

# W BRINDLEY GARGES GROUP TERMS AND CONDITIONS OF SALE FOR MOTOR VEHICLES

## 1. Definitions

- 1.1. "The Dealer", W Brindley Garages Group and all subsidiaries who are the vendor of the goods to the customer.
- 1.2. "The Customer", the person contracting for goods and services to be supplied by the Dealer.
- 1.3. "Consumer" a Customer, being an individual who, for the purposes of the purchase, is acting wholly or mainly outside of their trade, business, craft or profession.
- 1.4. "Goods" means all vehicles as defined, or other things to be sold by the Dealer to the Customer.
- 1.5. "Vehicle" includes any car, lorry, van, trailer, caravan, invalid carriage, motorcycle and generally each and every accessory to and component thereof.

## 2. Whole Contract

- 2.1. These terms shall represent the whole contract between the Dealer and the Customer.  
They may be varied only by written agreement between the parties.

## 3. Interpretation

- 3.1. The singular shall include the plural and the male shall include the female or business entity as may be appropriate.

## 4. Enforceability

- 4.1. In the event of any one or more of these terms and conditions being declared unenforceable, the remaining terms and conditions shall nonetheless remain in full force and effect.

## 5. Written Confirmation

- 5.1. This order and any allowance in respect of a Vehicle offered by the Customer are Subject to acceptance and confirmation in writing by the Dealer.

## 6. Delivery Time Not of the Essence

- 6.1. Unless specifically agreed in writing, time for delivery is *not* essential.
- 6.2. Where the date for delivery of the goods is not known at time of sale, any date provided is an estimate only and is dependent on the provision of the Goods to the Dealer by the Supplier/Manufacturer. The Dealer will use its best endeavours to secure delivery of the Goods by the estimated delivery date (if any) but does not guarantee the time of delivery. The Dealer shall not be obliged to fulfil orders in the sequence in which they are placed.

## 7. New Goods

If the Goods to be supplied by the Dealer are new, the following provisions shall have effect:

- 7.1. This Agreement and the delivery of the Goods shall be subject to any terms and conditions which the manufacturer or concessionaire may from time to time lawfully attach to the supply of the Goods or the resale of such Goods by the Dealer, and the Dealer shall not be liable for any failure to deliver the Goods occasioned by his inability to obtain them from the manufacturer or concessionaire or by his compliance with such terms and conditions.
- 7.2. The Dealer undertakes that they will ensure that the pre-delivery work specified by the manufacturer or concessionaire is performed and that they will use their best endeavours to obtain for the Customer from the manufacturer or concessionaire the benefit of any warranty or guarantee given by them to the Dealer or to the Customer in respect of the Goods and, save where the Customer is acting as a consumer (as defined by Legislation) all statements, conditions or warranties expressed or implied by law or otherwise, are hereby expressly excluded.
- 7.3. Any figure provided within the contract Road Fund License, First Registration Fee or other fees and charges required to be levied by the licensing authorities is provided as guidance only. Notwithstanding the sum for Road Fund License, First Registration Fee or other fees and charges required to be levied by the licensing authorities specified in the order, the sum payable by the Customer in respect thereof shall be such sum as the Dealer has legally had to pay or becomes legally bound to pay in respect of the Goods.
- 7.4. Any figure provided within the contract for Value Added Tax is provided as guidance only. Notwithstanding also the sum for Value Added Tax specified in the order, the sum payable by the Customer in respect thereof shall be the sum for which the Dealer becomes legally liable at the time the taxable supply occurs.
- 7.5. If after the date of this order and before delivery of the Goods to the Customer, the manufacturer's or concessionaire's recommended price for any of the Goods, or specification of the same shall be altered, the Dealer shall give notice of any such alteration to the Customer, and
  - 7.5.1. in the event of the manufacturer's or concessionaire's recommended price for the Goods being increased, the amount of such increase which the Dealer intends to pass to the Customer shall be notified to the

Customer. The Customer shall have the right to cancel the contract within 14 days of the receipt of such notice. If the customer does not give such notice as aforesaid, the increase in the price shall be added to become part of the contract price.

- 7.6. In the event of the manufacturer of the Goods described in the order ceasing to make the Goods of that type, the Dealer may (whether the estimated delivery date has arrived or not) by notice in writing to the Customer, cancel the contract on the grounds of frustration.
- 7.7. Save in the case of consumer sales (as defined) all statements, conditions or warranties as to the quality of the Goods or their fitness for any purpose whether express or implied by law or otherwise are hereby expressly excluded.

#### **8. Used Goods**

- 8.1. If the goods to be supplied by the Dealer are used, the vehicle is supplied as roadworthy at the date of delivery and, in the case of consumer sales (as defined by the relevant Sale of Goods Legislation):
  - 8.1.1. is sold subject to any conditions or warranties that are implied by the relevant Sale of Goods Legislation or any amending statutes.
- 8.2. Save in the case of Consumer sales (as defined) all statements, conditions, or warranties as to the quality of the Goods or their fitness for any purpose whether express or implied by law or otherwise, are hereby expressly excluded.

#### **9. Online Orders**

- 9.1. When you complete and submit the online order form via the Brindley Group website, you accept the terms and conditions set out in this Agreement. Please read this Agreement carefully and if there is anything you do not understand, or may not agree with, please contact us immediately.
- 9.2. Please follow the onscreen prompts to place an order. Each order is an offer by you to buy the Vehicle specified in the order subject to these Terms and Conditions.
- 9.3. After you place an order, you will receive an email from us acknowledging that we have received it, but please note that this does not mean that your order has been accepted.
- 9.4. Our acceptance of your order takes place when we send the email to you to accept it, at which point the Contract between you and us will come into existence.
- 9.5. Where the Online Order involves a part exchange of an existing vehicle (See clause 18 below)
- 9.6. Where you place a reservation on a vehicle either via our website or any third party advertising platform rather than place an Order in accordance with clause 9.2 above, we will immediately remove the vehicle from sale to the general public for a period of no longer than 72 hours. You will then have an obligation to complete your Order as per clause 9.2 above within 24 hours of placing the reservation. Please note that failure to do so will result in us acting in good faith in assuming that it is your intention to cancel your interest in the proposed transaction. If this occurs, the vehicle will be removed from reserved status and any monies deposited as cleared funds into our nominated bank account will be returned to you in full via the same method used to make the original payment.

#### **10. Variation**

- 10.1. Any variation agreed between the Dealer and the Customer regarding the Goods to be supplied shall be deemed to be an amendment to this Contract and shall not constitute a new contract.

#### **11. Delivery and Payment**

- 11.1. The Customer shall be liable to pay for the Goods immediately upon notification by the Dealer that they are available for delivery. The Dealer may, in its discretion, demand a deposit at the time when the order for Goods is placed by the Customer and shall not be obliged to progress the order or otherwise implement the contract until the deposit is paid in full.

#### **12. Place of Delivery**

- 12.1. Unless otherwise agreed in writing delivery of the Goods shall take place at the Dealer's premises.
- 12.2. In the event of cancellation, for any reason, the customer agrees to return the Goods to the dealer's premises.

#### **13. Repudiation by Customer**

- 13.1. If the Customer does not pay for and take delivery of the vehicle within 14 days of notification that the vehicle is available for delivery, the Dealer shall be at liberty to treat the contract as cancelled. If this happens, or if the Customer cancels the contract for any other reason not permitted by this contract, the Dealer shall sell the vehicle to another person. The Dealer will refund the deposit but before doing so, they are entitled to recover from the deposit the additional costs they incur in re selling the vehicle, plus any reduction in the sales price achieved. The Dealer shall keep the deposit whilst they display and advertise the vehicle as being for sale. If it is not sold within a reasonable time the Dealer shall sell it at auction.
- 13.2. Once the Dealer has sold the vehicle, they shall notify the Customer within 7 days as to how much they have lost as a result of having to re sell. If this amount is less than the deposit, then the Dealer will refund the balance of the deposit with

the notification. If the claimable amount is more than the deposit, then the Dealer will include a statement showing how much the Customer owes the Dealer to make good the loss. The Dealer will provide copies of any receipts if the Customer requests them.

13.3. The Dealer reserves the right to make a reasonable daily charge for the storage of the vehicle or vehicles.

**14. Loss or Damage**

14.1. The Dealer shall be responsible for the loss of or damage to any vehicle or its contents only if caused by negligence of the Dealer or its employees. The Customer is strongly advised to remove any items of value not related to the Vehicle.

**15. Return of Deposit**

15.1. If the contract is cancelled under the provisions of clauses 6 or 7 above the deposit shall be returned to the Customer and the Dealer shall be under no further liability.

**16. Retention of Title and Risk**

16.1. Risk of damage to or loss of the Goods are at the risk of the Customer as soon as they are delivered into the physical possession of the Customer or their nominated representative.

16.2. Goods shall remain the sole and absolute property of the Dealer as legal owner until such time as the Customer shall have paid to the Dealer the full price together with all storage charges and interest that may be due to the Dealer under this contract. Until payment in full as aforesaid has been made the Customer acknowledges that they are in possession of the goods solely as agent of the Dealer.

16.3. Until the Customer becomes owner of the Goods, they will store them separately from his own goods or those of any other person and in a manner which makes them readily identifiable as the goods of the Dealer.

16.4. The Customer's right to possession shall cease if they, not being a company, become bankrupt or if they, being a company, do anything, or fail to do anything which would entitle a Receiver to take possession of any assets or which would entitle any person to present a petition for winding-up.

16.5. Should the Customer's right of possession cease they will notify the Dealer and immediately make the goods available for collection. The Dealer may, for the purposes of recovery of the Goods, enter upon any premises where they are stored or where they are reasonably thought to be stored and may repossess them.

**17. Right of Lien**

17.1. The Dealer shall have a general lien on any property of the Customer in its possession for all monies owing to the Dealer by the Customer on any account whatsoever.

**18. Part Exchange**

18.1. Where the Dealer agrees to allow part of the price of the Goods to be discharged by the customer delivering a used Vehicle in part exchange to the Dealer, in consideration of such allowance, it is hereby agreed that the following further conditions will apply.

18.1.1. that the Dealer accepts the used vehicle in reliance of the warranties granted by the Customer overleaf, including but not limited to the age, mileage and condition of the vehicle.

AND

18.1.2. that such used Vehicle is the absolute property of the Customer and is free from all encumbrances.

OR

18.1.3. that such used vehicle is the subject of a hire purchase or agreement or other encumbrance capable of cash settlement by the Dealer, in which case the allowance shall be reduced by the amount required to be paid by the Dealer in settlement thereof.

18.2. If the Dealer has examined the said used vehicle prior to his confirmation and acceptance of this order, the used vehicle shall be delivered to them in the same condition at the date of such examination (fair wear and tear excepted).

18.2.1. In the case of Orders placed Online in accordance with clause 9 of these Terms and Conditions, if you have used our online valuation tool to obtain a trade in price in principle for your part exchange vehicle, the price offered is strictly subject to an inspection being carried out at our dealership to verify that the condition as described by you is accurate. Brindley Group reserve the right to adjust the trade in price and allowance offered on carrying out a full inspection of the vehicle and/or as a result in any change in market conditions which results in a reduction in the retail market value for the vehicle.

18.3. That such used Vehicle shall be delivered to the Dealer on or before delivery of the Goods to be supplied by them hereunder, and the property in the said used Vehicle shall thereupon pass to the Dealer absolutely.

18.4. That without prejudice to 17.3 above, such used vehicle shall be delivered to the Dealer within 14 days of notification to the customer that the Goods to be supplied by the Dealer are available for delivery.

18.5. If the goods to be delivered by the Dealer, through no default on the part of the Dealer, shall not be delivered to the Customer within 30 days after the date of this order or the estimated delivery date; where that is later, the allowance on the said used vehicle shall be subject to a reduction by an amount not exceeding 2.5% for each

completed period of 30 days from the date of the expiry of the first mentioned 30 days, to the date of delivery to the Customer of the Goods.

- 18.6. In the event of the non-fulfilment of any of the foregoing conditions, other than 18.5 above, the Dealer shall be discharged from any obligations to accept the said used Vehicle or to make any allowance in respect thereof, and the Customer shall discharge in cash the full price of the Goods to be supplied by the Dealer.
- 18.7. If you choose to sell us your part exchange Vehicle before taking delivery of your new Vehicle, title for the part exchange will pass to us at that point. If you subsequently do not take delivery of the new Vehicle for any reason, we shall not be obliged to return the part exchange vehicle to you, but may refund you the part exchange allowance offered less any amount we may have paid to settle any interest in the vehicle as specified in clause 18.1.3 above.

## **19. Authority to Contract**

- 19.1. Goods supplied by the order of any person in the Customer's employment or by any person reasonably believed by the Dealer to be the Customer's agent or by any person to whom the Dealer is entitled to make delivery of the vehicle shall be paid for by the Customer.

## **20. Authority to Uplift**

- 20.1. Where a person who, so far as the Dealer is aware, has authority to uplift Goods or Vehicles and does so, the Dealer shall have no liability to the Customer for any loss or damage resulting on any grounds whatsoever. It shall not be obligatory upon the Dealer to confirm the authority of any person reasonably believed to be the agent, or to have been at some time, connected with the Customer.

## **21. Authority to Drive**

- 21.1. In connection with the supply of a Vehicle or an inspection or testing or the preparation of any estimate in connection therewith, the Dealer shall be entitled to drive the vehicle on the road or elsewhere as it shall deem necessary. These provisions shall apply also to any Vehicle offered by the Customer in part-exchange in terms of clause 18.

## **22. Finance**

- 22.1. Notwithstanding the provisions of this agreement, the Customer shall be at liberty before the expiry of 7 days after notification to him that the Goods have been completed for delivery to arrange for a finance company to purchase the Goods from the Dealer at the price payable hereunder. Upon the purchase of the Goods by such finance company, the proceeding clauses of this agreement except 7.2 shall cease to have effect but any used Vehicle for which an allowance was there under agreed to be made to the Customer shall be bought by the Dealer at the price equal to such allowance, upon the conditions set forth in clause 18 above (save that in 18.3, 18.4 and 18.5 thereof all reference to 'delivery' or 'delivered' in relation to the 'Goods' shall be construed as meaning delivery or delivered by the Dealer to or to the order of the finance company) and the Dealer shall be accountable to the finance company on behalf of the Customer for the said price and any deposit paid by him under this agreement.

## **23. Notices**

- 23.1. All written notices given by the Dealer to the Customer shall take effect 24 hours after being despatched by the Dealer in the normal course of post to the Customer's address shown overleaf.
- 23.2. Any telephone calls made between you and us may be recorded and the contents of such conversations referenced and used in conjunction with this agreement.

## **24. Distance Selling**

- 24.1. If, and only if, the Customer has acted as a Consumer, where this Agreement has been completed away from our business premises and/or without any face to face contact between us and you; or anyone acting on your or our respective behalf, you may give notice to cancel this Agreement within 14 days without giving any reason.
- 24.2. This cancellation period will expire 14 days after the day on which you, or a third party on your behalf, takes delivery or otherwise acquires physical possession of the Goods. To exercise this right to cancel, you must inform us of your decision to cancel this Agreement in writing by clear statement (e.g. a letter sent by post, fax or email) to our address as set out overleaf. You may use the attached model cancellation form if you wish.
- 24.3. To meet the cancellation deadline, it is sufficient for you to send your communication confirming your exercise of the right to cancel before the cancellation period has expired.
- 24.4. If you cancel this Agreement, we will reimburse to you all payments received from you under this Agreement, without undue delay, and not later than:-
- 24.4.1. 14 days after the day on which we receive the Goods back; or
- 24.4.2. (if earlier) 14 days after the day you provide evidence that you have returned the Goods; or
- 24.4.3. if there were no Goods supplied, 14 days after the day on which we are informed about your decision to cancel this Agreement.

- 24.5. We will make the reimbursement using the same means of payment as you have used for the initial transaction, unless you have expressly agreed otherwise, but in any event you will not incur any fees as a result of the reimbursement.
- 24.6. We may withhold reimbursement until we have received the Goods back or you have sent evidence of having sent back the Goods to us, whichever is the earliest. You should send back the Goods or deliver them back to us at the address shown overleaf, without undue delay and in any event not later than 14 days after the day on which you communicate your cancellation of this Agreement to us.
- 24.7. This deadline is met if you send back the Goods before the period of 14 days has expired. We will require that you bear the cost of returning the Goods to us.
- 24.8. You must take reasonable care of the Goods whilst they are in your possession. You will be responsible for any loss or damage from when they are delivered to you until when they are returned to us.
- 24.9. You are liable for any diminished value of the Goods resulting from the handling other than what is necessary to establish the nature, characteristics and functioning of the Goods.
- 24.10. The V5 Certificate of registered keeper must be returned to us once this is received back from the DVLA. All associated title and other such documentation must also be returned to us. We reserve the right to recover from you any demonstrable losses arising as a direct result of any delay in returning the registered keeper and associated documentation to us.

## **25. Storage Charges**

- 25.1. The Dealer reserves the right to make a reasonable daily charge for the storage of the customer's vehicle or vehicles.

## **26. Miscellaneous**

- 26.1. GDPR legislation requires us to have a Data Privacy Notice (see Notice on our website or in one of the dealerships) which informs you how we process your data while in our possession. If at any time you wish to opt out of any communication from us, or wish for your personal details to be amended or deleted from our records, please email your request to [datamanager@brindley.co.uk](mailto:datamanager@brindley.co.uk)
- 26.2. You must provide us with any information we need in order to comply with money laundering legislation, and guarantee the accuracy of the information so supplied.

## **27. Dispute Resolution/Jurisdiction**

- 27.1. In the event of a complaint or dispute of any kind our complaints handling procedure which can be found on our website at [www.brindley.co.uk/customer-service](http://www.brindley.co.uk/customer-service) and is available from us in writing on request.
- 27.2. Where your complaint cannot be resolved, once you have exhausted our internal process you may refer the dispute to the following ADR processes,
  - 27.2.1. where your complaint does not relate to a financial service, please contact The Motor Ombudsman. For details of this service, you can contact them on at;  
The Motor Ombudsman 71 Great Peter Street London SW1P 2BN. [www.themotorombudsman.org](http://www.themotorombudsman.org).
  - 27.2.2. where your complaint relates to Financial Services, the Financial Ombudsman Service. This service is free to use. Their consumer helpline is available on 0800 023 4 567 or 0300 123 9 123 or you can visit their website at [www.financial-ombudsman.org.uk](http://www.financial-ombudsman.org.uk), email them at [complaint.info@financial-ombudsman.org.uk](mailto:complaint.info@financial-ombudsman.org.uk) or write to the Financial Ombudsman Service, Exchange Tower, London E14 9SR.
- 27.3. Where any dispute cannot be resolved through ADR, this Purchase Order and Contract shall be governed by and construed in accordance with the laws of England and Wales and shall be subject to the exclusive jurisdiction of the English Courts.