



YOUR ATTENTION IS DRAWN IN PARTICULAR TO THE PROVISIONS OF CLAUSES 12 AND 13 (LIMITATION OF LIABILITY).

1. THESE CONDITIONS

- 1.1 **What these conditions cover.** These are the terms and conditions on which we supply Vehicles to you.
- 1.2 **Why you should read them.** Please read these conditions carefully before you submit your Order to us. These conditions tell you in particular, who we are, how we will provide Vehicles to you, how you and we may end the Contract, what to do if there is a problem and other important information.
- 1.3 **Are you a business customer or a consumer?** In some areas you will have different rights and obligations under these conditions depending on whether you are a business or a consumer. Most of our customers are businesses but you are a consumer if:
- (a) You are **an individual**; and
- (b) You are buying products from us wholly or mainly **for your personal use** (not for use in connection with your trade, business, craft or profession).
- 1.4 **Business Customers and Consumers.** We set out in the conditions where provisions apply only to business customers or to consumer customers.

2. INFORMATION ABOUT US AND HOW TO CONTACT US

- 2.1 **Who we are.** We are eStar Truck and Van Limited and we are referred to as the **Supplier** in the Conditions below. Our details are set out below in the Definitions.
- 2.2 **How to contact us.** You can contact us by telephoning our Sales team on 0151 832 6760 or by writing to us at sales@estar.ltd and/or Unit 3 Alchemy Way, Alchemy Business Park, Knowsley, L33 7AQ.
- 2.3 **How we may contact you.** If we have to contact you, we will do so by telephone or by writing to you at the email address or postal address you provided to us in your Order.

3. INTERPRETATION

3.1 Definitions:

Business Day	A day other than a Saturday, Sunday or public holiday in England, when banks in London are open for business.
Conditions	The terms and conditions set out in this document as amended from time to time in accordance with clause 18.4.
Contract	The contract between the Supplier and the Customer for the sale and purchase of the Vehicle in accordance with these Conditions
Consumer	An individual buying products wholly or mainly for personal use.
Customer	The person or firm who purchases the Vehicle from the Supplier.
Delivery Location	Has the meaning given in clause 6.1 or 6.2.
Deposit	The deposit sum set out in the Order or otherwise agreed in writing.
Force Majeure Event	An event, circumstance or cause beyond the Supplier's reasonable control.
Handover Form	A form supplied by the Supplier which both parties should sign on delivery of the Vehicle.
Incoterm(s)	The latest Incoterms published by the International Chamber of Commerce and "Incoterm" will be construed accordingly.
Vehicle	The Vehicle or Vehicles (or any part of them) to be supplied set out in the Order or otherwise confirmed in writing by the Supplier.
Manufacturer	The manufacturer of the Vehicle.
Manufacturer's Warranty	The warranty (if any) provided by the Manufacturer, as set out on the Mercedes Benz websites:- https://www.mercedes-benz-trucks.com/en_GB/owner/care-free-driving/warranty.html https://www.mercedes-benz.co.uk/vans/en/Owners in respect of a New Vehicle and which may be varied by the Manufacturer from time to time.
New Vehicles	Vehicles sold and described as New by the Supplier.
Order	The Customer's order for the Vehicle, as set out in the Customer's purchase order form, or the Supplier's Order form as appropriate.
Owner's Service Statement	The document in the form specified by the Supplier setting out the service benefits (if any) purchased by the Customer and the conditions applying to those benefits.
Part Exchange Vehicle	A vehicle that the Supplier at its discretion may confirm in writing that it is prepared to accept in part payment for the Vehicle.
Specification	Any specification for the Vehicle confirmed in writing by the Supplier or as changed by the Manufacturer from time to time and made available to the Customer.
Supplier or we/us	Estar Truck and Van Limited (registered in England and Wales with company number 12810271 and whose address is Unit 3 Alchemy Way, Alchemy Business Park, Knowsley, L33 7AQ).
Used Vehicles	Vehicles which have previously been owned and used by third parties or the Supplier itself, and which are not New Vehicles

4. BASIS OF CONTRACT

- 4.1 Where you are a **business Customer** these Conditions apply to the Contract to the exclusion of any other terms that the business Customer seeks to impose or incorporate, or which are implied by law, trade custom, practice or course of dealing. If you are a **Consumer Customer** then these Conditions will **not exclude** any right or benefit that the law says you should have because you are acting as a consumer and will not impose any obligation on you that is incompatible with your rights as a consumer.
- 4.2 The Order constitutes an offer by the Customer to purchase the Vehicle(s) from the Supplier in accordance with these Conditions. The Customer is responsible for ensuring that the terms of their Order are complete and accurate.
- 4.3 The Order shall only be deemed to be accepted when the Supplier issues a written acceptance of the Order, at which point the Contract shall come into existence.
- 4.4 The Customer (where it is a business Customer) waives any right it might otherwise have to rely on any term contained in any documents of the Customer including in any of its standard terms of purchase or similar document.



- 4.5 Any descriptive matter, marketing or advertising produced by the Supplier and any pictures, descriptions or illustrations contained in the Supplier's websites, catalogues or brochures are produced for the sole purpose of giving an approximate idea of the Vehicles referred to in them. They are not intended to form part of the Contract.
- 4.6 A quotation for the Vehicle given by the Supplier shall not constitute an offer. A quotation shall only be valid for a period of 14 Business Days from its date of issue. Any price increases imposed by the manufacturer will be passed on to the Customer. The Customer will have the option to withdraw from the Sale if they do not accept those price increases.
- 4.7 These Conditions do not apply to or include services provided by the Supplier (including after sales services) which must be *purchased separately*.

5. VEHICLE

- 5.1 The Vehicle is as described in the Specification.
- 5.2 The Customer should contact the Supplier if it wants to make any changes to the Vehicle before delivery. The Supplier will confirm if the change is possible. If it is possible, the Supplier will set out any changes to the price of the Vehicle, the timing of supply or anything else which would be necessary as a result of the requested change and the Customer must confirm in writing whether it wishes to go ahead with the change.
- 5.3 The Customer acknowledges and understands that the Manufacturer may at any time update, amend or vary its Specifications for the make and/or model of the Vehicle. In the event of any change to the Specification being made by the Manufacturer, the Supplier may deliver/supply a Vehicle conforming to the Manufacturer's Specification for the make and/or model of the Vehicle at the time of delivery. The Supplier will inform the Customer of any changes in writing, and the Customer has the option to cancel the contract with no further redress within 5 days should they not accept these changes. They must do this in writing.
- 5.4 The Customer (where they are a business Customer) shall indemnify the Supplier against all liabilities, costs, expenses, damages and losses (including any direct, indirect or consequential losses, loss of profit, loss of reputation and all interest, penalties and legal and other reasonable professional costs and expenses) suffered or incurred by the Supplier in connection with any claim made against the Supplier for actual or alleged infringement of a third party's intellectual property rights arising out of or in connection with any alterations made to the Vehicle in accordance with any design supplied by the Customer. This clause 5.4 shall survive termination of the Contract.
- 5.5 The Supplier may amend the Specification or make any change to the Vehicle at any time if required to do so by any applicable statutory or regulatory requirements. The Supplier may also implement technical adjustments and changes to the Specification. The Supplier will inform the Customer of any changes in writing, and the Customer has the option to cancel the contract with no further redress should they not accept these changes. They must do this in writing within 5 days.

6. DELIVERY

- 6.1 Subject to 6.2 below the Customer will collect the Vehicle from the Supplier's premises or such other location as may be advised by the Supplier to the Customer prior to delivery, within seven Business Days of the Supplier notifying the Customer that the Vehicle is ready for collection, unless otherwise agreed in writing. If the Vehicle is not collected within seven Business Days from notification, the Supplier has the right to charge £250 per week for storage.
- 6.2 Alternatively, and where the Supplier has agreed to do so in writing, the Supplier will deliver the Vehicle to such other location as the parties may agree in which case the Customer will pay the costs of delivery specified by the Supplier and the Supplier may add such costs of delivery to its invoice to the Customer.
- 6.3 Where the Supplier has agreed to deliver the Vehicle to the Customer the Supplier will contact the Customer to agree a delivery date, which, where the Customer is a **Consumer** will be within 30 days after the day on which we accept your order, if the vehicle is physically in stock and complete, at the time of Order. If the Vehicle is not physically in stock and complete at the time of Order, then the Supplier will contact the consumer Customer and will endeavour to agree a delivery date before accepting the Order. The Customer should ensure they are available on the agreed date at the Delivery Location to collect the Vehicle.
- 6.4 If a Customer is not available when the Vehicle is delivered in accordance with 6.3, the Supplier will leave a note setting out how to rearrange delivery or collect the Vehicle from the Supplier's premises.
- 6.5 If after a failed delivery to the Customer under 6.3, the Customer does not re-arrange delivery or collect them from the Supplier's premises then the Supplier will contact the Customer for further instructions and may charge the Customer for storage and insurance costs and any further delivery costs. If, despite the Supplier's reasonable efforts, it is unable to contact the Customer or re-arrange delivery or collection then clause 6.13 will apply.
- 6.6 The Supplier is unable to deliver to consumer Customers who are outside the UK.
- 6.7 Subject to 6.8 and to where we have agreed otherwise delivery of the Vehicle is completed on the collection of the Vehicle by the Customer at the Delivery Location, and the signing of the Handover Form by both parties.
- 6.8 Where the Customer has instructed the Supplier to carry out bodywork (or other work as agreed) on the Vehicle then delivery is effected at the point that the Vehicle chassis is delivered to the Supplier by the Manufacturer (provided that the Customer has paid for the Vehicle in full). Title in the Vehicle shall (subject to payment in full by the Customer) pass to the Customer at the point of such delivery. The Customer agrees and authorises the Supplier to carry out the agreed works (which may be completed within or outside the UK by subcontractors) following such delivery. As risk and title in the Vehicle pass to the Customer at the time the Vehicle is delivered to the Supplier by the Manufacturer the Customer must ensure that the Vehicle is properly insured from that point. Once the agreed works have been completed the Supplier will notify the Customer when the Vehicle is ready for collection from the Supplier's premises. Times given for the completion of agreed works are estimates only and the Supplier is not responsible for any delay (or for any other act or omission) by any person completing the works.
- 6.9 **Subject to 6.3** any dates quoted for delivery or handover of the Vehicle are approximate only, and the time of delivery or handover is not of the essence.
- 6.10 If the Supplier fails to deliver the Vehicle to a Customer its liability shall be limited to the repayment of any Deposit or other sum received by it from the Customer in payment or part payment for the Vehicle.
- 6.11 The Supplier shall have no liability for any failure to deliver the Vehicle to the extent that such failure is caused by a Force Majeure Event or by the Customer's own failure to provide the Supplier with adequate delivery instructions or any other instructions that are relevant to the supply of the Vehicle. In the case of consumer Customers, the Supplier will use its reasonable endeavours to deliver the Vehicle as soon as it can in the circumstances, and in the event that delivery is not possible (for reasons that do not result from the consumer Customer's breach, negligence or default) it will refund any Deposit paid by the consumer Customer.
- 6.12 If (where the Customer is collecting the Vehicle) the Customer fails to take delivery of the Vehicle within 3 Business Days of the Supplier notifying the Customer then, except where such failure or delay is caused by a Force Majeure Event, subject to 6.13 below, the Supplier shall store the Vehicle until delivery takes place, and may charge the Customer for all related reasonable costs and expenses (including insurance).
- 6.13 If:-
 - (a) 20 Business Days after the day on which the Supplier notified the Customer that the Vehicle was ready for collection the Customer has not taken actual delivery of it; or



(b) 20 Business Days after the Supplier tried to deliver the Vehicle the Customer has not taken actual delivery of it; Then the Supplier may (without prejudice to any other right) resell or otherwise dispose of the Vehicle and may charge the Customer for any shortfall below the price of the Vehicle, together with all associated expenses including and without limitation, reasonable costs of storage and insurance.

- 6.14 In some cases, where a business Customer is based outside of the United Kingdom, the Supplier may agree in writing that a specific Incoterm will apply to the delivery of the Vehicle. In this case, to the extent that the agreed Incoterm conflicts with any provision of these Conditions, the terms of the Incoterm will take precedence. To the extent they do not conflict with the Incoterm, these Conditions shall apply to and bind the parties.

7. QUALITY

- 7.1 New Vehicles to which an Owner's Service Statement applies are sold subject to and with the benefit of the Owner's Service Statement which gives details of the service facilities available to the Customer in relation to the Vehicle.
- 7.2 Where an Owner's Service Statement does not apply to New Vehicles, the Manufacturer's Warranty will apply (to the extent it is not inconsistent with these Conditions)
- 7.3 Customers must comply with the terms and conditions of the Owner's Service Statement and the Manufacturer's Warranty as applicable.
- 7.4 Except as provided in this clause 0, the Supplier shall have no liability to the Customer in respect of a New Vehicle's failure to comply with the Owner's Service Statement or the Manufacturer's Warranty.
- 7.5 Used Vehicles are sold to business Customers subject to and with the benefit only of any warranty agreed in writing by the Supplier. The Customer (to the extent it does not act as a consumer) agrees and acknowledges that it has been given reasonable opportunity to inspect and test any Used Vehicle and that it takes them in their state and condition existing upon delivery, and that accordingly all conditions, representations and warranties express and implied, statutory or otherwise as to merchantable quality and fitness for purpose are hereby expressly excluded save only insofar as may be specifically set out in any warranty agreed in writing by the Supplier. Without limitation, the mileage shown on the mileometer of Used Vehicles is not guaranteed and should not be relied upon.
- 7.6 The terms implied by sections 13 to 15 of the Sale of Goods Act 1979 are, to the fullest extent permitted by law, excluded from the Contract **in relation to business Customers only.**
- 7.7 These Conditions shall apply to any repaired or replacement Vehicle supplied by the Supplier.
- 7.8 Save as expressly set out and save as may be otherwise imposed by law, the Supplier gives no further warranty, representation, promise or guarantee to business Customers in respect of the Vehicle.
- 7.9 Where the Customer is a consumer, the Supplier is under a legal duty to supply a Vehicle that is in conformity with the Contract;
- 7.10 **To the extent only that the Customer acts as a consumer in the purchase of the Vehicle then no provision in this clause 0 or otherwise in these Conditions is intended to howsoever diminish, limit or exclude any right, benefit or warranty that would by law benefit the Customer in their capacity as a consumer. In the event of any conflict between a Customer's legal rights as a consumer and these Conditions the Customer's legal rights as a consumer will prevail. To the extent only that the Customer acts as a consumer any warranty provided under the Contract or by the Manufacturer is additional to any right, benefit or warranty applying under law.**
- 7.11 **Consumer's obligation to return rejected Vehicles.** If the Consumer Customer wishes to exercise its legal rights set out above to reject a Vehicle it must either return the Vehicle in person to the Supplier's premises at Unit 3 Alchemy Way, Alchemy Business Park, Knowsley, L33 7AQ or arrange for the Supplier to collect them. The Customer will not be liable to pay the costs of collection if the supplier has accepted the rejection claim. A reasonable deduction for mileage incurred is allowable, if the return is outside of the first 30 days. No deduction will be made within the first 30 days. Please call Sales team on 0151 832 6760 or email the Supplier at sales@estar.ltd to arrange collection.

8. TITLE AND RISK

- 8.1 The risk in the Vehicle shall pass to the Customer on completion of delivery. The Customer must have in place all appropriate insurance (including any insurance required by law) with effect from delivery of the Vehicle.
- 8.2 Title to the Vehicle shall not pass to the Customer until the Supplier receives payment in full (in cleared funds) for the Vehicle. Save as otherwise agreed in writing by the Supplier the Customer may not drive, take control of or remove the Vehicle from the Supplier's premises until the Supplier has received payment in full (in cleared funds).
- 8.3 The Customer is responsible for ensuring that it is compliant with all legal requirements required for it to use, drive and operate the Vehicle after delivery.
- 8.4 Until title to the Vehicle has passed to the Customer (and to the extent the Customer is in possession of the Vehicle) the Customer shall:
- (a) store the Vehicle separately from all other goods held by the Customer so that they remain readily identifiable as the Supplier's property;
 - (b) not remove, deface or obscure any identifying mark on or relating to the Vehicle;
 - (c) maintain the Vehicle in satisfactory condition and keep it insured against all risks for its full price from the date of delivery;
 - (d) notify the Supplier immediately if it becomes subject to any of the events listed in clause (b) to clause (d); and
 - (e) give the Supplier such information as the Supplier may reasonably require from time to time relating to:
 - (i) the Vehicle; and
 - (ii) the ongoing financial position of the Customer.
- 8.5 If, any time before title to the Vehicle passes to the Customer the Customer becomes subject to any of the events listed in clause 14.1 or fails to make when due any payment due to the Supplier pursuant to this Contract then, without limiting any other right or remedy the Supplier may have, the Supplier may at any time
- (a) require the Customer to deliver up the Vehicle to the Supplier; and
 - (b) if the Customer fails to do so promptly, enter any premises of the Customer or of any third party where the Vehicle is stored in order to recover it.

9. PRICE AND PAYMENT

- 9.1 The price of the Vehicle shall be the price specified or agreed in writing by the Supplier subject to these Conditions.
- 9.2 The Supplier may, by giving notice to a business Customer at any time before delivery, increase the price of the Vehicle to reflect any increase in the cost of the Vehicle that is due to:
- (a) any factor beyond the Supplier's control (including foreign exchange fluctuations, increases in taxes and duties, and increases in materials, storage and other costs);
 - (b) any request by the Customer to change the delivery date(s), make or type of Vehicle ordered, or the Specification; or
 - (c) any delay caused by any instructions of the Customer or failure of the Customer to give the Supplier adequate or accurate information or instructions.
- 9.3 The price of the Vehicle:



- (a) excludes amounts in respect of value added tax (**VAT**), which the Customer shall additionally be liable to pay to the Supplier at the prevailing rate, subject to the receipt of a valid VAT invoice; and
 - (b) excludes any amount payable for insurance or for road or any other tax which shall be the responsibility of the Customer following delivery/collection of the Vehicle.
- 9.4 The Supplier may invoice the Customer for the Vehicle on or prior to delivery of the Vehicle.
- 9.5 Any Deposit is payable on receipt of Order, with any balance payable on delivery of the Vehicle.
- 9.6 If the Customer, without lawful cause, cancels or purports to cancel an Order at any time prior to delivery of Vehicle the Supplier may opt to treat the Contract as repudiated by the Customer in which event:-
- (a) The Supplier will refund the Customer's deposit but before doing so, the Supplier is entitled to recover from the deposit the additional costs incurred in the original sale and in re selling the vehicle plus any reduction in the sales price achieved. The Supplier will keep the deposit whilst they display and advertise the vehicle as being for sale. If it is not sold within a reasonable time the Supplier will sell it at auction. The supplier is not liable for any costs incurred by the Customer if the Customer has cancelled the order.
 - (b) Once the Supplier has sold the vehicle, they will notify the Customer within 7 days as to how much the Supplier lost as a result of having to re-sell. If this amount is less than the deposit, then the Supplier will refund the balance of the deposit with the notification. If the claimable amount is more than the deposit, then the Supplier will include a statement showing how much the Customer owes to make good the Supplier's loss. The Supplier will provide copies of any receipts if requested. The Customer will settle the invoice within 7 days.
 - (c) ownership of the Vehicle will not pass to the Customer; and
 - (d) for the avoidance of doubt the Supplier shall be entitled to dispose of or deal with the Vehicle as it thinks fit and shall not be under any liability to account to the Customer.
- 9.7 Save as may otherwise be agreed in writing by the Supplier the Customer shall pay all invoices in full and in cleared funds prior to completion of delivery/collection of the Vehicle. Payment shall be made to the bank account nominated in writing by the Supplier. Time for payment is of the essence and, without limitation, in the event of any failure to pay on time the Supplier may refuse to deliver the Vehicle.
- 9.8 If the Customer fails to make any payment due to the Supplier under the Contract by the due time for payment, then without prejudice to any other remedy of the Supplier the Customer shall pay interest on the overdue amount at the rate of 4% per annum above Bank of England base rate from time to time. Such interest shall accrue on a daily basis from the due date until actual payment of the overdue amount, whether before or after judgment. The Customer shall pay the interest together with the overdue amount.
- 9.9 If you are a business Customer all amounts due under the Contract shall be paid in full without any set-off, counterclaim, deduction or withholding (other than any deduction or withholding of tax as required by law).
- 9.10 The prices offered / agreed are based on current rates of duties, taxation and levies at time of order. In the event that the UK's ceasing to be a member state of the European Union directly or indirectly causes:- (a) a change in law or technical requirements; (b) the imposition of or change in any relevant trade tariff, tax or import duty or other duty; or (c) any imposition of any new or amended licensing or other requirement; which has an impact on the cost of the Vehicle or the timing of delivery of the Vehicle, the Supplier reserves the right to amend the price of the Vehicle and / or the time of delivery accordingly. Any additional costs will be added to the price previously offered / agreed and will be payable in full by the Customer prior to the delivery of the Vehicle(s).
- 10. PART EXCHANGE VEHICLE**
- 10.1 Where the Supplier, at its discretion, has agreed to accept part payment of the price for the Vehicle to be satisfied by the Customer delivering a Part Exchange Vehicle to it, then the acceptance of the Part Exchange Vehicle by the Supplier is subject to the following conditions:-
- (a) Any part exchange value given is only valid for one month.
 - (b) The Customer must afford the Supplier the opportunity to inspect and assess the Part Exchange Vehicle.
 - (c) The Customer confirms that it owns the Part Exchange Vehicle and that it has the full right to transfer unencumbered ownership of the Part Exchange Vehicle to the Supplier and that it will do so and will deliver the Part Exchange Vehicle to the Supplier at the time specified by the Supplier.
 - (d) The Part Exchange Vehicle must be delivered to the Supplier in the same condition as when inspected by the Supplier.
 - (e) The mileage of the Part Exchange Vehicle at the time of delivery to the Supplier must not exceed by more than 1,000 miles the mileage at the time the Part Exchange Vehicle was inspected by the Supplier unless agreed otherwise in writing).
 - (f) Without limitation, the Part Exchange Vehicle must not be subject to any hire purchase agreement or other finance agreement, charge or other encumbrance whatsoever.
 - (g) The Part Exchange Vehicle must be roadworthy, must comply with all legal requirements and must not have been involved in any material accident.
 - (h) Ownership and title in the Part Exchange Vehicle must transfer to the Supplier absolutely at the time specified by the Supplier.
 - (i) The Customer must transfer all particulars, ownership documentation and information relating to the Part Exchange Vehicle to the Supplier on demand by the Supplier.
- 10.2 In the event that the Customer (or the Part Exchange Vehicle) fail to comply with any of the provisions of 10.1, the Supplier may, at its discretion and without limitation:-
- (a) Reduce the value it is prepared to give to the Part Exchange Vehicle, in which event the difference must be paid by the Customer;
 - (b) Refuse to accept the Part Exchange Vehicle, in which event the difference must be paid by the Customer; or
 - (c) Terminate the Contract in which event it will have no liability to the Customer (save in the case of Consumer Customers where any compensation legally arising will be paid).
- 10.3 Consumer Customers may opt to end the Contract in the event that the Supplier exercises its rights under 10.2 (a) or 10.2 (b).
- 10.4 If the customer opts to end the contract, pursuant to clause 10.3, this is strictly on the basis that they can have no redress against the Supplier whatsoever.
- 11. HIRE PURCHASE**
- 11.1 The entering into by the Customer of any hire purchase, credit sale, loan or other finance arrangement shall not howsoever limit or exclude the Customer's obligations under the Contract and these Conditions.
- 11.2 The Customer is fully responsible for complying with and for discharging all costs relating to any such finance arrangement relating to the Vehicle.
- 12. LIMITATION OF LIABILITY – CONSUMERS ONLY**
- 12.1 The Supplier does not exclude or limit in any way its liability where it would be unlawful to do so. This includes liability for death or personal injury caused by its negligence or the negligence of its employees, agents or subcontractors; for fraud or fraudulent misrepresentation; for breach of the Consumer Customer's legal rights in relation to the Vehicle including the right to receive a Vehicle which is: as described and



matches information we provided to you; of satisfactory quality; fit for any particular purpose made known to the Supplier; supplied with reasonable skill and care; and for defective products under the Consumer Protection Act 1987.

- 12.2 The Supplier is not liable for business losses. The Supplier only supplies the Vehicle(s) to Consumer Customers for domestic and private use. If the Vehicles are used for any commercial, business or re-sale purpose the Supplier's liability will be limited as set out in clause 0.

13. LIMITATION OF LIABILITY – BUSINESS CUSTOMERS ONLY

- 13.1 The restrictions on liability in this clause 0 apply to every liability arising under or in connection with the Contract including liability in contract, tort (including negligence), misrepresentation, restitution or otherwise.

- 13.2 Nothing in the Contract limits any liability which cannot legally be limited, including liability for:

- (a) death or personal injury caused by negligence;
- (b) fraud or fraudulent misrepresentation;
- (c) breach of the terms implied by section 12 of the Sale of Goods Act 1979; or
- (d) defective products under the Consumer Protection Act 1987.

- 13.3 Subject to clause 13.2, the Supplier's total liability to the Customer shall not exceed the price paid by the Customer for the Vehicle.

- 13.4 Subject to clause 13.2 the following types of loss are wholly excluded:

- (a) loss of profits;
- (b) loss of sales or business;
- (c) loss of agreements or contracts;
- (d) loss of anticipated savings;
- (e) loss of use or corruption of software, data or information;
- (f) loss of or damage to goodwill; and
- (g) indirect or consequential loss.

- 13.5 This clause 13 shall survive termination of the Contract.

14. TERMINATION

- 14.1 Without limiting its other rights or remedies, the Supplier may terminate this Contract with immediate effect by giving written notice to the Customer if:

- (a) the Customer commits a material breach of any term of the Contract and (if such a breach is remediable) fails to remedy that breach within 7 days of the Customer being notified in writing to do so;
- (b) the Customer takes any step or action (or has any step taken against it) in connection with its entering administration, bankruptcy, provisional liquidation or any composition or arrangement with its creditors (other than in relation to a solvent restructuring), obtaining a moratorium, being wound up or made bankrupt (whether voluntarily or by order of the court), having a receiver appointed to any of its assets or ceasing to carry on business or, if the step or action is taken in another jurisdiction, in connection with any analogous procedure in the relevant jurisdiction;
- (c) the Customer suspends, threatens to suspend, ceases or threatens to cease to carry on all or a substantial part of its business; or
- (d) the Customer's financial position deteriorates so far as to reasonably justify the opinion that its ability to give effect to the terms of the Contract is in jeopardy.

- 14.2 Without limiting its other rights or remedies, the Supplier may suspend provision of the Vehicle under the Contract if the Customer becomes subject to any of the events listed in clause (b) to clause (d), or the Supplier reasonably believes that the Customer is about to become subject to any of them, or if the Customer fails to pay any amount due under this Contract on the due date for payment.

- 14.3 Without limiting its other rights or remedies, the Supplier may terminate the Contract with immediate effect by giving written notice to the Customer if the Customer fails to pay any amount due under the Contract on the due time and date for payment.

- 14.4 On termination of the Contract for any reason the Customer shall immediately pay to the Supplier all of the Supplier's outstanding unpaid invoices and interest and, in respect of any Vehicle supplied but for which no invoice has been submitted, the Supplier shall submit an invoice, which shall be payable by the Customer immediately on receipt.

- 14.5 Termination of the Contract, however arising, shall not affect any of the parties' rights and remedies that have accrued as at termination including the right to claim damages in respect of any breach of the Contract which existed at or before the date of termination.

- 14.6 Any provision of the Contract that expressly or by implication is intended to come into or continue in force on or after termination of the Contract shall remain in full force and effect.

15. RIGHT TO CANCEL - CONSUMERS ONLY

- 15.1 **Consumer Customers** have a legal right to change their mind within 14 days and receive a refund of sums paid by them to the Supplier if the contract falls within the provisions of the Consumer Contracts Regulations 2013, and these are explained in more detail in these Conditions.

- 15.2 Consumer Customers have **14 days** from the day they (or someone they nominate) receives the Vehicle to exercise this right.

- 15.3 To exercise this right the Consumer Customer should do one of the following:

- 15.4 **Phone or email.** Call Sales on 0151 832 6760 or email sales@estar.ltd. Please provide name, home address, details of the order and, where available, your phone number and email address.

- 15.5 **Online.** Complete the Cancellation Form on the Supplier's website <https://www.estar.ltd/terms-and-conditions> or in Schedule 1 of these terms, and email to sales@estar.ltd.

- 15.6 **By post.** Print off the Cancellation Form on the Supplier's website <https://www.estar.ltd/terms-and-conditions> or in Schedule 1 of these terms and post it to the Supplier at the address on the form. Or simply write to the Supplier at that address stating that you want to cancel and including details of the Vehicle, when it was ordered or received and the Consumer Customer's name and address.

- 15.7 **Returning the Vehicle.** The Consumer Customer must either return the Vehicle in person to the Supplier's premises at Unit 3 Alchemy Way, Alchemy Business Park, Knowsley, L33 7AQ or at another of the supplier's depots as agreed with the Supplier or allow the Supplier to collect the Vehicle. The Consumer Customer should call Sales on 0151 832 6760 or email sales@estar.ltd to arrange collection. The Consumer Customer must return the Vehicle to the Supplier's premises or permit the Vehicle to be collected within 14 days of telling the Supplier it is exercising its right to end the Contract. The Consumer is responsible for the costs of returning the vehicle to the Supplier.

- 15.8 If the Consumer Customer is entitled to a refund under this clause 15 the Supplier will refund to it the price paid for the Vehicle including any delivery costs paid, by the method used for payment. However, the Supplier may make deductions from the price, as described below.

- 15.9 The Consumer Customer must take reasonable care of the vehicle and will be responsible for any loss or damage from when it is delivered to them until the vehicle is returned to the supplier.

- 15.10 The Consumer Customer is liable for any diminished value of the vehicle resulting from the handling other than what is necessary to establish the nature, characteristics and functioning of the vehicle. The maximum refund for any delivery costs paid will be the costs of delivery by the least expensive delivery method offered by the Supplier.



- 15.11 The refund will be made within 14 days from the day on which we collect the Vehicle or receive it back from you.
- 15.12 **Financed Vehicles.** Please note that cancelling the Contract may impact any finance arrangements Consumer Customers have made in relation to the Vehicle. Consumer Customers should contact their finance provider if they have any questions on the impact of cancelling their purchase of the Vehicle. **Consumer Customers may not exercise their rights to cancel under 15.1 if the Vehicle is owned (whether in whole or in part) or charged to any finance company or other third party.**
- 16. FORCE MAJEURE**
Neither the Supplier nor the Customer, Business or Consumer shall be in breach of the Contract nor liable for delay in performing, or failure to perform, any of its obligations under the Contract if such delay or failure result from a Force Majeure Event. In such circumstances the time for performance shall be extended by a period equivalent to the period during which performance of the obligation has been delayed or failed to be performed. In the case of Consumer Customers only, if there is a risk of substantial delay in delivery the Consumer Customer may contact the Supplier to end the Contract and may receive a refund of any amount paid to the Supplier for a Vehicle that has not been delivered.
- 17. INDEMNITY RE RESELLERS**
17.1 The Supplier reserves the right to cancel this order if it believes that the Customer intends to resell the vehicle purchased for commercial gain within a period of 6 months from supply.
17.2 The Customer shall indemnify the Supplier and keep the Supplier indemnified from all or any liability and direct losses to include, but not limited to any service commission paid to the Manufacturer and any debit back of profit margin, discount from the Manufacturer, damages, costs or expenses whatsoever which the Supplier sustains or incurs as a result of the customer acting in breach of Clause 17.1.
- 18. GENERAL**
18.1 **Assignment and other dealings.**
(a) The Supplier may at any time assign, transfer, mortgage, charge, subcontract, delegate, declare a trust over or deal in any other manner with all or any of its rights or obligations under the Contract.
(b) The Customer may not assign, transfer, mortgage, charge, subcontract, delegate, declare a trust over or deal in any other manner with any or all of its rights or obligations under the Contract without the prior written consent of the Supplier.
- 18.2 **Confidentiality.**
(a) Each party undertakes that it shall not at any time during the Contract and for a period of two years after termination of the Contract, disclose to any person any confidential information concerning the business, affairs, customers, clients or suppliers of the other party, except as permitted by clause (b).
(b) Each party may disclose the other party's confidential information:
(i) to its employees, officers, representatives or advisers who need to know such information for the purposes of exercising the party's rights or carrying out its obligations under the Contract. Each party shall ensure that its employees, officers, representatives or advisers to whom it discloses the other party's confidential information comply with this clause 18.2; and
(ii) as may be required by law, a court of competent jurisdiction or any governmental or regulatory authority.
(c) Neither party shall use the other party's confidential information for any purpose other than to exercise its rights and perform its obligations under or in connection with the Contract.
- 18.3 **Entire agreement.**
(a) This Contract constitutes the entire agreement between the parties and supersedes and extinguishes all previous agreements, promises, assurances, warranties, representations and understandings between them, whether written or oral, relating to its subject matter.
(b) Each party agrees that it shall have no remedies in respect of any statement, representation, assurance or warranty (whether made innocently or negligently) that is not set out in the Contract. Each party agrees that it shall have no claim for innocent or negligent misrepresentation based on any statement in the Contract.
- 18.4 **Variation.** No variation of this Contract shall be effective unless it is in writing and signed by the parties (or their authorised representatives).
- 18.5 **Waiver.** No failure or delay by a party to exercise any right or remedy provided under the Contract or by law shall constitute a waiver of that or any other right or remedy, nor shall it prevent or restrict the further exercise of that or any other right or remedy. No single or partial exercise of such right or remedy shall prevent or restrict the further exercise of that or any other right or remedy.
- 18.6 **Severance.** If any provision or part-provision of the Contract is or becomes invalid, illegal or unenforceable, it shall be deemed deleted, but that shall not affect the validity and enforceability of the rest of the Contract. If any provision of the Contract is deemed deleted under this clause 18.6 the parties shall negotiate in good faith to agree a replacement provision that, to the greatest extent possible, achieves the intended commercial result of the original provision.
- 18.7 **Notices – Business Customers.** In the case of business Customers any notice given to a party under or in connection with the Contract shall be in writing and shall be emailed to sales@estar.ltd.
- 18.8 **Third party rights.** Unless it expressly states otherwise, the Contract does not give rise to any rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of the Contract. The rights of the parties to rescind or vary the Contract are not subject to the consent of any other person.
- 18.9 **Governing law.** The Contract, and any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with it or its subject matter or formation, shall be governed by and construed in accordance with the law of England and Wales.
- 18.10 **Jurisdiction.** In the case of business Customers, the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with this Contract or its subject matter or formation. Consumer Customers in Scotland can bring legal proceedings in either the Scottish or the English courts. Consumer Customers in Northern Ireland can bring legal proceedings in either the Northern Irish or the English courts.
- 18.11 **Dispute Resolution.** In the event of any dispute arising between the Supplier and Customer relating to this contract, it is mutually agreed that before embarking on litigation proceedings, the parties will attempt to resolve it through negotiations or effective Dispute Resolution by the appointment of a mediator/arbitrator. If either party unreasonably refused to invoke the mediation/arbitration process, the other party, can on giving written notice, rescind this term.



SCHEDULE 1
Model Cancellation Form for consumer customers

(Complete and return this form only if you wish to withdraw from the contract)

To Estar Truck and Van Limited, Unit 3 Alchemy Way, Alchemy Business Park, Knowsley,
L33 7AQ; 0151 832 6760, sales@estar.ltd.

I/We [*] hereby give notice that I/We [*] cancel my/our [*] contract of sale of the following
Vehicle:-

Ordered on [*/received on [*],

Name of consumer(s),

Address of consumer(s),

Signature of consumer(s) (only if this form is notified on paper),

Date

[*] Delete as appropriate

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