



Commercial Vehicle Bodybuilders

Manufacturers & Repairers
Clifton Street
Miles Platting
Manchester
M40 8HN

Tel: **0161 205 7612**
Fax: **0161 202 1917**
info@alloybodies.co.uk
www.alloybodies.co.uk

Terms & Conditions of Business

1. INTERPRETATION

In these Conditions the following terms shall have the following meanings:

- 1.1 "Company" means Alloy Bodies Limited (registered number: 05567800) of Clifton Street, Miles Platting, Manchester, M40 8HN;
- "Conditions" means the standard conditions of sale of the Company as set out herein;
- "Contract" means any contract between the Company and the Customer for the sale of Goods and/or supply of Services, incorporating these conditions;
- "Customer" means any person who purchases Goods and/or Services from the Company;
- "Goods" means New Vehicles and/or Parts;
- "New Vehicle" means any vehicle manufactured by the Company for the Customer;
- "Parts" means parts supplied by the Company;
- "Services" means any services or any part thereof which the Company agrees to provide, to include the repair of Vehicles;
- "Vehicle" means any vehicle or property of the Customer in respect of which Goods and/or Services are supplied and which is left on the Company's premises or under the Company's control.

1.2 Words in the singular include the plural and in the plural include the singular.

1.3 A reference to one gender includes a reference to the other gender.

1.4 A reference to any provisions of a statute is a reference to it as it is in force for the time being taking account of any amendment, re-enactment, extension or application.

1.5 Condition headings do not affect the interpretation of these Conditions.

2. APPLICATION OF TERMS

2.1 Subject to any variation under Condition 2.2, the Contract shall be on these Conditions to the exclusion of all other terms or conditions (including any terms or conditions which the Customer purports to apply under any purchase order, confirmation of order, specification or other document).

2.2 No terms or conditions endorsed on, delivered with or contained in the Customer's purchase order, confirmation of order, specification or other document shall form part of the Contract simply as a result of such document being referred to in the Contract.

2.3 These Conditions apply to all the Company's sales and any variation to these Conditions and any representations about the Goods and/or Services shall have no effect unless expressly agreed in writing and signed by the Company. The Customer acknowledges that it has not relied on any statement, promise or representation made or given by or on behalf of the Company which is not set out in the Contract. Nothing in this Condition shall exclude or limit the Company's liability for fraudulent misrepresentation.

3. ORDERS

3.1 Each order or acceptance of a quotation for Goods and/or Services by the Customer shall be deemed to be an offer by the Customer to purchase the Goods and/or Services subject to these Conditions.

3.2 No order placed by the Customer shall be deemed to be accepted by the Company until confirmed in writing by the Company or the Company orders the materials required to enable it to perform the Contract or the Company commences performance of the Contract, whichever is the earliest. The Contract shall come into existence on acceptance of the order.

3.3 No order which has been accepted by the Company may be varied or cancelled by the Customer except with the agreement in writing of the Company and on condition that all costs and expenses (including the cost of labour and materials), all losses (including consequential loss), damages and charges incurred by the Company as a result of such variations or cancellation will be paid immediately by the Customer to the Company.



4. DESCRIPTION

4.1 The descriptions, drawings and illustrations contained in catalogues, brochures or other advertising matter of the Company are issued for the sole purpose of giving an approximate idea of the Goods and/or Services described therein. They shall not form part of the Contract and this is not a sale by sample.

4.2 The Company reserves the right to alter or modify any specification from time to time. The Company shall notify the Customer if any such alteration or modification is made after the Company has accepted the Customer's order.

5. PRICE

5.1 The price of the Goods and/or Services shall be as set out in the quotation or the Company's price list published on the date of delivery or deemed delivery and unless otherwise agreed by the Company in writing shall be exclusive of value added tax.

5.2 Unless otherwise agreed in writing all prices are given on an ex works basis.

5.3 In the event that following acceptance of the Customer's order the price of raw materials significantly increases due to any factor beyond the control of the Company, the Company reserves the right by giving notice to the Customer at any time before delivery to increase the price of Goods and/or Services to reflect such increase. Within five calendar days of receipt of such notice, the Customer must, by providing written notice to the Company, either approve the increase or reject the increase and terminate the Contract, without liability to the Company.

5.4 Where the Company agrees to supply the Goods and/or Services otherwise than at the Company's premises the Customer shall pay the Company's charges for transport, packaging and insurance. Any costs incurred by the Company in supplying the Goods and/or Services outside normal working hours at the Customer's request or due to traffic or unloading regulations at the address designated for delivery shall be charged in addition.

6. PAYMENT

6.1 Unless otherwise agreed by the Company in writing, payment must be made for the Goods and/or Services in cash or in cleared funds within 30 days of the date of the Company's invoice.

6.2 Time for payment shall be of the essence of the Contract.

6.3 If the Customer fails to pay the Company any sum due pursuant to the Contract, then without prejudice to any other right or remedy available to the Company the Company shall be entitled to:

6.3.1 terminate the Contract or suspend performance of the Contract or any other Contract with the Customer; and

6.3.2 charge the Customer interest (both before and after any judgement) on the amount unpaid at the rate of 3% per annum above the Lloyds TSB plc base rate from time to time calculated on a daily basis until payment is made.

6.4 The Customer shall make all payments due under this Contract without any deduction whether by way of set-off, counterclaim or otherwise unless the Customer has a valid court order requiring an amount equal to such deduction to be paid by the Company to the Customer.

6.5 Where the Company agrees to supply Goods and/or Services in instalments each instalment shall be paid for in full under this Condition and failure to accept delivery of and/or pay in full for any instalments shall entitle the Company at its option to treat the Contract so repudiated or alternatively to store the Goods at the Customer's risk and the Customer shall be liable to the Company for the reasonable cost of doing so.

7. DELIVERY

7.1 Delivery shall be made by the Company notifying the Customer that the Vehicle and/or Goods are ready for collection at the Company's premises or if an alternative location for delivery is agreed by the Company, by the Company delivering to that place.

7.2 The Customer shall take delivery of the Goods within seven days of the Company giving it notice that the Goods are ready for delivery.

7.3 Any dates quoted for delivery are intended to be an estimate and time for delivery shall not be of the essence. The Customer shall have no right to damages or to cancel the order for failure for any cause by the Company to meet any delivery time stated.

7.4 The Customer shall make all necessary arrangements to take delivery of the Goods on the day notified by the Company for delivery or collection.

7.5 If the Customer fails to collect or take delivery or fails to give the Company adequate delivery instructions at the time stated for delivery (otherwise than by reason of any cause beyond the Customer's reasonable control or by reason of the Company's fault) then without prejudice to any other right or remedy available to the Company:

7.5.1 risk in the Goods shall pass to the Customer (including for loss or damage caused by the Company's negligence);

7.5.2 the Goods shall be deemed to have been delivered; and



Certificate No: 4394QM8001

- 7.5.3 the Company may store the Vehicle and/or the Goods until actual delivery and charge the Customer for the reasonable cost of storage. The Customer shall be responsible for all loss or damage to the Vehicle and/or the Goods howsoever arising.
- 7.6 The Customer shall inspect the Goods and/or Services immediately upon delivery.
8. QUALITY
- 8.1 Subject to clause 8.3, the Company warrants that upon delivery and for a period of 2 years from the date of delivery all New Vehicles shall be of satisfactory quality and reasonably fit for purpose.
- 8.2 The Company warrants that the Services will be carried out with reasonable skill and care.
- 8.3 The Company gives no warranty in relation to:
- 8.3.1 parts, materials or equipment not manufactured by the Company and used in the manufacture of New Vehicles; and
- 8.3.2 Parts not manufactured by the Company
- in respect of which the Customer shall only be entitled to the benefit of any such warranty or guarantee as is given by the manufacturer to the Company.
- 8.4 The Company shall not be liable for a breach of any of the warranties in sub-paragraphs 8.1 and 8.2 unless:
- 8.4.1 the Customer gives notice to the Company (by telephone, facsimile or electronic mail) (and if the defect is as a result of damage in transit to the carrier) of the alleged defect in the Goods and/or Services such notice to be received by the Company within 24 hours of the date of delivery (where the defect would be apparent to the Customer upon a reasonable inspection); and
- 8.4.2 the Customer gives the Company a reasonable opportunity to inspect the Goods and/or Services and if so requested by the Company returns the allegedly defective Goods to the Company for inspection to take place there.
- 8.5 The Company shall not be liable for a breach of any of the warranties in sub-paragraphs 8.1 and 8.2 if:
- 8.5.1 the Customer makes further use of the Goods after giving such notice; or
- 8.5.2 the defective Goods have not been installed (where not installed by the Company) used, stored and maintained in accordance with the Company's oral or written instructions or good trade practice; or
- 8.5.3 the Customer alters or repairs the Goods and/or the Vehicle without the Company's written consent; or
- 8.5.4 the defect in such Goods arises from any design defect in any drawing, design or specification supplied by the Customer.
- 8.6 Subject to conditions 8.3, 8.4 and 8.5, if a New Vehicle does not conform with any of the warranties in condition 8.1 the Company shall at its option repair or replace such New Vehicle (or the defective part) or refund the price of the New Vehicle at the pro-rata Contract rate.
- 8.7 Subject to conditions 8.3, 8.4 and 8.5, if the Services do not conform with the warranty in condition 8.2, the Company shall remedy the defect in the Services.
- 8.8 If the Company complies with sub-paragraphs 8.6 and/or 8.7 it shall have no further liability for a breach of any of the warranties in sub-paragraphs 8.1 and 8.2 in respect of such New Vehicles and/or Services.
- 8.9 Nothing contained in these Conditions shall exclude or limit the liability of the Company for death or personal injury caused by the Company's negligence.
9. LIMITATION OF LIABILITY
- 9.1 The following provisions set out the entire financial liability of the Company (including any liability for the acts or omissions of its employees, agents and sub-contractors) to the Customer in respect of:
- 9.1.1 any breach of these Conditions;
- 9.1.2 any use made or resale by the Customer of any of the Goods; and
- 9.1.3 any representation, statement or tortious act or omission including negligence arising under or in connection with the Contract.
- 9.2 All warranties, conditions and other terms implied by statute or common law are, to the fullest extent permitted by law, excluded from the Contract.
- 9.3 Nothing in these Conditions excludes or limits the liability of the Company:
- 9.3.1 for death or personal injury caused by the Company's negligence; or
- 9.3.2 under section 12 of the Sale of Goods Act 1979; or
- 9.3.3 for any matter which it would be illegal for the Company to exclude or attempt to exclude its liability; or

Alloy Bodies Ltd - Terms & Conditions

- 9.3.4 for fraud or fraudulent misrepresentation.
- 9.4 Subject to Condition 9.3:
- 9.4.1 the Company's total liability in contract, tort (including negligence or breach of statutory duty), misrepresentation, restitution or otherwise, arising in connection with the performance or contemplated performance of the Contract shall be limited to the Contract price; and
- 9.4.2 the Company shall not be liable to the Customer for any pure economic loss, loss of profit, loss of business, depletion of goodwill or otherwise, in each case whether direct, indirect or consequential, or any claims for consequential compensation whatsoever (howsoever caused) which arise out of or in connection with the Contract.
10. TITLE
- 10.1 Until full payment (in cash or cleared funds) has been received by the Company from the Customer for the Goods and/or Services or any other sums due to the Company under any other Contract between the Company and the Customer:
- 10.1.1 title in the Goods shall remain in the Company;
- 10.1.2 the Customer shall hold the Goods on a fiduciary basis as bailee for the Company and shall store them in such a way that they can be at all times readily identifiable as the Goods of the Company and are separate from all other Goods in the possession of the Customer; and
- 10.1.3 maintain the Goods in satisfactory condition and keep them insured on the Company's behalf for their full price against all risk to the reasonable satisfaction of the Company. On request, the Customer shall produce the policy of insurance to the Company.
- 10.2 The Company may recover Goods in respect of which title has not passed to the Customer at any time and the Customer hereby grants the Company, its officers, employees and agents an irrevocable licence to enter upon any premises of the Customer for the purpose either of satisfying itself that Condition 10.1 above is being complied with by the Customer or of recovering any Goods in respect of which property has not passed to the Customer.
- 10.3 The Company shall be entitled to recover payment for the Goods and/or Services notwithstanding that ownership of the Goods has not passed from the Company.
- 10.4 Notwithstanding Condition 10.1.1 above the Customer may dispose of Goods supplied under these Conditions in the course of its business on the Company's account and the proceeds of sale shall be held in trust for the Company in a separately identified account.
11. RISK
- 11.1 All risk in the Goods shall pass to the Customer at whichever of the following shall occur earliest:
- 11.1.1 the time the Company notifies the Customer that the Vehicle and/or Goods are available for collection;
- 11.1.2 the time of delivery if the Customer wrongfully fails to take delivery at the time when the Company has tendered delivery; or
- 11.1.3 the time of delivery to a carrier.
- 11.2 Any Vehicle left at the Company's premises shall be at the Customer's risk at all times and the Customer shall fully insure against all risks to the Vehicle while in the possession or control of the Company.
12. INTELLECTUAL PROPERTY
- 12.1 The Customer shall not use any specifications, designs or drawings or any other information supplied by the Company for the purposes of designing or manufacturing identical or similar goods to the Goods. All patents, trade marks, design rights, copyright and other intellectual property rights in or in relation to the Goods shall remain the property of the Company.
- 12.2 The Customer shall indemnify the Company against all claims, damages, penalties, costs and expenses to which the Company may become liable as a result of Goods and/or Services supplied in accordance with the Customer's specification or instructions which infringe the intellectual property rights of any third party.
13. TERMINATION
- 13.1 The Company may terminate the Contract immediately on giving written notice to the Customer if:
- 13.1.1 the Customer commits a continuing or material breach of the Contract and, if the breach is capable of remedy, fails to remedy it within 30 days of receipt of a written notice giving full particulars of the breach and requiring it to be remedied;
- 13.1.2 the Customer fails to make payment of any sum due to the Company under the Contract on the due date;
- 13.1.3 the Customer shall have a receiver or administrative receiver appointed over it or any part of its undertaking or assets or shall pass a resolution for winding up (otherwise than for the purpose of a bona fide scheme of solvent amalgamation or reconstruction) or a court of competent jurisdiction shall make an order to that effect or if the Customer shall enter into any voluntary arrangement with its creditors or shall become subject to an administration

order or anything analogous to the foregoing occurs in relation to the Customer under the laws of any applicable jurisdiction; or

- 13.1.4 the Customer ceases or threatens to cease to carry on business.
- 13.2 On termination of the Contract pursuant to condition 13.1, the Company shall be entitled to invoice the Customer in respect of Services provided to date, and any Goods supplied to the Customer for which the Customer has not yet been invoiced.
- 13.3 Termination of the Contract for whatever reason shall not affect the accrued rights of the parties arising in any way out of this Contract as at the date of termination and in particular but without limitation the right to recover damages from the other.
14. FORCE MAJEURE
- 14.1 The Company shall not be liable for any failure to perform any of its obligations under the Contract if prevented from doing so by any cause beyond its control which shall include and not be limited to any Act of God, strike, lock out, labour dispute (whether or not relating to either party's workforce), riot, civil commotion, insurrection, war or other military action, fire, storm, flood, tempest, accident, mechanical failure, statutory intervention, government regulation, embargo and/or non-delivery by the Company's suppliers. In the event of any such prevention, hindrance, delay or interference the Company may at its option suspend performance of or cancel its obligations under the Contract without liability for any damage or consequential loss resulting from such suspension or cancellation.
- 14.2 If the event in question continues for a period in excess of 90 days the Customer shall be entitled to give notice in writing to the Company to terminate the Contract.
15. GENERAL
- 15.1 Any notice required to be given by either party to the other under these Conditions shall be in writing addressed to that other party at its registered office or principal place of business or such other address as one party may from time to time designate by written notice to the other.
- 15.2 Any such notice or other document shall be deemed to have been received by the addressee two working days following the date of dispatch if the notice or other document is sent by pre-paid first class post, or simultaneously with the delivery if sent by hand.
- 15.3 Each right or remedy of the Company under the Contract is without prejudice to any other right or remedy of the Company whether under the Contract or not.
- 15.4 If any term or provision of these Conditions is held invalid, illegal, void, voidable, unreasonable or unenforceable for any reason by any Court of competent jurisdiction, such provision shall be deemed severable and the remainder of the provisions of the Contract shall continue in full force and effect.
- 15.5 The Customer shall not assign the benefit or burden of the Contract without the prior written consent of the Company. The Company shall be entitled to assign or sub-contract the whole or part of its obligations under the Contract.
- 15.6 Any waiver by the Company of any breach of, or any default under, any provision of the Contract shall not be construed as a waiver of any of its rights under the Contract.
- 15.7 Each party acknowledges that these Conditions constitute the entire agreement between the parties and supersedes all prior agreements, undertakings or arrangements between them relating to the subject matter of this Contract whether written or oral.
- 15.8 The parties to the Contract do not intend that any term of the Contract shall be enforceable by virtue of the Contracts (Rights of Third Parties) Act 1999 by any person who is not a party to it.
- 15.9 These Conditions shall be governed by and construed in all respect in accordance with the laws of England and the parties hereby submit to the exclusive jurisdiction of the English courts.