

## **Shepton Mallet Motors**

### **Terms and conditions**

#### 1. Definitions

1.1 "The Dealer", the person designed overleaf who is the vendor of the goods to the customer.

1.2 "The Customer", the person designed overleaf, contracting for goods and services to be supplied by the Dealer.

1.3 "Consumer", a Customer, being an individual who, for the purposes of the purchase, is acting wholly or mainly outside of their trade, business, craft or profession.

1.3 "Goods" means all vehicles as defined, or other things to be sold by the Dealer to the Customer.

1.4 "Vehicle" includes any car, lorry, van, trailer, caravan, invalid carriage, motor cycle and generally each and every accessory to and component thereof.

#### 2. Whole Contract

2.1 These terms shall represent the whole contract between the Dealer and the Customer. They may be varied only by written agreement

between the parties.

#### 3. Interpretation

3.1 The singular shall include the plural and the male shall include the female or business entity as may be appropriate.

#### 4. Enforceability

4.1 In the event of any one or more of these terms and conditions being declared unenforceable, the remaining terms and conditions shall

nonetheless remain in full force and effect.

#### 5. Written Confirmation

5.1 This order and any allowance in respect of a Vehicle offered by the Customer are Subject to acceptance and confirmation in writing by

the Dealer.

#### 6. Delivery/Time Not of the Essence

6.1 Unless specifically agreed in writing, time for delivery is not essential.

6.2 Where the date for delivery of the goods is not known at time of sale, any date provided is an estimate only and is dependent on the

provision of the Goods to the Dealer by the Supplier/ Manufacturer. The Dealer will use its best endeavours to secure delivery of the Goods

by the estimated delivery date (if any) but does not guarantee the time of delivery. The Dealer shall not be obliged to fulfil orders in the

sequence in which they are placed.

6.3 If the Dealer shall fail to deliver the Goods within 21 days of the estimated date of delivery stated in this contract, the Customer may by

notice in writing to the Dealer require delivery of the Goods within 14 days of receipt of such notice. If the Goods shall not be delivered to

the Customer within the said 14 days the contract shall be cancelled.

## 7. New Goods

If the Goods to be supplied by the Dealer are new, the following provisions shall have effect:

7.1 This Agreement and the delivery of the Goods shall be subject to any terms and conditions which the manufacturer or concessionaire may

from time to time lawfully attach to the supply of the Goods or the resale of such Goods by the Dealer, and the Dealer shall not be liable for

any failure to deliver the Goods occasioned by his inability to obtain them from the manufacturer or concessionaire or by his compliance

with such terms and conditions. A copy of the terms and conditions currently so attached by the manufacturer or concessionaire may be

inspected at the Dealer's office.

7.2 The Dealer undertakes that they will ensure that the pre-delivery work specified by the manufacturer or concessionaire is performed

and that they will use their best endeavours to obtain for the Customer from the manufacturer or concessionaire the benefit of any

warranty or guarantee given by them to the Dealer or to the Customer in respect of the Goods and, save where the Customer is acting as

a consumer (as defined by Legislation) all statements, conditions or warranties expressed or implied by law or otherwise, are hereby

expressly excluded.

7.3 Any figure provided within the contract for Car Tax is provided as guidance only.

Notwithstanding the sum for Car Tax specified in the

order, the sum payable by the Customer in respect thereof shall be such sum as the Dealer has legally had to pay or becomes legally

bound to pay for Car Tax in respect of the Goods.

7.4 Any figure provided within the contract for Value Added Tax is provided as guidance only.

Notwithstanding also the sum for Value Added

Tax specified in the order, the sum payable by the Customer in respect thereof shall be the sum for which the Dealer becomes legally

liable at the time the taxable supply occurs.

7.5 If after the date of this order and before delivery of the Goods to the Customer, the manufacturer's or concessionaire's recommended price

for any of the Goods, or specification of the same shall be altered, the Dealer shall give notice of any such alteration to the Customer, and

7.5.1 in the event of the manufacturer's or concessionaire's recommended price for the Goods being increased, the amount of such

increase which the Dealer intends to pass to the Customer shall be notified to the Customer. The Customer shall have the right to

cancel the contract within 14 days of the receipt of such notice. If the customer does not give such notice as aforesaid, the

increase in the price shall be added to become part of the contract price.

7.5.2 in the event of the recommended price being reduced, the amount of such reduction, if any, which the Dealer intends to allow to

the Customer shall be notified to the Customer. If the amount allowed is not the same as the reduction of the recommended price

the Customer shall have the right to cancel the contract within 14 days of the receipt of such notice.

7.6 In the event of the manufacturer of the Goods described in the order ceasing to make the Goods of that type, the Dealer may (whether the

estimated delivery date has arrived or not) by notice in writing to the Customer, cancel the contract on the grounds of frustration.

7.7 Save in the case of consumer sales (as defined) all statements, conditions or warranties as to the quality of the Goods or their fitness for

any purpose whether express or implied by law or otherwise are hereby expressly excluded.

## 8. Used Goods

8.1 If the goods to be supplied by the Dealer are used, the vehicle is supplied as roadworthy at the date of delivery and, in the case of

consumer sales (as defined by the Sale of Goods Legislation):

8.1.1 is sold subject to any conditions or warranties that are implied by the Sale of Goods Legislation or any amending statutes.

8.1.2 prior to signing this order form, the Customer shall examine the Vehicle and items set out in the Customer's Certificate of

Examination overleaf and the purchaser is reminded that the conditions of satisfactory quality and fitness for purpose implied by

the Sale of Goods Legislation do not operate in relation to such defects which the examination ought to reveal. Should the Goods be

sold also subject to defects notified by the Seller to the Customer before signing the agreement, the implied conditions of

satisfactory quality and fitness for purpose do not operate in relation to those defects.

8.2 Save in the case of customer sales (as defined) all statements, conditions, or warranties as to the quality of the Goods or their fitness for

any purpose whether express or implied by law or otherwise, are hereby expressly excluded.

## 9. Variation

9.1 Any variation agreed between the Dealer and the Customer regarding the Goods to be supplied shall be deemed to be an amendment to

this Contract and shall not constitute a new contract.

## 10. Delivery and Payment

10.1 The Customer shall be liable to pay for the Goods immediately upon notification by the Dealer that they are available for delivery. The

Dealer may, in its discretion, demand a deposit at the time when the order for Goods is placed by the Customer and shall not be obliged to

progress the order or otherwise implement the contract until the deposit is paid in full.

## 11. Place of Delivery

11.1 Unless otherwise agreed in writing delivery of the Goods shall take place at the Dealer's premises.

11.2 In the event of cancellation, for any reason, the customer agrees to return the Goods to the dealer's premises.

## 12. Repudiation by Customer

12.1 If you do not pay for and take delivery of your vehicle within 14 days of notification that the vehicle is available for delivery, we shall be at

liberty to treat the contract as cancelled. If this happens, or if you cancel the contract for any other reason not permitted by this contract,

we will sell the vehicle to another person. We will refund your deposit but before we do so, we are entitled to recover from the deposit the

additional costs we incur in re selling the vehicle plus any reduction in the sales price achieved. We will keep the deposit whilst we display

and advertise the vehicle as being for sale. If it is not sold within a reasonable time we will sell it at auction.

12.2 Once we have sold the vehicle, we will notify you within 7 days as to how much we have lost as a result of having to re sell. If this amount

is less than your deposit, then we will refund the balance of your deposit with the notification. If the claimable amount is more than the

deposit, then we will include a statement showing how much you owe us to make good our loss. We will provide copies of any receipts if

you request them.

12.3 The Dealer reserves the right to make a reasonable daily charge for the storage of the vehicle or vehicles.

### 13. Loss or Damage

13.1 The Dealer shall be responsible for the loss of or damage to any vehicle or its contents only if caused by negligence of the Dealer or its

employees. The Customer is strongly advised to remove any items of value not related to the Vehicle.

### 14. Return of Deposit

14.1 If the contract is cancelled under the provisions of clauses 6 or 7 above the deposit shall be returned to the Customer and the Dealer shall

be under no further liability.

### 15. Retention of Title and Risk

15.1 Risk of damage to or loss of the Goods are at the risk of the Customer as soon as they are delivered into the physical possession of the

Customer or their nominated representative.

15.2 Goods shall remain the sole and absolute property of the Dealer as legal owner until such time as the Customer shall have paid to the

Dealer the full price together with all storage charges and interest that may be due to the Dealer under this contract. Until payment in full

as aforesaid has been made the Customer acknowledges that they are in possession of the goods solely as agent of the Dealer.

15.3 Until the Customer becomes owner of the Goods, they will store them separately from his own goods or those of any other person and in a

manner which makes them readily identifiable as the goods of the Dealer.

15.4 The Customer's right to possession shall cease if they, not being a company, become bankrupt or if they, being a company, do anything,

or fail to do anything which would entitle a Receiver to take possession of any assets or which would entitle any person to present a

petition for winding-up.

15.5 Should the Customer's right of possession cease they will notify the Dealer and immediately make the goods available for collection. The

Dealer may, for the purposes of recovery of the Goods, enter upon any premises where they are stored or where they are reasonably

thought to be stored and may repossess them.

15.6 The Customer shall be at liberty to agree to sell on the Goods or any product produced from or with the Goods subject to the express

condition that such an agreement to sell shall take place as agents (save that the Customer shall not hold himself out as such) for the

Dealer, whether the Customer sells on his own account or not and that the entire proceeds thereof are held in trust for the Dealer and are

not mingled with other monies or paid into any overdrawn bank account and shall be at all times identifiable as the Dealer's monies.

#### 16. Right of Lien

16.1 The Dealer shall have a general lien on any property of the Customer in its possession for all monies owing to the Dealer by the Customer

on any account whatsoever.

#### 17. Part Exchange

17.1 Where the Dealer agrees to allow part of the price of the Goods to be discharged by the customer delivering a used Vehicle in part

exchange to the Dealer, in consideration of such allowance, it is hereby agreed that the following further conditions will apply.

17.1.1 that the Dealer accepts the used vehicle in reliance of the warranties granted by the Customer overleaf, including but not limited to

the age, mileage and condition of the vehicle.

AND

17.1.2 that such used Vehicle is the absolute property of the Customer and is free from all encumbrances.

OR

17.1.3 that such used vehicle is the subject of a hire purchase or agreement or other encumbrance capable of cash settlement by the

Dealer, in which case the allowance shall be reduced by the amount required to be paid by the Dealer in settlement thereof.

17.2 If the Dealer has examined the said used vehicle prior to his confirmation and acceptance of this order, the used vehicle shall be delivered

to them in the same condition at the date of such examination (fair wear and tear excepted).

17.3 That such used Vehicle shall be delivered to the Dealer on or before delivery of the Goods to be supplied by them hereunder, and the

property in the said used Vehicle shall thereupon pass to the Dealer absolutely.

17.4 That without prejudice to 17.3 above, such used vehicle shall be delivered to the Dealer within 14 days of notification to the customer that

the Goods to be supplied by the Dealer are available for delivery.

17.5 If the goods to be delivered by the Dealer, through no default on the part of the Dealer, shall not be delivered to the Customer within 30

days after the date of this order or the estimated delivery date; where that is later, the allowance on the said used vehicle shall be subject

to a reduction by an amount not exceeding 2.5% for each completed period of 30 days from the date of the expiry of the first mentioned

30 days, to the date of delivery to the Customer of the Goods.

17.6 In the event of the non-fulfilment of any of the foregoing conditions, other than 17.5 above, the Dealer shall be discharged from any

obligations to accept the said used Vehicle or to make any allowance in respect thereof, and the Customer shall discharge in cash the full

price of the Goods to be supplied by the Dealer.

## 18. Authority to Contract

18.1 Goods supplied by the order of any person in the Customer's employment or by any person reasonably believed by the Dealer to be the

Customer's agent or by any person to whom the Dealer is entitled to make delivery of the vehicle shall be paid for by the Customer.

## 19. Authority to Uplift

19.1 Where a person who, so far as the Dealer is aware, has authority to uplift Goods or Vehicles and does so, the Dealer shall have no liability

to the Customer for any loss or damage resulting on any grounds whatsoever. It shall not be obligatory upon the Dealer to confirm the

authority of any person reasonably believed to be the agent, or to have been at some time, connected with the Customer.

## 20. Authority to Drive

20.1 In connection with the supply of a Vehicle or an inspection or testing or the preparation of any estimate in connection therewith, the Dealer

shall be entitled to drive the vehicle on the road or elsewhere as it shall deem necessary. These provisions shall apply also to any Vehicle

offered by the Customer in part-exchange in terms of clause 17.

## 21. Finance

21.1 Notwithstanding the provisions of this agreement, the Customer shall be at liberty before the expiry of 7 days after notification to him

that the Goods have been completed for delivery to arrange for a finance company to purchase the Goods from the Dealer at the price

payable hereunder. Upon the purchase of the Goods by such finance company, the proceeding clauses of this agreement except 7.2

shall cease to have effect but any used Vehicle for which an allowance was there under agreed to be made to the Customer shall be

bought by the Dealer at the price equal to such allowance, upon the conditions set forth in clause 17 above (save that in 17.3, 17.4 and

17.5 thereof all reference to 'delivery' or 'delivered' in relation to the 'Goods' shall be construed as meaning delivery or delivered by the

Dealer to or to the order of the finance company) and the Dealer shall be accountable to the finance company on behalf of the Customer

for the said price and any deposit paid by him under this agreement.

## 22. Notices

22.1 All written notices given by the Dealer to the Customer shall take effect 24 hours after being despatched by the Dealer in the normal

course of post to the Customer's address shown overleaf.

## 23. Export Outside EU

23.1 The Dealer reserves the right to cancel this order if it believes that;

23.1.1 the Customer intends to resell the Goods outside the European Union (Contract Territory) for commercial gain within a period of 12

months; or

23.1.2 where the Customer is a corporation its place of business is not within the European Union; or

23.1.3 where the Customer is a finance company and either, the Goods are not being purchased on behalf of an end user or they are and

such end user is not resident nor has its place of business within the European Union.

23.2 The Customer shall indemnify the Dealer and keep the Dealer indemnified from all and 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 from the manufacturer), damages, costs

or expenses which the Dealer sustains or incurs as a result of the Customer exporting or selling (whether directly or indirectly through any

third party) the Goods outside the European Union.

## 24. Distance Selling



24.1 If, and only if, the Customer has acted as a Consumer, where this Agreement has been completed away from our business premises and/

or without any face to face contact between us and you; or anyone acting on your or our respective behalf, you may give notice to cancel

this Agreement within 14 days without giving any reason.

24.2 This cancellation period will expire 14 days after the day on which you, or a third party on your behalf, takes delivery or otherwise acquires

physical possession of the Goods. To exercise this right to cancel, you must inform us of your decision to cancel this Agreement in writing

by clear statement (e.g. a letter sent by post, fax or email) to our address as set out overleaf. You may use the attached model cancellation

form if you wish.

24.3 To meet the cancellation deadline, it is sufficient for you to send your communication confirming your exercise of the right to cancel before

the cancellation period has expired.

24.4 If you cancel this Agreement, we will reimburse to you all payments received from you under this Agreement, without undue delay, and not

later than:-

24.4.1 14 days after the day on which we receive the Goods back; or

24.4.2 (if earlier) 14 days after the day you provide evidence that you have returned the Goods; or

24.4.3 if there were no Goods supplied, 14 days after the day on which we are informed about your decision to cancel this Agreement.

24.5 We will make the reimbursement using the same means of payment as you have used for the initial transaction, unless you have expressly

agreed otherwise, but in any event you will not incur any fees as a result of the reimbursement.

24.6 We may withhold reimbursement until we have received the Goods back or you have sent evidence of having sent back the Goods to us,

whichever is the earliest. You should send back the Goods or deliver them back to us at the address shown overleaf, without undue delay

and in any event not later than 14 days after the day on which you communicate your cancellation of this Agreement to us.

24.7 This deadline is met if you send back the Goods before the period of 14 days has expired. We will require that you bear the cost of

returning the Goods to us.

24.8 You must take reasonable care of the Goods whilst they are in your possession. You will be responsible for any loss or damage from when

they are delivered to you until when they are returned to us.

24.9 You are liable for any diminished value of the Goods resulting from the handling other than what is necessary to establish the nature,

characteristics and functioning of the Goods.

## 25. Storage Charges

25.1 The Dealer reserves the right to make a reasonable daily charge for the storage of the customer's vehicle or vehicles.

## 26. Dispute resolution/Jurisdiction

26.1 In the event of a complaint or dispute of any kind our complaints handling procedure which can be found on our website at

[www.sheptonmallet-honda.co.uk](http://www.sheptonmallet-honda.co.uk) and is available from us on request.

26.2 Where your complaint cannot be resolved, once you have exhausted our internal process you may refer the dispute to the following

ADR processes,

26.2.1 where your complaint does not relate to a financial service, The Motors Codes Advisory and Conciliation service will provide

ADR support. For details of this service you can contact them on 08006920825 or at their website [www.motorcodes.co.uk](http://www.motorcodes.co.uk).

26.2.2 where your complaint relates to Financial Services, the Financial Ombudsman Service. This service is free to use. Their consumer

helpline is available on 0800 023 4 567 or 0300 123 9 123 or you can visit their website at [www.financial-ombudsman.org.uk](http://www.financial-ombudsman.org.uk),

email them at [complaint.info@financial-ombudsman.org.uk](mailto:complaint.info@financial-ombudsman.org.uk) or write to the Financial Ombudsman Service, Exchange Tower,

London E14 9SR.

26.3 Where any dispute cannot be resolved through ADR, this Purchase Order and Contract shall be governed by and construed in accordance

with the laws of England and Wales and shall be subject to the exclusive jurisdiction of the English Courts.