

TERMS AND CONDITIONS

1. Agreement to sell

- 1.1 In consideration of payment of the Total Balance specified in clause 2 herein, the Dealer agrees to sell, and the buyer agrees to buy the goods as described on the front page of the Contract (the "Goods"), on the terms and conditions set out herein.
- 1.2 The Contract becomes binding upon the parties once executed by the Dealer and the date the dealer executes the Contract shall be the date the Contract ("Date of Contract")

2. Total Balance

- 2.1 The Total Balance of Goods shown on the front page of this Contract is the price of the goods based on existing costs and circumstances. If there is any change in those costs or circumstances before delivery of the Goods to the buyer, the Dealer reserves the right to increase the Total Balance of the Goods accordingly, upon notice to buyer, and such increased figure will become the Total Balance.
- 2.2 In the event the Dealer increases the Total Balance under clause 2.1 the buyer may terminate the Contract by notice in writing to the dealer, within 3 days after receiving notification from the Dealer under clause 2.1.
- 2.3 Failing termination under clause 2.2, the buyer will be deemed to have accepted the increase in Total Balance under clause 2.1, and will pay the increased Total Balance at the time for payment specified in clause 5 herein.

3. Finance

- 3.1 If the Buyer requires finance, for completion of the Contract, the Buyer must identify at the time of entering into the Contract where provided on the front page of the Contract:
 - (a) That finance is required and;
 - (b) Whether the Buyer requires the Dealer to obtain that finance or whether the Buyer will obtain finance on the Buyer's own behalf.
- 3.2 If the Buyer elects to obtain finance on the Buyer's own behalf:
 - (a) the Buyer must use best efforts to obtain finance;
 - (b) the Buyer must notify the Dealer in writing within 5 days of the Date of Contract whether finance satisfactory to the Buyer has been obtained, and if such finance has not been obtained, upon request by the Dealer, provide reasonable evidence of such refusal of finance to the Dealer.
- 3.3 If the Buyer elects for the Dealer to obtain finance on the Buyers behalf the Dealer must notify the Buyer in writing once finance has been obtained.
- 3.4 If the Buyer requires finance under clause 3.1 and finance has not been obtained within 5 days of the Date of Contract, the Buyer (provided clause 3.2 herein is satisfied) or the Dealer may elect to cancel the Contract.
- 3.5 In the case of an election by the Buyer under clause 3.1 herein that finance is require for completion of the purchase the Dealer cannot dispose of any trade-in until the Buyer notifies the Dealer that the finance has been approved, or the Dealer obtains finance under clause 3.3.

4. Trade

- 4.1 Upon execution and acceptance of the Contract by the Dealer (or such other date as agreed orally or in writing), the Buyer shall deliver to the Dealer's premises as noted on the face of this Contract (or otherwise agreed orally or in writing), any goods traded in to the Dealer on account of this Contract, free of encumbrance.

5. Payment

- 5.1 The Buyer will pay the Total Balance at the time as provided below:
 - (a) If finance was required under clause 3.1, to be obtained by the Buyer, within 3 days of the Buyer notifying the Dealer under clause 3.2 herein that the Buyer has obtained finance; or
 - (b) If finance was required under clause 3.1, to be obtained by the Dealer, within 3 days of the Dealer notifying the Buyer of finance under clause 3.3 herein; or
 - (c) If financing was not required under clause 3.1 within 3 days of the date of Contract; or
 - (d) Within 3 days of the date the buyer is notified that the Goods are available for delivery, pursuant to clause 6.1 herein. Whichever is the later.
- 5.2 Payment will not be deemed to have occurred until the Dealer receives the Total Balance in cleared funds.
- 5.3 If any cheque issued by the Buyer or by any third party in payment for the Goods is dishonoured the Dealer is entitled to treat the dishonour of the Buyer's cheque as a repudiation of the Contract, and may exercise the rights afforded to the Dealer upon default as provided under clause 10 herein.
- 5.4 Failing payment by the dates required in this clause 5, interest will be payable by the Buyer to the Dealer at the rate of 15% per annum on any amount outstanding, until payment.

6. Delivery

- 6.1 The Dealer will notify the Buyer (which notification may be oral) once the Goods are ready for delivery to the Buyer.
- 6.2 The Buyer acknowledges that any estimates for the delivery date prior to the notification under clause 6.1 are not binding and agrees that the Dealer, whilst using its best endeavours to effect delivery, will not be liable for any loss or damage occasioned by the Buyer by any delay for any reason whatsoever. Further, the Buyer acknowledges that any such delay shall not entitle the Buyer to terminate the Contract.
- 6.3 Unless otherwise agreed (orally or in writing), delivery will be effected at the premises of the Dealer shown on the face of this Contract.
- 6.4 The Buyer must take delivery of the goods no later than 7 days from receiving notification under clause 6.1 above.
- 6.5 Upon delivery, the Buyer will inspect the Goods and confirm by completion of a Delivery Acknowledgement form, that the Goods meet with their description under the Contract, and are acceptable to the Buyer. The Dealer will not accept liability for any defects which were or should have been discovered by the buyer during this inspection, but were not brought to the Dealer's attention by the Buyer prior to completion of the Delivery Acknowledgement.

7. Title

- 7.1 Until payment of the Total Balance as required by clause 5 herein:
 - (a) Title to the Goods shall not pass to the Buyer
 - (b) Should the Buyer take possession of the Goods, the Buyer does so as the fiduciary agent and bailee of the Dealer and shall not sell, transfer or otherwise encumber the Goods until payment of the Total Balance, and title in the Goods has passed;
 - (c) If in breach of clause 7.1 (b) the Buyer sells, transfers or otherwise encumbers the Goods the Buyer does so as a fiduciary of the Dealer and the Buyer will receive all proceeds wether tangible or intangible, direct or indirect, of any such dealings with Goods in trust for the Dealer and will keep such proceeds in a separate account until liability to the Dealer is discharged.

8. Risk

- Risk in the Goods passes to the Buyer upon the earlier of:
- (a) Actual or constructive delivery of the Goods to the Buyer; or
 - (b) Collection of Goods from the Dealer or any bailee or agent of the Dealer by or on behalf of the buyer.

9. Exclusion

- The Buyer acknowledges that:
- (a) Prior to execution of the Agreement the Buyer conducted a thorough examination of the Goods; and
 - (b) No warranty, condition, description or representation in relation to the Goods are given by the Dealer, expressly or impliedly by this Contract or outside this Contract, save for any manufacturer warranty on new goods that is given with the Goods or any other written warranty provided by the Dealer.
 - (c) Without limiting its extent, clause 9.1(b) above includes the capacity, capability or suitability of any particular vehicle to tow the Goods and in regard the Buyer is solely responsible to ensure that the Goods are within the legal towing limit requirements of the vehicle with which the Buyer intend to tow the goods;
 - (d) All warranty, terms and conditions in relation to the state, quality or fitness of the Goods and of every other kind whether expressed or implied by use, statute or otherwise, is excluded, save to the extent that such exclusion is prohibited by law;
 - (e) These terms and conditions supersede and exclude all prior and other discussions, representations (contractual or otherwise) and arrangements relating to the supply of the Goods or any part of the Goods including, but without limiting the generality of the foregoing, those relating to the performance of the Goods or any part of the Goods or the results that ought to be expected from using the Goods.

10. Default

- 10.1 The Dealer shall be entitled to exercise the remedies provided for by this clause 10 in the event of:
 - (a) Any default by the Buyer of any obligation under this Contract;
 - (b) Without limiting sub-paragraph 10.1 (a) herein, an event referred to in clause 4.2 or 5.3 herein;
 - (c) Any repudiation of the Contract by the Buyer;
 - (d) The Buyer becoming bankrupt or insolvent or entering into any arrangement with its creditors or taking or suffering any similar action in consequence of debt, prior to payment of the Total Balance as required by clause 5 herein.
- 10.2 Upon the occurrence of any of the events referred to in clause 10.1 herein, without prejudice to any other rights or remedies the Dealer may have, the Dealer is entitled to elect between terminating the Contract or affirming the Contract, and in each case, claiming and recovering compensation for loss or damage suffered by the Dealer from the Buyer, including interest and costs.
- 10.3 Without limiting clause 10.2 herein, should the Dealer elect to terminate the Contract, without prejudice to any rights or remedies the Dealer may otherwise have, the Dealer may:
 - (a) forfeit and retain any monies paid by the Buyer on account of the Total Balance to a limit of 10% of the Balance.
 - (b) Recover from the Buyer by way of liquidated damages an amount representing 10% of the Total Balance.
 - (c) Recover from the Buyer by way of liquidated damages all loss of profit and reasonable expenses and costs incurred as a result of such default; and
 - (d) Sell the Goods or other goods traded by the Buyer under this Contract, and, once sold, retain from the proceeds of sale of the same, an amount representing 10% of the Total Balance, on account of any damages suffered.

11. Miscellaneous

- 11.1 Any Termination of this Agreement shall not affect those provisions of this Agreement which expressly or impliedly are intended to survive termination of this Agreement.
- 11.2 Unless otherwise provided herein, the Contract is not to be amended except in writing signed by the Buyer and the Dealer.
- 11.3 The Buyer must not return the Goods unless the Dealer consents to the return of the Goods.
- 11.4 The Contract is governed by the laws of the State of Queensland.
- 11.5 The Buyer acknowledges that Buyer has read, understands and agrees to be bound by the terms of this contract.
- 11.6 Time is of the essence of this contract, except regarding any agreement between the parties on a time of day of delivery.

12. GST

- The Buyer acknowledges and agrees that where a trade in by the Buyer constitutes a taxable supply by the Buyer (where the Buyer is an entity registered for GST purposes) and trade-in allowance specified on the front page of this Contract, shall be inclusive of GST and:
- (a) the Buyer shall be liable to account for GST in respect of the trade-in allowance; and
 - (b) the Buyer shall provide the Dealer with a tax invoice in respect of the Trade-in allowance at the time of payment as required by clause 5 herein.