

ACP Group Limited – t/a Speedwell Tune & Service Centre
Terms of Trade

1.0 DEFINITIONS

- 1.1 The **Company** refers to ACP Group Limited, trading as Speedwell Tune & Service Centre
- 1.2 The **Buyer** refers to the person, firm, partnership, trust, company, or corporate entity which is named on this invoice.
- 1.3 **Goods** means any goods purchased by the Buyer from the Company at any time. **Services** means services, work and labour provided by the Company to the Buyer at any time.

2.0 ACCEPTANCE

- 2.1 The Buyer is deemed to agree to be bound by these terms upon continued instructions to the Company, including but not limited to, instructions to carry out work, purchasing of good and delivery of a Vehicle in anticipation of the Company's services.
- 2.2 These terms are to be read in conjunction with the Terms of Trade contained on the Company's website.

3.0 PAYMENT

- 3.1 The Buyer will pay for all Goods and Services on receipt of an invoice following delivery of Goods or provision of Services, unless otherwise agreed in writing.
- 3.2 All stated and quoted prices include GST.
- 3.3 The Buyer may not deduct or withhold any amount due to the Company. If the Buyer has any dispute with the Company's Goods and/or Services, the Buyer will pay the full amount due and raise any issues through the dispute resolution process set out in these terms.

4.0 INTEREST ON UNPAID SUMS

- 4.1 If the Buyer does not pay any sum by the date, it is due, then without prejudice to the Company's other remedies, the Company may charge the Buyer interest on the unpaid overdue balance at the rate of 2.0% per month from the date payment was due until the date of payment.
- 4.2 The charging of penalty interest does not extend the due date of payment.
- 4.3 The Buyer agrees to pay or reimburse the Company all costs and expenses incurred by the Company in instructing a solicitor and/or debt collection agency to recover any amount overdue for payment. All such costs or expenses will incur interest in the manner described in clause 4.1 from date of payment until reimbursement.

5.0 OWNERSHIP OF GOODS AND INTELLECTUAL PROPERTY

- 5.1 Ownership of any Goods supplied by the Company will not pass until all sums owing by the Buyer for the Goods and any services provided in connection with those Goods have been received by the Company, and all other obligations of the Buyer to the Company in respect of those Goods have been met. Until ownership passes to the Buyer, the Buyer will hold the Goods as bailee for the Company. Title to the Goods shall continue in any reconstituted product to the fullest extent permitted by law.
- 5.2 The Buyer irrevocably authorises the Company and its agents to enter on and into any premises occupied by the Buyer to search for and remove any Goods supplied by the Company of which the Company retains ownership.
- 5.3 The Buyer acknowledges that the Company (and the Company's nominees) solely and exclusively own all intellectual property in relation to the Goods and the Services.

6.0 RISK AND DELIVERY

- 6.1 Risk in the Goods will pass to the Buyer upon the delivery of the Goods to:
- (a) If the Company is delivering the Goods to a Buyer's nominated site address, upon the Goods being delivered to that address; or
- (b) If the Goods are being sold from the Company's premises and the Buyer is to collect when the Company has placed the Goods at the disposal of the Buyer.
- 6.2 The Company reserves the right to charge reasonable costs of delivery.

- 6.3 All delivery dates are estimates only and can not be relied upon for the purposes of cancellation or damages. The Company will not be liable to the Buyer for any non-delivery or delays in delivery.

7.0 PERSONAL PROPERTY SECURITIES ACT 1999

- 7.1 The Buyer grants to the Company a security interest in:
- (a) All present and after acquired Goods, and goods which the Company has applied Services to or commingled with any of the Company's products; and
- (b) All proceeds of the Goods.
- 7.2 The Buyer will do all things necessary to give effect to this clause and pay the Company all costs, expenses and other charges incurred, expended or payable by the Company in relation to this clause.

8.0 COSTS OF ENFORCEMENT

- 8.1 The Buyer will be liable for, and will indemnify the Company for:
- (a) all costs incurred by the Company in enforcing its rights under these terms of trade; and
- (b) any losses suffered, and costs incurred by the Company (whether directly or indirectly) as a result of the Buyer breaching any of these terms of trade.

Including any interest charged on the amounts incurred by the Company under clause 8.1.

9.0 LIABILITY OF THE COMPANY

- 9.1 Any warranties (other than any express warranty in writing) in relation to the Goods and Services are expressly excluded to the fullest extent permitted by law.
- 9.2 In the event any Goods supplied by the Company are found to be defective or any services provided by the Company are found to have not been carried out correctly, the maximum liability of the Company whether in contract, tort or otherwise will be lesser of: (a) the cost of the Goods or Services; or (b) the cost of remedying the defective Goods and Services; or (c) the actual loss or damage suffered by the Buyer.
- 9.3 The Company will not be liable for any damage or consequential loss that arises to the Buyer or any other party as a result of the Company's breach of this contract or any negligence.
- 9.4 The Company will not be liable for delay or failure to perform its obligations arising from any act of God, or if the cause of the delay or failure is beyond its control.

10.0 MISCELLANEOUS

- 10.1 If the Buyer is acquiring or holding itself out as acquiring the Goods and Services for a business purpose, the Consumer Guarantees Act 1993 and the Sale of Goods Act 1908 will not apply to the fullest extent permitted by law.
- 10.2 The Company reserves the right to withdraw at any time any credit that has been given.
- 10.3 These terms and any terms set out by the Company shall be included as terms in any contract resulting between the parties and in the case of any conflict arising between these terms or the terms of the Buyers order then these terms and conditions will prevail.
- 10.4 Any disputes arising out of any order placed will first be attempted to be resolved by the Company and the Buyer through good faith negotiations and, if necessary, mediation in accordance with the protocols of the Arbitrators and Mediators Institute of New Zealand before any court proceedings are served.
- 10.5 These terms of trade are governed by the laws of New Zealand the parties submit to the non-exclusive jurisdiction of the New Zealand courts.
- 10.6 If any part of these terms of trade are deemed to be void, illegal, or unenforceable, that part will be severed, and will not affect the validity of the rest of the terms of trade.