

Appendix A - Conditions of Sale

Conditions of Sale

TC's 18-02-11

Conditions of Sale of Goods and Services

Truck and Trailer Equipment, Unit 6, Portway industrial estate, Alston road, Oldbury, West midlands, B69 2PP ("TTE")

1 Application and formation of Contract, quotations and cancellation

1.1 Subject to any variation under clause 1.2, any agreement by TTE to supply goods or services will be subject to these terms to the exclusion of all other terms and conditions (including any terms or conditions which the Customer purports to apply under any other document). Any quotations illustrations or similar shall be on the basis of these terms.

1.2 No agreement to supply shall be binding on TTE until confirmed by them in writing by way of confirmation of order, or, if earlier, commencement of manufacture or services, appropriation or dispatch of goods to the order.

1.3 Quotations or estimates will be valid for 30 days from the date of issue. Once an order is confirmed by TTE the Customer shall take delivery and pay for the goods or services. If the customer purports to cancel or otherwise fails to take delivery (without TTE agreement) then TTE reserves all rights arising, which, in particular for vehicles but without limitation, shall include: forfeit of deposit (or such part of the deposit as covers the amounts due to TTE); the interest costs to TTE on any un-delivered goods (being at least LIBOR 3 month + 2.25%) until resold; the loss if any (including lost incentives commissions and promotional campaigns) and costs incurred in resale of the goods (which for vehicles shall be at least £500 + VAT). If TTE anticipates that exposure to interest charges may be for an extended period of time then they will illustrate relative interest and loss on resale exposure to the customer and (at TTE's discretion) seek the route minimising the customer's exposure.

2 Delivery and Acceptance of Goods

2.1 Delivery of goods or services shall take place at TTE's dealer premises in normal business hours (unless specifically agreed otherwise in advance by TTE). The Customer shall take delivery within 7 days of TTE giving notice that the goods are ready for delivery. Any dates specified by TTE for delivery are intended to be an estimate only and time for delivery shall not be of the essence. If no dates are so specified, delivery will be within a reasonable time.

2.2 If for any reason the Customer does not take or enable delivery of the goods, then the goods may at TTE's discretion be deemed to have been delivered, risk passing to the Customer (including for loss or damage caused by TTE's negligence) and TTE may (a) store the goods until actual delivery and the Customer will be liable for all related costs and expenses (including storage, re-delivery and insurance); or (b) sell the goods at the best price readily obtainable and after deduction of all reasonable storage and selling expenses, charge the Customer as for a cancelled order.

2.3 The Customer shall examine the goods upon delivery and shall be deemed to have accepted the goods or services as being in accordance with the Contract unless the Customer notifies TTE in writing of any defect or non-conformity: a) within 7 working day of the date of delivery of the goods where the defect or failure would be apparent upon reasonable inspection and testing of the goods, or b) within a

reasonable time where the defect or failure would not be so apparent. TTE has no liability if not notified in accordance with this clause.

2.4 Where TTE is to perform Services at the Customer's premises, the Customer shall procure safe access to the premises and the provision of adequate power, lighting, heating and other such facilities or supplies for TTE employees or agents in accordance with the demands of any applicable legislation and as TTE shall reasonably require.

2.5 Services will be deemed to be completed and the price to be due (a) when the TTE issues a written notice to the Customer confirming such completion; or (b) if the TTE is available to perform the services but is prevented from doing so by the Customer failing to provide the vehicle or necessary and proper access or facilities.

3. Resellers

TTE is only authorised to sell vehicles and parts to end users and their authorised representatives. The Customer agrees to purchase in this capacity, and in the event of acting as an unauthorised reseller indemnifies TTE from and against all lawful penalties imposed on TTE including fines, lost commissions rebates or other pricing and promotional campaigns.

4 Passing of Risk and Legal Title

4.1 Title to and property in the goods remains vested in TTE until payment in full, in cleared funds and any part exchange vehicle with its registration document has been delivered to TTE free from all encumbrances.

4.2 Title to and property in the goods remains vested in TTE until payment in full in cleared funds of all moneys due from the Customer to TTE under the contract or on any other account for goods or services from TTE.

4.3 Until title to and property in the goods passes to the Customer under 4.1 or 4.2 above the Customer shall: a) take sole risk in the goods whether delivered to the Customer or to other premises such as bodybuilders as directed by the Customer, and b) hold the goods on a fiduciary basis as TTE's bailee, and c) shall at their cost store the goods at its premises in a proper manner in conditions which adequately protect the goods separately from any other goods clearly identifiable as belonging to TTE and insure them, and d) grant TTE free and unrestricted access to any location where any of the goods are situated at any time without prior notice to inspect or repossess the goods, and e) at any time, on demand and without prior notice deliver the goods up to TTE. TTE may also repossess and resell the goods if any event specified in clause 10. occurs. TTE may maintain an action against the Customer for the price of the goods notwithstanding that title to the goods has not passed to the Customer.

5 Price and Payment

5.1 A deposit of such amount as shall be agreed between the parties shall be paid by the Customer upon the signature of the Contract. If the Customer cancels the Contract, fails to accept delivery or otherwise complete the Contract, then the deposit shall be payable to TTE, without prejudice to any other remedy which TTE may have for breach of this Contract.

5.2 Unless otherwise agreed by TTE in writing, (a) the price for the goods and/or services shall be the price set out in TTE's confirmation of order leading to the delivery of the goods; or completion of performance of the services or, if such price is not clear, then the prevailing retail price for equivalent goods at such date, and (b) the price for the goods and/or services shall be exclusive of any VAT and all charges in relation to packaging, labelling, loading, unloading, carriage, freight and insurance all of which amounts the Customer will pay. If prior to delivery, the quoted price of the goods and/or services increases, the Customer may within 7 days of receiving notice of such increase, cancel this Contract and recover any deposit paid. TTE shall

be under no further liability.

5.3 Payment of the price for the goods and/or services is due prior to delivery of vehicles. For other goods or services payment is due by the 20th of the month following the date of invoice. Time for payment shall be of the essence. The Customer shall make all payments due under the Contract without any deduction. TTE shall be entitled at any time to withdraw from the Customer any credit facility made available to the Customer. If this occurs or if any sum is not paid to TTE when due then, without prejudice to any other rights or remedies TTE may suspend its obligations under this Contract until it receives such security for payment from the Customer as it may require.

5.4 If any sum due from the Customer is not paid on or before the due date then all sums then owing by the Customer to TTE shall become due and payable immediately and TTE may (a) cancel or suspend its performance of the Contract or any order; (b) require the Customer to pay for goods or services in advance; and (c) charge the Customer interest calculated on a daily basis on all overdue amounts (both before and after judgment) until actual payment at the rate of four per cent (4%) per annum above the base lending rate of Barclays Bank plc prevailing from time to time and the cost of obtaining judgment or payment to include all reasonable professional costs (including legal fees) and other costs of issuing proceedings or otherwise pursuing a debt recovery procedure.

6 Lien and power of Sale.

6.1 TTE retains all liens granted at common law and under Statute. In addition TTE is granted a contractual lien over all goods left in its possession by a customer. The lien shall apply in respect of all and any sums due on any account from the customer. TTE shall be entitled to retain the goods until clear payment of the full amount including proper costs and interest. If such sums are not paid within 28 days TTE shall upon 7 days notice to the Customer have the absolute right to sell the customer's goods, retaining any amounts due to TTE and accounting to the customer for any balance within a reasonable time.

7 Changes

7.1 Photographs, descriptions and other literature relating to the goods and/or services are for guidance only. TTE reserves the right to supply the goods and/or services subject to minor variations in published specifications without prior notice.

7.2 If the manufacturer discontinues the sale of the goods or alters the goods' specification, TTE may (a) to deliver in fulfilment of this Contract, goods TC's 18-02-11 conforming to the manufacturer's nearest specification prevailing at the time of delivery; or (b) to cancel this Contract and return any deposit paid by the Customer without further liability.

8 Warranty

8.1 Subject to clause 9, TTE warrants that it shall take reasonable care to ensure that the goods are of the description stated in the Contract, of reasonable quality and reasonably fit for the purpose stated in the quotation. Where no purpose is stated in the quotation, the TTE does not make any warranty as to the fitness of the goods for any specific purpose. Parts shall carry the manufacturer's warranty. Services will be delivered with due skill and care. TTE warranty for parts and service shall be for a 3 month period from the date of supply.

8.2 The Customer shall observe the instructions provided by the Company for the proper assembly, maintenance, handling and use of the goods. For goods which are new (including body work and specialist third party plant or equipment installed on the vehicle), the benefit of the manufacturer's warranty is passed unconditionally to the Customer, the Company shall provide all reasonable assistance in the pursuit of

any proper claims under such warranty and this shall be the extent of the Company's warranty liability for such new goods.

9 Exclusion and Limitation of Liability

9.1 Nothing in the Contract excludes or limits TTE's liability for death or personal injury caused by their negligence breach of strict statutory liability or for fraudulent misrepresentation.

9.2 The Company shall not otherwise be liable for (a) any economic loss or loss of profit (direct or indirect), or any indirect or consequential loss howsoever caused, (b) any liability arising to any third party, (c) any modifications to the goods carried out in accordance with the Customer's request; (d) any loss howsoever caused from the non-delivery or delayed delivery of the goods but if the Company is unable to deliver the goods for any reason whatsoever, either party may terminate this Contract with 7 days written notice, whereupon the Company shall return to the Customer any deposit paid; or (e) any defective or non-performance of any third parties from whom the Customer has directly procured parts and/or services to be used in connection with the goods (including bodywork to be fitted onto the goods), or (f) any issues arising from supplies or services from third parties nominated by the Customer, and (g) for new vehicles, any losses beyond those recoverable under the applicable warranty from manufacturer or third party supplier of new bodywork or specialist equipment. Accordingly, all such costs, claims (including warranty claims), losses or damages suffered by the Customer shall be borne by the Customer and save as provided in clause 7, the Customer shall indemnify the Company and the manufacturer of the goods against such costs, claims, losses or damages.

9.3 Save as provide in 8.1 TTE's total liability to the Customer in connection with this Contract (for negligence, breach of contract or otherwise) shall not exceed the replacement value of the goods or services to be provided under this Contract.

10 Part Exchange/Finance/Export

10.1 Where TTE has agreed to allow part of the price of the goods to be satisfied by the Customer selling a used motor vehicle to TTE, such agreement shall be subject to the following conditions: (a) that the used vehicle is the absolute property of the Customer and is free from all encumbrances and that all material representations (written, oral or implied) made by the Customer relating to such used vehicle (including its odometer reading) are correct in every respect; (b) that if such used vehicle is the subject of a hire purchase agreement or other encumbrance, such encumbrance is capable of cash settlement by TTE in which case the allowance shall be reduced by the amount required to be paid by TTE in settlement thereof (c) that if TTE has examined the used vehicle prior to its confirmation of the order, the used vehicle shall be delivered to TTE in the same condition as at the date of such examination (fair wear and tear excepted), (d) that such used vehicle shall be delivered to TTE on a date agreed by the parties but in any event, on or before delivery of the goods, and the property in the said used vehicle shall thereupon pass to TTE absolutely, (e) that if the goods are not delivered to the Customer within 30 days after the date of the order or on the estimated delivery date where that is later, the allowance on the said used vehicle shall be reduced by an amount not exceeding 2.5% for each completed period of 30 days from that date to the date of delivery of the goods to the Customer of the goods. If any of the foregoing conditions other than (e) is not fulfilled, TTE shall be discharged from any obligation to accept the used vehicle or to make any allowance, and the Customer shall pay the full contract price for the goods.

10.2 If the Customer chooses to acquire the goods by any method of funding their purchase involving the sale of the goods to a finance provider, then the sale of the goods to the finance provider shall be in complete satisfaction of TTE's obligations to the Customer. Notwithstanding such sale, the Customer

shall remain bound by the Contract and TTE shall not be obliged to deliver the goods to the Customer nor accept any vehicle taken in part exchange until the expiry of any statutory period of notice under the Hire Purchase Act, the Consumer Credit Act 1974 or other applicable legislation.

10.3 Where the goods are supplied for export from the United Kingdom, the Customer shall be responsible for complying with any legislation or regulations governing the use or sale of the goods in the country of destination, the payment of any duties or taxes on them, the transportation and storage of goods (including any obligation to translate any instructions, labeling or packaging into any other language). The Customer shall be responsible for arranging for testing and inspection of the goods at TTE's premises before shipment. TTE shall have no liability for any claim in respect of any defect in the goods which would be apparent on inspection and which is made after shipment, or in respect of any damage during transit. TTE shall be under no obligation to give notice under section 32(3) of the Sale of Goods Act 1979.

11. MOT / VOSA data purposes, brands, additional user conditions and exclusions of liability

In the course of MOT testing or the provision of access to or use of the Approved Testing Facility the following provisions shall also apply;

11.1 VOSA terms for TTE use of the system authorise VOSA to provide TTE with test result data on vehicles that we have prepared for test, for quality control purposes. This data may also be shared in anonymised form with manufacturers who have a contractual relationship with TTE.

11.2 No use of any MOT/VOSA brands logos and other intellectual property by TTE grants any right licence or other proprietary interest to any TTE customer or recipient.

11.3 Unless agreed otherwise in advance with TTE, the customer shall:-

- a) supply a qualified and insured driver for the duration of use of the facility;
- b) present the vehicle in a condition fit for inspection;
- c) permit any VOSA quality inspection which may be carried out at any time without notice, and treat all VOSA personnel with respect;

11.4 Fees for statutory tests shall be as agreed with TTE up to any current cap set by VOSA. All other non-statutory work shall be subject to agreement with TTE and on its standard terms. Refunds of statutory test fees shall only be available in accordance with VOSA refund procedures and when received from VOSA. In particular no refund shall be due for failure by the customer to present the vehicle or present it in a condition fit for testing. Cancellations by the customer less than 7 days prior to test shall not be due a refund. Cancellations more than 7 days before test shall only be due a refund if there remain at least 2 other bookings for the test day or none at all. In the event that a VOSA tester is delayed or unavailable, the test fee for unachievable tests shall be refunded. VOSA and TTE has no further liability.

11.5 Neither TTE nor VOSA shall be liable for any events outside their control, including extreme weather, transport or communication interruptions, third party industrial action, civil unrest or local or national emergency. Neither VOSA nor TTE exclude or limit liability for death or personal injury arising from their negligence. Neither TTE nor VOSA shall otherwise be liable for any loss of profits business revenue or goodwill, nor for any indirect or consequential loss or damage including any unavailability or restriction on use of any vehicle. The customer acknowledges that this clause shall directly apply to any issue arising between the customer and VOSA.

12 Breach of Contract/Insolvency/Force Majeure

12.1 TTE may immediately suspend performance of the Contract, cancel any outstanding provision of the Services or delivery of the goods, stop any goods in transit or by notice in writing to the Customer or terminate the Contract without liability to TTE if (a) the Customer commits a material breach

of any of its obligations under the Contract which is incapable of remedy or fails to remedy a breach of its obligations under the Contract which is capable of remedy, or persists in any breach of any of its obligations under the Contract after having been requested in writing by TTE to remedy or desist from such breach within a period of 14 days; or (b) the Customer enters into bankruptcy, individual or corporate voluntary arrangement, liquidation, receivership or administration.

12.2 TTE may suspend or cancel the Contract in whole or in part (without liability to the Customer) if it is prevented from or delayed in the carrying on of its business and its obligations under the Contract due to any circumstances beyond the reasonable control of TTE provided that, if such circumstances continue for a continuous period in excess of 3 months, either party may give notice in writing to the other to terminate the Contract.

12.3 Notwithstanding any such termination or suspension of the Contract, the Customer shall pay TTE for all goods delivered or Services provided up to and including the date of suspension or termination. Termination of the contract for any reason shall be without prejudice to the rights of either party which TC's 18-02-11 may have accrued up to termination.

13 General

13.1 Any intellectual property rights (including patents, registered and unregistered designs, trade marks and service marks and copyright and any applications for them) created by TTE in the course of the performance of the Contract or otherwise in the manufacture of the goods or the provision of the Services shall remain TTE's property. Nothing in the Contract shall be deemed to have given the Customer a licence or any other right to use any of the intellectual property rights of TTE.

13.2 Both parties shall each keep confidential and shall not, without the prior written consent of the other, disclose to any third party or otherwise make public the terms or existence of the Contract or any other confidential information of the other party.

13.3 TTE may assign, charge, subcontract or transfer the Contract or any part of it to any person. Save as provided in to clause 8.2, the Contracts (Rights of Third Parties) Act 1999 shall not apply to the Contract.

13.4 If any provision of this Agreement is ruled to be invalid for any reason, that invalidity will not affect the rest of this Agreement which will remain valid and enforceable in all respects.

13.5 The Contract sets out the entire agreement between the parties in connection with the sale of the goods and shall supersede all documentation previously issued by TTE purporting to set out its terms and conditions of sale of the goods. The warranties set out in this Contract are the only warranties given by TTE and all warranties, conditions and other terms implied by statute or common law are, to the fullest extent permitted by law, excluded from the Contract.

13.6 This Contract is governed by English law and all disputes arising out of or relating to this Contract shall be subject to the exclusive jurisdiction of the English courts.