

TERMS AND CONDITIONS OF SUPPLY

The Customer's attention is particularly drawn to the exclusions and limitations of liability at Condition 8.12 and 12, the Customer's indemnity in Condition 11 and the Customer's obligation to pay a deposit at Condition 6.1 and 6.4 and ensuring its own insurance cover at Condition 9.15.

1. INTERPRETATION

- 1.1 In these Terms and Conditions the following expressions will have the following meanings unless inconsistent with the context:
"Customer" the person(s), firm or company whose order for the Products and/or Services is accepted by the Company
"Company" Stuarts Truck and Bus Limited (registered number 08920745) whose registered office is at Hill Barton Business Park, Clyst St Mary, EX5 1DR
"Contract" the contract between the Company and the Customer for the supply and purchase of the Products and/or Services formed in accordance with Condition 2
"Final Inspection" inspection by the Company of the Part Exchange Vehicles once the Part Exchange Vehicles have been delivered to the Company pursuant to Condition 7.6
"Final Valuation" the final valuation of the Part Exchange Vehicle(s) carried out on or after the Part Exchange Delivery Date
"Initial Inspection" the initial inspection carried out by the Company on the Part Exchange Vehicle(s)
"Initial Valuation" the valuation set out in the Order Form and which is subject to variation by the Company
"Order" the Customer's order for the supply of Vehicles by the Company (as set out in the Order Form) and the Customer's order for the supply of Parts and/or Services (as given by the Customer orally or in writing)
"Order Form" the Company's standard order form
"Part Exchange" payment of a proportion of the Price by means of the transfer of ownership of the Part Exchange Vehicle(s) to the Company or the purchase of the Part Exchange Vehicle(s) by the Company
"Part Exchange Delivery Date" the date referred to in Condition 7.6
"Part Exchange Details Form" the form recording the condition and details of the Part Exchange Vehicle(s) and completed by the Company prior to the Initial Valuation
"Part Exchange Vehicle(s)" the Customer vehicle(s) specified in the Order Form as subject to Part Exchange
"Parts" any new or reconditioned part, component, lubricant, assembled unit, accessory, tool, or Service Exchange Part used by the Company for the purposes of performing Services
"Price" the price (as may be varied from time to time by the Company pursuant to Condition 6.7 to 6.11) the Vehicles as set out in the Order Form and the price for the Parts and Services and all other items due from the Customer to the Company under the Contract as notified by the Company to the Customer
"Products" any Vehicles and/or Parts
"Rejected Part Exchange Vehicle(s)" any Customer vehicle(s) specified in the Order Form as subject to Part Exchange but which are subsequently rejected by the Company further to Condition 7.14 to 7.17
"Replacement Service Exchange Parts" any parts requested by the Company to be supplied by the Customer pursuant to Condition 5
"Service Exchange Parts" any parts supplied by the Company to the Customer which are subject to a surcharge where the Replacement Service Exchange Part has not been supplied by the Customer to the Company in accordance with Condition 5
"Services" any services which the Company provides to the Customer under the Contract, including but not limited to the adjustment, maintenance or repair of Products under the terms of the Warranty or otherwise and including but not limited to the supply of Parts during the course of the provision of any Service
"Terms and Conditions" the standard terms and conditions of supply set out in this document together with any special terms agreed in writing between the Customer and the Company
"Vehicle" any truck, coach or bus or truck, coach or bus chassis set out in the Order Form; or any motor vehicle received by the Company from the Customer for the purposes of performing Services
"Volvo" Volvo Truck Corporation or Volvo Bus Corporation as the case may be
"Volvo Parts Warranty" any warranty in force from time to time in relation to Volvo branded Parts
"Volvo Product" any Volvo branded Product, and "Volvo Vehicle" and "Volvo Part" shall be interpreted accordingly
"Warranty" means the warranty, if any, granted to the Customer by Volvo in writing (and where the warranty relates to a Vehicle, it shall be stated on and/or referred to in the Order Form and where the warranty relates to Services and/or Parts, it shall be as set out in writing by Volvo)
All headings are for ease of reference only and will not affect the construction or interpretation of these Terms and Conditions.
Unless the context otherwise required, references to the singular include the plural and vice versa and references to "writing" or "written" includes faxes and e-mail.
References to any statute or statutory provision will include any subordinate legislation made under it and will be construed as references to such statute, statutory provision and/or subordinate legislation as modified, amended, extended, consolidated, re-enacted and/or replaced and in force from time to time.
2. **FORMATION AND INCORPORATION**
2.1 Subject to any variation under Condition 15.6, the Contract will be upon these Terms and Conditions, to the exclusion of all other terms and conditions and all previous oral or written representations including any terms or conditions which the Customer purports to apply under any purchase order, confirmation of order or similar document (whether or not such document is referred to in the

Contract) and any terms and conditions which may otherwise be implied by trade, custom, practice or course of dealing. 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 2.1 will exclude any liability which one party would otherwise have to the other party in respect of any statements made fraudulently.
Unless otherwise specified in writing by the Company, any quotation given by the Company is valid for a maximum period of 30 days from and including its date, provided that the Company has not previously withdrawn it. Any quotation given by the Company will constitute an invitation to treat and not an offer.
Each Order in respect of Vehicles will be deemed to be an offer by the Customer to the Company to purchase those Vehicles set out in the Order Form upon these Terms and Conditions. A Contract for the supply of Vehicles will be formed when the Company accepts the Order by countersigning the Order Form.
Each Order by the Customer to receive Parts and/or Services shall be an offer to purchase those Parts and/or Services upon these Terms and Conditions. A Contract for the supply of Parts and/or Services will be formed when the Company accepts the Order orally or in writing or by commencing work or preparatory work.
For the avoidance of doubt, the Company is under no obligation to accept an Order.
Delivery of a Vehicle for repair or a Part Exchange Vehicle or payment of the Price or payment of any deposit by the Customer to the Company will be deemed conclusive evidence of the Customer's acceptance of these Terms and Conditions.
DESCRIPTION AND SPECIFICATIONS
Subject to Condition 3.4, the quantity and description of the Products and/or Services will be as set out in the Order Form.
All samples, drawings, descriptive matter, specifications and advertising issued by the Company or Volvo and any descriptions or illustrations contained in the Company's or Volvo's catalogues, brochures or other promotional material or described on the Company's or Volvo's websites or otherwise are issued and/or published for the sole purpose of giving an approximate idea of the Products and/or Services represented by or described in them. Such materials will not form part of the Contract and this is not a sale by sample.
Without prejudice to the generality of Condition 3.2 and unless stated otherwise by the Company in writing, the parties agree that the year attributed by the Company to any Vehicle is the year of first registration and not necessarily the year of manufacture.
The parties agree that the Company may make any change to the specification, design, materials and/or finishes of the Products and/or provision of the Services from time to time that it in its sole discretion decides and, except pursuant to Condition 3.6, the Customer shall have no right to cancel the Contract as a result of any such changes.
The Company will use reasonable endeavours to inform the Customer as soon as practicable of any significant changes to design or specification of Volvo Products that have been ordered by the Customer but not yet delivered by the Company.
In the event that the Company decides to fulfil the Contract with a Volvo Product of a significantly changed design or specification to that specified in the Order Form (if applicable) and such Volvo Product does not meet the requirements of the Customer as set out in the Contract (as determined by the Company in good faith) then, subject to Condition 3.7, the Customer shall have the right to cancel such Contract within 7 days from delivery of the relevant Volvo Product(s) or 7 days from the date of notification of such changes by the Company (whichever is earlier). The Company shall not be liable to the Customer for any losses, damages, costs or expenses whatsoever arising from such cancellation.
The parties agree that the Customer shall not have the right to cancel a Contract pursuant to Condition 3.6 in the event that the Company has decided to fulfil the Contract with a Volvo Product of a significantly changed design and/or finish as a result of the Company complying with an applicable safety, statutory or regulatory requirement.
SERVICES
The Company will carry out Services on Vehicles only on components for which instructions have been given by the Customer, but reserves the right to carry out Services in relation to other components the necessity of which only becomes apparent after dismantling parts of the Vehicle. The Company may give the Customer a quotation for the likely cost of such additional Services but the parties acknowledge that such quotations are estimates only and subject to amendment by the Company at any time. The Customer agrees to promptly pay for any additional Services carried out pursuant to this Condition 4.1 upon request by the Company.
Unless alternative written instructions are given to the Company by the Customer prior to the Company agreeing to undertake the Services, all Replacement Service Exchange Parts together with any other materials or parts permanently removed from any Product will become the property of the Company.
It shall be the responsibility of the Customer when leaving any Product at the Company's premises or handing over the Product to any third party acting on behalf of the Company (including but not limited to any vehicle recovery organisation) for the purpose of receiving Services to hand over the Product in a clean condition; in the case of a Vehicle, to remove all personal belongings and any other goods which do not form part of the Vehicle; and to advise the Company, prior to the Services

being performed, of any payload or any other factor which may affect the performance of the Services.

5. SERVICE EXCHANGE PARTS

If the Company supplies Service Exchange Parts to the Customer, the Customer must supply the equivalent number and specification of Replacement Service Exchange Parts (as reasonably determined by the Company) to the Company within such period as may be reasonably notified by the Company to the Customer (or if no date is notified then within a maximum period of 30 days from the date of supply of the Service Exchange Parts) failing which the Company shall be entitled to increase the charge to the Customer for those Service Exchange Parts supplied.

6. DEPOSIT, PRICE AND PAYMENT

The Customer reserves the right to require payment by the Customer of a non-refundable deposit which shall be up to:
20 per cent of the Price; or
such other sum which represents the Company's genuine pre-estimate of the costs and losses that it may suffer (including but not limited to finance costs, stocking charges and vehicle depreciation losses) should the Customer fail to purchase the Vehicle(s); as either a condition of acceptance of an Order or at any time following the countersignature of the Order Form by the Company.
The Customer agrees to pay to the Company, within 7 days from the date of request and in cleared funds, such sum as is requested by the Company pursuant to Condition 6.1 to 6.3.
The Customer agrees to pay the Price to the Company in accordance with this Condition 6.
The Price is exclusive of any costs of packaging and carriage, VAT (and any other similar or equivalent taxes, duties, fees and levies imposed from time to time by any government or other authority) which will be payable by the Customer in addition to the Price in the manner and at the rate prescribed by law from time to time.
The Company will be entitled to vary the Price at any time by giving written notice to the Customer to reflect:
any variation in the Customer's requirements for the Products and/or Services;
any increase in the Company's cost of supplying the Products and/or Services as a result of third party suppliers, raw material cost increases, variations to exchange rates and changes of law;
any changes made to the specification, design, materials of the Products and/or provision of the Services which were required (as determined by the Company acting reasonably) to conform with any applicable safety, statutory and/or regulatory requirement; and
any difference between the Initial Valuation and the Final Valuation calculated pursuant to Condition 7.19.
Any packaging provided by the Company to the Customer when Products are delivered and which the Company informs the Customer is returnable but is not returned to the Company within 30 days of delivery will be invoiced to the Customer.
Unless stated otherwise on the Order Form, payment for Vehicles is due from the Customer to the Company in cleared funds on the date of their delivery or deemed delivery by the Company to the Customer.
Payment for Parts and Services and payment of all other sums due under the Contract is due from the Customer to the Company within 30 days of the date of the Company's invoice unless stated otherwise in these Terms and Conditions.
Time for payment of the Price is of the essence.
Any dispute by the Customer in relation to an invoice received by the Company must be submitted to the Company within 7 days of receipt by the Customer of such invoice. If the Customer fails to adhere to such timescale then the Customer reserves the right to enforce payment of such invoice on its due date pending resolution of the dispute.
Except with regard to Part Exchange, all payments to be made by the Customer under the Contract shall be made in full in cash, debit card or bank transfer without any set-off, restriction or condition and without any deduction for or on account of any counterclaim.
The Company may appropriate any payment made by the Customer to the Company to such of the invoices for the Products and/ or Services and any other sums payable under the Contract as the Company thinks fit, despite any purported appropriation by the Customer.
If any sum payable under the Contract is not paid when due then, without prejudice to the Company's other rights under the Contract; that sum will bear interest from the due date until payment is made in full, both before and after any judgement, at 4% per cent per annum above National Westminster Bank Plc's base rate from time to time and such interest shall accrue on a daily basis; and
the Company will be entitled to withhold deliveries of Products and/or to suspend provision of the Services until payment of all overdue sums has been made.
PART EXCHANGE
Where the Company has agreed in the Order Form to accept Part Exchange, the Customer agrees that:
the Initial Valuation is an estimate based upon the Initial Inspection only and non-binding on the Company. The Final Inspection is a more detailed inspection of the Part Exchange Vehicle and shall result in a Final Valuation and shall, amongst other things, verify compliance with those matters referred to in Condition 7.1 to 7.13;
each Part Exchange Vehicle:
is the absolute property of the Customer and the Customer has not parted possession or control of it or sold it or sub-let it or allowed anyone else to have a claim on or interest in it (and the Customer agrees to indemnify the Company against any loss incurred by the

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- Company as a result of any claim by any financial institution or other party adversely affecting the Company's legal interest in such Part Exchange Vehicle); or
- 7.5 is the subject of a hire purchase agreement or other encumbrance capable of immediate cash settlement by the Company in which case the Customer has notified the Company of the amount required to be paid in settlement thereof and the Company has taken such into account in making the Initial Valuation and Final Valuation.
- 7.6 the Customer shall deliver each Part Exchange Vehicle(s) at the Company's nominated premises on the date reasonably notified by the Company to the Customer in writing ("Part Exchange Delivery Date") in substantially the same condition as at the date of the Initial Inspection (if carried out) and as was specified by the Customer in information provided to the Company pursuant to which the Initial Valuation was calculated;
- 7.7 all statements, assessments and representations made by the Customer when given (and at the Part Exchange Delivery Date) in relation to the Part Exchange Vehicle(s) are accurate and complete in all respects;
- 7.8 it has disclosed to the Company, prior to the Initial Valuation (and on an ongoing basis up to the Part Exchange Delivery Date), all facts that may materially affect the value of the Part Exchange Vehicle(s) and all information provided pursuant to Condition 7.5 (if applicable) is true and accurate in all respects;
- 7.9 title in the Part Exchange Vehicle(s) will pass to the Company absolutely upon the Part Exchange Delivery Date;
- 7.10 each Part Exchange Vehicle is in a condition suitable for use on a public highway and free from any Department of Transport restrictions (unless agreed otherwise by the Company in writing) as at the Part Exchange Delivery Date;
- 7.11 all vehicle documentation, VSC registration certificate, valid MOT certificate, service history, standard equipment and accessories and keys relating to the Part Exchange Vehicle(s) (unless agreed otherwise by the Company in writing) are made available to the Company on the Part Exchange Delivery Date;
- 7.12 the engine(s) of the Part Exchange Vehicle(s) are free from damage from frost, overheating or abuse as at the Part Exchange Delivery Date; and
- 7.13 the Part Exchange Vehicle(s) meet the minimum standards set out in the Part Exchange Details Form and all details and/or declarations on the Part Exchange Details Form are complete and accurate in all respects as at the Part Exchange Delivery Date.
- 7.14 In the event that any of the Conditions in 7.1 to 7.13 are not met (as reasonably determined by the Company) then the Company shall have the following options:
- 7.15 to reject the relevant Part Exchange Vehicle(s) and refuse to accept Part Exchange in relation to such Part Exchange Vehicle(s); or
- 7.16 subject to receipt of the monies due pursuant to Condition 7.14, to accept the relevant Part Exchange Vehicle(s); or
- 7.17 reject the relevant Part Exchange Vehicle(s) and rescind the Contract (without incurring any liability to the Customer of any kind).
- 7.18 In the event that Condition 7.15 or Condition 7.17 applies, the Customer shall promptly collect the Rejected Part Exchange Vehicle(s) from such premises notified by the Company. If the Rejected Part Exchange Vehicle(s) are not removed from the Company's premises by the Customer within 7 days of the Company notifying the Customer that the Rejected Part Exchange Vehicle(s) are ready for collection, the Company shall have the right to invoice the Customer for storage of the Rejected Part Exchange Vehicle(s) at the Company's standard rates.
- 7.19 In the event that Conditions 7.14 through 7.18 apply, the Company shall notify the Customer that the Final Valuation is not the same as the Initial Valuation and shall make such revisions to the Price as the Company reasonably deems necessary. The Customer shall immediately following receipt of invoice make any additional payment to the Company as notified by the Company in writing.
- 7.20 In the event that Condition 7.17 applies, the Customer shall immediately return all Vehicle(s) specified in the Order Form and which are in its control or possession to such premises notified by the Company in the same state and condition as the Customer received such Vehicle(s) from the Company.
- 8. DELIVERY**
- 8.1 Unless notified by the Company to the Customer in writing, delivery of Products and performance of Services shall take place at the Company's premises.
- 8.2 Delivery of Products by the Company shall be on such date notified by the Company to the Customer in writing (and which may be updated by the Company from time to time). The Customer may request a postponement of such date by up to 7 days by providing prompt notice to that effect to the Company. If the Company, acting reasonably, deems such postponement acceptable then it shall notify the Customer of a revised delivery date for the Products and deliver accordingly.
- 8.3 Performance of the Services by the Company shall be on such date(s) notified by the Company to the Customer orally or in writing (and which may be updated by the Company from time to time).
- 8.4 The parties agree that the Company may provide the Customer with delivery dates in a quotation and/or Order Form but these dates are approximate only.
- 8.5 The Company will use reasonable endeavours to deliver the Products and/or perform the Services on the delivery dates notified by the Company to the Customer pursuant to Conditions 8.3 and 8.4 and, if no date is notified, then within a reasonable time period, but time for delivery of the Products and/or performance of the Services will not be of the essence.
- 8.6 Within 7 days of the Company's request, the Customer shall provide all applicable purchase order numbers, payment authorisations, instructions, authorisations and information (including but not limited to information about the construction, use and history of a Vehicle and/or Part subject to the Services) requested by the Company and which the Company reasonably requires in order to supply and/or deliver the Products and/or Services.
- 8.7 Where the Customer does not provide such instructions, information and/or authorisations in accordance with Condition 8.6, then the delivery of the Products and/or performance of the Services shall be delayed by such period notified by the Company to the Customer and the Company shall have the right to invoice the Customer for storage of the relevant Product(s) at the Company's standard rates.
- 8.8 If the Customer:
- 8.9 fails to take delivery of the Products;
- 8.10 fails to remove any Product received by the Company for the purpose of performing the Services from the Company's premises by or on behalf of the Customer within 7 days of the Company notifying the Customer that the Product is ready for despatch/collection; or
- 8.11 fails to provide any documents necessary to collect or take delivery of the Products; then the Products will be deemed to have been delivered and the Company, without prejudice to its other rights, may at its option store or arrange for storage of the Products until actual delivery or sale to a third party, and charge the Customer for all related costs and expenses (including, without limitation, storage, insurance and delivery costs); and/or following written notice to the Customer, sell any of the Products at the best price reasonably obtainable in the circumstances and charge the Customer for any shortfall below the Price plus any relevant storage, insurance, delivery and disposal costs.
- 8.12 If the Company is unable for any reason to deliver the Products and/or perform the Services on the date(s) notified by the Company to the Customer pursuant to Conditions 8.3 and 8.4 then the Company will be deemed not to be in breach of the Contract, nor (for the avoidance of doubt) will the Company have any liability to the Customer for direct, indirect or consequential loss (all three of which terms includes, without limitation, pure economic loss, loss of use, loss of profits, loss of business, depletion of goodwill and like loss) howsoever caused (including as a result of negligence) by any delay or failure in delivery of Products and/or performance of the Services.
- Subject to Condition 8.14, if the Company has failed to deliver the Products and/or perform the Services on the date(s) notified by the Company to the Customer pursuant to Conditions 8.3 and 8.4, the Customer shall be entitled to cancel the Contract provided that it has given 14 days' written notice to the Company requiring the delivery of Products and/or performance of the Services to be made and the Company has not fulfilled the delivery of Products and/or performance of the Services within that period. In the event that the Customer cancels the Contract pursuant to this Condition 8.13, the Company shall be entitled to invoice the Customer pursuant to Conditions 14.6 to 14.8 for all Prices, charges, costs and expenses incurred by the Company in performing the Contract up to the termination date.
- The parties agree that the Customer shall not be entitled to cancel the Contract pursuant to Condition 8.13 where the Company is delayed in delivering the Products and/or performing Services in whole or part pursuant to Condition 4.1, 8.7 and/or Condition 13 and/or as a result of any act or omission of the Customer.
- 9. RISK/TITLE**
- 9.1 Subject to Condition 9.2 legal and beneficial ownership of the Products will not pass to the Customer until the Company has received in full in cleared funds all sums due to it in respect of:
- 9.2 the Products; and
- 9.3 all other sums which are or which become due to the Company from the Customer on any account.
- 9.4 The Company may, by giving written notice to the Customer referring expressly to this Condition 9.4, pass legal and beneficial title of the Products to the Customer at any time before such ownership would otherwise have passed to the Customer.
- 9.5 Until ownership of the Products has passed to the Customer, the Customer shall:
- 9.6 hold the Products on a fiduciary basis as the Company's bailee;
- 9.7 store the Products (at no cost to the Company) separately from all other goods of the Customer and any third party in such a way that they remain readily identifiable as the Company's property;
- 9.8 give the Company such information relating to the Products as the Company may require from time to time;
- 9.9 notify the Company immediately if it becomes subject to any of the events listed in Condition 14.4 and/or Condition 14.5;
- 9.10 not remove, destroy, deface or obscure any identifying mark or packaging on or relating to the Products; and
- 9.11 maintain the Products in satisfactory condition and keep them insured on the Company's behalf for their full price against all risks to the reasonable satisfaction of the Company, and the Customer will whenever requested by the Company produce a copy of the policy of insurance and procure that any insurance proceeds received in respect of lost or damaged Products are paid to the Company, to the extent required to satisfy the Customer's indebtedness.
- 9.12 Risk of damage to or loss of the Products will pass to the Customer upon actual delivery or deemed delivery of the Products (whichever is earlier).
- 9.13 The Customer's right to possession of the Products will terminate immediately upon the occurrence of an event which would allow the Company to terminate the Contract under Condition 14 or where a sum payable under the Contract has not been paid when due.
- 9.14 The Customer grants the Company, its agents and employees an irrevocable licence at any time to enter any premises where the
- Products are or may be stored in order to inspect them, or, where the Customer's right to possession has terminated, to recover them, and agrees to promptly procure access to any third party premises where such Products may be held.
- 9.15 The Parties agree that when the parties agree that a Customer's Vehicle is at the Company's premises for Services to be carried out, then its payload and/or contents are received, driven, towed, transported, stored and/or held by the Company's employees or by a third party on behalf of the Company at the Customer's risk as regards loss and/or damage howsoever arising. The Customer's attention is drawn to the importance of ensuring that its own insurance arrangements provide the necessary cover.
- 9.16 If the Company provides a courtesy vehicle to the Customer then the Customer will insure such vehicle for the benefit of the Company for its full market value (including gap insurance) against all risks on a comprehensive policy without restriction or excess and the Customer shall indemnify, keep indemnified and hold harmless the Company for all costs, expenses, liabilities including negligence (other than death or personal injury arising out of the negligence of the Company), injuries, losses, damages, proceedings or legal costs (on a full indemnity basis) and judgments which the Company incurs or suffers and which arise in connection with or out of the use of such courtesy vehicle (including any accidents involving such vehicle).
- 10. WARRANTIES**
- 10.1 Subject to Condition 10.2, the parties agree that the Company shall only provide the Customer with such warranties in relation to the Vehicles as are stated and/or referred to on the Order Form.
- 10.2 If applicable and transferable by the Company to the Customer (as determined by the Company), any Product is sold by the Company to the Customer with the benefit of any existing warranty given by a third party manufacturer of the Product and which may be in force at the time of delivery to the Customer.
- 10.3 The parties agree that all Volvo branded Parts supplied to the Customer under the Contract are provided, if applicable, subject to the Volvo Parts Warranty.
- 10.4 The Customer acknowledges that neither Volvo nor the Company offer any warranty that any Product complies with the regulations or regulatory requirements applicable in any jurisdiction other than in the case of Volvo Products only, those applicable to the United Kingdom.
- 11. INDEMNITY - The Customer's attention is particularly drawn to this Condition.**
- 11.1 The Customer agrees to indemnify, keep indemnified and hold harmless the Company from and against all costs (including the costs of enforcement), expenses, liabilities (including any tax liability), injuries, direct, indirect or consequential loss (all three of which terms include, without limitation, pure economic loss, loss of profits, loss of business, depletion of goodwill and like loss), damages, claims, demands, proceedings or legal costs (on a full indemnity basis) and judgments which the Company incurs or suffers in whole or part as a consequence of:
- 11.2 any direct or indirect breach or negligent performance or failure or delay in performance by the Customer its obligations under the Contract;
- 11.3 any modification or alteration to any Volvo Vehicle carried out without prior consent and approval of the Company by or on behalf of the Customer, including but not limited to the fitting of any equipment, accessories or replacement parts not expressly approved for use with such Volvo Vehicle, or not fully equivalent in specifications and quality to equipment or replacement parts so approved by Volvo;
- 11.4 any defect in Products caused by any act or omission by third parties or by the Customer or its employees or agents; and
- 11.5 any claims arising in connection with the Customer's use of the Vehicle(s) (including but not limited to any accidents involving the Vehicle(s)).
- 12. LIMITATION OF LIABILITY - The Customer's attention is particularly drawn to this Condition**
- 12.1 In the event of any breach of the Company's express obligations under Conditions 8.3, 8.4 and 8.5 and 10.1 to 10.4 the remedies of the Customer will be limited to damages.
- 12.2 The Company does not exclude its liability (if any) to the Customer for personal injury or death resulting from the Company's negligence or the negligence of a person for whom it is vicariously liable or for any matter which it would be illegal for the Company to exclude (or to attempt to exclude) its liability.
- 12.3 Except as provided in Conditions 8.3, 8.4 and 8.5 and 10.1 to 10.4 and 12.2, the Company will be under no liability to the Customer whatsoever (whether in contract, tort (including negligence), breach of statutory duty, restitution or otherwise) for any injury, death, damage or direct, indirect or consequential loss (all three of which terms include, without limitation, pure economic loss, loss of profits, loss of use, loss of business, depletion of goodwill and like loss) howsoever caused arising out of or in connection with:
- 12.4 any of the Products, or the manufacture or sale or supply, or failure or delay in supply, of the Products by the Company or on the part of the Company's employees, agents or sub-contractors;
- 12.5 any Services performed by the Company or the Company's employees, agents or sub-contractors;
- 12.6 any breach by the Company of any of the express or implied terms of the Contract;
- 12.7 any use made or resale by the Customer of any of the Products, or of any product incorporating any of the Products; or
- 12.8 any statement made or not made, or advice given or not given, by or on behalf of the Company or otherwise under the Contract.
- 12.9 For the avoidance of doubt and without prejudice to any other rights the Company may have under any Contract, the Company shall not be

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- liable for any claim for any loss or damage arising from the Customer's failure to comply with Conditions 4.3 and/or 8.6.
- 12.10 Except as set out in Condition 10.1 to 10.4 and 12.2, the Company hereby excludes to the fullest extent permissible in law, all conditions, warranties and stipulations, express (other than those set out in the Contract) or implied, statutory, customary or otherwise which, but for such exclusion, would or might subsist in favour of the Customer.
- 12.11 The Customer acknowledges that the above provisions of this Condition 12 are reasonable and reflected in the Price which would be higher without those provisions, and the Customer will accept such risk and/or insure accordingly.
- 13. FORCE MAJEURE**
The Company will not be liable to the Customer for any failure or delay or for the consequences of any failure or delay in performance of the Company's obligations under the Contract, if it is due in whole or part to any event beyond the reasonable control of the Company including, without limitation, acts of God, loss or delay of ships and other transport delays, war, industrial disputes, material shortages, protests, fire, tempest, epidemic, explosion, an act of terrorism and national emergencies and the Company will be entitled to a reasonable extension of time for performing such obligations.
- 14. TERMINATION**
14.1 Subject to Condition 3.6, the Customer may not cancel the Contract unless a Director (as registered at Companies House) of the Company agrees to such cancellation in writing. The Company reserves the right to make such agreement conditional upon payment of a sum equal to all loss and/or damage that the Company reasonably envisages that it shall suffer as a result of such cancellation and/or to retain any deposit paid or payable by the Customer to the Company.
- 14.2 The Company may by written notice cancel the Contract at any time prior to delivery of the Products and/or performance of the Services.
- 14.3 The Company may by written notice terminate the Contract immediately if the Customer is in material breach of the Contract (and, for the avoidance of doubt, failure or delay to pay any sums due from the Customer to the Company constitutes a material breach of the Contract);
- 14.4 the Customer enters into insolvency, bankruptcy, any arrangement with its creditors or any other arrangement or situation which has a like effect;
- 14.5 the Customer suspends, threatens to suspend, ceases or threatens to cease to carry on all or a substantial part of its business or the Customer's financial position deteriorates to such an extent that, in the Company's opinion, the Customer's capability to adequately fulfil its obligations under the Contract has been placed in jeopardy.
- 14.6 Following termination or cancellation of the Contract:
- 14.7 the Company will be entitled to invoice all Prices, charges, costs and expenses incurred which have not yet been invoiced; and
- 14.8 all invoices (including invoices issued under Condition 14.7) will become immediately due and payable by the Customer.
- 14.9 The termination of the Contract howsoever arising is without prejudice to the rights, duties and liability of either the Customer or the Company accrued prior to termination. The Conditions which expressly or impliedly have effect after termination will continue to be in force notwithstanding termination.
- 15. GENERAL**
15.1 No Contract shall constitute or effect any licence, transfer, sale or other disposal to the Customer or any third party of any intellectual property rights of Volvo and/or the Company and/or of any third party in any Product.
- 15.2 Subject to the exception stated below in this Condition 15.2, the Customer agrees not to act as a reseller of new Vehicles and/or Parts. This means specifically that all new Vehicles and/or Parts are sold by the Company to the Customer on condition that the Customer will neither resell the Vehicle and/or Part for commercial gain while new nor enter into a leasing contract involving a transfer of ownership or a purchase option prior to the expiry of the Contract and which would allow a third party lessee to purchase the Vehicle and/or Part at any time including when the Vehicle and/or Part is still new. For the avoidance of doubt it is agreed that the where the Customer is a genuine bodybuilder and has obtained the Company's prior written consent to resell a new Vehicle, it may do so after installing a superstructure with significant value (and 'significant value' shall mean a value which, unless agreed otherwise by the Company in writing, is equal to or higher than the Price of the Vehicle).
- 15.3 Time for performance of the Company's obligations shall not be of the essence.
- 15.4 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 otherwise.
- 15.5 No failure or delay by the Company to exercise any right, power or remedy will operate as a waiver of it, nor will any partial exercise preclude any further exercise of the same, or of any other right, power or remedy.
- 15.6 Save as set out in the Contract, these Terms and Conditions may only be varied or amended in writing and signed by a Director (as registered at Companies House) of the Company.
- 15.7 The Company may assign, delegate, license, hold on trust or sub-contract all or any part of its rights or obligations under the Contract.
- 15.8 The Contract is personal to the Customer who may not assign (with the sole exception of to a finance company notified to the Company in advance in order to fund the purchase of the Vehicle(s)), delegate, license, hold on trust or sub-contract all or any of its rights or obligations under the Contract without the Company's prior written consent.
- 15.9 The parties to the Contract do not intend that any of its terms will be enforceable by any person not a party to it.
- 15.10 Nothing in this Contract shall commit the Company to any residual value underwrite or buyback obligation in relation to any Vehicle. Any such obligation may only be entered into and given by a Director (as registered at Companies House) of the Company in writing.
- 15.11 If any term of the Contract (including any exclusion from, or limitation of, liability set out in Condition 12) is found by any court or body or authority of competent jurisdiction to be illegal, unlawful, void or unenforceable, such term will be deemed to be severed from the Contract and this will not affect the remainder of the Contract which will continue in full force and effect.
- 15.12 Any notice in connection with the Contract will be in writing addressed to the other party at its registered office, or principal place of business and will be delivered by hand, or first class or special delivery post. The notice will be deemed to have been duly served, if delivered by hand, when left at the proper address for service or if made by pre-paid, first class post or special delivery post, 48 hours after being posted.
- 15.13 The Customer's making of this Contract does not and its performance of this Contract will not violate in any respect any provision of any existing law or regulation of the United Kingdom or the Republic of Ireland or any order or decree of any agency of the United Kingdom or the Republic of Ireland or of any court of the United Kingdom or the Republic of Ireland.
- 15.14 The formation, existence, construction, performance, validity and all aspects whatsoever of the Contract or of any term of the Contract will be governed by English law. The English courts will have exclusive jurisdiction to settle any dispute which may arise out of, or in connection with the Contract. The parties agree to submit to that jurisdiction.