

## **BORNEO MOTORS STANDARD TERMS & CONDITIONS OF SALE**

### 1. Interpretation

#### 1.1 In these Terms and Conditions :-

“Agreement” means the contract for the purchase and sale of the Vehicle as evidenced by the Retail Customer Order and the Terms and Conditions herein

“Authorised Representative” means a manager or assistant manager of Borneo Motors (Singapore) Pte. Ltd.

“Authority” means the Land Transport Authority of Singapore as such government authority charged with the function of registration and licensing of vehicles

“Bid Price” means the price that the Company has submitted at a Certificate of Entitlement bidding exercise

“Company” means Borneo Motors (Singapore) Pte. Ltd.

“Customer” means the person who accepts a quotation of the Company for the sale of the Vehicle by the Company or whose order for the purchase of the Vehicle is accepted by the Company

“Current COE Price” means the current Certificate of Entitlement Price during each bidding exercise conducted by the Authority under its COE Bidding System

“Deposit” means the deposit referred to in the Company’s Retail Customer Order

“Net Amount Due” means the amount due as stated in the Company’s Retail Customer Order

“Net Invoice Value” means the invoice value as stated in the Company’s Retail Customer Order

“OTR Price Without Insurance” means the price of the Vehicle as stated in the Company’s Retail Customer Order

“Open Market Value” means the value of the Vehicle as may be determined from time to time by the relevant government authority.

“Retail Customer Order” means the form prescribed from time to time by the Company for the purpose of purchase and sale of the Vehicle

“Terms and Conditions” means the Borneo Motors standard terms and conditions of sale set out in this document and (unless the context otherwise requires) includes any special terms and conditions agreed in Writing between the Customer and a general manager of the Company

“Vehicle” means the Vehicle or any parts of it which the Company is to supply in accordance with the Agreement

“Writing” includes electronic mail, telex, cable, facsimile transmission and signed letters

1.2 Any reference in these Terms and Conditions to any provision of a statute shall be construed as a reference to that provision as amended, re-enacted or extended at the relevant time.

1.3 The headings in these Terms and Conditions are for convenience only and shall not affect their interpretation.

2 Entire Agreement

- 2.1 Unless otherwise agreed in Writing by the Company, the Terms and Conditions shall comprise the entire Agreement and supersedes any earlier terms and conditions or representations appearing in any catalogues, advertisements or negotiations. Any variation to the Terms and Conditions shall not be binding unless otherwise agreed in Writing.
3. Temporary Certificate of Entitlement (TCOE)
- 3.1 Except for the following categories of Customers listed below, this Agreement is subject to parties executing a TCOE agreement and to the successful bidding of a TCOE:-
- a) Customers who bid for the TCOE on their own accord; or
  - b) Customers who have in their possession a valid TCOE at the time of this Agreement; or
  - c) Customers who are exempt from obtaining a COE by operation of law or government regulation or policy.
- 3.2 The Customer authorises the Company to bid for a TCOE at the Company's discretion and on behalf of the Customer whenever bidding is available for up to a maximum period of 3 months from the date of this Agreement. The Company shall in its absolute discretion determine when the first bidding is to be made and the number of bids to be made and shall also absolutely determine the Bid Price. The Company shall not be obliged to disclose to the Customer the acknowledgment code issued for any bid.
- 3.3 The Customer is bound to accept a TCOE of any appropriate category that had been successfully obtained by the Company on behalf of the customer.
- 3.4 The Company shall not be liable to the Customer if for whatever reason the Customer Bid Price is no longer in the running when the Current COE Price is higher than the Bid Price at the then prevailing bidding exercise. The Company shall not be obliged to revise the Bid Price upwards so as to succeed at the bidding of the TCOE. The Company shall also not be liable for any failure or omission to make any bid for the Customer.
- 3.5 The Company shall not be liable to the Customer for any loss that the Customer may suffer as a result of any subsequent fall/decrease in the price of the TCOE after it had been successful in obtaining a TCOE for the Customer and/or in the price of the Vehicle.
- 3.6 The Customer shall execute all such documents and do all things necessary to enable the Company to bid for a TCOE.
- 3.7 The Customer shall not perform any act which may render the bid to be submitted or submitted by the Company to be rejected or rendered invalid and shall not revise the reserve price of the bid.
- 3.8 The Customer shall honour the successful bid for a TCOE made on his behalf by the Company and shall indemnify the Company for all losses and expenses including monies, which may be forfeited by the Authority if the Customer fails to honour such bid.
- 3.9 Where the Company has secured a transferable TCOE in the Customer's name but there is no vehicle in stock to deliver to the Customer, the Customer irrevocably agrees that the Company is authorised to transfer the said transferable TCOE in his name to the name of another customer whose vehicle ordered is in stock and that the Customer shall do all that is necessary to enable the said transfer including but not limited to the execution of documents to effect the same. The Company in such circumstances shall register the Vehicle as soon as practicable upon the arrival of the Vehicle as ordered. The Customer agrees that he shall not hold the Company liable or responsible for any and all loss or damage that may arise from the delay in obtaining the Vehicle.

3.10 For the avoidance of any doubt, in the event that the Company is not successful in obtaining a TCOE, whether in joint bid or by proxy from any bidding made within 3 months from the date of the Agreement, it is expressly agreed and understood that (without prejudice to any and all rights that have accrued to the Company):

- a) Either party may thereafter rescind the Agreement for the sale of the Vehicle with no claim whatsoever against the other party whereupon the Deposit paid shall be refunded without any interest to the Customer minus any applicable fees or costs incurred by the Company in respect of such Deposit , and
- b) The Customer shall have no claim against the Company for any losses or expenses incurred by him for any reasons whatsoever, or
- c) Both parties may by mutual agreement enter into a fresh agreement to purchase another vehicle.

3.11 The Customer understands that in any situation, where the Company is paying any monies in the Customer's name to the Authority for any purpose and in the event of there being any excess monies to be refunded by the Authority, the Customer hereby irrevocably authorises the Company to make a claim for the said excess to be paid to the Company's accounts and the Customer shall undertake to do all that is necessary to enable the Company to be refunded the excess including but not limited to the execution of all documents that are required to give effect hereto. The Company shall be entitled to pursue all its remedies in law against the Customer in the event of such failure by the Customer to perform herein and the Customer agrees that all legal costs in pursuance hereof shall be borne by the Customer on an indemnity basis.

#### 4 Specifications

4.1 The Company reserves the right to make any changes in the specifications of the Vehicle or any of its accessories or promotional items. The Customer shall accept the Vehicle so changed and shall bear all extra costs for the changes so made.

4.2 Any and all promotional items and accessories (including the items and accessories themselves whether in quality, quantity, specification, model, make or type) offered by the Company to the Customer from time to time is made by the Company at its sole discretion and the Company reserves all its rights not to make any offers of promotional items and accessories (including the items and accessories themselves whether in quality, quantity, specification, model, make or type) as it shall deem fit.

4.3 The Company shall be entitled to change from time to time at its absolute discretion any and all of the promotional items and accessories offered by the Company and the Customer acknowledges that the Company shall not be liable to the Customer for any and all such changes to promotional items and accessories that the Company may make.

4.4 Any typographical, clerical or other error or omission in any sales literature, quotation, price list, acceptance of offer, invoice or other documents or information issued by the Company shall be subject to correction without any liability on the part of the Company.

#### 5 Price of the Vehicle

5.1 The Company shall not be liable to the Customer for any and all losses that may be suffered by the Customer in the event of a subsequent decrease in the price of similar vehicles or vehicles of the same make and model or in respect of any promotional items or accessories offered and given by the Company to other customers subsequent to the Agreement.

5.2 A \$2000 deposit will be held for 7 days and will only be charged upon sale confirmation. The Deposit is not refundable in the event of cancellation or breach of this Agreement by the Customer, except as provided in Clause 3.10 and shall be forfeited to the Company without

prejudice to the Company's right to recover or claim from the Customer any damage, loss (including loss of profit), costs (including the costs of all labour and material), charges and/or expenses incurred by the Company.

- 5.3 The Company reserves the right, by giving notice to the Customer at any time before delivery of the Vehicle to the Customer, to cancel the Agreement if there is any increase in the costs, expenses or charges to the Company due to factors beyond the control of the Company including but not limited to any changes in taxes and duties. Alternatively, the Company and Customer may agree in Writing to the changes in the Net Invoice Value or the Net Amount Due. In the event that there is any delay caused by any instructions or the lack thereof on the part of the Customer, the Company reserves the right, by giving notice to the Customer at any time before delivery of the Vehicle to increase the Net Invoice Value or the Net Amount Due (whichever is applicable). The terms of the TCOE Bid shall continue in effect notwithstanding any cancellation of the Agreement under this Clause.

## 6 Terms of Payment

- 6.1 The Customer shall pay the Net Invoice Value or the Net Amount Due (whichever is applicable, including any increase in amount, if any, made pursuant to Clause 5.3) in full within 7 calendar days (time being of the essence) upon verbal or written notification from the Company that the Vehicle is ready for preparation of pre-delivery inspection or before the date of registration, whichever is earlier. The Customer shall also, where applicable, pay the insurance premium and the first instalment of the Vehicle financing payment. The Vehicle will not be prepared for pre-delivery inspection until full payment has been received by the Company.

- 6.2 If the Customer fails to make payment in full within the time period specified in paragraph 6.1, then, without prejudice to any other right or remedy available to the Company, the Company shall be entitled to:

- (i) charge interest on the outstanding Net Invoice Value or the Net Amount Due (whichever is applicable) due and payable at the rate of 1% per month, or
- (ii) forfeit the Deposit and terminate the Agreement.

- 6.3 Any payment by cheque shall not be considered to have been made or received by the Company until the cheque has been honoured and the proceeds thereof have been credited into the Company's account. No payment by cash shall be considered as made until an official receipt is issued by the Company. The Customer shall only be permitted to make cash payments under this Agreement or at such amounts which may be determined by the Company from time to time.

## 7 Delivery

- 7.1 The date of delivery is an approximate date only and is subject to the availability of the Vehicle in stock and/or the successful bid for the TCOE, where applicable. The Company shall not be liable for any loss or damage arising directly or indirectly out of any delay in delivery. Any such delay shall not entitle the Customer to cancel or rescind this Agreement.

- 7.2 The Company shall have the sole discretion of allocating to the Customer the particular vehicle provided that the vehicle is the same make/model and colour that the Customer has agreed to purchase. The Customer shall have no right or interest in the particular Vehicle by virtue of the same having been allocated to him until the Vehicle has been registered in his name.

- 7.3 The Customer shall not change the make/model of the Vehicle without the written approval of the Company who shall determine any new terms and conditions in respect hereof as it deems fit.

- 7.4 The Customer shall not change the colour of the Vehicle without the written approval of the Company who may in its absolute discretion allow a change of colour subject to an additional charge of S\$2000.00 (Singapore Dollar Two Thousand) being paid by the Customer. All requests for change of colour of the Vehicle by the Customer must be made by the Customer to the Company within seven (7) calendar days from the date of the Agreement. No such request(s) shall be entertained by the Company after the expiry of the time limited herein, unless otherwise agreed in Writing by the Company.
- 7.5 The Customer or his agent (duly authorised in Writing) shall take delivery of the Vehicle during office hours within seven (7) calendar days from the date the Company notifies the Customer that the Vehicle is ready for collection at such place and/or premises as shall be designated and determined at the Company's sole discretion.
- 7.6 In the event that the Customer requests for delivery to take place other than at a place designated by the Company, such delivery at any location shall be at the Customer's own risk as regards loss or damage in transit or otherwise and the Customer undertakes to the Company to indemnify the Company for all claims, losses and/or damages that may arise from such delivery to the Customer. The Customer shall be responsible for any additional costs incurred by the Company in fulfilment of the Customer's request under this clause.
- 7.7 If the Customer fails to give the Company adequate delivery instructions at the time stated for delivery the Company or fails to or refuse to take delivery of the Vehicle, the Company may, without prejudice to any other right or remedy available to the Company, store the Vehicle until actual delivery and the Customer shall be liable to the Company for all reasonable costs of storage and the Company shall not be responsible or liable to the Customer for any loss or damage to the Vehicle for the duration in which the Vehicle is kept in storage due to the Customer's failure to take delivery. The Customer shall also be solely liable for the cost of re-instating to pre-delivery inspection condition, if necessary.

## 8 Risk and property

- 8.1 Risk shall pass to the Customer at the time when the Customer takes delivery of the Vehicle pursuant to Clause 7.5 or upon registration of the Vehicle or when the Company takes any of the actions pursuant to Clause 7.7.
- 8.2 The Customer shall inspect and test the Vehicle at the time of the deliver. Any defect, fault or complaint must be brought to the Company's attention at the time of the delivery and be recorded. Save for the defect, fault or complaint so recorded, the Vehicle shall be deemed to have delivered in good order and condition as per the specifications in this Agreement.
- 8.3 Notwithstanding delivery and the passing of risk, the property in the Vehicle shall not pass to the Customer until the Company has received full payment of the Net Invoice Value or the Net Amount Due (whichever is applicable) and of all other options/ accessories sold by the Company to the Customer for which payment is due.

## 9 Warranties and Liability

- 9.1 Save as expressly stated in this Agreement and/or implied by law, any guarantee, warranty, condition, description or representation in respect of the Vehicle and/or its parties made prior to this Agreement on the part of the Company is hereby expressly excluded.
- 9.2 The Company's employees or agents are not authorised to make any oral or written representations concerning the Vehicle or as is to the make/model colour and other specifications of the Vehicle and accessories, delivery, availability of Vehicle in stock, storage, application or use of the Vehicle unless confirmed by the Company in Writing. In entering into the Agreement the Customer acknowledges that he does not rely on, and waives any claim for breach of, any such representations which are not so confirmed.

9.3 Any advice, recommendation and/or representation (whether made orally or in Writing) given by the employees of the Company or its agents to the Customer as to the make/model, colour and other specifications of the Vehicle and accessories, delivery, availability of Vehicles in stock, storage, application or use of the Vehicle which is not confirmed in Writing by the Company and endorsed by an authorised representative of the Company, is followed or acted upon entirely at the Customer's own risk, and accordingly the Company shall not be liable for any such advice or recommendation which is not so confirmed.

## 10 Termination

10.1 Without prejudice to any right or remedy available to the Company, the Company shall be entitled to terminate or cancel this Agreement or suspend any delivery under this Agreement notwithstanding any previous agreement or arrangement to the contrary in the following events :-

- i) The Customer makes any voluntary arrangement with his creditors or becomes subject to an administration order or (being an individual or firm) becomes bankrupt or (being a company) goes into liquidation (otherwise than for the purpose of amalgamation or reconstruction); or
- ii) An encumbrancer takes possession, or a receiver is appointed over any of the property or assets of the Customer; or
- iii) The Customer ceases, or threatens to cease, to carry on business.

10.2 Save for the categories of Customer in Clause 3.1 and where the Company is unable or unsuccessful in bidding for a TCOE within 3 months from the date of the Agreement, the Company shall be entitled to treat this Agreement as terminated and null and void and the Customer shall be entitled to the refund of the Deposit in full without any interest and shall have no claims against the Company in such an event.

10.3 Where the Customer purchases the Vehicle and makes a bid for a TCOE under Clause 3.1 (a) he shall secure a TCOE within 3 months from the date of the Agreement and shall deliver the TCOE to the Company within a week of its issuance. The Company shall thereafter register the Vehicle with the Authority within 6 months from the date of Agreement and deliver the Vehicle thereafter. Where the Customer fails to obtain a TCOE or refuses to deliver the TCOE to the Company within the time specified, the Company shall be entitled to, without prejudice to any other rights available, rescind the Agreement and forfeit the Deposit.

10.4 Where the Customer purchases any Vehicle and has a valid TCOE under Clause 3.1 (b), the Company shall register the Vehicle at a date not later than the expiry date of the TCOE and deliver the Vehicle thereafter provided the submission of the TCOE by the Customer to the Company is at least fourteen (14) calendar days before its expiry date. Where the Customer fails and/or refuses to fulfil the obligations under the Agreement, the Company shall be entitled to without prejudice to its any other rights available, terminate the Agreement and forfeit the Deposit.

10.5 If the Customer fails to take delivery of the Vehicle upon final written notification by the Company to do so or fails to pay any money due hereunder until full payment, the Company shall be entitled to forthwith terminate this Agreement without prejudice to any right of action for damages against the Customer and/or forfeit the Customer's Deposit.

## 11 Force Majeure

11.1 The Company shall not be liable for any loss or damage suffered by the Customer as result of any delay or failure in performance of the Company's obligations hereunder by reason of act of god, war, invasion, act of foreign enemy, hostilities (whether war is declare or not), civil war, rebellion, revolution, insurrection, martial law, riot, strike, lockout, trade dispute, civil commotion, breakdown of plant, shortage of materials, stocks or supplies, import or export

regulations, embargo, act, statute, regulation, bye-law, prohibition by measure of any kind as the part of any governmental or local authority or any causes (whether or not of a like nature) beyond the Company's control, or any temporary cessation of operation of business as required by any governmental or local authority for whatever reasons. Any delay in the performance of the Company's obligations resulting from any of the aforesaid causes shall not entitle the Customer to repudiate this Agreement and no claim shall lie against the Company in respect of any loss or damage suffered by the Customer.

## 12. Personal Data

- 12.1 The Customer consents and authorises the Company to use Customer's Personal Information for the following purposes:
- a) responding to your enquiries regarding vehicles, vehicle sales/leasing/servicing/repairs, vehicle parts and accessories, and any other services we offer;
  - b) receiving feedback and dealing with complaints;
  - c) processing orders and administering accounts;
  - d) providing customer and dealer support, such as service maintenance reminders;
  - e) vehicle warranties and vehicle special service campaigns;
  - f) for obtaining and sending quotations from different insurance companies;
  - g) research and surveys;
  - h) meeting regulatory and legal obligations;
  - i) To share your Personal Information with companies related or affiliated with the Company;
  - j) To share your Personal Information with trusted third party vendors, insurance companies and/or data intermediaries to process your personal information and for the trusted third party vendors, insurance companies and/or data intermediaries to contact you on behalf of the Company to fulfill any of the aforementioned purposes.
- 12.2 Where your Personal Information is shared with any third party vendors or data intermediaries, steps will be taken to ensure that your Personal Information is protected in accordance with the Personal Data Protection Act 2012 (Act 26 of 2012). "Personal Information" refers to all and any information obtained by us that identifies and relates to you or your authorised agent including but not limited to your, name, NRIC, passport, driving licence, images, videos, address, telephone number(s), email address(es), contact information and any other information required for the purposes as set out in Section 12.1 and for the provision of any products and services by us to you,. Our privacy policy can be found at <https://www.inchcape.com.sg/privacy-policy>. Please refer to the said website for the Company's obligations and practices in the handling of Customer's Personal Data.

## 13 General

- 13.1 Any notice required or permitted to be given by either party to the other shall be made in Writing and addressed to the other party and sent to the registered office or principal place of business or such other address (as may have been duly notified) of the other party and shall be deemed to have been received in due course of post.
- 13.2 No waiver by the Company of any breach of this Agreement by the Customer shall be considered as a waiver of any subsequent breach of the same of any other provision.
- 13.3 The Company shall not be privy to, nor shall it be in any way liable to the Customer in respect of any transaction between the Customer and the Company's sales engineers/consultants for the trade-in and/or sale of the Customer's existing vehicle or the trade-in and/or sale or installation of any car accessories save, where such transaction(s) are expressly set out in this Agreement.
- 13.4 If any provision of these Terms and Conditions herein is held by any judicial or competent authority to be invalid, void, voidable or unenforceable, in whole or in part, the validity of the other provisions of these terms and the reminder of the terms in question shall not be affected

thereby. Any right or remedy to which either party is or may become entitled to under this Agreement or in consequence of the other's conduct may be enforced from time to time separately or concurrently with any right or remedy given by this Agreement or now or afterwards provided for and arising by operation of law so that such rights or remedies are not exclusive of the other or others but are cumulative.

- 13.5 Each party acknowledges that this Agreement and the conditions herein contain the whole Agreement between the parties and that it has not relied upon any oral or written representation(s) made to it by the other or its employees or agents and has made its own independent investigation into all matters relevant to it. Any variation to this Agreement and the Terms and Conditions herein must be by mutual consent and all such variations must be reduced into Writing and acknowledged and executed by parties as an addendum to this Agreement by the respective parties failing which no such variation or amendment shall be binding on parties whatsoever.
- 13.6 This Agreement shall be governed by Singapore law and shall be deemed to have been made in Singapore. Any proceedings arising out of or in connection with this Agreement may be brought in any court of competent jurisdiction in Singapore. The submission by the parties to such jurisdiction shall not limit the right of the Company to commence any proceedings arising out of or in connection with this Agreement in any other jurisdiction it may consider appropriate.