consumer sales (as defined) all statements, conditions, or warranties as to the quality of the Goods or their fitness for any purpose whether express or implied by law or otherwise, are hereby expressly excluded.

9.4 The Dealer with best endeavours carries out all pre delivery history checks on all our vehicles. I understand and have been made aware that where a previous registered keeper of the vehicle subject to this sales contract is a business or body corporate we confirm that the vehicle has been used for business purposes and may have been part of a fleet of vehicles or ex rental. Under these circumstances this vehicle may have had multiple users. We have taken all reasonable precautions and exercised all due diligence to verify the mileage which maybe incorrect.

9.5 It is an express term of this agreement, that, prior to entering into the agreement, the Customer has examined the Goods to be purchased, and is satisfied that they are of satisfactory quality, and reasonably fit for the purpose for which they are required. The Customer is reminded that the condition of satisfactory quality implied by legislation does not operate in relation to such defects which such an examination ought to reveal. If the Goods are sold subject to defects and have been notified by the Dealer to the Customer before the signing of the contract, the condition of satisfactory quality referred to above does not operate in relation to those defects.

9.6 The Customer accordingly confirms that it has satisfied itself as to the suitability of the Goods for its requirements and has not relied upon the Dealers skill or knowledge regarding the Goods' fitness for any particular purpose or use.

## **10. Variation**

10.1 Any variation agreed between the Dealer and the Customer regarding the Goods to be supplied shall be deemed to be an amendment to this Contract and shall not constitute a new contract.

## **11. Delivery and Payment**

11.1 The Customer shall be liable to pay for the Goods under the following terms:

11.1.1 New vehicles: 25% of the total shall be due upon order; 50% of the total shall be due on vehicle arrival at the Dealer and before conversion work can begin; and 25% of the total shall be due prior to delivery. In the event of a vehicle being used in part exchange, the part exchange value shall be deducted from the final payment.

11.1.2 Used vehicles: £1000 of the total shall be due upon order; and the balance shall be due prior to delivery. In the event of a vehicle being used in part exchange, the part exchange value shall be deducted from the final payment.

11.1.3 For vehicles supplied via the Motability Contract Hire scheme: 100% of the total Advance Payment including any optional extras shall be due upon order. In the event of a vehicle being used in part exchange, the part exchange value shall be deducted from the payment.

## **12. Place of Delivery**

12.1 Unless otherwise agreed in writing delivery of the Goods shall take place at the Dealer's premises. "Please note that we do not operate an organised distance selling scheme as defined by The Consumer Contracts (Cancellation, Information and Additional Charges) Regulations 2013. Therefore, if you choose not to view your vehicle at our premises prior to purchase, you will not be entitled to cancel your order under a 14 day cancellation period. All other statutory rights remain unaffected."

All refunds must be agreed. We reserve the right to charge for collection of your vehicle at a rate of £100 if you do not return the vehicle at our request. If you seek to return the vehicle within 30 days you must demonstrate a fault or return the vehicle for an inspection at your cost. Any usage will be charged at 45 pence per mile over 1000 miles and you will also be liable for any damage caused and deductible from any refund.

## **13. Repudiation by Customer**

13.1 If the Customer does not pay for and take delivery of the order within 14 days of notification that the vehicle is available for delivery, the Dealer shall be at liberty to treat the contract as cancelled. If this happens, or if the Customer cancels the contract for any other reason not permitted by this contract, the Dealer shall sell the vehicle to another person. The Dealer will refund the deposit but before doing so, they are entitled to recover from the deposit the additional costs they incur in re selling the vehicle, plus any reduction in the sales price achieved. The Dealer shall keep the deposit whilst they display and advertise the vehicle as being for sale. If it is not sold within a reasonable time the Dealer shall sell it at auction.

13.2 Once the Dealer has sold the vehicle, they shall notify the Customer within 7 days as to how much they have lost as a result of having to re sell. If this amount is less than the deposit, then the Dealer will refund the balance of the deposit with the notification. If the claimable amount is more than the deposit,

then the Dealer will include a statement showing how much the Customer owes the Dealer to make good the loss. The Dealer will provide copies of any receipts if the Customer requests them.

#### **14. Return of Deposit**

14.1 In the event that the Dealer is unable to fulfil the order, it will be entitled to cancel the order. In such instances any liability will be limited to refunding the customer for all payments received and the Dealer shall be under no further liability.

#### **15. Retention of Title and Risk**

15.1 Risk of damage to or losses of the Goods are at the risk of the Customer as soon as they are delivered into the physical possession of the Customer or their nominated representative.

15.2 Goods shall remain the sole and absolute property of the Dealer as legal owner until such time as the Customer shall have paid to the Dealer the full.

#### **16. Right of Lien**

15.1 The Dealer shall have a general lien on any property of the Customer in its possession for all monies owing to the Dealer by the Customer on any account whatsoever.

#### **17. Part Exchange**

17.1 Where the Dealer agrees to allow part of the price of the Goods to be discharged by the customer delivering a used Vehicle in part exchange to the Dealer, in consideration of such allowance, it is hereby agreed that the following further conditions will apply.

17.1.1 that the Dealer accepts the used vehicle in reliance of the warranties granted by the Customer overleaf, including but not limited to the age, mileage and condition of the vehicle.

AND

17.1.2 that such used Vehicle is the absolute property of the Customer and is free from all encumbrances.

17.2 If the Dealer has examined the said used vehicle prior to his confirmation and acceptance of this order, the used vehicle shall be delivered to them in the same condition at the date of such examination (fair wear and tear excepted).

17.3 In the event of the non-fulfilment of any of the foregoing conditions, the Dealer shall be discharged from any obligations to accept the said used Vehicle or to make any allowance in respect thereof, and the Customer shall discharge in cash the full price of the Goods to be supplied by the Dealer.

17.4 Any Part Exchange offer provided in writing by the Dealer is date specific and subject to change in the event that delivery of the Goods to the Dealer by the Supplier/ Manufacturer is delayed, or delivery of the Goods to the Customer is delayed for any reason beyond the control of the Dealer.

#### **18. Authority to Contract**

18.1 Goods supplied by the order of any person in the Customer's employment or by any person reasonably believed by the Dealer to be the Customer's agent or by any person to whom the Dealer is entitled to make delivery of the vehicle shall be paid for by the Customer.

#### **19. Authority to Uplift**

19.1 Where a person who, so far as the Dealer is aware, has authority to uplift Goods or Vehicles and does so, the Dealer shall have no liability to the Customer for any loss or damage resulting on any grounds whatsoever. It shall not be obligatory upon the Dealer to confirm the authority of any person reasonably believed to be the agent, or to have been at some time, connected with the Customer.

## **20. Authority to Drive**

20.1 In connection with the supply of a Vehicle or an inspection or testing or the preparation of any estimate in connection therewith, the Dealer shall be entitled to drive the vehicle on the road or elsewhere as it shall deem necessary. These provisions shall apply also to any Vehicle offered by the Customer in part-exchange in terms of clause 17.

## **21. General**

21.1 We strongly recommend that you ensure that you have adequate breakdown cover in order to ensure that you are not left standing by the roadside in the unfortunate event of a breakdown. We consider it absolutely essential to take out breakdown cover in the event that you intend taking the vehicle abroad.

21.2 The engine oil level, coolant level and tyre pressures should be checked on a weekly basis and certainly before any long journeys are undertaken. If the journey is likely to take several hours, then we would suggest regular breaks to give both yourself and the vehicle time to rest.

21.3 If the vehicle is a used motor vehicle, it will inevitably show signs of general deterioration commensurate with previous use. It is your responsibility to check the vehicle, prior to purchase, to ensure that it is suitable for your needs, and meets your expectations. We cannot reasonably consider ourselves responsible for any issues that were, or ought to have been noticed during a pre-purchase inspection.

21.4 It is essential that you pay careful attention to the gauges and warning lights on the vehicle. Any drop in oil pressure or increase in oil or water temperature means that you should stop the vehicle immediately. Significant damage can be caused in a very short period of time. We cannot be held responsible for any damage that may occur that could reasonably have been avoided.

21.5 If we have provided a mechanical breakdown warranty for your peace of mind. Please do not forget that it is a condition of the warranty that you should contact the Administrator before arranging for any work to be carried out.

## **22. Diesel Particulate Filters and Timing Belts**

22.1 If you are buying a diesel car and plan to use it mainly for town-based, stop/start driving fitted with a Diesel Particulate Filter (DPF) this can result in incomplete 'DPF regeneration'. Diesel Particulate filters (DPF) or 'traps' do just that, they catch bits of soot in the exhaust.

As with any filter they have to be emptied regularly to maintain performance. For a DPF this process is called 'regeneration' – the collected soot is burnt off at high temperature to leave only a tiny ash residue.

Regeneration takes place automatically on motorway-type runs when the exhaust temperature is high.

If the regeneration is unsuccessful the vehicle may use extra fuel, and the fuel injected will not burn and will drain into the sump. Oil quality will deteriorate as a result of this and the level will rise. It is important that you check that the oil level does not increase above the maximum level on the dipstick as diesel engines can run on excess engine oil – often to the point of destruction.

If you ignore the warning light and keep driving in a relatively slow, stop/start pattern, soot loading will continue to build up until around 75% when you can expect to see other dashboard warning lights come on too. At this point driving at speed alone will not be enough and you will have to take the car to a main dealer for regeneration.

22.2 A timing belt, timing chain or cam belt is a part of an internal combustion engine that synchronizes the rotation of the crankshaft and the camshaft so that the engine's valves open and close at the proper times during each cylinder's intake and exhaust strokes. An auxiliary belt drives additional engine and vehicle components such as alternator, water pump, oil pump, power steering, and air-conditioning.

It is the customer's responsibility to change the belt following the manufacturer's guidelines after purchase, if the belt has not already been changed as per manufacturer's guidelines prior to your purchase. Failure to do so can lead to major engine damage that could have been avoided; any engine damage due to failure is solely the customer's responsibility due to failure to follow advised maintenance.

## **23. Notices**

21.1 All written notices given by the Dealer to the Customer shall take effect 24 hours after being despatched by the Dealer in the normal course of post or email to the Customer's address.

## **24. Dispute resolution/ Jurisdiction**

24.1 In the event of a complaint or dispute of any kind our complaints handling procedure which is available from us on request.

24.2 where your complaint does not relate to a financial service, contact The *Motor Ombudsman* For details of this service you can contact them on **0345 241 3008** (option 1) or email them at [consumer@tmo-uk.org](mailto:consumer@tmo-uk.org) or write to:

*The Motor Ombudsman, 71 Great Peter Street, London, SW1P 2BN.*