

Dealer Terms and Conditions 4.0

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1. Parties to this Agreement

- i. **European Vehicle Contracts Ltd T/A Eurodrive Motor Finance** whose registered office is European House, 9 Apex Business Village, Newcastle NE23 7BF. (Co Reg No. **06532275**) ("Eurodrive Motor Finance").
- ii. **Company Name** whose registered address is Motor Switch, 63 Miry Lane, Wigan, WN3 4BT (Co Reg No. **10899794**) (the "Motor Dealer")

Background

- A. Eurodrive Motor Finance is an arranger of finance;
- B. The Motor Dealer sells vehicles to its customers who, from time to time, require finance in order to acquire a vehicle;
- C. The Motor Dealer will from time to time submit finance proposals to Eurodrive Motor Finance to enable it to consider arranging finance for the Motor Dealers customers;
- D. The Director(s) [has OR have] agreed to give certain undertakings, warranties in respect of the obligations of the Motor Dealer and to indemnify Eurodrive Motor Finance from and against any losses or costs incurred by Eurodrive Motor Finance arising from any breach by the Motor Dealer of its obligations under this agreement;
- E. This agreement set outs the terms and conditions upon which the Motor Dealer may submit finance proposals from the customer for consideration by Eurodrive Motor Finance.

Now it is agreed as follows:

In consideration of the payment, by European Vehicle Contracts, of £1.00 to the Motor Dealer and, where applicable, £1.00 to the Director(s) it is hereby agreed as follows:

1.1 Duration and date of this Agreement

- The duration of this agreement is ongoing from the date hereby signed until terminated in accordance with the terms of this agreement.

1.2 Material Business Event

- Eurodrive Motor Finance reserves the right to amend, vary or withdraw the terms of this Agreement, in the event of a significant change in the external business environment, and/or ownership, or a restructuring of the Motor Dealer which adversely impacts upon the nature of this Agreement necessitating a complete reevaluation of the terms.

1.3 Scope and Nature of Relationship

- The Scope of the relationship is the effective management, supply and deployment of financial services to the Motor Dealer.

1.4 Review Process

- There will be regular meetings where all aspects of the business will be reviewed. The performance review will include discussions on treating customers fairly procedures, merchantable complaints, target objectives, default, losses and other issues that impact on the performance of either party. Both parties will agree jointly to construct a strategy containing action plans designed to rectify any aspects of non-performance.

1.5 Assignment

- This Agreement cannot be assigned by the Motor Dealer without the full written acceptance of Eurodrive Motor Finance to the Terms of the Assignment.

1.6 Termination

- 1.6.1 The parties to this agreement retain the right to terminate the agreement in the event of under-performance, with either party giving 1 (one) month's written notice with such notice expiring at the end of the notice period. A formal quarterly review process commencing from 3 months from the date of this agreement to assess performance within the scope of the agreement from each parties perspectives.
- 1.6.2 A party may, with immediate effect, terminate this Agreement if:
 - a. the other party becomes insolvent ("insolvent party") or is deemed to be unable to pay its debts within the meaning of section 123 of the Insolvency Act 1986 or an administrative receiver or other receiver or manager is appointed over the whole or any part of its undertaking, business or assets; or.
 - b. a petition is presented applying to the Court for the winding up of the insolvent party or for an administration order to be made in relation to the insolvent party or a resolution is passed for its winding up or dissolution or the insolvent party enters into any voluntary arrangement with its creditors or ceases or threatens to cease to carry on its business.
 - c. there is a change of control; or
 - d. the proprietor (in the case of a sole trader); or any partner (in the case of a partnership); [or any Director in the case of a limited company or limited liability partnership] is made or declared bankrupt [or in the case of a Director disqualified from acting as a director].
- 1.6.3 Eurodrive Motor Finance may, with immediate effect, terminate this agreement if, the Motor Dealer breaches clause 6.1, clause 6.5 or clause 7 or otherwise breaches this agreement and does not remedy such breach (if capable of remedy) within 7 days of being notice to remedy the breach.
- 1.6.4 All of the representations, warranties and undertakings given by the Motor Dealer [and the Director(s)] shall survive termination of this agreement.

1.7 Support Level

- 1.7.1 The Motor Dealer will offer Eurodrive Motor Finance finance business emanating from all the Motor Dealer's customers & introducers. The Motor Dealer's finance proposals will be subject to Eurodrive Motor Finance's standard underwriting criteria.

A monthly review of proposals agreed against cases written will be undertaken.

- i. Please note that Eurodrive Motor Finance does not provide finance facilities for any of the following : -
 - Grey Imports
 - Kit Cars
 - Left Hand Drive vehicles
 - Vehicles appearing on VCAR
 - Modified Vehicles

If any such vehicles are financed, upon discovery, the Motor Dealer warrants it will repay Eurodrive Motor Finance the current settlement figure in full plus all commissions paid relative to the agreement.

- ii. The Motor Dealer warrants that it has good title to pass and that it will provide Goods that are of satisfactory quality and fit for the purpose at point of sale and thereafter, and are as described. In the event that the the to the quality, fitness for purpose, description or any matter relating to the finance agreement, the Motor Dealer will work and assist Eurodrive Motor Finance to resolve the issue to the satisfaction of all parties within the scope of the requirements of the Sales of Goods Act legislation and the FCA rules and regulations.

Eurodrive Motor Finance may, without notice to the Motor Dealer, set off all or part of any sum or payment

due to the Motor Dealer against any indebtedness owed by it to Eurodrive Motor Finance under any contractual or other agreement the Motor Dealer has with us. Exercise by Eurodrive Motor Finance or its rights under this clause shall be without prejudice to any other rights or remedies to it.

2. Commission Terms

2.1 Retail Rates and Commission Scales

- In consideration of the business introduced by the Motor Dealer under clause 1.7.1 Eurodrive Motor Finance will pay an introductory commission to the Motor Dealer up to the ceiling referred to in the agreed commission scales or agreed terms in respect of qualifying finance agreements entered into by Eurodrive Motor Finance which were introduced by the Motor Dealer. The introductory commission shall be paid monthly.
- Qualifying retail finance agreements for the purposes of introductory commission are fixed rate conditional sale, fixed rate personal contact purchase, fixed rate lease purchase and fixed rate personal loan agreements. The introductory commission will be earned on qualifying retail finance agreements based on a percentage of the balance financed or a fixed fee. Details of the rates to be charged and commissions will be communicated separately.
- The Motor Dealer acknowledges that the introductory commission paid under this clause 2.1, represents the total introductory commission payable by Eurodrive Motor Finance for the business introduced by the Motor Dealer under this agreement.

2.1.1 For the avoidance of doubt business deemed as non commission bearing for the purpose of introductory commission will include the following:

- i. Finance agreements where the Motor Dealer is the customer including demonstrators;
- ii. Customer cancels within the first 30 days or exercises a statutory right to withdraw from the finance agreement, or finance agreements referred for legal action as a result of fraud or misrepresentation by either the customer or the Motor Dealer.
- iii. Finance agreements that are either early settled or part settled by the customer before the first three monthly payment has been paid to Eurodrive Motor Finance.
- iv. Business written below standard scale base rates, unless this is subsidised by the Motor Dealer back up to standard base rate. Eurodrive Motor Finance will provide the Motor Dealer with the relevant subsidy figures for this purpose upon request
- v. Business written that is under 24 months in duration and or the advance is below £2,000.

2.2 Debit Back, Recovery of Commissions Paid

Commissions are paid to the Motor Dealer on the understanding that Eurodrive Motor Finance will apply debit backs to the Motor Dealer's commission in the following circumstances:

- i. Commissions will be debited back in full in the event of fraud or misrepresentation by either the customer or the motor dealer or both in respect of a retail finance agreement at any time
- ii. Commissions will be debited back in full if the customer either early settles or part settles the finance agreement having made fewer than **3 (three)** consecutive repayments. With certain lenders, commissions may still be debited back up until 6 payments have been received. Further details can be found within your retail offer letter.
- iii. Commissions will be debited back in full in the event of default, write-off, repossession, voluntary termination or a reschedule occurring at any time during the life of the finance agreement.
- iv. Commissions will be debited back in full where the customer exercises a statutory right to cancel or withdraw from the finance agreement.
- v. Commissions will be debited back in full where the vehicle supplied by the Motor Dealer to Eurodrive Motor Finance which is subject to a finance agreement is found to be not of satisfactory quality.
- vi. If the Motor Dealer is represented by a sole trader / Partnership / Director, any outstanding commissions will be subject to the personal guarantee of the signatory below for the duration of the agreement and by signing this contract you are accepting the condition to guarantee all 'Fully Reclaimable' commissions.

The Motor Dealer will continue to repay debit backs to Eurodrive Motor Finance should this agreement be terminated. Any amounts due will be invoiced accordingly and the Motor Dealer will be liable to pay any invoice raised within 30 days of the date of issue. The debit back and recovery of commissions and head office commission will not affect Eurodrive Motor Finance's entitlement to claim debit backs relating to any business the Motor Dealer has previously written in accordance with the terms of business applying at that time.

2.3 Return of Advance

Any advance paid by either Eurodrive Motor Finance or the party providing the finance ("Lender") direct whereby the customer does not collect the vehicle or decides not to proceed with the finance agreement or the delivery of the vehicle must be repaid in full by request within 48 hours. The Directors / Sole Proprietor / Partners agree any liability outstanding in relation to the return of advances in such circumstances and will personally indemnify the Company against any loss pertaining to all return of advance.

3. Customer Fees

- Customer Fees will vary subject to the terms offered by the Lender and credit status of the customer.
- Eurodrive Motor Finance reserves the right to vary these amounts at any time.
- Customer Fees will not be waived under any circumstances.

4. Notice of Rate Movement

- Eurodrive Motor Finance is required to achieve minimum financial returns for its shareholders whilst at the same time, employing tactical pricing to ensure competitiveness with other financial institutions for the mutual benefit of the parties to this agreement.
- The rates, commissions and fees quoted in this agreement are given in the light of the current monetary and fiscal conditions based on an anticipated mix of products and volume of business, and will be subject to periodic review. Our primary objective is to operate a stable rate environment by managing interest rate movements. Eurodrive Motor Finance will provide fourteen days notice of any movement in rates. However, should our money costs move by 0.50% or more, we reserve the right to implement an immediate adjustment to our commission scales.
- Introductory commissions paid will be calculated using the rates and terms that were in place at the time of the finance proposal.

5. Technology-Proposing Business to Eurodrive Motor Finance

- All new business finance proposals will be sent from the Motor Dealer to Eurodrive Motor Finance using our Dealer Portal or using approved third-party software

6. Compliance with Laws

- The parties to this Agreement will perform their obligations hereunder in compliance with all applicable laws, enactments, orders, regulations and guidance, and shall use reasonable endeavours to ensure that the Motor Dealer's dealers, agents, representatives and employees (as applicable) do the same. Further, and without limiting the foregoing, the parties are obliged to desist from all practices which may lead to penal liability due to fraud or embezzlement, insolvency crimes, crimes in violation of competition, guaranteeing advantages, bribery, acceptance of bribes or other corruption crimes on the part of persons employed by the parties or other third parties. In the event of violation of the above, each party shall have the right immediately to withdraw from or terminate all legal transactions existing with the other party and the right to cancel all negotiations

6.1 Consumer Credit Act (CCA)

- The Motor Dealer will ensure compliance with the requirements of the CCA and the regulations made under it. In particular in relation to each regulated finance agreement the Motor Dealer introduces, they confirm and declare amongst other things that a verbal adequate explanation of the finance product was given to the customer and a copy of the explanation was handed to the customer at the time and that a pre-contract information document was handed to the customer in good time before the customer signed the finance agreement.

6.2 Data Protection/Money Laundering

- The Motor Dealer will ensure customer procedures are in compliance with the Data Protection Act 2018 the Finance and Leasing Association Guidance for Motor and Caravan Dealers on data protection, The Terrorism Act 2000 and money laundering legislation.
- The Motor Dealer will inform the finance customer that the finance proposal will be submitted to Eurodrive Motor Finance and that Eurodrive Motor Finance shall process the customer's personal data which will include searching their records with Credit Reference and Fraud Prevention Agencies and add details of Eurodrive Motor Finance's search to the customer's record.

6.3 FCA Rules and Regulations

- Authorised firms must follow the rules and regulations to ensure that they run their business in the best interests of consumers and uphold the integrity of the financial services industry. The FCA expects authorised firms to treat their customers fairly and to reasonably and promptly handle complaints. Failure to meet your obligations under the FCA regulations could lead to fines for breach of rules or suspension or withdrawing of your authorisation.
- Eurodrive Motor Finance promotes and adheres to the FCA's regulations and we will immediately terminate our relationship should we discover that the Motor Dealer falls outside the scope of these regulations.
- The Motor Dealer also acknowledges its responsibility to disclose any commission available and to evidence the customer's explicit consent to commission being paid.

6.4 Fronting

- One area of particular concern to all finance providers is 'fronting'. This is where one individual takes out the finance on behalf of another person who is unable to obtain credit in their own name. This practice is considered to be an 'intention to deprive' and is therefore fraud, a criminal offence under the 1968 Theft Act.
- If we discover at any stage prior to funding that a finance agreement is fronted we will withdraw any acceptance and will not fund the finance agreement. If we discover after funding that a finance agreement has been fronted we will debit back all commission and head office commission paid and will require the finance agreement to be unwound and the amount financed repaid to us in full.
- If collusion on the part of the Motor Dealer or introducer can be proved then they can be expected to be enjoined in any civil proceedings and/or criminal prosecution that may follow.

6.5 Side Agreements and Agency

- a. The Motor Dealer must not, at any point, take over the customer's repayments, enter into any written agreements, give any verbal undertakings or representations to the customer which may effect the customer's obligations under the finance agreement between the customer and the Lender
- b. The Motor Dealer shall not hold itself out as being the agent of Eurodrive Motor Finance or the Lender.

6.6 Financial Ombudsman Scheme

- This section applies if a complaint has been made against Eurodrive Motor Finance under the Ombudsman Scheme provided for under the Financial Services and Markets Act 2000 and FCA rules and regulations, and the complaint is determined in favour of the complainant. If the determination of such a complaint includes:
 - a. an award against Eurodrive Motor Finance by way of compensation for loss or damage and/or a recommendation that Eurodrive Motor Finance should pay the complainant any amount;
 - b. a direction that Eurodrive Motor Finance should take specified steps in relation to the complainant; or
 - c. an award of costs is made against Eurodrive Motor Finance;
- The Motor Dealer [and the Directors] will indemnify Eurodrive Motor Finance against all losses, costs and other expenses which Eurodrive Motor Finance incur or suffer as a result of or in connection with such determination or complaint (including the payment of any amount recommended to be paid by the determination) provided that the Motor Dealer will be only liable to indemnify Eurodrive Motor Finance against losses, costs or other expenses to the extent that they relate to or arise out of an act or omission by the Motor Dealer or on behalf of the Motor Dealer's introducer.

7. Brand and Reputation

- The Motor Dealer agrees to act in good faith with Eurodrive Motor Finance and do nothing, which Eurodrive Motor Finance believes could be prejudicial to the Eurodrive Motor Finance brand, reputation, goodwill or commercial interests. In the event of a breach of this clause, Eurodrive Motor Finance shall be entitled to terminate this agreement with immediate effect.

8. Marketing

- Any advertisement, brochures or other marketing materials which are issued in connection with Eurodrive Motor Finance products or which mention Eurodrive Motor Finance's name must receive Eurodrive Motor Finance's prior approval. The Advertisement Regulations under the CCA are detailed and complex and can give rise to criminal liability if the provisions are not complied with.

9. Representations, Warranties and Undertakings by the Motor Dealer

- On entering into this agreement and on each occasion that the Motor Dealer makes a finance proposal to Eurodrive Motor Finance and during the term of any finance agreement, the Motor Dealer hereby represent, warrant and undertake to Eurodrive Motor Finance, in respect of each finance proposal (each such representation and warranty being deemed repeated on the date of acceptance of each finance proposal), the execution of the finance agreement, and the date of payment that:

9.1 The Motor Dealer has complied with all its obligations under this agreement neither the Motor Dealer [nor the Director(s)] are aware of any reason why the customer is not legally able to enter into the finance agreement (due to vulnerability, incapacity, bankruptcy or age)

9.2 Neither the Motor Dealer [nor the Director(s)] are aware of any reasons why the customer would be unable to afford the payments under the finance agreement

9.3 The Vehicle is in good condition, of satisfactory quality and free from defect; reasonably fit both for the purposes of the Customer and for the purpose of being the subject of the Finance Agreement. The vehicle fully conforms to any express or implied description or representation made by the Motor Dealer to the Customer, is the subject of a valid MOT certificate (if applicable) and is not an import unless expressly agreed by Eurodrive Motor Finance.

9.4 The Vehicle is owned by the Motor Dealer, free of any third-party claim and title will pass to Eurodrive Motor Finance upon payment of our invoice, which will constitute acceptance of our offer.

9.5 The Motor Dealer is VAT registered and is operating under the VAT margin scheme for second-hand vehicles.

9.6 The Motor Dealer has complied with all data protection and money laundering regulations required by law and validated the identity of the customer.

9.7 If the vehicle is to be collected, the Motor Dealer undertakes to hand over the vehicle only to the customer named on the finance agreement. Any deviation from this must have written approval from Eurodrive Motor Finance. The Motor Dealer warrants that all identity documents have been checked as being a true likeness of the customer and verified as original before handover of the vehicle.

9.8 If the vehicle is to be delivered, the Motor Dealer warrants that it is delivered only to the customer and to the address stipulated on the customer's finance agreement. The Motor Dealer warrants that they, or their representative, will conduct all appropriate ID checks and take a photo of the customer standing with the vehicle, at the point of handover.

9.9 In the event there is an issue with the vehicle, the Motor Dealer will stand by its legal requirements as detailed within the Consumer Credit Act 1974 and the Consumer Rights Act 2015. If the issues should escalate, the Motor Dealer will work with Eurodrive Motor Finance to rectify the issues, and in the event of an unwind or legal rejection of goods, return the funds promptly and fully.

10. Representations, Warranties and Undertakings by the Director(s)

- On entering into this agreement and on each occasion the Motor Dealer makes a finance proposal to Eurodrive Motor Finance Limited, the Director(s) represent(s), warrant(s) and undertake(s) to Eurodrive Motor Finance that:
 - a. all of the representations, warranties and undertakings given by the Motor Dealer in clause 9 above shall apply equally to the Director(s);
 - b. if the Motor Dealer breaches any express or implied term of this agreement then the Director(s) shall immediately comply with the Motor Dealer's obligations.

11. Indemnity by the Director(s)

- a. In addition to the representations, warranties and undertakings given in clause 10 the Director(s) as principal obligor(s) and as a separate and independent obligation and liability from its [their] obligations and liabilities under clause 10 agree(s) to indemnify and keep indemnified Eurodrive Motor Finance in full and on demand from and against all and any losses, costs, claims, liabilities, damages, demands and expenses suffered or incurred by Eurodrive Motor Finance arising out of, or in connection with, any failure of the Motor Dealer to perform or discharge any of its obligations or liabilities under this agreement.
- b. Where there is more than one Director then the liability of each Director under this indemnity shall be joint and several.

12. Governing Law and Jurisdiction

This agreement shall be governed by and construed in accordance with English law and each party agrees to submit to the exclusive jurisdiction of the English Courts.