

TERMS AND CONDITIONS

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.
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 as notified from time to time by the Supplier.
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 is deemed to accept the terms of the correction unless it gives written notice declining the corrected estimate within two days.
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) Upon a default in payment of any invoice, then the Supplier may terminate all credit facilities granted to the Customer and all monies due to the Supplier shall immediately become due and payable and shall be paid by the Customer within seven (7) days of the date of demand. Interest will accrue daily from the original due date on all the Customer's outstanding amounts at the rate of 15% per annum.
 - (c) Any expenses, costs or disbursements incurred by the Supplier in recovering any outstanding monies including debt collection agency fees and solicitor's costs shall be paid by the Customer.
 - (d) The Supplier can at any time require additional security from the Customer as considered reasonably necessary and can withhold supply of Goods until acceptable security has been granted by the Customer.
9. **Delivery.** Delivery dates are approximate and the Supplier will not incur any liability to the Customer arising from any unforeseen delay, failure or mistake in delivery of Goods. 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. **Repossession.** Upon default in payment by the Customer, the Supplier may retake possession of any Goods. Such rights shall be without prejudice to the Supplier's right to claim damages from the Customer for breach of contract. The Customer irrevocably authorises the Supplier and its servants and agents to enter upon the Customer's premises without notice at any time, for the purposes of examination or recovery of Goods.
12. **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 within 24 hours of delivery.
13. **Liability.** The Supplier's liability to the Customer in relation to the Goods will never exceed the price of the Services/Goods. The Supplier will not be liable for any consequential loss or damages, including (but not limited to) loss of profit, business revenue, goodwill, anticipated savings or damage to
14. **Indemnity.** The Customer indemnifies the Supplier against any loss or expense arising from the Customer breaching this Contract. The Customer indemnifies the Supplier against any claims made by a third party in respect of negligence, personal injury or death arising out of the supply of Services or
15. **Warranty.** Should the Goods or Services be defective, the Supplier's liability is limited to either (at its option):
 - (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.
16. **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
17. **No Exclusion.** These Terms do not exclude any provisions required by law to be included.
18. **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.
19. **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.
20. **Change of ownership.** The Customer shall no later than 14 days prior to any proposed change of ownership, shareholders of the Customer or a parent company, alteration, addition to the shareholding or directorship, notify the Supplier of the proposed change.
21. **Security.** The Customer grants the Supplier the following security interests as collateral for its performance of its obligations under these Terms:
 - (a) The Customer hereby charges all presently owned and future acquired real property of the Customer and will enter into a mortgage at the request of the Supplier on standard terms and conditions and authorises the Supplier to register an absolute caveat over any real property now owned by the Customer or in the future acquired by the Customer;
 - (b) The Customer hereby charges all present and after-acquired personal property as security which includes all proceeds of the sale or divestment of any present or after-acquired Goods or personal property and the security interest granted pursuant to this clause extends to all rights in relation to the Customer's debtors;
 - (c) The Customer consents to the waiver of any requirement for the Supplier to give notice under the Personal Property Securities Act 2009 unless the notice is required and cannot be excluded; and
 - (d) The Customer will do all such things and provide all such documents as reasonably directed by the Supplier to enable the Supplier to obtain the benefit of the securities granted in these provisions.
22. **Director Guarantee.** Where the Customer is a corporation, each of the directors jointly and severally guarantees the payment by the Customer of all outstanding amounts in relation to Services and Goods by the Supplier.
23. **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.
24. **Insurance.** The customer confirms that any truck and or trailers owned by the customer remain, at all times, the risk of the customer for insurance purposes including road risks. The customer authorises Truck Centre (WA) Pty Ltd employees and/or contractors to drive the customers truck on Truck Centre premises and on WA roads and the customer agrees that, if an accident occurred whilst being driven on or off WA roads, the customers insurance will respond and no liability will be attributed to Truck Centre (WA) Pty Ltd. The customer indemnifies Truck Centre (WA) Pty Ltd against any claims that may arise in relation to any accident that may occur on Truck Centre (WA) Pty Ltd Premises or on WA roads whilst being driven by Truck Centre employees or contractors.