

**CITY MOBILITY
PROVISION OF SERVICES
TERMS AND CONDITIONS FOR BUSINESSES**

BACKGROUND:

These Terms and Conditions are the standard terms which apply:

- A. to the provision to the Customer of any Services (as “Services” is defined in Clause 1 below) by Galaxy Marketing Scotland Ltd Trading as City Mobility, a company registered in Scotland under number SC236798 whose registered office is at 46a Seafield Road, Inverness (“the Workshop”); and
- B. where the Customer is not a “Consumer” as defined by the Consumer Rights Act 2015.

1. Definitions and Interpretation

1.1 In these Terms and Conditions, unless the context otherwise requires, the following expressions have the following meanings:

“Business”	means any business, trade, craft, or profession carried on by You or any other person/organisation;
“Consumer”	means a “Consumer” as defined by the Consumer Rights Act 2015, that is to say an individual who receives any of the Services for his/her personal use and for purposes wholly or mainly outside the purposes of any Business;
“Courtesy Equipment Agreement”	means a separate agreement between You and Us containing the terms of agreement on which You have any courtesy equipment in accordance with Clause 10 of these Terms and Conditions;
“Contract”	means the contract between Us and You for the supply of Services in accordance with these Conditions.
“Customer/You/Your”	means a customer of the Workshop who requires its Services who is not acting as a Consumer;
“Estimate”	means a document giving the approximate Price of the Work;

“Force Majeure”	means any cause that is beyond the reasonable control of the Party in question including, but not limited to: power failure; internet service provider failure; strikes, lock-outs or other industrial action suffered by the Party or its suppliers or contractors; civil unrest; fire; explosion; flood; storms; earthquakes; subsidence; acts of terrorism (threatened or actual); acts of war; governmental action; epidemic or other natural disaster;
“Workshop/Us/We/Our”	means the City Mobility Workshop whose place of business and contact address is the same address as above and reference to the Workshop shall include reference to any and all of its staff;
“Invoice”	means a final invoice giving the Total Price of the Work;
“Manufacturer”	means the manufacturer of the Equipment;
“Price”	means the VAT exclusive fee payable for the Work including parts, labour, and any additional charges;
“Quotation”	means a document giving the agreed fixed Price of the Work which We shall not vary without Your explicit agreement;
“Services”	means any type of service, repair, maintenance, or testing of Equipment;
“Total Price”	means the Price plus any VAT chargeable on the Price in addition
“Equipment”	means Your equipment which may be a wheelchair, powerchair, Mobility scooter, golf buggy or car;
“Warranty Period”	means the duration of the warranties provided by Us in accordance with Clause 9 of these Terms and Conditions; and
“Work”	means the particular Services that We agree to provide to You;

1.2 Unless the context otherwise requires, each reference in these Terms and

Conditions to:

- 1.2.1 "writing", and any cognate expression, includes a reference to any communication effected by electronic or facsimile transmission or similar means;
- 1.2.2 a statute or a provision of a statute is a reference to that statute or provision as amended or re-enacted at the relevant time;
- 1.2.3 "these Terms and Conditions" is a reference to these Terms and Conditions and each of the Schedules as amended or supplemented at the relevant time;
- 1.2.4 a Clause or paragraph is a reference to a Clause of these Terms and Conditions; and
- 1.2.5 a "Party" or the "Parties" refer to the parties to these Terms and Conditions;
- 1.3 The headings used in these Terms and Conditions are for convenience only and will not affect the interpretation of these Terms and Conditions;
- 1.4 Words signifying the singular shall include the plural and vice versa; and.
- 1.5 References to any gender shall include the other gender.

2. **Booking**

- 2.1 You may request a booking for any Work (subject to Our confirming the booking) by phone by calling 01463 250850 or 01224 452850 or by email to info@city-mobility.co.uk
- 2.2 When You request a booking, You must give Us the following information:
 - 2.2.1 Customer name, postal address, contact telephone number, alternative contact details as necessary e.g. carer, relative;
 - 2.2.2 Nature of work required, e.g. repair, service, test;
 - 2.2.3 Make, model and age of equipment;
 - 2.2.4 Any warranties covering equipment.
 - 2.2.5 Preferred date of completion.
- 2.3 We shall provide You with a booking form which shall provide prompts for all required information;
- 2.4 Submission of the booking for by You to Us constitutes an offer by You to purchase Services in accordance with these Conditions.
- 2.5 We will prepare and submit an Estimate (containing the fixed Price plus any VAT thereon) to You either by email or first class post giving an Estimate based on the details You provide;
- 2.6 If You agree to the Estimate within 14 days of Our issuing it to You, We will then prepare and submit a Quotation (containing the fixed Price plus any VAT thereon) to You either by email or first class post;
- 2.7 If You accept the Quotation within 14 days of Our issuing it to You, We shall then confirm the booking to You and We shall use Our reasonable endeavours to ensure that the date We agree for commencement of the Work is as close as possible to that which You originally requested. Only if and when We give You that confirmation will there be binding contract between You and Us for the Work;

- 2.8 You may accept an Estimate or Quotation by email, telephone or first class post;
- 2.9 You confirm that, in connection with your request(s) for any Services, You are a person, company or other organisation who is acting wholly or mainly for the purposes of a Business and not as a "Consumer".
- 2.10 Any samples, drawings, descriptive matter or advertising issued by Us, and any descriptions or illustrations contained in the Our catalogues or brochures, are issued or published for the sole purpose of giving an approximate idea of the Services described in them. They shall not form part of the contract or have any contractual force.
- 2.11 These Conditions apply to the Contract to the exclusion of any other terms that You seek to impose or incorporate, or which are implied by law, trade custom, practice or course of dealing.
- 2.12 Any quotation given by Us shall not constitute an offer, and is only valid for a period of 14 Business Days from its date of issue.

3. Payment and Invoices

- 3.1 If We require a deposit or similar prepayment, We shall state it clearly in the Quotation and You must pay it within 14 days
- 3.2 From the point at which Work on the Equipment commences up until the point at which You have paid in full all sums due, We shall have a general lien on Your Equipment (i.e. a right to possession of property until payment is made for work done to that property) for all sums due;
- 3.3 Following Our completion of the Work, We shall issue an invoice to You;
- 3.4 The invoice will provide a comprehensive summary of all of the Work done and will provide full details of all parts and labour including the Total Price payable for it with any VAT element(s) shown separately;
- 3.5 The invoice will provide a comprehensive summary of all of the Work done and will provide full details of all parts and labour including the Price payable for it with the VAT element payable (if applicable) on it shown separately;
- 3.6
- 3.7 All sums due will be payable before your Equipment is collected or the Work is completed unless alternative payment arrangements have been agreed;
- 3.8 You may make payment by cash, card or cheque. Cheques should be made payable to City Mobility;
- 3.9
- 3.10 In addition to Our rights under sub-Clause 3.2, We shall have the right to sell the Equipment at Your expense if any sum due remains unpaid following Our written notice to You of 30 days. That notice period will begin no earlier than 30 days after the date of the relevant invoice;
- 3.11 From the due date of payment until We take the action set out in sub-Clause 3.8, any outstanding sum will incur interest on a daily basis at 2% above the base rate of The Royal Bank of Scotland from time to time until You make payment in full

4. Insurance Claims and Accident Damage

- 4.1 If the Work to be carried out on the Equipment is the subject of an insurance

claim, You (or the policyholder if he/she/it is not the same person or entity) must sign any documents required by the insurer to be signed to authorise payment to Us for the Work;

- 4.2 We shall not be responsible for any delay in completing the Work and / or returning the Equipment to You where that delay arises out of any actions of the insurer including, but not limited to, the withholding of payment.

5. The Work

- 5.1 We shall use reasonable endeavours to ensure that all parts required for the completion of the Work will be in stock to enable Us to carry out the Work when it is booked to be carried out but We will tell You if, due to non-availability of parts or a delay in their delivery, We are unable to commence the Work on the date We have arranged with You and to complete it within the total amount of the time referred to in sub-Clause 5.5;
- 5.2 If We cannot carry out and complete the Work due to non-availability of parts or a delay in their delivery, then when We tell You that (as set out in sub-Clause 5.1), You may either make arrangements with Us for a re-booking or You may exercise Your right to cancel as set out in Clause 11;
- 5.3 We shall agree with You before We begin the Work on all parts that We are going to use (except for those additional parts referred to in sub-Clause 5.6);
- 5.4 We shall only use parts for the Work that are new and either Manufacturer's original parts or those produced by a third party and authorised by the Manufacturer. If We in any way intend not to abide by this requirement, We will tell You Our reasons for doing so and We may not do so unless You first explicitly consent;
- 5.5 We will tell You before We commence the Work the amount of time We initially estimate that We will need to carry out the Work subject to any additional time needed under sub-Clause 5.6.
- 5.6 If We find during the course of the Work that We need to use additional parts and / or labour, We will only order additional parts or carry out additional Work if You first explicitly consent. For that purpose We will tell You immediately and give You an estimate for both the cost to You of additional parts and labour and also an estimate of the amount of additional time We need to carry out the additional Work and the reasons for needing it;
- 5.7 The amount of time that we estimate under sub-Clauses 5.5 and 5.6 is only intended as our best estimate(s) at the time. It will not be of the essence or an agreed fixed time but We will use reasonable endeavours to complete Work within time estimated;
- 5.8 Subject to the limits and exclusions of liability under Clause 8, if the time taken does exceed any such estimates(s) [by more than << insert number>> << days or hours>> , We will not be liable for any excess time taken but We will nevertheless allow You a deduction from the Price [not exceeding <<insert percentage>> per cent of the Price] in an amount that We decide in Our reasonable discretion having regard to the excess time taken.
- 5.9 If We replace any parts, We will make the original parts available to You to view and examine up to and including the time that You collect Your Equipment. You may only remove those parts from the Garage if You will dispose of them in an environmentally responsible manner. If You do not wish to inspect and / or remove the parts, We shall dispose of them after You collect Your Equipment; and

- 5.10 We shall use reasonable endeavours to ensure that We take good care of Your Equipment and any of Your possessions inside it but We nevertheless advise You to remove all possessions from the Equipment before We begin the Work.

6. **Equipment Warranties**

- 6.1 If the Equipment is covered by a Manufacturer's new Equipment warranty, anti-perforation warranty or rust / corrosion warranty at the time the Work is carried out, We shall carry out all of the Work in a way that adheres to the terms of those warranties and the Manufacturer's specifications and documentation, using original or Manufacturer-authorized parts;
- 6.2 If Our compliance with sub-Clause 6.1 causes Us additional cost, We will tell You of alternatives and will explain to You in full the consequences of those alternatives (including, but not limited to, the voiding of the Manufacturer's warranties). The decision as to whether or not We will follow any such alternative shall be Your decision alone;
- 6.3 Before We begin any of the Work covered by a Manufacturer's or a third party organisation's warranty We shall obtain their consent to Us carrying out that Work;
- 6.4 We shall not be responsible or liable for any failure to comply with any warranties where You have not told Us of those warranties.

7. **Sub-Contracting**

We may sub-contract any of Our obligations under these Terms and Conditions provided that any sub-contractor We use is reasonably skilled in the relevant practices and provided that We do not pass on to You any additional charges without Your prior consent.

8. **Insurance, Damage and Liability**

- 8.1 We shall at all times have in place suitable and valid insurance, including public liability insurance;
- 8.2 We shall not be liable to You for any loss or damage You suffer due to Your failure to follow Our or the Manufacturer's instructions;
- 8.3 The restrictions on liability in this Clause 8 apply to every liability arising under or in connection with the Contract including liability in contract delict, (including negligence), misrepresentation, restitution or otherwise.
- 8.4 We will not be liable to You for any failure or delay in performing Our obligations where such failure or delay results from Force Majeure;
- 8.5 shall not be liable in contract or tort (including negligence) by reason of any breach by Us of any term of these Terms and Conditions or other express term of Our contract with You, or breach by Us of any implied warranty, condition or other term, or any negligent or innocent misrepresentation, or any negligence or other duty at common law, for any:
- 8.4.1 loss of use of a Vehicle;
 - 8.4.2 interruption to business;
 - 8.4.3 loss of income, revenue, business,
 - 8.4.4 loss of business opportunity;
 - 8.4.5 loss of profit or contracts;

8.4.6 loss of anticipated savings; or

8.4.7 any indirect, special or consequential loss, damage, costs, expenses or other claims;

arising from any act or omission by Us or any of Our agents or employees or sub-contractors or any other person or entity in connection with the performance of Our obligations arising under these Terms and Conditions and Our contract with You.

8.5 Nothing in these Terms and Conditions is intended to or will exclude or limit Our liability for death or personal injury caused by Our negligence (including that of Our employees, agents or sub-contractors) or for fraud or fraudulent misrepresentation.

9. **Warranty and Guarantee**

9.1 We warrant the Work from the date of invoice for a Warranty Period of 12 months; Unless We explicitly tell you otherwise when We invoice You, We shall warrant all parts that We use from the date of invoice for a Warranty Period of 12 months whichever occurs first. The warranties on certain parts may vary due to their original Manufacturers' warranty conditions, and in that case We will tell You in Our invoice or another document Our different Warranty Period or distance for those parts;

9.2 If any Work done and / or parts used fails during the Warranty Period, We shall carry out the necessary repairs and replacements at no additional cost to You;

9.3 Any warranty that We give You applies to Your Equipment. If You sell or otherwise transfers ownership of Your Equipment to another person, they will be entitled to the benefit of the warranty for the rest of the Warranty Period;

9.4 We provide Services to You for Business use/purposes, and not for any Consumer use/purposes;

9.5 We will be entitled to void any warranty that We give You if the Equipment is used for anything other than normal purposes (unless We explicitly tell you otherwise). This includes:

9.5.1 Participating in racing or other competitions of any kind;

9.5.2 Participating in speed testing or time trials;

9.5.3 Use of the Equipment in a way which exceeds its design limitations (exceeding maximum towing weight, for example);

9.5.4 Use of the Equipment in a way which does not conform with Manufacturer's recommendations; or

9.6.5 Failure to service or otherwise maintain the Vehicle in accordance with the Manufacturer's recommendations.

10. **Courtesy Equipment**

10.1 We may loan You courtesy Equipment but We will not be bound to do so and may decline to do so due to non-availability or any other reason.. If You request courtesy Equipment and We agree to provide one it will be on condition that You first complete and accept the terms and conditions of a Courtesy Equipment Agreement;

11. Cancellation

11.1 You may cancel any Work booked as set out in sub-Clause 11.2 below. If under Clause 11.2 You cancel any Work booked and You have paid Us any deposit or prepayment under sub-Clause 3.1, We shall return it to You less any amount You owe to Us under any part(s) of this Clause 11, but You will still be liable to pay Us the remainder of the amount You owe Us;

11.2 If, on or after You have brought Your Equipment to Our premises for the Work to be carried out, You cancel the Work but We have by that time begun the Work, You must pay Us for all labour and for all parts We have used and, if We so decide, for all parts We have ordered but not yet used if in Our reasonable judgement We are unlikely to use or sell those ordered parts within 2 months. We shall invoice You for that labour and those parts. We will charge You for that labour at the same hourly rate as We used to calculate the Price. Clause 3 shall apply to the payment of any such invoice;

11.3 The parts We have ordered but not used by the time You cancel will remain Our property. We may use or dispose of them as We see fit without accounting to You for their cost where We have charged You for them under sub-Clause 11.2;

11.4 If You cancel any booked Work and You have courtesy Equipment from Us, You must return it to Us immediately; and

11.5 Once You have paid Us all that You owe Us, You shall collect (or arrange for the collection of) Your Equipment within 7 days. If Your Equipment remains on Our premises beyond that period You shall pay Us for its storage at the rate of £10 per day. We will not release Your Vehicle until You have paid in full all sums that You owe Us (including the storage charge).

12. Data Protection

12.1 All personal information that We may use will be collected, processed, and held in accordance with the provisions of EU Regulation 2016/679 General Data Protection Regulation ("GDPR") and Your rights under the GDPR.

12.2 For complete details of Our collection, processing, storage, and retention of personal data including, but not limited to, the purpose(s) for which personal data is used, the legal basis or bases for using it, details of Your rights and how to exercise them, and personal data sharing (where applicable), please refer to Our Privacy Notice available from our website: www.city-mobility.co.uk.

13. Changes to Terms and Conditions

We may from time to time change these Terms and Conditions without giving You notice, but We will use Our reasonable endeavours to inform You as soon as is reasonably possible of any such change.

14. Complaints

We always welcome feedback from Our customers and, whilst We always use all reasonable endeavours to ensure that Your experience as a customer of Ours is a positive one, We nevertheless want to hear from You if You have any cause for complaint. If You have any complaint about the Work or Our Services or any other complaint about the Workshop or any of Our staff, please raise the matter with our Workshop Manager who can be contacted at the Workshop on 01463 250850.

15. **No Waiver**

No failure or delay by Us or You in exercising any rights under these Terms and Conditions means that We or You have waived that right, and no waiver by Us or You of a breach of any provision of these Terms and Conditions means that We or You will waive any subsequent breach of the same or any other provision.

16. **Severance**

If any provision of these Terms and Conditions is held by any competent authority to be invalid or unenforceable in whole or in part the validity of the other provisions of these Terms and Conditions and the remainder of the provision in question shall not be affected.

17. **Third Party Rights**

17.1 No part of the contract between You and Us is intended to confer rights on any third parties and accordingly the Contracts (Rights of Third Parties) Act 1999 shall not apply to the contract.

17.2 Subject to this Clause 17, the contract between You and Us shall continue and be binding on the transferee, successors and assigns of either Party as required.

18. **Entire Agreement**

18.1 The documents comprising the contract between You and Us contain the entire agreement between the Parties with respect to its subject matter and may not be modified except by an instrument in writing signed by the duly authorised representatives of the Parties.

18.2 Each Party acknowledges that, in entering into the contract, neither Party gives any warranty or relies on any representation, warranty or other provision except as expressly provided in the documents comprising the contract, and all conditions, warranties or other terms implied by statute or common law are excluded to the fullest extent permitted by law.

19. **Law and Jurisdiction**

19.1 These Terms and Conditions and the relationship between You and Us (whether contractual or otherwise) shall be governed by, and construed in accordance with Scottish Law; and

19.2 Any dispute, controversy, proceedings or claim between You and Us relating to these Terms and Conditions (whether contractual or otherwise) shall be subject to the jurisdiction of the courts of Scotland.