

1. **DEFINITIONS**

1.1 In these Terms, unless the context indicates otherwise:

“**Confidential Information**” means any information relating to the business of either party, including customers, know-how or trade secrets, whether of a technical or business nature;

“**Defect**” means a fault or flaw in the workmanship or materials of the Goods.

“**Force Majeure Event**” means any event or circumstance beyond our reasonable control and includes, but is not limited to any event or circumstance occasioned by, or in consequence of, any act of God, strikes, lockouts, other industrial disturbances, wars, terrorism, blockades, insurrections, riots, epidemics, pandemics or other infectious diseases, shortage of labour or civil disturbances, direction, or requirement of any court, government, or local authority;

“**Goods**” means any goods, motor vehicles, motor vehicle parts, products or deliverables supplied or provided by us to you and includes without limitation any related or associated services, parts, or components;

“**GST**” means goods and services tax as defined in the Goods and Services Tax Act 1985;

“**Intellectual Property Rights**” includes copyright, and all rights conferred under statute, common law or equity in relation to inventions (including patents), trade marks, designs, domain names, rights in databases, confidential information, trade secrets, tooling design, know-how, specifications, manufacturing processes and all other proprietary rights;

“**Order**” means any request made by you to us for the purchase of Goods and/or Services, whether by email, via our website, in person, or by telephone;

“**Price**” means the total amount payable by you for the Goods and Services as determined in accordance with clause 5.1;

“**Quote**” means, if applicable, any quote that we provide you for the sale of Goods and/or Services to you;

“**Sales Agreement**” means a written Agreement for Sale and Purchase of Goods and Services entered into between you and us.

“**Services**” means any services supplied or provided by us to you;

“**Terms**” means these General Terms and Conditions of Trade;

“**we**”, “**us**”, “**our**” means Wade Group 2011 Limited (Company No. 3386511) and its related companies (as that term is defined in the Companies Act 1993), agents, successors, or assignees; and

“**Customer**”, “**you**” and “**your**” means the person/s or entity/ies to whom we provide Goods and Services.

2. **TERMS**

2.1 Subject to clause 17.9, these Terms apply and are incorporated into every agreement for the supply of Goods and Services by us to you. All other terms and conditions are expressly excluded unless otherwise agreed in writing. If there is any conflict between as Sale Agreement, Order, Quote and these Terms, the Sales Agreement will prevail, then the Quote, then these Terms and then the Order.

2.2 Our agents, employees, contractors and representatives have no authority to make any oral representations, statements, warranties, conditions or agreements that conflict with these Terms.

3. **FORMATION OF CONTRACT**

3.1 A binding contract between the us and you is deemed to have been formed when one of the following conditions is met:

- (a) You and we sign a Sales Agreement.
- (b) We provide you with confirmation that your Order has been accepted, either through email, or any other electronic communication.
- (c) You accept the terms of a Quote in writing, either through email, or any other electronic communication, within the validity period of the Quote.
- (d) We commence performance of your Order, including but not limited to, ordering the chassis or the manufacturing, packaging, or shipping of the Goods specified in the Order.
- (e) You make any form of payment towards our invoice for the relevant Goods.
- (f) Any other form of mutual agreement, documented in writing, between you and us that explicitly confirms the formation of a binding contract.

3.2 For the purposes of this clause, any written or electronic communication exchanged between you and us shall be deemed sufficient to constitute written confirmation or acceptance.

3.3 In the event of any dispute regarding the formation of a binding contract, the documented communication records, actions, and payments between you and us shall be used as evidence to determine the existence and terms of the contract.

3.4 We will treat any person holding themselves out as your agent, employee, contractor or representative as authorised by you to submit an Order or sign a Sales Agreement (as applicable).

3.5 If you are more than one legal person or entity, then your liability is joint and several.

4. **VARIATIONS**

4.1 We may vary an Order or Sales Agreement if:

- (a) a Force Majeure Event occurs; or
- (b) you request a variation or additions to your Order.

4.2 Any variation to your Order will be discussed with you before we commence any work where costs or additional costs may be incurred.

5. **PRICE**

5.1 Unless otherwise agreed by us, the price of the Goods and Services will be specified in the Sale Agreement or on acceptance of your Order. Where no Price is specified, the Price will be the current price at which we sell or supply such Goods and Services at the time of the Order, plus all costs, expenses and disbursements incurred by us. The Price is exclusive of GST unless specifically stated otherwise. You will pay all applicable GST in addition to the Price. We reserve the right to alter the Price because of circumstances beyond our control (including fluctuations in international monetary exchange rates, shipping rates, shortages, duties and tariffs, and other events).

5.2 The method and cost of delivery (if and where applicable) will vary according to the delivery method chosen by you.

5.3 Unless we agree otherwise, you must pay all costs associated with delivery, including carriage and freight, in addition to the Price.

5.4 If we provide you with a Quote for the Goods and/or Services, the quotation shall be valid for 30 calendar days from the date the Quote was provided to you in writing. However, we reserve the right to alter the quotation if there is a material change of circumstances or if the quoted work differs from the actual work.

5.5 For the avoidance of doubt, Quotes are prepared by us in accordance with the information provided by you, we will not be liable, nor will we be bound by the Quote where:

- (a) such information is inaccurate or where information has been omitted; or
- (b) you have made a request to vary or add to your Order.

6. **DEPOSIT AND PAYMENT**

6.1 Subject to clause 6.2, full payment of the Price is due immediately after notification by us of completion of the Services or as otherwise specified on our invoice/s. The method of payment will be as directed by us.

6.2 If a deposit is payable, as determined by us in our sole discretion, the deposit must be received by the due date specified. If a deposit is required, we may not order Goods or commence Services or begin work on your behalf until such time as the deposit is received by us.

6.3 You must pay all amounts owing to us free of any restriction or condition and without set off, deduction, withholding or counterclaim of any kind. We may, in our discretion, allocate any payment received from you towards any invoice that we determine and may do so at the time of receipt or at any time afterwards.

6.4 For the avoidance of doubt, even if you have a claim under these Terms, you must first pay any amounts payable pursuant to clause 6.1 before seeking to dispute it. If you have a dispute in relation to the accuracy of all or any portion of the invoices payable, you must give notice of the disputed amount as soon as reasonably possible. The dispute shall be determined in accordance with clause 16. You may withhold payment of the disputed portion of an invoice that you believe, in good faith, is not payable. The undisputed amount must be paid in accordance with clause 6.3. If the disputed amount is found to be:

- (a) payable, we may charge interest at the rate specified in clause 6.5 for the period between the due date and the date of the actual payment; and
- (b) not payable, then we will issue a credit note for that amount to you.

6.5 Without prejudice to our other rights and remedies under these Terms or at law, if you fail to make payment of any amount due to us, we may refuse to supply the Goods and Services and/or charge interest on the amount owing at the official cash rate for unsecured lending (obtained from www.rbnz.govt.nz) plus 3% per annum. Interest is payable from the due date for payment until payment is received in full.

6.6 You must pay any expenses, disbursements and legal costs that we incur enforcing any rights contained in these Terms, including our reasonable solicitors' fees or debt collection agency fees.

7. **DELIVERY**

7.1 We will deliver the Goods to, and/or perform the Services according to the Sales Agreement or Order. If you are not electing to collect the Goods personally from our nominated address, you must specify the exact location for delivery in the Order.

7.2 Any delivery date that we may provide to you is an estimate only. We will use our reasonable endeavours to supply the Goods and Services by that delivery date ; however, we will not be liable for any costs, losses, damages or claims relating to any failure or delay in supply, and you will not be able to terminate this agreement, Sales Agreement or any Order due to any failure or delay in supply.

7.3 Unless we agree otherwise, risk in the Goods will pass from us to you when the Goods are delivered in accordance with the Sales Agreement or Order. Goods will be deemed to be delivered when they are given to a carrier, courier, or other

GENERAL TERMS AND CONDITIONS OF TRADE FOR WADE GROUP 2011 LIMITED

bailee for purposes of transmission to you or when the Goods are available for collection.

8. RETENTION OF TITLE AND PPSA

- 8.1 We will retain ownership of, and title to, all Goods until you make payment in full.
- 8.2 You acknowledge that until full payment is made for the Goods, you retain possession of them solely as our bailee. You will hold the proceeds of sale of all Goods that have not yet been paid for in trust for us.
- 8.3 You agree that we, our agents, and our employees may (on written notice) enter onto any premises you own or control for the purpose of inspecting and/or repossessing any Goods not paid for in full.
- 8.4 You hereby grant us a security interest over the Goods to secure your obligations to us under these Terms. If you use or make use of the Goods in such a way that they are mixed with other goods, used up in the process of making other goods or become an unidentifiable part of new and different goods, we will be given ownership of such goods to secure your obligations to us under these Terms. You acknowledge that these Terms constitute a security agreement for the purposes of the Personal Property Securities Act 1999 ("PPSA") or any similar laws in any other jurisdiction, and you will provide us with any information we require to register a financing statement pursuant to the PPSA. Both parties contract out of sections 114(1)(a), 133 and 134 of the PPSA, and you waive any rights listed under section 107(2) of the PPSA, and any right to receive a copy of the verification statement pursuant to section 148 of the PPSA.

9. SUSPENSION AND TERMINATION

- 9.1 We may terminate this agreement and/or any other agreement between us immediately if you do not make payment of any amounts due to us on or before the due date for payment or indicate that you will not pay any sums by the due date, fail to comply with your obligations under the Sales Agreement, or these Terms, or suffer an insolvency event.

10. YOUR OBLIGATIONS AND CONSENT

- 10.1 You agree that you will provide to us, in a timely manner and at your cost, any documents, information or other materials that we may reasonably require to perform our obligations, and you will ensure that the documents, information or materials are complete and accurate in all material respects.

11. CONFIDENTIALITY

- 11.1 Except in the proper course of performing its duties under these Terms, neither party may disclose the other party's Confidential Information to any person without that party's prior written approval. Each party shall ensure that its employees, contractors, officers and agents do not use the other party's Confidential Information for any purpose that is not related to these Terms without written permission from the other party. Nothing in this clause prohibits disclosure of information which:

- (a) is in the public domain otherwise than as a result of a breach of confidence; or
- (b) is required to be disclosed by law or any government or governmental body, authority or agency having authority over a party to these Terms.

12. INTELLECTUAL PROPERTY

- 12.1 Unless otherwise agreed in writing between the parties, we will own all Intellectual Property Rights in the Goods and Services and all new Intellectual Property Rights that are developed, commissioned or created under or in connection with an Order as such rights arise.
- 12.2 If any Service is to be undertaken based on your designs, you warrant that the undertaking of the Service by us will not infringe any third party's Intellectual Property rights and you indemnify us against any loss, liability, costs and expenses in the event of any claim being made that the Service infringes any patent, copyright or other rights of any other person.

13. WARRANTY AND LIABILITY

- 13.1 Nothing in these Terms will restrict, negate, modify or limit any of your rights under the Consumer Guarantees Act 1993 or the Fair Trading Act 1986 where you are not acquiring the Goods and Services for the purpose of a business or in trade.
- 13.2 Subject to clause 13.6 and 13.7, we warrant that all materials and workmanship in the Goods shall be free from material defects for a period of 36 months from the date of delivery as follows:

- (a) all materials used in the Goods shall meet any specified quality standards and shall be free from defects in material.
- (b) all workmanship shall be performed in a professional and workmanlike manner and shall be free from material defects.

This warranty shall not cover:

- (c) Goods that are not maintained and operated in accordance with our recommendations if applicable, and the manufacturer's recommendations;
- (d) Goods that are misused or neglected;
- (e) damage or deterioration resulting from normal wear and tear; and
- (f) any defects in the Goods if you have undertaken remedial work on those Goods without our authorisation.

- 13.3 To make a warranty claim, you must notify us in writing within 30 days of discovering the defect. If the warranty claim is valid, as determined by us acting reasonably, we may at our option:

- (a) provide a refund of the Price paid for the Goods; or
- (b) repair the Goods; or
- (c) replace the Goods or re-provide the Services.

- 13.4 To the extent that our liability is not otherwise limited or excluded, and to the maximum extent permitted by law, our aggregate liability to you whether in tort, contract, at law (including for a misrepresentation) or otherwise for any loss damage or injury in relation to the Goods and Services is limited to the Price actually paid by you in relation to the relevant Goods and Services. :

- 13.5 Despite anything else contained in these Terms and to the maximum extent permitted by law:

- (a) to the extent that you have approved any Goods prior to delivery or collection, then you will be deemed to have accepted such Goods if delivered to a corresponding quality;
- (b) we will not be responsible or liable for any acts or omissions of any third parties;
- (c) unless otherwise agreed in writing, you must at your cost, deliver the Goods subject to any warranty claim to our premises, or to third party contractor nominated by us;
- (d) the parties agree and acknowledge that if the Goods and/or Services supplied by us and acquired by you are supplied or acquired in trade within the meaning of the Fair Trading Act 1986, that sections 9, 12A, and 13 of the Fair Trading Act 1986 will not apply to the agreement between us, and that it is fair and reasonable to exclude the application of the Fair Trading Act 1986;
- (e) the parties agree and acknowledge that if they are both in trade, and that the Goods and/or Services supplied by us and acquired by you are supplied or acquired in trade, that the provisions of the Consumer Guarantees Act 1993 will not apply to this agreement between us to the maximum extent permitted by law, and that it is fair and reasonable to exclude the application of the Consumer Guarantees Act 1993;
- (f) the parties agree and acknowledge that the provisions of Part 3 of the Contract and Commercial Law Act 2017 will not apply;
- (g) to the fullest extent permissible by law, all warranties, conditions or other terms implied by law are excluded unless these Terms expressly provide or the parties agree otherwise in writing; and
- (h) for the purposes of this clause, you acknowledge that you had a reasonable opportunity to review these Terms, discuss them with us, and receive advice from your legal advisor, if you wished to do so.

- 13.6 To the maximum extent permitted by law, we will not be liable for any indirect or consequential loss or damage whatsoever arising from the supply of Goods and/or Services by us to you, including loss of profits, whether suffered or incurred by you or another person or entity and whether in contract or tort (including negligence) or otherwise and irrespective of whether such loss or damage arises directly or indirectly from Goods and Services provided by us to you.

- 13.7 To the extent permitted at law, the warranties provided for in these Terms will not apply:

- (a) To any second hand Goods; and
- (b) In connection with any cabs or chassis that form part of the Goods, which will be subject to the warranties provided by the manufacturer of that cab or chassis as the case may be.

14. LIEN FOR WORK DONE

- 14.1 If any amount remains unpaid subject to clause 6.1 for the Services, we shall exercise a possessory lien over all unpaid goods and services until payment is received in full pursuant to section 341 of the Contract and Commercial Law Act 2017 ("Commercial Law Act").

- 14.2 If any amount owing remains unpaid for two months or longer, we, at our sole discretion, may sell the goods at auction. We will provide you a notice of sale in accordance with section 342 of the Commercial Law Act.

- 14.3 The proceeds from the sale of the goods will be applied in the following order:

- (a) in payment of the expenses of the advertising and sale;
- (b) in payment of the amount due under the lien; and
- (c) as soon as practicable after the completion of the sale, the surplus (if any) be paid to the Registrar of the office of the District Court nearest to the place of Sale (to be held by the Registrar for the benefit of the person entitled to it).

15. DISPUTE RESOLUTION

- 15.1 If any dispute arises between the parties arising out of or in connection with these Terms, or the Goods provided or Services performed, including any question about its existence, validity or termination, the party claiming a dispute must give notice in writing to the other party describing the nature of the dispute and the

remedy sought. The parties must first seek to resolve such dispute by meeting and using good faith, reasonable endeavours to resolve the dispute.

15.2 If the dispute remains unresolved within 20 calendar days after notice has been given, the dispute must be referred to and finally resolved by mediation in accordance with the Arbitration Rules of the New Zealand Dispute Resolution Centre.

15.3 Nothing in this clause 16, will preclude or prevent either party from seeking interim injunctive relief before an appropriate court.

16. **PRIVACY**

16.1 We collect and process your personal information when you make an Order or enter into a Sales Agreement. In order to provide or supply you with the Goods or Services (and improve on that), we may also collect certain information about the performance of the Services or the provision of the Goods.

16.2 Our access to and use of all such personal information is governed by our Privacy Policy. However, you acknowledge that information transmitted over the internet is inherently insecure.

16.3 By submitting an Order, or otherwise agreeing to these Terms, you also agree to the way we handle your personal information under our Privacy Policy. You can access our Privacy Policy on the Website at <https://wadegroupltd.com/privacy-policy/>. The Privacy Policy forms part of these Terms.

17. **MISCELLANEOUS**

17.1 These Terms constitute the sole understanding of the parties in relation to its subject matter. They supersede all prior understandings, written or oral, which will be of no further force or effect. No alteration or variation or waiver of these Terms is binding unless we authorise it in writing. To the extent permitted by law, we may alter or change these Terms by notice to you.

17.2 You must not assign, subcontract or transfer any part of your rights or obligations under these Terms (including undergoing an effective change in your management or control) without our prior written consent. We may assign or novate any rights or obligations without your approval as well as subcontract any obligations to third parties.

17.3 Notice may be given personally, posted or transmitted by email to the intended recipient at their last known address or email address.

17.4 A waiver of any provision of these Terms will not serve as a waiver of any other provision.

17.5 A failure, delay or indulgence by any party in exercising any power or right will not operate as a waiver of that power or right, unless in writing.

17.6 We will not be liable for any delay or failure in the performance of any of the obligations imposed by these Terms, to the extent that the failure is due to a Force Majeure Event.

17.7 These Terms are to be construed and governed by the laws of New Zealand and the exclusive jurisdiction of the courts of New Zealand.

17.8 If any provision in these Terms is held to be invalid, void or illegal or unenforceable, the validity existence, legality and enforceability of the remaining provisions will not be affected, prejudiced or impaired.

17.9 The Terms will not apply in connection with any long term supply arrangement that we enter into with a business, government agency or charity, where that arrangement is subject to a formal long form written contract.