

XLCR Vehicle Management Ltd - Terms and Conditions of Business

These terms and conditions contain all the terms of the Agreement between XLCR Vehicle Management Ltd ("Us", "We", "Our", "Ourselves") and the Customer ("You", "Your", "Yourself"). The following are words or phrases which are given specific meaning within the context of these terms and conditions:

"Quotation"	A quotation issued by Us to You in our standard format.
"Order"	A Quotation signed by You and received by Us, indicating that You wish to proceed with an order for the purchase or hire of a Vehicle.
"Vehicle"	The vehicle referred to in the Quotation and/or Order.
"Lender"	A bank, finance company or leasing company providing financial services
"Hire Vehicle"	A vehicle provided to You temporarily, for example, for the time between Your Order and Delivery of the Vehicle.

1. Our Services

- 1.1. Our Service to You shall be the sourcing of a Vehicle and of financial products and services which match Your requirements as detailed to Us. We are a licensed credit broker under the Consumer Credit Act 1974.
- 1.2. We also provide certain services which are ancillary to Our credit brokerage and vehicle sourcing services. For example, We act as an insurance intermediary for certain general insurance products. XLCR Vehicle Management Ltd of XLCR House, 35-43 Albert Road, Colne, BB8 0BU is authorised and regulated by the Financial Services Authority (FSA). Our permitted business is arranging general insurance contracts. Our FSA Registration Number is 315268. These details can be checked on the FSA's Register by visiting the FSA's website at <http://www.fsa.gov.uk/register> or by contacting the FSA on 0845 606 1234.

2. Quotations

- 2.1. We will provide a Quotation based on Your needs as You describe them to Us. We will not be liable if You fail to specify any extras, options or any other requirement, or fail to adequately describe Your requirements to Us.
- 2.2. You acknowledge that You have selected the Vehicle in reliance on Your own skills and judgment, and that We have not chosen or inspected the Vehicle. We do not give or make any express representation, warranty or term as to the quality, description, fitness for purpose or otherwise of the Vehicle. To the extent that we are legally able to do so, We exclude all implied representations, warranties or terms in relation to the Vehicle, including satisfactory quality and fitness for purpose.
- 2.3. You acknowledge that You have selected the finance package in reliance on Your own skills and judgment. We may provide general advice on the various finance packages We offer, but You must independently verify Your tax position with an accountant or other qualified professional, since We are not privy to information which might materially affect the suitability of any particular financial package.
- 2.4. We may provide information relating to a Vehicle's standard equipment, any manufacturer's warranty, and any breakdown cover provided as part of such warranty. As this information is subject to changes beyond our control, it is provided on an informal advice basis only. We shall not be liable for any loss of any description resulting from any inaccuracy in this information. You must satisfy Yourself that the Vehicle is fit for the purposes for which You intend it, including verifying with the manufacturer the accuracy of any information on which You base Your decision.
- 2.5. Whilst we endeavour to ensure all of the information we provide on our Quotations is correct, errors & omissions are specifically excepted.
- 2.6. We reserve the right to withdraw a Quotation for any reason and at any time. This may be because of, but shall not be limited to, changes in money costs, manufacturer's prices, residual values or maintenance budget reviews from time to time.
- 2.7. Unless otherwise stated on the Quotation, the finance packages We offer are fixed-rated, fixed-term contracts. This does not, however, preclude the rentals varying in response to fluctuations in VAT, Corporation Tax or other taxes, charges or rebates which may be amended from time to time. The terms and conditions of any contract You sign with a Lender will contain exact details of the circumstances in which the payments or rentals may be varied.
- 2.8. You will inform Us if You have negotiated terms directly with a manufacturer or any other party which may affect Our Quotation. In the event that any support or other payment due to Us is not paid to Us due to Your terms overriding Ours, We will invoice You for the amount of such support or other payment. You will reimburse Us this amount within seven calendar days.
- 2.9. Vehicle images, where shown on a Quotation or on any other literature from Us, are for illustrative purposes only, and may not portray the exact Vehicle.
- 2.10. Delivery timescales are an indication only. While We will endeavour to meet any timescale quoted, We will not be liable for any compensation of any description arising out of a delay in delivery due to matters outside our control, for example, delays in production, refurbishment or shipping.
- 2.11. The description of a Vehicle as "new" shall not necessarily mean that you are the first registered keeper. A Vehicle may be registered to another party prior to being reregistered to You. This is generally because increased discount can be achieved and has been taken into account during the preparation of Your Quotation.

3. Finance Applications

- 3.1. By providing Your business and/or personal information to us, You authorise Us to disclose this information, and any other information We hold about You, to one or more Lenders for the purpose of considering Your Finance Application. You guarantee the accuracy of all information You provide, and the authenticity of all documents You provide.
- 3.2. The Lender may use a process called credit scoring to assess the proposal. If so, any declined proposal based on this automated technique may be reviewed manually upon request.
- 3.3. The Lender will use the information given to carry out searches with Credit Reference Agencies. A record of this search will be kept and may be used by other Lenders in assessing applications from You and members of Your household for credit in the future. The Lender will make checks with Fraud Prevention Agencies to detect and prevent fraud.

- 3.4. When an application is received from a business, information may be sought from Credit Reference Agencies and Fraud Prevention Agencies on the company directors, partners or principle as individuals.
- 3.5. You must be entitled to disclose information about any co-applicant or guarantor and anyone else referred to by You in connection with any finance application, and to authorise the Lender to search and record information at Credit Reference Agencies about each of You, any co-applicant or guarantor. An association will be created at the Credit Reference Agencies, which will link the financial records of each party referred to.
- 3.6. The Lender may disclose to Us for the sole purpose of assessing this proposal any relevant information that they may currently hold with regard to You, a co-applicant or guarantor.
- 3.7. You have a legal right to the following information: details of the Credit Reference Agencies and Fraud Prevention Agencies from which information about You is obtained and to which information about You is given; a copy of the information that XLCR Vehicle Management Ltd holds about You; a copy of the information that any Lender holds about You. Please contact Us if you wish to access this information. A fee may be payable.
- 3.8. Credit facilities are subject to status. Guarantees may be required.
- 3.9. In entering into a Finance Agreement, You agree to be bound by the terms and conditions relating to that Finance Agreement. In making a Finance Application to Us, You acknowledge that further terms and conditions will apply. Such terms and conditions are available on request.
- 3.10. You will provide any information required by the Lender as a condition of their acceptance of Your finance application.
- 3.11. You must at any time and on demand comply with any request made in order that We or any Lender may comply with legislation for the prevention of money laundering or fraud.

4. Vehicle Order

- 4.1. By signing the Order Confirmation section of the Quotation, You will order the Vehicle in accordance with these terms and conditions.
- 4.2. We will refuse to accept any Quotation which has been amended by You. We shall ignore any handwritten amendment thereon.
- 4.3. We will accept Your Order upon receipt of Your Quotation, signed by You or by someone who we may reasonably assume has authority to sign on Your behalf. If You are a business, We may assume that all Your employees have such authority.
- 4.4. Upon accepting Your Order and receiving confirmation of the acceptance of Your finance application, We will source the Vehicle from our choice of supplier.
- 4.5. You warrant that you do not intend to resell the Vehicle for commercial purposes. If we discover that this warranty is untrue, We may give You notice cancelling the Order. You will be liable for any charges under Clause 5 and You agree to indemnify us against any losses we incur as a result of Your failure to fulfil such warranty.

5. Cancellation

- 5.1. If You wish to cancel Your Order prior to delivery of a Vehicle You must do so in writing.
- 5.2. If you fail to return any documentation We require within fourteen calendar days of Our sending them, or fail to make any required payment within fourteen calendar days of Our request for payment, or in any other way fail to fulfil Your obligations under these Terms and Conditions, We may consider that You wish to cancel Your Order, and will accept such cancellation. You will then be liable for charges under Clauses 5.3 & 5.4.
- 5.3. If We accept Your cancellation under Clauses 5.1 or 5.2, We will levy a charge for administrative expenses incurred in processing your Order and all services related thereto. This charge shall be at Our sole discretion, but shall not exceed £1000 excluding VAT.
- 5.4. You will indemnify Us against any additional costs we incur as a result of Your cancellation. If We incur such costs, We will invoice You for them. We will provide evidence of such costs to You upon request.
- 5.5. Any charges levied pursuant to Clause 5.4 shall be in addition to any charges levied pursuant to Clause 5.3.
- 5.6. You will pay any amounts due pursuant to Clause 5 within seven calendar days of receiving notice from Us of Your liability for them.
- 5.7. The entirety of Clause 5 will not apply if You cancel by exercising any rights afforded to You under the Consumer Credit Act 1974, the Consumer Protection (Distance Sales) Regulations 2000 or the Financial Services (Distance Marketing) Regulations 2004. Note that these regulations afford cancellation rights in limited circumstances only.

6. Part Exchange Vehicle

- This Clause will apply if there is a Part Exchange Vehicle which we have agreed to take in payment or part payment of a deposit, advance payment or advance rental, or in payment or part payment of a vehicle invoice.
- 6.1. We will rely on the information You give Us in relation to the Part Exchange Vehicle. You will complete a Part Exchange Vehicle Appraisal Form which asks detailed questions about the condition of the Vehicle, however We will also take into account any additional information in writing which We have received from You in relation to the Vehicle. You must provide us with any material fact which will affect our decision to accept the Part Exchange Vehicle or our valuation thereof. If you are not sure of what constitutes a material fact, You must disclose the fact to Us to allow Us to judge whether it constitutes a material fact. You agree to indemnify us against any loss we incur as a result of Your failure to provide us with any material fact which affects our ability to resell the Part Exchange Vehicle, or which affects the value We receive upon selling the Part Exchange Vehicle.
- 6.2. We will provide You with a Part Exchange Offer Letter. This will confirm the information relating to the Part Exchange Vehicle which You have given to Us, and will detail the Part Exchange Allowance, being our valuation of the Vehicle.
- 6.3. We shall only be bound to accept the Part Exchange Vehicle if it is:
- a) free from any hire purchase agreements, charges or other liens or encumbrances (together "Encumbrances") which You did not disclose to us before the date of Order;
 - b) delivered to our place of business before we deliver the Goods to you; and
 - c) in the same condition (subject only to fair wear and tear and reasonable increase in mileage) on delivery to us as was previously described to us. We shall at Our sole discretion determine whether the Part Exchange Vehicle's condition is the same as described. We will refer to the BVRLA's Fair Wear & Tear Guide to determine what

constitutes fair wear and tear and reasonable mileage.

- 6.4. If you fail to satisfy any of the conditions in Clause 6.3, We will not be obliged to accept the Part Exchange Vehicle or to allow the Part Exchange Allowance against the amount You owe Us. In this case, We may refuse to accept the Part Exchange Vehicle and you may be required to pay the full deposit, advance rental, advance payment or purchase price without the benefit of the Part Exchange Allowance.
- 6.5. We may nevertheless at Our discretion agree with You a reduced Part Exchange Allowance and accept the Part Exchange Vehicle. You will immediately pay us the value of the reduction in Part Exchange Allowance.

7. Hire Vehicle

This Clause will apply if We agree to provide You with a Hire Vehicle for any reason.

- 7.1. We will agree with You in advance a monthly rate for the hire of the Hire Vehicle.
- 7.2. Payment for each monthly period will be due in advance. A pro-rata refund will be calculated should the hire terminate prior to the end of a monthly period.
- 7.3. You will be responsible for comprehensively insuring the Hire Vehicle whilst it is in your custody and control. You will be liable for any uninsured excess.
- 7.4. You agree to keep and maintain the Hire Vehicle at Your expense in good condition and repair throughout the period it is in Your custody and control. You will be responsible for any damage to the Hire Vehicle howsoever caused. This will include, but will not be limited to, Your failure to observe and check at regular intervals the level of engine oil and other lubricants, water and anti-freeze, if appropriate, and tyre pressures.
- 7.5. You will be responsible for the cost of repairing punctures.
- 7.6. The Hire Vehicle will be driven by You or by a driver authorised by You.
- 7.7. The Hire Vehicle will be used only for social, domestic and pleasure purposes, or for Your own business purposes.
- 7.8. You will be responsible as if You were the owner of the Hire Vehicle for any breach of any legal requirement relating to the operation, use, or possession of the Hire Vehicle by You, including but not limited to, the Road Traffic Act 1988, the Road Traffic Offenders Act 1988, the Road Traffic Regulations Act 1984, the Road Traffic Act 1991, the London Local Authorities Acts 1990 to 2004, the Road User Charging (Charges and Penalty Notices) Regulations 2001, and the London Local Authorities and Transport for London Act 2003. Without prejudice to the generality of the foregoing, You will be responsible for any fines, penalties, costs, charges or other liabilities that may be incurred in respect of the Hire Vehicle, and will indemnify Us on demand against any such fines, penalties, costs, charges or other liabilities. In the event that You fail to pay such sums promptly, we may (but shall not be obliged to) pay such sums Ourselves and You will reimburse such sums expended by us within seven calendar days of Our demand.
- 7.9. You will return the Hire Vehicle with at least the level of fuel with which it was delivered. You will be liable to pay the amount necessary to refill the vehicle to this level if this is not done.

8. Collection or Delivery of the Vehicle

- 8.1. If We are arranging finance for the purchase of the Vehicle, or are arranging for the Vehicle to be hired or leased to You, We will not permit collection or delivery of the Vehicle until we have received, to our satisfaction, correctly completed documentation and full payment in cleared funds of any advance payment or rental. Correctly completed documentation shall include, but will not be limited to, a correctly completed credit or hire agreement signed by all those parties who We or the Lender require, satisfactory documents confirming the address and identity of any applicant, and any other information or document required by the Lender as a condition of their acceptance of Your finance application.
- 8.2. If You are arranging finance through Your own choice of lender, or if You are purchasing the Vehicle without the aid of finance, We will not permit delivery or collection of the Vehicle without receiving full payment in cleared funds from You or from any other party You have instructed to pay Us.
- 8.3. We will arrange delivery of the Vehicle to Your choice of address on the UK mainland. Alternatively, We will arrange to make the Vehicle available for collection from Our premises.
- 8.4. If You wish the Vehicle to be delivered to Northern Ireland, or to an island of the UK not forming part of the mainland, We will agree a price with You for delivery of the Vehicle before We arrange it. Alternatively, We will arrange to make the Vehicle available for collection from Our premises. You will be responsible for any formalities relating to importing and reregistering the Vehicle with the relevant authorities in Your local jurisdiction.
- 8.5. Unless specifically stated to the contrary on the Order Confirmation, the Vehicle will be driven to Your chosen address. This will result in miles on the odometer of the vehicle at the point of delivery. This mileage will be no greater than reasonably expected taking into account the journey the Vehicle has made from the supplying dealer to Your chosen address plus any pre-delivery miles the Vehicle incurred during transit at and from the factory. Mileage must be noted on the Delivery Note.
- 8.6. Upon delivery, You will thoroughly inspect the Vehicle to ensure that it is of satisfactory quality. You must make a note on the Delivery Note of any missing item or defect You find. Failure to make such a note may compromise Your ability to seek a remedy for any missing item or defect.
- 8.7. If You do not make Yourself available to take delivery of the Vehicle, You must accept the inspection of any person You authorise to take delivery in Your absence.
- 8.8. If We arrange delivery and You or another person on Your behalf is not available to accept delivery at the agreed time, We may refuse to rearrange delivery of the Vehicle until You have paid to Us our reasonable costs relating to the aborted delivery.
- 8.9. It is Your responsibility to ensure that You maintain the Vehicle in accordance with the manufacturer's schedule. Full details of such schedule can be found in the Vehicle's handbook. Details of any manufacturer's warranty will also be provided in the Vehicle's handbook. We will not be liable in any way should You invalidate or in any other way fail to benefit from any warranty supplied with the Vehicle. The Vehicle's handbook, as issued and provided by the Vehicle's manufacturer, is the definitive guide to servicing schedules and manufacturer's warranty, and We strongly advise that You familiarise Yourself with its contents immediately upon delivery and before operating the Vehicle.

- 9. Road Traffic Acts**
You will be responsible as if You were the owner of the Vehicle for any breach of any legal requirement relating to the operation, use, or possession of the Vehicle by You, including but not limited to, the Road Traffic Act 1988, the Road Traffic Offenders Act 1988, the Road Traffic Regulations Act 1984, the Road Traffic Act 1991, the London Local Authorities Acts 1990 to 2004, the Road User Charging (Charges and Penalty Notices) Regulations 2001, and the London Local Authorities and Transport for London Act 2003. Without prejudice to the generality of the foregoing, You will be responsible for any fines, penalties, costs, charges or other liabilities that may be incurred in respect of the Vehicle, and will indemnify Us on demand against any such fines, penalties, costs, charges or other liabilities. In the event that You fail to pay such sums promptly, we may (but shall not be obliged to) pay such sums Ourselves and You will reimburse such sums expended by us within seven calendar days of Our demand.
- 10. Client Money and Client Money Trust Account**
- 10.1. Client money is money of any currency that we receive and hold in the course of carrying on insurance mediation on behalf of our clients (including You) or which we treat as client money in accordance with the client money rules. A copy of these rules is available on request, or at <http://www.fsa.gov.uk/mgi>. Client money can be held in one of the following ways:
a) It can be subject to a statutory trust; or
b) It can be subject to a non-statutory trust.
Client money can be held on behalf of insurers but only with a written agency agreement.
- 10.2. The aim of the trust is to protect the client in the event of the failure of XLCR Vehicle Management Ltd, or the failure of the bank or a third party at which the money may be held. In such a circumstance, XLCR Vehicle Management Ltd's general creditors should not be able to make claims on client money as it will not form part of the firm's property.
- 10.3. The fact that we will hold money on trust gives rise to fiduciary duties which will be owed to You until the client money reaches, or is expected to reach, the insurer or product provider.
We hold client money subject to a statutory trust. We are not entitled to use client money to pay premiums before we receive the relevant premium from the client.
- 10.4. Any monies due to You as a client will be paid to You within thirty days of receiving cleared funds.
- 10.5. We will pay any monies due to You from claims or refunds or any other reason in good time, and within the timescales laid down by the FSA. In particular, We will ensure that any monies due to You are paid before thirty days from the date those monies are available.
- 10.6. Any interest earned on Retail clients' money held by Us and any investment returns will be retained by Us for Our own use and not paid to You unless You write to Us requesting reconsideration should any such amount exceed £20. *A Retail Client is defined as "any natural person who is acting for purposes which are outside his trade, business or profession".*
- 10.7. We may transfer client money to another person, such as another broker or settlement agent, for the purpose of effecting a transaction on Your behalf through that person.
- 10.8. Client money will be deposited in an approved bank.
- 11. Complaints Procedure**
We aim to provide a high standard of service to all Our customers. However, there may be occasions where something goes wrong which leaves You disappointed or dissatisfied. If You are unhappy with any aspect of our service, We would like to know. Your comments are important to Us. They help Us to make changes to ensure We meet your expectations now and in the future. A full copy of Our Complaints Procedure is available on request. If you have a complaint, You can contact us: by telephone on 01282 857 850; by fax to 01282 857 851; by email to customer.services@thebestcardeals.co.uk; or by post to the Customer Services Manager, XLCR Vehicle Management Ltd, XLCR House, 35-43 Albert Road, Colne, BB8 0BU. We will acknowledge Your complaint within five working days, and provide a full copy of the Complaints Procedure. In certain circumstances, if We cannot settle Your complaint to Your satisfaction, You have the right to refer the matter to the Financial Ombudsman Service within six months. Information about the Financial Ombudsman Service and eligible complaints can be found in the full copy of Our Complaints Procedure.
- 12. General**
- 12.1. Should a discrepancy arise between a term or condition detailed herein and any other correspondence or literature produced by Us, these Terms and Conditions will prevail over all others, except any endorsed by the signature of both the Managing Director and Chief Executive and being expressly described as supplemental to these Terms.
- 12.2. If we relax any of the terms of this Agreement we can enforce them strictly again at any time.
- 12.3. Any word or phrase importing the plural shall include the singular and vice versa, and any word or phrase importing the masculine shall include the feminine and vice versa.
- 12.4. Any reference to a statutory provision shall be deemed to refer to such provision as amended or re-enacted.
- 12.5. Headings are for the purpose of ease of reference only.
- 12.6. If any provision of these Terms and Conditions is unenforceable for any reason whatsoever, such provision only shall be unenforceable, and the validity or enforceability of the remainder shall not be affected.
- 12.7. Nothing in these Terms and Conditions shall in any way affect your statutory rights.
- 12.8. We will exercise our right to statutory interest under the Late Payment of Commercial Debts (Interest) Act 1998 on any overdue amounts.
- 12.9. We may amend these Terms and Conditions at any time. We will notify You in writing of such an amendment.
- 12.10. These Terms and Conditions do not create any rights in favour of any person who is not a party to the Agreement. The Contracts (Rights of Third Parties) Act 1999 shall not apply.
- 12.11. This Agreement shall be subject to English Law. Legal proceedings may be taken in the English Courts. This will not prevent Us from exercising such remedies as we may have under Scots Law and in the Scottish Courts. If it becomes necessary to issue legal proceedings, You agree that We may issue the proceedings out of any County Court of our choice.
- 12.12. These Terms and Conditions and any communication with You will be in English.