

CONDITION OF SALE



GENERAL

1. Unless otherwise agreed in writing by T&G Automotive Ltd (hereinafter referred to as 'the seller') these Conditions of Sale which supersede any earlier conditions of the seller shall form part of all Contracts for supply of goods by the seller to any other person (hereinafter called 'the buyer') and shall prevail over any inconsistent terms of conditions contained or referred to in a Buyer's Order or correspondence or in the negotiations preceding the formation of the Contract or elsewhere. Any clause which is inconsistent with or which purports to exclude the Seller's Conditions or which purports to provide that the delivery of any goods or commencement of any work by the Seller on a Contract for the Buyer shall constitute acceptance of the buyer's Conditions, such Clause or Clauses shall be of no effect and the Seller's Conditions of Sale shall prevail.

PRICE AND PAYMENTS

2. All prices are quoted and orders are accepted on the basis that the materials and goods will be charged at the prices ruling at the date despatch and if any reduction or increase in the Sellers price should take place between quotation and despatch the new prices applicable at the date of despatch will be charged.
3. Customs Duties Consular fees and other taxes duties or fees charged in accordance with the laws or regulations of the country of destination or any other Country through which the goods are transported as well as any costs connected therewith shall be borne by the Buyer. The seller shall be entitled to add to the price the amount of any Tax or other governmental charges which the Seller must pay in respect of the goods (including without prejudice to the generally thereof value Added Tax and import levies) such Taxes or governmental charges now in effect or as may hereafter be imposed or any increase thereon prior to delivery.
4. All terms are strictly net and payments due 30 days from the day of invoice. The Buyer shall pay interest at 2% above the base rate of National Westminster Bank PLC for the time being, such interest to accrue from day to day and be payable after as well as before any judgement.
5. In the event of any payment being overdue the Seller may withhold any further deliveries or future supplies.
6. The seller may before executing an Order require the Buyer to prove to the satisfaction of the Seller that it will fulfil all its obligations and make payment on the due date or dates. Should the Buyer fail so to satisfy the Seller in this regard the Seller reserves the right to rescind the Contract forthwith and without Notice and without liability of any kind to the Seller and without prejudice to any claim or damages by the Seller.
7. All payments received by the Seller shall first be utilised in settlement of Accounts which have been outstanding longest and/or at the option of the Seller any accumulated interest on arrears.
8. No payments may be withheld nor may any counterclaim of the Buyer be set off against any payment due hereunder without the consent of the Seller.

DELIVERY

9. Any time or date made by the Seller for delivery is given and intended as an estimate only and the Seller shall not be liable for any delay in delivery, non-delivery, destruction, or deterioration of all or any part of the goods or from any other default in the performance of the contract arising therefrom. In the case of delivery by instalments each delivery shall be regarded as a separate and independent contract. The Seller reserves the right to make partial deliveries.
10. In the event that the Buyer is unable to accept delivery of the goods at the time when the goods are due and ready for delivery the Seller may at his own discretion store the good and the buyer shall be liable for the reasonable costs (including insurance) of its so doing. This provision shall be without prejudice to any other claim which the seller may have in respect of the buyer's failure to accept delivery of the goods at the appropriate time.
11. Where delivery is taken at the premises of the Buyer or his Agent the buyer shall be responsible for the safety of the vehicles of the seller or its Agent whilst on such premises.

QUANTITY

12. The quantities of any consignment of goods delivered under this Contract shall be specified by the Seller upon despatch from the Seller's factory or warehouse and shall be accepted by the Buyer as conclusive evidence of the quantity so delivered unless at the time of such delivery claims of short deliveries are made and agreed with the carrier.
13. The seller shall be deemed to have fulfilled the Contract by delivery of a quantity within ten per cent either way of quantity ordered and the Buyer shall pay at the Contact Rate for the quantity of goods actually delivered in accordance with the seller's invoice.
14. If the Buyer shall fail to obtain the necessary import Licence or Quota Allocation at the time when delivery of any goods shall be due or shall otherwise fail to accept delivery then the Seller shall have the right either to postpone delivery or to rescind the Contract forthwith and without Notice and without Liability of any kind to the Seller and without prejudice to any claim for damages by the Seller.

WARRANTIES

15. The seller warrants that the goods shall at the time of delivery be free from defects in workmanship and materials. If any goods shall be so defective then the Seller shall have the option either to:
 - (i) replace the goods which shall prove to be defective or
 - (ii) take such steps as the Seller shall deem necessary to bring such goods into a state where they are free from such defects or
 - (iii) take back such goods and give to the Buyer a reasonable credit or allowance in respect of such goods.

Provided that:

- (a) the liability of the Seller shall in no event exceed the purchase price of such goods.
- (b) the performance of any one of the above options shall constitute an entire discharge of the Seller's liability under this warranty.

16. The Warranty specified in paragraph 15 above is conditional upon:
 - (a) written notice being received by the seller from the buyer of such defects within twenty-one days of delivery of such goods and
 - (b) the alleged defective goods being available for inspection by the Seller and if so required by the Seller the Buyer returning the said goods at the Buyer's expense to the seller's works for inspection.
17. Save as herein expressly provided and as provided in section 12 of the Sale of Goods Act 1979 warranties expressed or implied are hereby expressly excluded nor shall the Seller be liable for:
 - (a) any expenditure incurred by any Buyer in respect of the goods alleged to be defective: or
 - (b) any loss of profit or any consequential or indirect loss or damage of any kind to the buyer howsoever caused: or
 - (c) any goods which have been processed in any way by the buyer or damaged after the risk in the goods has passed to the Buyer.
18. If the seller notwithstanding paragraphs 15 to 17 hereof shall be found liable for any loss or damage such loss or damage to be limited to the purchase price of the goods.

LOSS OR DAMAGE TO GOODS IN TRANSIT

19. (i) The risk in goods shall pass to the buyer when:
 - (a) If the buyer shall collect the same at the time that the goods shall be loaded on to the buyer's vehicle or the vehicle of his Carrier or Agent.
 - (b) If the seller shall deliver the same at the time when the goods are tendered for delivery.(ii) The seller shall not be liable for any goods alleged to have been lost pilfered or damaged in transit or for any mis-delivery, short delivery or non-delivery unless written notification of any such complaint shall be received by the seller within five days from the date of delivery or in the event of loss or short delivery of goods within a period of five days from the date when in the ordinary course of events the goods should have been delivered.

COMPLAINTS

20. Any complaints or claims made in respect of goods alleged to be defective may result in the suspension of further delivery of goods under the contract by the Seller until such claims or complaints have been investigated or finally determined and in any such event any applicable delivery date shall be delayed accordingly and the Seller shall in no way be liable for any loss resulting from such delay.
21. The buyer shall indemnify the seller against any costs claims or demands or liability which might arise directly or indirectly out of the use goods or under the Health and Safety at work Act, 1974 or under any statutory modification or re-enactment thereof.

RESERVATION OF OWNERSHIP

22. The ownership of and property in any goods sold shall remain vested in the Seller until the Buyer has paid in full the purchase price of the goods sold and of any other goods previously sold by the Seller to the Buyer. The Buyer shall not be entitled to resell or use any goods until ownership and property has passed. If in breach hereof the Buyer resells goods he shall be deemed to do so as agent of the seller and shall be under a fiduciary duty to account to the seller for the proceeds of sale.

DEFAULT OR INSOLVENCY OF BUYER

23. If any moneys due from the Buyer to the Seller shall be unpaid on the due date or if the Buyer shall make any default in or commit a breach of the contract or any of his or its other obligations to the Seller or if any distress or execution shall be levied upon the Buyer's property or assets of the buyer or if the Buyer shall make or offer to make any arrangements or composition with his or its creditors or commit any acts of bankruptcy of it any Petition or Receiving Order in Bankruptcy shall be presented or made against him or if being a Company any resolution or petition to wind up such Company's business (other than for the purpose of amalgamation or re-construction) shall be passed or presented or if a Receiver should be appointed for such Company's undertaking property or assets or any part thereof the Seller shall have the right forthwith to determine any contract then subsisting and upon written notice of such determination being posted to the buyer's last known address any subsisting contract shall be deemed to have been determined without prejudice to any claim or right to the Seller may otherwise make exercise.

FORCE MAJEURE

24. The seller may cancel or vary the contract as result of any Act of god war riots or civil disturbance strike lock-out or other labour dispute, fire, flood, drought or accident legislation requisition or other order of any Government Department Council or other duly constituted authority or of any other cause beyond the seller's control and in such event the Seller shall not be liable for any loss or damage which might arise as a result of such cancellation or variation.

UNFAIR CONTRACT TERMS ACT, 1977

25. In the event that the Buyer objects to the inclusion in any contract with the Seller of any of the excluding or exempting or indemnity terms contained herein such objection must be brought to the attention of the Seller before conclusion of any such contract so that if (which shall be within its entire discretion) the seller agrees to deletion or modification of any such terms appropriate increases in the price of goods to be supplied under such contract may be agreed to reflect any increased risk or obligation which the seller may thus agree to bear.

APPLICABLE LAW

26. This Contract shall be governed by and constituted in all respects in accordance with the Laws of England