

# CONDITIONS OF SALE

## 1. Interpretation

- 1.1. 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 between HTC and the Customer to carry out the Work.
  - 1.2.2. 'Customer' means the customer described below.
  - 1.2.3. 'Parts' means the parts (including any instalment deliveries of parts), described below and /or used in connection with the Work.
  - 1.2.4. 'HTC' 'HTC' means Heathrow Truck Centre Limited which trades under various trading names in the UK.
  - 1.2.5. 'Vehicle(s)' means the vehicle or vehicles described below.
  - 1.2.6. 'Work' means the work to be carried out on the Vehicle(s) described below.

## 2. The Sale

- 2.1. HTC shall sell and the Customer shall purchase the Parts in accordance with any written quotation of HTC which is accepted by the Customer, or any written order of the Customer which is accepted by HTC, subject in either case to these Conditions, which shall govern the Contract to the exclusion of any other terms and conditions subject to which any such quotation is accepted or purported to be accepted.
- 2.2. No variation to these Conditions shall be binding unless agreed in writing between the authorised representatives of the Customer and HTC.
- 2.3. HTC's employees or agents are not authorised to make any representations concerning the Parts unless confirmed by HTC in writing. In entering into the Contract the Customer acknowledges that it does not rely on any such representations which are not so confirmed.
- 2.4. Any advice or recommendation given by HTC or its employees or agents to the Customer or its employees or agents as to the storage, application or use of the Parts is followed or acted upon entirely at the Customer's own risk, and accordingly HTC shall not be liable for any such advice or recommendation.
- 2.5. Any typographical, clerical or other error or omission in any sales literature, quotation, price list, acceptance of offer, invoice or other document or information issued by HTC shall be subject to correction without any liability on the part of HTC.

## 3. Orders and specifications

- 3.1. 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 the Dealer remain valid for 30 days from their date of issue.
- 3.2. No order submitted by the Customer shall be deemed to be accepted by HTC unless and until confirmed in writing by HTC's authorised representative.
- 3.3. The Customer shall be responsible to HTC for ensuring the accuracy of the terms of any order for Parts (including any applicable specification) submitted by the Customer, and for giving HTC any necessary information relating to the Parts within a sufficient time to enable HTC to perform the Contract in accordance with its terms.
- 3.4. The quantity, quality and description of and any specification for the Parts shall be those set out in HTC's quotation (if accepted by the Customer) or the Customer's order (if accepted by HTC).
- 3.5. HTC reserve the right to make any changes in the specification of the Parts which are required to conform with any applicable statutory or EC requirements or, where the Parts are to be supplied to HTC's specification, which do not materially affect their quality or performance.
- 3.6. No order which has been accepted by HTC may be cancelled by the Customer except with the agreement in writing of HTC and on terms that the Customer shall indemnify HTC in full against all loss (including loss of profit), costs, damages, charges and expenses incurred by HTC as a result of cancellation.
- 3.7. It is a condition of sale that the Purchaser shall not export the Parts nor knowingly sell them for export outside the United Kingdom without HTC's prior written approval.

## 4. Parts

- 4.1. The price of the Parts/Services shall be the manufacturer's quoted price current at the date of acceptance of the order. All prices quoted are valid for 30 days only or until earlier acceptance by the Customer, after which time they may be altered by HTC without giving notice to the Customer.
- 4.2. HTC reserves the right, by giving notice to the Customer at any time before delivery, to increase the price of the Parts/Services to reflect any increase in the cost to HTC which is due to any factor beyond the control of HTC (such as, without limitation, any foreign exchange fluctuation, currency regulation, alteration of duties, significant increase in the costs of labour, materials or other costs of manufacture), any change in delivery dates, quantities or specifications for the Parts which is requested by the Customer, or any delay caused by any instructions of the Customer or failure of the Customer to give HTC adequate information or instructions.
- 4.3. Except as otherwise stated under the terms of any quotation of HTC, and unless otherwise agreed in writing between the Customer and HTC, all prices are given by HTC on the basis of collection from HTC's premises, and where HTC agrees to deliver the Parts otherwise than at HTC's premises, the Customer shall be liable to pay HTC's charges for delivery
- 4.4. The price is exclusive of any applicable Value Added Tax (or other similar tax, which the Customer shall be additionally liable to pay to HTC).
- 4.5. The cost of Core (Surcharge) units, pallets and returnable containers will be charged to the Customer in addition to the price of the Parts, but full credit will be given to the Customer provided they are returned undamaged to HTC before the due payment date.
- 4.6. Whilst HTC will normally use new parts supplied by the manufacturer of the Vehicle(s) on which the Work is being carried out the Customer acknowledges may use suitable reconditioned units and/or parts from other sources
- 4.7. Property in the Parts shall not pass to the Customer until the Seller has received in cash or cleared funds payment in full for the price of any Work and Parts supplied to the Customer for which payment is then due.

## 5. Carrying Out Work

- 5.1. HTC will carry out the Work on the Vehicles with reasonable care and skill.
- 5.2. The Customer may authorise completion of the Work orally.
- 5.3. Whilst HTC will make every effort to complete the work as soon as possible the customer acknowledges that HTC rely on independent suppliers and providers of services and that therefore time is not of the essence in relation to the completion of the work.

- 5.4. Where HTC is appointed by DAF to act as guarantor for payment for repairs (DAFaid or DAF ITS), HTC do so as agent for the customer and shall have no liability whatsoever for repairs carried out by any third party.

## 6. Responsibility for Vehicle(s) in the custody of HTC

- 6.1. HTC will take reasonable care of the Vehicle(s) whilst those Vehicle(s) are in the custody of HTC. The Customer acknowledges that except if HTC are in breach of this duty, HTC are not responsible for the loss of or any damage to Vehicle(s) in its possession and that it is the customer's responsibility to arrange adequate insurance cover for such Vehicle(s).

## 7. Terms of Payment/Charges

- 7.1. Subject to any special credit terms ('Credit Terms') agreed in writing between the Customer and HTC, the price of the parts/services shall be paid before delivery. HTC's standard charges in force from time to time.
- 7.2. All charges quoted to the Client for the provision of the Work are exclusive of any Value Added Tax, for which the Customer shall be additionally liable at the applicable rate from time to time.
- 7.3. All charges are payable prior to the release of the Vehicle(s) on which the Work has been carried out and in addition HTC shall have a lien over any Vehicle(s) in its possession belonging to a Customer where that Customer owes HTC any money whatsoever whether the debt relates to that particular Vehicle(s) or not
- 7.4. Where HTC have agreed to allow to the Customer Credit Terms, HTC shall be entitled to invoice the Customer for the price of the Parts/Services on or at any time after delivery of the Parts/Services, unless the Parts/Services are to be collected by the Customer or the Customer wrongfully fails to take delivery of the Parts/Services, in which event HTC shall be entitled to invoice the Customer for the price at any time after HTC has notified the Customer that the Parts/Services are ready for collection or (as the case may be) HTC has tendered delivery of the Parts/Services.
- 7.5. The Customer shall strictly observe any express conditions of any Credit Terms and shall pay the price of the Parts/Services (less any discount to which the Customer is entitled, but without any other deduction) within 30 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 Parts/Services 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.
- 7.6. Where HTC have granted the Customer credit, if payment is not made on the due date, HTC shall be entitled to:
  - 7.6.1. cancel the contract or suspend any further deliveries or services to the Customer;
  - 7.6.2. suspend any Credit Terms, in which case any sums payable to HTC from the Customer for the Parts/Services shall become due and payable immediately;
  - 7.6.3. appropriate any payment made by the Customer to invoices as HTC may think fit (notwithstanding any purported appropriation by the Customer); and
  - 7.6.4. charge the Customer interest (both before and after any judgement) on the amount unpaid, at the rate of 4 per cent per annum above National Westminster 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).

## 8. Delivery

- 8.1. Delivery of the Parts/Services shall be made by the Customer collecting the Parts/Services at HTC's premises at any time after HTC has notified the Customer that the Parts/Services are ready for collection or, if some other place for delivery is agreed by HTC, by HTC delivering the Parts/Service to that place.
- 8.2. Any dates quoted for delivery of the Parts are approximate only and HTC shall not be liable for any delay in delivery of the Parts however caused. Time for delivery shall not be of the essence of the Contract unless previously agreed by HTC in writing. The Parts may be delivered by HTC in advance of the quoted delivery date upon giving reasonable notice to the Customer.
- 8.3. Where the Parts are to be delivered in instalments, each delivery shall constitute a separate contract and failure by HTC to deliver any one or more of the instalments in accordance with these Conditions or any claim by the Customer in respect of any one or more instalments shall not entitle the Customer to treat the Contract as a whole as repudiated.
- 8.4. If HTC fails to deliver the Parts (or any instalment) for any reason other than any cause beyond HTC's reasonable control or the Customer's fault, and HTC is accordingly liable to the Customer, HTC's liability shall be limited to the excess (if any) of the cost to the Customer (in the cheapest available market) of similar parts to replace those not delivered over the price of the Parts.
- 8.5. If the Customer fails to take delivery of the Parts/Services or fails to give HTC adequate delivery instructions at the time stated for delivery (otherwise than by reason of any cause beyond the Customer's reasonable control or by reason of HTC's fault) then, without prejudice to any other right or remedy available to HTC, HTC may:
  - 8.5.1. store the Parts until actual delivery and charge the Customer for the reasonable costs (including insurance) of storage; or
  - 8.5.2. sell the Parts at the best price readily obtainable and (after deducting all reasonable storage and selling expenses) account to the Customer for the excess over the price under the Contract or charge the Customer for any shortfall below the price under the Contract.

## 9. Risk and Property

- 9.1. Risk of damage to or loss of the Parts shall pass to the Customer:
  - 9.1.1. in the case of Parts/Services to be delivered at HTC's premises, at the time when HTC notifies the Customer that the Parts/Services are available for collection; or
- 9.1.2. in the case of Parts/Services to be delivered otherwise than at HTC's premises, at the time of delivery or, if the Customer wrongfully fails to take delivery of the Parts, the time when HTC has tendered delivery of the Parts.
- 9.2. Notwithstanding delivery and the passing of risk in the Parts, or any other provision of these Conditions, the property in the Parts shall not pass to the Customer until HTC has received in cash or cleared funds payment in full of the price of the Parts and all other parts agreed to be sold by HTC to the Customer for which payment is then due.
- 9.3. Until such time as the property in the Parts passes to the Customer, the Customer shall hold the Parts as HTC's fiduciary agent and bailee, and shall keep the Parts separate from those of the Customer and third parties and properly stored, protected and insured and identified as

- HTC's property, but the Customer shall be entitled to resell or use the Parts in the ordinary course of its business.
- 9.4. Until such time as the property in the Parts passes to the Customer (and provided the Parts are still in existence and have not been resold), HTC shall be entitled at any time to require the Customer to deliver up the Parts to HTC and, if the Customer fails to do so forthwith, to enter upon any premises of the Customer or any third party where the Parts are stored and repossess the Parts.
- 9.5. The Customer shall not be entitled to pledge or in any way charge by way of security for any indebtedness any of the Parts which remain the property of HTC, but if the Customer does so all moneys owing by the Customer to HTC shall (without prejudice to any other right or remedy of HTC) forthwith become due and payable.
- 10. Warranties and liability**
- 10.1. Subject to the conditions set out below HTC warrants that the Work and any parts supplied will be free from defects for a period of 6 months.
- 10.2. Parts are supplied with the benefit of any manufacturer's warranty which applies to them subject to any conditions in relation to such warranty as may be applied by the manufacturer from time to time.
- 10.3. The above warranty is given by HTC subject to the following conditions:
- 10.3.1. HTC shall be under no liability in respect of any defect arising from fair wear and tear, wilful damage, negligence, abnormal working conditions, misuse or alteration or repairs carried out without HTC's approval;
- 10.3.2. HTC shall be under no liability under the above warranty (or any other warranty, condition or guarantee) if the total price for Work and/or the Parts has not been paid by the due date for payment;
- 10.4. Subject as expressly provided in these Conditions, and except where the Goods are sold to a person dealing as a consumer (within the meaning of the Consumer Rights Act 2015, all warranties, conditions or other terms implied by statute or common law are excluded to the fullest extent permitted by law.
- 10.5. Any claim by the Customer which is based on any defect in the quality of the Work or quality or condition of the Goods shall be notified to HTC within a reasonable time after discovery of the defect or failure.
- 10.6. Except in respect of death or personal injury caused by HTC's negligence, HTC shall not be liable to the Customer by reason of any representation (unless fraudulent), or any implied warranty, condition or other term, or any duty at common law, or under the express terms of the Contract, for any indirect, special or consequential loss or damage (whether for loss of profit or otherwise), costs, expenses or other claims for compensation whatsoever (whether caused by the negligence of the HTC, its employees or agents or otherwise) which arise out of or in connection with the supply of the Goods or their use or resale by the Customer, and the entire liability of HTC under or in connection with the Contract shall not exceed the price of the Goods, except as expressly provided in these Conditions.
- 10.7. HTC shall not be liable to the Customer or be deemed to be in breach of the Contract by reason of any delay in performing, or any failure to perform, any of HTC's obligations if the delay or failure was due to any cause beyond the HTC's reasonable control.
- 10.8. The Customer acknowledges that motor Vehicle(s) are complex pieces of machinery, that to repair defects it is appropriate to try the least complex solution and that further chargeable work may be necessary if the Work does not cure the fault.
- 11. Loan Vehicle(s)**
- 11.1. If HTC shall have loaned the customer, free of charge, a vehicle whilst the Work is being carried out on the Vehicle(s) ('Replacement Vehicle(s)'), HTC may demand that the Customer return the Replacement Vehicle(s) (either orally or in writing) at any time and the Customer shall immediately return the Replacement Vehicle(s) to HTC and if the Customer shall fail to do so:-
- 11.2. HTC may take possession of the Replacement Vehicle(s) and, for this purpose, HTC may enter any premises where the Replacement Vehicle(s) is/are being kept.
- 11.3. The Customer will pay to HTC the sum of £100 per Replacement Vehicle in respect of each day or part of day that the Customer retains possession of the Replacement Vehicle(s) and any costs (legal or otherwise) which HTC incur in recovering possession of the Replacement Vehicle(s) on an indemnity basis.
- 11.4. The Customer will only permit the Replacement Vehicle to be driven by a person qualified to do so and holding all necessary current licences and permits in respect of the Replacement Vehicle and himself, such licence in respect of the driver to be a full and not a provisional driving licence and will not permit the Replacement Vehicle to be taken outside Great Britain.
- 11.5. The Customer will ensure that the Replacement Vehicle is comprehensively insured, for its full value, for any driver who may drive the Replacement Vehicle and will indemnify HTC in full against any breach of the provisions of this clause.
- 12. Termination**
- 12.1. Without limiting its other rights or remedies, HTC may, at its option, terminate the Contract and/or stop carrying out the Work with immediate effect by giving written notice to the Customer if:
- 12.2. the Customer fails to pay any amount due under the Contract on the due date for payment;
- 12.2.1. 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;
- 12.2.2. 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;
- 12.2.3. the Customer suspends, threatens to suspend, ceases or threatens to cease to carry on all or a substantial part of its business; or
- 12.2.4. 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.
- 12.3. 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 the Work carried out but for which no invoice has been submitted, HTC shall submit an invoice, which shall be payable by the Customer immediately on receipt.
- 12.4. 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.
- 12.5. 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.
- 13. Uncollected Vehicle(s)s**
- 13.1. If the Customer shall not have collected a Vehicle(s) within 7 days of HTC having notified the Customer that the Work on the Vehicle(s) has been completed :-
- 13.2. HTC may charge Storage Charges at the rate of £25 plus VAT per day or part of day;
- 13.2.1. HTC may sell the Vehicle(s) and confer good title on any purchaser upon the expiration of 7 days after written notice of intention to do so has been served on the last known address of the Customer.
- 14. Severance**
- 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
- 15. General**
- HTC may perform any of its obligations or exercise any of its rights hereunder by itself or through any other member of its group.
- 16. Whole agreement**
- 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. 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.
- 18. Notices**
- 18.1. Any notice given to a party under or in connection with the Contract shall be in writing and shall be:
- 18.1.1. 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
- 18.1.2. sent by email to the receiving Parties published e-mail address or any e-mail address or addresses previously notified.
- 18.2. Any notice shall be deemed to have been received:
- 18.2.1. if delivered by hand, at the time the notice is left at the proper address;
- 18.2.2. 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
- 18.2.3. 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.
- 18.3. 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.
- 19. Third party rights.**
- 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.
- 20. Arbitration**
- 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.
- 21. Proper law and jurisdiction**
- 21.1. 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.
- 21.2. 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.
- 22. Contact**
- The customer agrees that DAF (and its affiliates), as the manufacturer of the truck(s), may use the contact details given to the DAF Dealer by the customer in the purchasing process, to inform the customer about products and services of DAF, which DAF believes may be of interest to the customer. Additionally, DAF may contact the customer for the purpose of customer satisfaction surveying. If the customer does not wish to receive the abovementioned information, or satisfaction surveys, the customer may notify DAF and/or the DAF Dealer of this. After receipt of such notice, DAF and the DAF Dealer will stop using the information for these purposes.