

## **SALE OF GOODS TERMS AND CONDITIONS**

These terms set out the terms on which Shingleback Off Road Pty Ltd ACN 633 831 393 supplies goods to you.

In these terms, Shingleback Off Road Pty Ltd is referred to as we, us or our.

A person or entity who orders, accepts, pays for, receives or purchases goods from us is referred to as you or your.

These terms apply when you purchase goods from us, including through our website, by quotation, by invoice, by email, by telephone or by any other order process we accept.

By placing an order, accepting a quotation, paying for goods, receiving goods, ticking an acceptance box at checkout, or otherwise indicating that you accept these terms, you agree to be bound by these terms.

These terms should be read together with any applicable Purchase Order, warranty document, product instructions, disclaimer, Privacy Policy, Cookie Policy and Website Terms and Conditions.

### **1 PURCHASE ORDERS**

- (a) These terms apply to all purchases of goods from us, including purchases made through our website, by quotation, by invoice, by email, by telephone or by any other order process we accept.
- (b) Each order, quotation, invoice or accepted purchase request is a Purchase Order.
- (c) A Purchase Order may include additional terms that apply to the relevant goods, including product specifications, pricing, delivery details, build timing, accessories, warranty documents, product instructions or special conditions.
- (d) If there is any inconsistency between these terms and a Purchase Order, the Purchase Order will apply to the extent of the inconsistency, but only where the different term is expressly recorded in writing and accepted by us.
- (e) You are responsible for checking that the details in each Purchase Order are correct before you place the order, accept the quotation or make payment.

### **2 ORDER ACCEPTANCE**

- (a) For website orders, your order is accepted when we receive or approve payment and process the order for fulfilment.
- (b) For quotation or invoice orders, including trailer orders, your order is accepted when you accept the quotation or invoice and we receive the payment required under that quotation or invoice, unless we agree otherwise in writing.
- (c) We may refuse or cancel an order before acceptance if the goods are unavailable, the order details are incorrect, payment is not received or approved, or we reasonably believe the order cannot be fulfilled.

### **3 ORDER CHANGES AND CANCELLATIONS**

- (a) You must check your order carefully before submitting it, accepting a quotation or making payment.
- (b) We are not required to accept changes or cancellations after an order has been accepted, but we may agree to do so in writing.
- (c) If we agree to change or cancel an order, you must pay any reasonable costs we incur because of the change or cancellation, including administration costs, payment processing fees, freight costs, supplier costs, assembly costs, parts costs and any reduction in resale value.
- (d) If goods have already been dispatched, delivered, collected, assembled, allocated, ordered from a supplier, customised, specially ordered or otherwise prepared for your order, we may refuse to cancel the order or may treat the request as a return under these

terms.

Nothing in this clause limits your rights under the Australian Consumer Law.

## 4 PAYMENT

### 4.1 TERMS

- (a) Unless we agree otherwise in writing, you must pay all amounts payable for goods at the time required by the relevant Purchase Order, invoice, quotation or website checkout process.
- (b) For website orders, payment is required at checkout. Your order will not be processed for fulfilment unless payment has been received or approved through our nominated payment provider.
- (c) For quotation or invoice orders, including trailer orders, payment must be made by the time specified in the quotation or invoice. We are not required to start preparing, assembling, allocating, dispatching or making goods available for collection until payment has been received, unless we agree otherwise in writing.
- (d) You must pay all amounts due to us without set-off, deduction, withholding or counterclaim, unless required by law.

### 4.2 GST

- (a) Unless expressly stated otherwise, all prices, fees and other amounts payable under these terms are stated in Australian dollars and are inclusive of GST.
- (b) Where GST is payable in relation to a taxable supply, the amount payable for that taxable supply includes GST and we will provide a tax invoice where required by law.

### 4.3 PAYMENT METHODS AND SURCHARGES

- (a) You must pay using one of the payment methods we make available from time to time.
- (b) Payments made through our website may be processed by third party payment providers. We do not store your credit card details where payment details are provided directly to our payment provider.
- (c) We may charge payment processing fees, card surcharges or other payment method charges where permitted by law and disclosed to you before payment.

## 5 DELIVERY

- (a) We may offer delivery, freight, shipping, collection or other fulfilment options for goods, depending on the type of goods ordered, your delivery location and the order process used.
- (b) Delivery charges, freight charges, handling charges and insurance charges are payable by you unless we agree otherwise in writing or the relevant Purchase Order states that delivery is included.
- (c) Where a price is stated to include delivery, delivery is included only to the delivery address, depot, business address or collection point expressly accepted by us for the relevant Purchase Order.
- (d) We may use third party freight providers, couriers or postal providers to deliver goods.
- (e) Any delivery timeframe we provide is an estimate only, unless we expressly agree in writing that a delivery timeframe is guaranteed.
- (f) We are not liable for delay, failure to deliver, additional delivery costs or loss caused by events outside our reasonable control, including freight provider delays, stock shortages, supplier delays, weather, road closures, access restrictions, incorrect delivery details, failed delivery attempts or your failure to collect goods.

- (g) You must ensure that the delivery address and delivery instructions you provide are accurate, complete, lawful and suitable for the goods ordered.
- (h) If delivery cannot be completed because of incorrect details, unsafe or unsuitable access, nobody being available to receive the goods, failure to collect, or any other act or omission by you, we may charge you for storage, redelivery, return freight, handling and other reasonable costs we incur.
- (i) You must inspect the goods as soon as reasonably possible after delivery or collection and notify us promptly if any goods are missing, damaged in transit or materially different from the goods ordered.

## 6 **TITLE AND RISK**

- (a) Title to the goods remains with us until you have paid all amounts owing to us for those goods in full.
- (b) Risk in the goods passes to you when the goods are delivered to you, collected by you, left at the delivery address or collection point specified in the Purchase Order, or otherwise made available to you in accordance with the agreed delivery or collection arrangements.
- (c) You must not refuse delivery or collection of goods without a lawful reason.
- (d) If you do not pay for goods when payment is due, we may suspend delivery, withhold release of the goods, cancel the relevant Purchase Order, recover the goods, or exercise any other rights available to us at law.
- (e) If you receive goods before paying for them in full, you hold those goods as bailee for us until title passes to you.
- (f) If you sell, dispose of, attach, install, modify or incorporate goods into any other item before paying us in full, you hold the proceeds of sale or value received on trust for us to the extent of the amount owing to us.

## 7 **PRODUCT SUITABILITY AND INTENDED USE**

- (a) Before purchasing or using goods, you are responsible for checking that the goods are suitable for your vehicle, trailer, tow hitch, tow ball download rating, load requirements, intended use, access needs, product dimensions and any applicable laws or regulations.
- (b) You acknowledge that our website, product information and team may provide general product information or compatibility guidance, but you remain responsible for making your own final decision about whether the goods are suitable for your circumstances unless we expressly confirm a specific suitability position in writing.
- (c) Our products are designed for real-world recreational use, including ordinary travel on sealed roads and formed dirt roads where the goods are used within their specifications, load limits and intended design parameters.
- (d) Use on unsealed roads, dirt roads, corrugated roads, fire trails or rough terrain may increase dynamic loading and stress on the goods.
- (e) You must not use the goods outside their intended design parameters, including by overloading them, modifying them, using them with non-approved third party parts or accessories, applying additional restraining forces, or using them in extreme off-road, racing, commercial shuttle or hire conditions unless we have expressly approved that use in writing.

## 8 **RETURNS AND REFUNDS**

### 8.1 RETURNS

Subject to your rights under the Australian Consumer Law, we will only accept returns if:

- (a) the goods are defective and you comply with these terms and any applicable warranty claim process.

- (b) we agree in writing to accept the return.
- (c) the return is accepted under our change of mind returns process.

## 8.2 DEFECTIVE GOODS

- (a) If you believe goods supplied by us are defective, you must notify us as soon as reasonably possible after becoming aware of the issue and provide details of the defect, proof of purchase and any photographs, videos or other information we reasonably request.
- (b) We may require you to submit the claim through our online warranty claim form or another process we specify.
- (c) If we determine that the goods are defective and covered by the Australian Consumer Law or an applicable warranty, we will provide a remedy in accordance with your rights under the Australian Consumer Law and any applicable warranty document.
- (d) If we determine that the goods are not defective, are not covered by the Australian Consumer Law or an applicable warranty, or have been damaged because of misuse, overloading, incorrect installation, accident, modification, unauthorised repair, poor maintenance, failure to follow instructions or use outside the intended design parameters, we may refuse the return or warranty claim, subject to your rights under the Australian Consumer Law.

## 8.3 CHANGE OF MIND RETURNS

- (a) Subject to your rights under the Australian Consumer Law, we may accept change of mind returns if:
  - (i) you request the return within 30 days after delivery or collection.
  - (ii) the goods are unused, undamaged, unmodified and in new saleable condition.
  - (iii) the goods are returned with all original packaging, parts, accessories, manuals, instructions and other items supplied with the goods.
  - (iv) you pay all return freight, insurance, packaging and handling costs.
  - (v) we have approved the return in writing before the goods are returned.
- (b) We may refuse a change of mind return if the goods have been used, fitted, installed, damaged, modified, scratched, marked, exposed to weather, returned incomplete, returned without original packaging, or are otherwise not in new saleable condition.
- (c) Unless we agree otherwise in writing, change of mind returns are not available for trailers, build-to-order goods, special order goods, clearance goods, customised goods, used goods or goods purchased by commercial, hire or shuttle operators.

## 8.4 RESTOCKING FEES AND DEDUCTIONS

- (a) If we accept a change of mind return, we may deduct a restocking fee from any refund.
- (b) We may also deduct any amount reasonably required to cover cleaning, inspection, repackaging, missing parts, replacement packaging, repair, damage, reduced resale value, freight, payment processing fees or other costs we incur because of the condition or return of the goods.
- (c) We will assess the condition of returned goods after we receive them, and our assessment will determine whether a refund is available and whether any restocking fee or deduction applies, subject to your rights under the Australian Consumer Law.

## 8.5 REFUNDS

- (a) Any approved refund will be processed using the original payment method where reasonably possible, unless we agree otherwise.
- (b) We may withhold any refund until we have received and inspected the returned goods.

- (c) Nothing in these terms limits your rights to a refund, repair, replacement or other remedy under the Australian Consumer Law.

## 9 LIABILITY AND LOSS

### 9.1 LIABILITY

- (a) To the maximum extent permitted by law, and subject to your rights under the Australian Consumer Law, our total liability to you arising out of or in connection with these terms, any Purchase Order, the goods, or your purchase or use of the goods, is limited to the amount paid by you to us for the goods the subject of the relevant claim.
- (b) The liability limit above does not apply to any liability that cannot be excluded or limited under the Australian Consumer Law or any other applicable law.
- (c) To the maximum extent permitted by law, you are responsible for any loss, damage, cost or expense we suffer or incur arising from or in connection with:
  - (i) your breach of these terms.
  - (ii) your failure to check product suitability, vehicle compatibility, tow ball download rating, legal requirements, product dimensions, fitting requirements or intended use before purchasing or using the goods.
  - (iii) your misuse, overloading, incorrect installation, modification, unauthorised repair, poor maintenance or use of the goods outside their intended design parameters.
  - (iv) your use of the goods with third party products, parts, accessories, extensions, adaptors or components not approved by us.
  - (v) your unlawful, unsafe or negligent use of the goods.

### 9.2 CONSEQUENTIAL LOSS

- (a) To the maximum extent permitted by law, we are not liable to you for any indirect, incidental, special or consequential loss, loss of profit, loss of revenue, loss of business opportunity, loss of goodwill, loss of use, loss of enjoyment, loss arising from delay, product downtime, vehicle downtime, trailer downtime, substitute transport, substitute equipment, third party charges or other consequential loss arising out of or in connection with these terms, any Purchase Order, the goods, or your purchase or use of the goods.
- (b) Nothing in these terms excludes, restricts or modifies any consumer guarantee, right, remedy or liability that cannot be excluded, restricted or modified under the Australian Consumer Law or any other applicable law.

## 10 GENERAL

### 10.1 GOVERNING LAW AND JURISDICTION

- (a) These terms and each Purchase Order are governed by the laws of Victoria, Australia.
- (b) Each party submits to the exclusive jurisdiction of the courts of Victoria, Australia and the courts of appeal from them for any proceeding arising out of or in connection with these terms, any Purchase Order or the goods.

### 10.2 AMENDMENTS

- (a) These terms may only be amended by us in writing or by written agreement between you and us.
- (b) Any variation to a Purchase Order must be agreed by us in writing.

### 10.3 WAIVER

- (a) A party may only waive a right under these terms by giving written notice of the waiver.

(b) A delay or failure to exercise a right does not amount to a waiver of that right.

#### 10.4 SEVERANCE

(a) If any term is wholly or partly void, invalid, illegal or unenforceable, that term is severed to the extent required and the validity and enforceability of the remaining terms is not affected.

#### 10.5 JOINT AND SEVERAL LIABILITY

(a) If more than one person accepts these terms or places a Purchase Order, each person is jointly and severally responsible for all obligations and liabilities under these terms and the relevant Purchase Order.

#### 10.6 ASSIGNMENT

(a) You must not assign, transfer or otherwise deal with your rights or obligations under these terms or any Purchase Order without our prior written consent.

(b) We may assign, transfer or otherwise deal with our rights or obligations under these terms or any Purchase Order where this is reasonably required for our business operations and does not materially prejudice your rights.

#### 10.7 COSTS

(a) Except as otherwise set out in these terms, each party must pay its own costs in connection with negotiating, preparing and performing these terms and any Purchase Order.

#### 10.8 ENTIRE AGREEMENT

(a) These terms, together with each Purchase Order and any warranty document, product instructions, disclaimer or policy expressly incorporated into the Purchase Order, set out the entire agreement between you and us in relation to the sale and purchase of the relevant goods.

(b) You acknowledge that you have not relied on any representation, statement, product advice, compatibility guidance, estimate or recommendation unless it is expressly set out in the Purchase Order or confirmed by us in writing as binding.

#### 10.9 INTERPRETATION

(a) In these terms, unless the context requires otherwise:

(i) words in the singular include the plural and the plural include the singular.

(ii) a reference to you includes any person who places an order, accepts a quotation, pays for goods, receives goods or otherwise acquires goods from us.

(iii) a reference to we, us or our means Shingleback Off Road Pty Ltd ACN 633 831 393.

(iv) a reference to goods includes trailers, racks, accessories, parts, optional extras, components and any other goods supplied by us.

(v) a reference to a Purchase Order includes an online order, quotation, invoice, accepted purchase request, sales order or other order process accepted by us.

(vi) a reference to writing includes email and other electronic communication.

(vii) a reference to includes, including or similar words does not limit what else may be included.

(viii) a reference to \$ or dollars is to Australian dollars, unless stated otherwise.

(ix) headings are for convenience only and do not affect interpretation.