

Montana Caravans Pty Ltd – Terms & Conditions of Trade

- (b) name of the credit provider and that Montana is a current credit provider to the Customer;
 - (c) whether the credit provider is a licensee;
 - (d) type of consumer credit;
 - (e) details concerning the Customer's application for credit or commercial credit (e.g. date of commencement/termination of the credit account and the amount requested);
 - (f) advice of consumer credit defaults, overdue accounts, loan repayments or outstanding monies which are overdue by more than sixty (60) days and for which written notice for request of payment has been made and debt recovery action commenced or alternatively that the Customer no longer has any overdue accounts and Montana has been paid or otherwise discharged and all details surrounding that discharge (e.g. dates of payments);
 - (g) information that, in the opinion of Montana, the Customer has committed a serious credit infringement;
 - (h) advice that the amount of the Customer's overdue payment is equal to or more than one hundred and fifty dollars (\$150).
- 17.9 The Customer shall have the right to request (by e-mail) from Montana:
- (a) a copy of the Personal Information about the Customer retained by Montana and the right to request that Montana correct any incorrect Personal Information; and
 - (b) that Montana does not disclose any Personal Information about the Customer for the purpose of direct marketing.
- 17.10 Montana will destroy Personal Information upon the Customer's request (by e-mail) or if it is no longer required unless it is required in order to fulfil the obligations of this Contract or is required to be maintained and/or stored in accordance with the law.
- 17.11 The Customer can make a privacy complaint by contacting Montana via e-mail. Montana will respond to that complaint within seven (7) days of receipt and will take all reasonable steps to make a decision as to the complaint within thirty (30) days of receipt of the complaint. In the event that the Customer is not satisfied with the resolution provided, the Customer can make a complaint to the Information Commissioner at www.oaic.gov.au.
- 18. Compliance with Laws**
- 18.1 The Customer and Montana shall comply with the provisions of all statutes, regulations and bylaws of government, local and other public authorities that may be applicable to the Services.
- 19. Dispute Resolution**
- 19.1 If a dispute arises between the parties to this Contract then either party shall send to the other party a notice of dispute in writing adequately identifying and providing details of the dispute. Within fourteen (14) days after service of a notice of dispute, the parties shall confer at least once, to attempt to resolve the dispute. At any such conference each party shall be represented by a person having authority to agree to a resolution of the dispute. In the event that the dispute cannot be so resolved either party may by further notice in writing delivered by hand or sent by certified mail to the other party refer such dispute to arbitration. Any arbitration shall be:
- (a) referred to a single arbitrator to be nominated by the President of the Institute of Arbitrators Australia; and
 - (b) conducted in accordance with the Institute of Arbitrators Australia Rules for the Conduct of Commercial Arbitration.
- 20. Service of Notices**
- 20.1 Any written notice given under this Contract shall be deemed to have been given and received:
- (a) by handing the notice to the other party, in person;
 - (b) by leaving it at the address of the other party as stated in this Contract;
 - (c) by sending it by registered post to the address of the other party as stated in this Contract;
 - (d) if sent by facsimile transmission to the fax number of the other party as stated in this Contract (if any), on receipt of confirmation of the transmission;
 - (e) if sent by email to the other party's last known email address.
- 20.2 Any notice that is posted shall be deemed to have been served, unless the contrary is shown, at the time when by the ordinary course of post, the notice would have been delivered.
- 21. General**
- 21.1 The failure by either party to enforce any provision of these terms and conditions shall not be treated as a waiver of that provision, nor shall it affect that party's right to subsequently enforce that provision. If any provision of these terms and conditions shall be invalid, void, illegal or unenforceable the validity, existence, legality and enforceability of the remaining provisions shall not be affected, prejudiced or impaired.
- 21.2 These terms and conditions and any contract to which they apply shall be governed by the laws of Victoria in which Montana has its principal place of business, and are subject to the jurisdiction of the courts in Victoria.
- 21.3 Subject to clause 13, Montana shall be under no liability whatsoever to the Customer for any indirect and/or consequential loss and/or expense (including loss of profit) suffered by the Customer arising out of a breach by Montana of these terms and conditions (alternatively Montana's liability shall be limited to damages which under no circumstances shall exceed the Price of the Caravan).
- 21.4 Montana may licence and/or assign all or any part of its rights and/or obligations under this Contract without the Customer's consent.
- 21.5 The Customer cannot licence or assign without the written approval of Montana.
- 21.6 Montana may elect to subcontract out any part of the Services but shall not be relieved from any liability or obligation under this Contract by so doing. Furthermore, the Customer agrees and understands that they have no authority to give any instruction to any of Montana's sub-contractors without the authority of Montana.
- 21.7 The Customer agrees that Montana may amend their general terms and conditions for subsequent future contracts with the Customer by disclosing such to the Customer in writing. These changes shall be deemed to take effect from the date on which the Customer accepts such changes, or otherwise at such time as the Customer makes a further request for Montana to provide Caravans to the Customer.
- 21.8 Neither party shall be liable for any default due to any act of God, war, terrorism, strike, lock-out, industrial action, fire, flood, storm or other event beyond the reasonable control of either party.
- 21.9 Both parties warrant that they have the power to enter into this Contract and have obtained all necessary authorisations to allow them to do so, they are not insolvent and that this Contract creates binding and valid legal obligations on them.

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- 15.4 Without prejudice to Montana's other remedies at law Montana shall be entitled to cancel all or any part of any order of the Customer which remains unfulfilled and all amounts owing to Montana shall, whether or not due for payment, become immediately payable if:
- any money payable to Montana becomes overdue, or in Montana's opinion the Customer will be unable to make a payment when it falls due;
 - the Customer has exceeded any applicable credit limit provided by Montana;
 - the Customer becomes insolvent, convenes a meeting with its creditors or proposes or enters into an arrangement with creditors, or makes an assignment for the benefit of its creditors; or
 - a receiver, manager, liquidator (provisional or otherwise) or similar person is appointed in respect of the Customer or any asset of the Customer.

16. Cancellation

- 16.1 Without prejudice to any other remedies Montana may have, if at any time the Customer is in breach of any obligation (including those relating to payment) under these terms and conditions Montana may suspend or terminate the supply of Caravan to the Customer. Montana will not be liable to the Customer for any loss or damage the Customer suffers because Montana has exercised its rights under this clause.
- 16.2 Montana may cancel any contract to which these terms and conditions apply or cancel delivery of Caravan at any time before the Caravan are delivered by giving written notice to the Customer. On giving such notice Montana shall repay to the Customer any money paid by the Customer for the Caravan. Montana shall not be liable for any loss or damage whatsoever arising from such cancellation.
- 16.3 If the Customer cancels the order of the Caravan for which Montana is providing its Services then the Customer shall be liable to Montana for any losses or costs incurred by Montana (including, but not limited to, freight and transport costs, any loss of profits) up to the time of, or as a result of the cancellation, notwithstanding that at Montana's sole discretion:
- in the event that the Customer cancels the Services, but shipping has already occurred, then the Customer remains liable for the full payment due under this Contract; and
 - Cancellation of orders made to the Customer's specifications, or for non-stocklist items, will definitely not be accepted once production has commenced, or if a completed purchase order has been placed; and
 - any cancellation requests must be submitted in writing before any form of refund will be considered.

17. Privacy Policy

- 17.1 All emails, documents, images or other recorded information held or used by Montana is Personal Information, as defined and referred to in clause 17.3, and therefore considered Confidential Information. Montana acknowledges its obligation in relation to the handling, use, disclosure and processing of Personal Information pursuant to the Privacy Act 1988 ("the Act") including the Part IIIC of the Act being Privacy Amendment (Notifiable Data Breaches) Act 2017 (NDB) and any statutory requirements, where relevant in a European Economic Area ("EEA"), under the EU Data Privacy Laws (including the General Data Protection Regulation "GDPR") (collectively, "EU Data Privacy Laws"). Montana acknowledges that in the event it becomes aware of any data breaches and/or disclosure of the Customers Personal Information, held by Montana that may result in serious harm to the Customer, Montana will notify the Customer in accordance with the Act and/or the GDPR. Any release of such Personal Information must be in accordance with the Act and the GDPR (where relevant) and must be approved by the Customer by written consent, unless subject to an operation of law.
- 17.2 Notwithstanding clause 17.1, privacy limitations will extend to Montana in respect of Cookies where transactions for purchases/orders transpire directly from Montana's website. Montana agrees to display reference to such Cookies and/or similar tracking technologies, such as pixels and web beacons (if applicable), such technology allows the collection of Personal Information such as the Customer's:
- IP address, browser, email client type and other similar details;
 - tracking website usage and traffic; and
 - reports are available to Montana when Montana sends an email to the Customer, so Montana may collect and review that information ("collectively Personal Information")
- In order to enable / disable the collection of Personal Information by way of Cookies, the Customer shall have the right to enable / disable the Cookies first by selecting the option to enable / disable, provided on the website prior to proceeding with a purchase/order via Montana's website.
- 17.3 The Customer agrees for Montana to obtain from a credit reporting body (CRB) a credit report containing personal credit information (e.g. name, address, D.O.B, occupation, driver's license details, electronic contact (email, Facebook or Twitter details), medical insurance details or next of kin and other contact information (where applicable), previous credit applications, credit history) about the Customer in relation to credit provided by Montana.
- 17.4 The Customer agrees that Montana may exchange information about the Customer with those credit providers and with related body corporates for the following purposes:
- to assess an application by the Customer; and/or
 - to notify other credit providers of a default by the Customer; and/or
 - to exchange information with other credit providers as to the status of this credit account, where the Customer is in default with other credit providers; and/or
 - to assess the creditworthiness of the Customer including the Customer's repayment history in the preceding two years.
- 17.5 The Customer consents to Montana being given a consumer credit report to collect overdue payment on commercial credit.
- 17.6 The Customer agrees that personal credit information provided may be used and retained by Montana for the following purposes (and for other agreed purposes or required by):
- the provision of Caravan; and/or
 - analysing, verifying and/or checking the Customer's credit, payment and/or status in relation to the provision of Caravan; and/or
 - processing of any payment instructions, direct debit facilities and/or credit facilities requested by the Customer; and/or
 - enabling the collection of amounts outstanding in relation to the Caravan.
- 17.7 Montana may give information about the Customer to a CRB for the following purposes:
- to obtain a consumer credit report;
 - allow the CRB to create or maintain a credit information file about the Customer including credit history.
- 17.8 The information given to the CRB may include:
- Personal Information as outlined in 17.3 above;

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11.9 Subject to any express provisions to the contrary (including those contained in this clause 11) nothing in these terms and conditions is intended to have the effect of contracting out of any of the provisions of the PPSA.

12. Security and Charge

- 12.1 In consideration of Montana agreeing to supply the Caravan, the Customer charges all of its rights, title and interest (whether joint or several) in any land, realty or other assets capable of being charged, owned by the Customer either now or in the future, to secure the performance by the Customer of its obligations under these terms and conditions (including, but not limited to, the payment of any money).
- 12.2 The Customer indemnifies Montana from and against all Montana's costs and disbursements including legal costs on a solicitor and own client basis incurred in exercising Montana's rights under this clause.
- 12.3 The Customer irrevocably appoints Montana and each director of Montana as the Customer's true and lawful attorney/s to perform all necessary acts to give effect to the provisions of this clause 12 including, but not limited to, signing any document on the Customer's behalf.

13. Defects, Warranties and Returns, Competition and Consumer Act 2010 (CCA)

- 13.1 The Customer must inspect the Caravan on delivery and must within three (3) days of delivery notify Montana in writing of any evident defect/damage, shortage in quantity, or failure to comply with the description or quote. The Customer must notify any other alleged defect in the Caravan as soon as reasonably possible after any such defect becomes evident. Upon such notification the Customer must allow Montana to inspect the Caravan.
- 13.2 Under applicable State, Territory and Commonwealth Law (including, without limitation the CCA), certain statutory implied guarantees and warranties (including, without limitation the statutory guarantees under the CCA) may be implied into these terms and conditions (**Non-Excluded Guarantees**).
- 13.3 Montana acknowledges that nothing in these terms and conditions purports to modify or exclude the Non-Excluded Guarantees.
- 13.4 Except as expressly set out in these terms and conditions or in respect of the Non-Excluded Guarantees, Montana makes no warranties or other representations under these terms and conditions including but not limited to the quality or suitability of the Caravan. Montana's liability in respect of these warranties is limited to the fullest extent permitted by law.
- 13.5 If the Customer is a consumer within the meaning of the CCA, Montana's liability is limited to the extent permitted by section 64A of Schedule 2.
- 13.6 If Montana is required to replace the Caravan under this clause or the CCA, but is unable to do so, Montana may refund any money the Customer has paid for the Caravan.
- 13.7 If the Customer is not a consumer within the meaning of the CCA, Montana's liability for any defect or damage in the Caravan is:
- limited to the value of any express warranty or warranty card provided to the Customer by Montana at Montana's sole discretion;
 - limited to any warranty to which Montana is entitled, if Montana did not manufacture the Caravan;
 - otherwise negated absolutely.
- 13.8 Subject to this clause 13, returns will only be accepted provided that:
- the Customer has complied with the provisions of clause 13.1; and
 - Montana has agreed that the Caravan is defective; and
 - the Caravan are returned within a reasonable time at the Customer's cost (if that cost is not significant); and
 - the Caravan are returned in as close a condition to that in which they were delivered as is possible.
- 13.9 Notwithstanding clauses 13.1 to 13.8 but subject to the CCA, Montana shall not be liable for any defect or damage which may be caused or partly caused by or arise as a result of:
- the Customer failing to properly maintain or store any Caravan;
 - the Customer using the Caravan for any purpose other than that for which they were designed;
 - the Customer continuing the use of any Caravan after any defect became apparent or should have become apparent to a reasonably prudent operator or user;
 - the Customer failing to follow any instructions or guidelines provided by Montana;
 - fair wear and tear, any accident, or act of God.
- 13.10 Montana may in its absolute discretion accept non-defective Caravan for return in which case Montana may require the Customer to pay handling fees of up to ten percent (10%) of the value of the returned Caravan plus any freight costs.

14. Intellectual Property

- 14.1 Where Montana has designed, drawn or developed Caravan for the Customer, then the copyright in any designs and drawings and documents shall remain the property of Montana. Under no circumstances may such designs, drawings and documents be used without the express written approval of Montana.
- 14.2 The Customer warrants that all designs, specifications or instructions given to Montana will not cause Montana to infringe any patent, registered design or trademark in the execution of the Customer's order and the Customer agrees to indemnify Montana against any action taken by a third party against Montana in respect of any such infringement.
- 14.3 The Customer agrees that Montana may (at no cost) use for the purposes of marketing or entry into any competition, any documents, designs, drawings or Caravan which Montana has created for the Customer.

15. Default and Consequences of Default

- 15.1 Interest on overdue invoices shall accrue daily from the date when payment becomes due, until the date of payment, at a rate of two and a half percent (2.5%) per calendar month (and at Montana's sole discretion such interest shall compound monthly at such a rate) after as well as before any judgment.
- 15.2 If the Customer owes Montana any money the Customer shall indemnify Montana from and against all costs and disbursements incurred by Montana in recovering the debt (including but not limited to internal administration fees, legal costs on a solicitor and own client basis, Montana's contract default fee, and bank dishonour fees).
- 15.3 Further to any other rights or remedies Montana may have under this Contract, if a Customer has made payment to Montana, and the transaction is subsequently reversed, the Customer shall be liable for the amount of the reversed transaction, in addition to any further costs incurred by Montana under this clause 14 where it can be proven that such reversal is found to be illegal, fraudulent or in contravention to the Customer's obligations under this Contract.

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- 8.7 The Customer acknowledges that Montana is only responsible for parts that are replaced by Montana and that in the event that other parts, subsequently fail, the Customer agrees to indemnify Montana against any loss or damage to the Caravan, or caused by the Caravan, or any part thereof howsoever arising.
- 8.8 Any advice, recommendation, information, assistance or service provided by Montana in relation to Caravan or Services supplied is given in good faith, is based on Montana's own knowledge and experience and shall be accepted without liability on the part of Montana and it shall be the responsibility of the Customer to confirm the accuracy and reliability of the same in light of the use to which the Customer makes or intends to make of the Caravan or Services.

9. Specifications

- 9.1 The Customer acknowledges that all descriptive specifications, illustrations, drawings, data, dimensions, ratings and weights stated in Montana's or the manufacturer's fact sheets, price lists or advertising material, are approximate only and are given by way of identification only. The Customer shall not be entitled to rely on such information, and any use of such does not constitute a sale by description, and does not form part of the Contract, unless expressly stated as such in writing by Montana.
- 9.2 The Customer shall be responsible for ensuring that the Caravan ordered is suitable for their intended use.

10. Title

- 10.1 Montana and the Customer agree that ownership of the Caravan shall not pass until:
- (a) the Customer has paid Montana all amounts owing to Montana; and
 - (b) the Customer has met all of its other obligations to Montana.
- 10.2 Receipt by Montana of any form of payment other than cash shall not be deemed to be payment until that form of payment has been honoured, cleared or recognised.
- 10.3 It is further agreed that:
- (a) until ownership of the Caravan passes to the Customer in accordance with clause 10.1 that the Customer is only a bailee of the Caravan and must return the Caravan to Montana on request.
 - (b) the Customer holds the benefit of the Customer's insurance of the Caravan on trust for Montana and must pay to Montana the proceeds of any insurance in the event of the Caravan being lost, damaged or destroyed.
 - (c) the Customer must not sell, dispose, or otherwise part with possession of the Caravan other than in the ordinary course of business and for market value. If the Customer sells, disposes or parts with possession of the Caravan then the Customer must hold the proceeds of any such act on trust for Montana and must pay or deliver the proceeds to Montana on demand.
 - (d) the Customer should not convert or process the Caravan or intermix them with other Caravan but if the Customer does so then the Customer holds the resulting product on trust for the benefit of Montana and must sell, dispose of or return the resulting product to Montana as it so directs.
 - (e) the Customer irrevocably authorises Montana to enter any premises where Montana believes the Caravan are kept and recover possession of the Caravan.
 - (f) Montana may recover possession of any Caravan in transit whether or not delivery has occurred.
 - (g) the Customer shall not charge or grant an encumbrance over the Caravan nor grant nor otherwise give away any interest in the Caravan while they remain the property of Montana.
 - (h) Montana may commence proceedings to recover the Price of the Caravan sold notwithstanding that ownership of the Caravan has not passed to the Customer.

11. Personal Property Securities Act 2009 ("PPSA")

- 11.1 In this clause financing statement, financing change statement, security agreement, and security interest has the meaning given to it by the PPSA.
- 11.2 Upon assenting to these terms and conditions in writing the Customer acknowledges and agrees that these terms and conditions constitute a security agreement for the purposes of the PPSA and creates a security interest in all Caravan and/or collateral (account) – being a monetary obligation of the Customer to Montana for Services – that have previously been supplied and that will be supplied in the future by Montana to the Customer.
- 11.3 The Customer undertakes to:
- (a) promptly sign any further documents and/or provide any further information (such information to be complete, accurate and up-to-date in all respects) which Montana may reasonably require to;
 - (i) register a financing statement or financing change statement in relation to a security interest on the Personal Property Securities Register;
 - (ii) register any other document required to be registered by the PPSA; or
 - (iii) correct a defect in a statement referred to in clause 11.3(a)(i) or 11.3(a)(ii);
 - (b) indemnify, and upon demand reimburse, Montana for all expenses incurred in registering a financing statement or financing change statement on the Personal Property Securities Register established by the PPSA or releasing any Caravan(s) charged thereby;
 - (c) not register a financing change statement in respect of a security interest without the prior written consent of Montana;
 - (d) not register, or permit to be registered, a financing statement or a financing change statement in relation to the Caravan and/or collateral (account) in favour of a third party without the prior written consent of Montana;
 - (e) immediately advise Montana of any material change in its business practices of selling the Caravan which would result in a change in the nature of proceeds derived from such sales.
- 11.4 Montana and the Customer agree that sections 96, 115 and 125 of the PPSA do not apply to the security agreement created by these terms and conditions.
- 11.5 The Customer waives their rights to receive notices under sections 95, 118, 121(4), 130, 132(3)(d) and 132(4) of the PPSA.
- 11.6 The Customer waives their rights as a grantor and/or a debtor under sections 142 and 143 of the PPSA.
- 11.7 Unless otherwise agreed to in writing by Montana, the Customer waives their right to receive a verification statement in accordance with section 157 of the PPSA.
- 11.8 The Customer must unconditionally ratify any actions taken by Montana under clauses 11.3 to 11.5.

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- 4.2 In the event such an error and/or omission occurs in accordance with clause 4.1, and is not attributable to the negligence and/or wilful misconduct of Montana; the Customer shall not be entitled to treat this Contract as repudiated nor render it invalid.
- 5. Change in Control**
- 5.1 The Customer shall give Montana not less than fourteen (14) days prior written notice of any proposed change of ownership of the Customer and/or any other change in the Customer's details (including but not limited to, changes in the Customer's name, address, contact phone or fax number/s, change of trustees, or business practice). The Customer shall be liable for any loss incurred by Montana as a result of the Customer's failure to comply with this clause.
- 6. Price and Payment**
- 6.1 At Montana's sole discretion the Price shall be either:
- (a) as indicated on any invoice provided by Montana to the Customer;
 - (b) Montana's quoted price (subject to clause 6.2) which will be valid for the period stated in the quotation or otherwise for a period of seven (7) days.
- 6.2 Montana reserves the right to change the Price if a variation to Montana's quotation is requested. Any variation from the specifications of the Caravan (including, but not limited to, any variation as a result of fluctuations in currency exchange rates or increases to Montana in the cost of taxes, levies, materials and labour, or due to the unavailability) will be charged for on the basis of Montana's quotation and will be shown as variations on the invoice. The Customer shall be required to respond to any variation submitted by Montana within ten (10) working days. Failure to do so will entitle Montana to add the cost of the variation to the Price. Payment for all variations must be made in full at the time of their completion.
- 6.3 At Montana's sole discretion a non-refundable deposit of up to ten percent (10%) may be required.
- 6.4 Time for payment for the Caravan being of the essence, the Price will be payable by the Customer on the date/s determined by Montana, which may be:
- (a) on delivery of the Caravan;
 - (b) first (1st) day following the end of the month in which a statement is delivered to the Customer's address or address for notices;
 - (c) the date specified on any invoice or other form as being the date for payment; or
 - (d) failing any notice to the contrary, the date which is seven (7) days following the date of any invoice given to the Customer by Montana.
- 6.5 Payment may be made by cash, business cheques only, bank cheque, electronic/on-line banking, and credit card (plus a surcharge may apply per transaction, or by any other method as agreed to between the Customer and Montana.
- 6.6 Montana may in its discretion allocate any payment received from the Customer towards any invoice that Montana determines and may do so at the time of receipt or at any time afterwards. On any default by the Customer Montana may re-allocate any payments previously received and allocated. In the absence of any payment allocation by Montana, payment will be deemed to be allocated in such manner as preserves the maximum value of Montana's Purchase Money Security Interest (as defined in the PPSA) in the Caravan.
- 6.7 The Customer shall not be entitled to set off against, or deduct from the Price, any sums owed or claimed to be owed to the Customer by Montana nor to withhold payment of any invoice because part of that invoice is in dispute.
- 6.8 Unless otherwise stated the Price does not include GST. In addition to the Price the Customer must pay to Montana an amount equal to any GST Montana must pay for any supply by Montana under this or any other agreement for the sale of the Caravan. The Customer must pay GST, without deduction or set off of any other amounts, at the same time and on the same basis as the Customer pays the Price. In addition the Customer must pay any other taxes and duties that may be applicable in addition to the Price except where they are expressly included in the Price.
- 7. Provision of the Services**
- 7.1 Delivery ("Delivery") of the Caravan is taken to occur at the time that:
- (a) the Customer or the Customer's nominated carrier takes possession of the Caravan at Montana's address; or
 - (b) Montana (or Montana's nominated carrier) delivers the Caravan to the Customer's nominated address even if the Customer is not present at the address.
- 7.2 At Montana's sole discretion the cost of delivery is in addition to the Price.
- 7.3 Any time specified by Montana for delivery of the Caravan is an estimate only and Montana will not be liable for any loss or damage incurred by the Customer as a result of delivery being late. However both parties agree that they shall make every endeavour to enable the Caravan to be delivered at the time and place as was arranged between both parties. In the event that Montana is unable to supply the Caravan as agreed solely due to any action or inaction of the Customer, then Montana shall be entitled to charge a reasonable fee for redelivery and/or storage.
- 8. Risk**
- 8.1 Risk of damage to or loss of the Caravan passes to the Customer on Delivery and the Customer must insure the Caravan on or before Delivery.
- 8.2 If the Caravan(s) are damaged or destroyed following delivery but prior to ownership passing to the Customer, Montana is entitled to receive all insurance proceeds payable for the Caravan. The production of these terms and conditions by Montana is sufficient evidence of Montana's rights to receive the insurance proceeds without the need for any person dealing with Montana to make further enquiries.
- 8.3 If the Customer requests Montana to leave Caravan outside Montana's premises for collection or to deliver the Caravan to an unattended location then such Caravan shall be left at the Customer's sole risk.
- 8.4 Montana shall not be liable for the loss of or damage to the Caravan, its accessories or contents while garaged during the provision of the Services or being driven in connection with the work authorised unless caused by the negligence of Montana or Montana's employees.
- 8.5 It is the Customer's responsibility to ensure that the Caravan is insured against all possible damage (including, but not limited to, the perils of accident, fire, theft and burglary and all other usual risks) whilst stored on Montana's premises. The Caravan is at all times stored and repaired at the Customer's sole risk.
- 8.6 Where the Customer requests the re-use of existing materials or the supply of third-party materials (including, but not limited to, bench tops, appliances), no responsibility shall be taken by Montana for the appearance, service or performance of the materials.

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1. Definitions

- 1.1 "Contract" means the terms and conditions contained herein, together with any Quotation, order, invoice or other document or amendments expressed to be supplemental to this Contract.
- 1.2 "Montana" means Montana Caravans Pty Ltd (ACN: 119 114 224) ATF The Montana Unit Trust (ABN: 23 868 292 632) T/A Montana Caravans Pty Ltd, its successors and assigns or any person acting on behalf of and with the authority of Montana Caravans Pty Ltd (ACN: 119 114 224) ATF The Montana Unit Trust (ABN: 23 868 292 632) T/A Montana Caravans Pty Ltd.
- 1.3 "Customer" means the person/s, entities or any person acting on behalf of and with the authority of the Customer requesting Montana to provide the Services as specified in any proposal, quotation, order, invoice or other documentation, and:
- (a) if there is more than one Customer, is a reference to each Customer jointly and severally; and
 - (b) if the Customer is a partnership, it shall bind each partner jointly and severally; and
 - (c) if the Customer is a part of a trust, shall be bound in their capacity as a trustee; and
 - (d) includes the Customer's executors, administrators, successors and permitted assigns.
- 1.4 "Caravan" means any Caravan(s) supplied by Montana to the Customer (and where the context so permits shall include any accessory goods and/or any supply of Services as hereinafter defined) and is as described on the invoices, quotation, or any other work authorisation forms as provided by Montana to the Customer.
- 1.5 "Confidential Information" means information of a confidential nature whether oral, written or in electronic form including, but not limited to, this Contract, either party's intellectual property, operational information, know-how, trade secrets, financial and commercial affairs, contracts, client information (including but not limited to, "Personal Information" such as: name, address, D.O.B, occupation, driver's license details, electronic contact (email, Facebook or Twitter details), medical insurance details or next of kin and other contact information (where applicable), previous credit applications, credit history) and pricing details.
- 1.6 "Cookies" means small files which are stored on a user's computer. They are designed to hold a modest amount of data (including Personal Information) specific to a particular client and website, and can be accessed either by the web server or the client's computer. **If the Customer does not wish to allow Cookies to operate in the background when ordering from the website, then the Customer shall have the right to enable / disable the Cookies first by selecting the option to enable / disable provided on the website, prior to ordering Goods via the website.**
- 1.7 "Price" means the Price payable (plus any GST where applicable) for the Caravan as agreed between Montana and the Customer in accordance with clause 6 below.
- 1.5 "GST" means Goods and Services Tax (GST) as defined within the "A New Tax System (Goods and Services Tax) Act 1999" (Cth).

2. Acceptance

- 2.1 The Customer is taken to have exclusively accepted and is immediately bound, jointly and severally, by these terms and conditions if the Customer places an order for or accepts delivery of the Caravan.
- 2.2 In the event of any inconsistency between the terms and conditions of this Contract and any other prior document or schedule that the parties have entered into, the terms of this Contract shall prevail.
- 2.3 Any amendment to the terms and conditions contained in this Contract may only be amended in writing by the consent of both parties.
- 2.4 The Customer acknowledges that the supply of Caravans on credit shall not take effect until the Customer has completed a credit application with Montana and it has been approved with a credit limit established for the account.
- 2.5 In the event that the supply of Caravans request exceeds the Customers credit limit and/or the account exceeds the payment terms, Montana reserves the right to refuse Delivery.
- 2.6 These terms and conditions are meant to be read in conjunction with the Terms and Conditions posted on Montana's website. If there are any inconsistencies between the two documents then the terms and conditions contained in this document shall prevail.
- 2.7 Electronic signatures shall be deemed to be accepted by either party providing that the parties have complied with Section 9 of the Electronic Transactions (Victoria) Act 2000 or any other applicable provisions of that Act or any Regulations referred to in that Act.

3. Distribution of Caravans via an Approved Distributors

- 3.1 The Customer agrees that until they are authorised as a distributor by Montana, (and hereinafter the Customer shall be referred to as "Distributor" for the purposes of this clause) the Distributor shall not be able to sell the Caravans on as a Distributor for Montana or represent to any third parties that the Distributor is in any way acting for Montana. Montana shall not accept responsibility or agree to be bound in any way by any contracts with third parties to whom the Distributor is a party.
- 3.2 At Montana's sole discretion, the Distributor acknowledges that only approved Distributors shall have the authority to accept internet orders via their respective website and/or any alternative online auction sites.
- 3.3 Orders from a Distributor are accepted on the basis that;
- (a) unless otherwise agreed by prior approval between Montana and the Distributor, Caravan(s) may only be resold to consumers at retail level and/or approved wholesale level and may not be sold to any other trader that is known or is suspected to be purchasing for resale, and
 - (b) Caravans are to be sold for retail or displayed for sale at only the nominated locations advised by the Distributor to Montana, and
 - (c) sale of Caravans by mail order, internet or any other method outside of the traditional display and sell at the approved location is prohibited without prior written consent of Montana, and
 - (d) Caravans are to be displayed, presented and marketed in the manner that is in the best interest of the brand name.
- 3.4 Any default of clauses 3.1-3.3 may at Montana's sole discretion be subject to immediate and permanent closure of account facilities, with any account balances payable immediately on demand.
- 3.5 Montana has sole discretion on which Caravans are made available to any approved Distributor and Montana does not guarantee continuing supply of any specific Caravan.

4. Errors and Omissions

- 4.1 The Customer acknowledges and accepts that Montana shall, without prejudice, accept no liability in respect of any alleged or actual error(s) and/or omission(s):
- (a) resulting from an inadvertent mistake made by Montana in the formation and/or administration of this Contract; and/or
 - (b) contained in/omitted from any literature (hard copy and/or electronic) supplied by Montana in respect of the Services.