

TERMS AND CONDITIONS OF SALE

These terms and conditions are between **Oorloff Investments Pty Ltd TA Wildtrail Caravans (ABN 85 646 748 352)**, (**we, us or our**) and you, the party stated in the Schedule (**you or your**), together the **Parties** and each a **Party**. These terms and conditions and the Schedule form the entire agreement under which we will provide the Caravan to you.

1. OUR DISCLOSURES

1.1 Please read this Agreement carefully prior to accepting this Agreement. By accepting this Agreement, you agree that:

- (a) your failure to pay the Price in accordance with the Payment Terms may result in us charging you interest, or suspending the provision of the Caravan until we receive payment;
- (b) subject to your Consumer Law Rights, you have not relied on any representations or warranties made by us prior to entering this Agreement that are not included in this Agreement;
- (c) subject to your Consumer Law Rights, we will not refund any amounts paid by you;
- (d) our liability under these terms is limited to the Price paid by you for the Caravan the subject of the relevant claim, and we will not be liable for consequential loss; and
- (e) we will have no liability for loss of, or damage to, the Caravan, any injury or loss to any person, failure or delay in providing the Caravan or a breach of any law, where such loss was caused or contributed to by any event or circumstance beyond our reasonable control or act or omission of you or your related parties.

1.2 This Agreement does not intend to limit your rights and remedies at law, including any of your Consumer Law Rights

2. ACCEPTANCE

2.1 You have requested the Caravan set out in the Schedule, and you accept this Agreement by the earlier of:

- (a) signing and returning the Schedule to us (including electronically);
- (b) sending an email accepting the Schedule (expressly or impliedly); or
- (c) making part or full payment of the Price (including any deposit).

2.2 This Agreement will operate until delivery of the Caravan or Termination in accordance with clause 7.

3. CARAVAN

3.1 In consideration of your payment of the Price, we agree to provide you the Caravan in accordance with this Agreement, whether ourselves or through our Personnel.

3.2 We will not be responsible for the provision of Caravan or any Specifications unless expressly set out in the Schedule.

3.3 You acknowledge and agree that any dates for collection or for completion notified by us are estimates only. We agree to use reasonable endeavors to provide the Caravan within a reasonable time.

3.4 We will not be liable for any loss or damage incurred by you or any third party for failure to deliver the caravan by the estimated delivery date.

3.5 All variations to this Agreement must be agreed in writing between the Parties and will be priced in accordance with the Schedule, any schedule of rates provided by us, or otherwise as reasonably agreed between the Parties. If we consider that any instruction or direction from you constitutes a variation to the scope of our obligations under this Agreement, or would result in us suffering or incurring any additional cost or delay, then we will not be obliged to comply with such instruction or direction unless agreed in accordance with this clause 3.5.

3.6 All caravan and order inclusions are subject to availability and quality control at our discretion and are not guaranteed. Should we be unable to supply any part of your order, at our discretion, we will either offer and alternative of equal quality, delivery of your purchase with a planned return for completion, a delayed completion timeframe or a full refund of items unsupplied.

3.7 Any variation or change made to the order after a final quote has been "accepted" is not guaranteed. We will make all reasonable effort to request a change to an order, however, should it not be on the original "accepted" order variations can be missed.

3.8 We only carry the authority and right to register a caravan in Victoria, using the Victorian driver's license and customer number of the purchaser. Should the goods not be registered in accordance with Victorian law and not be removed from the premises by way of flatbed truck or trade plate, a 7 day VicRoads moving permit shall be supplied upon request.

4. PRICE AND PAYMENT

4.1 In consideration for us providing the Caravan, you agree to pay us

- (a) the Deposits on acceptance of this Agreement;
- (b) the balance of the Price no later than 2 Business Days of notification of build completion; and
- (c) any other amount payable to us under this Agreement,
- (d) in the sale of a Stock Caravan, payment must be made finalised within 14 days of agreement to purchase.

- (e) Bank cheques will not be considered "Paid" until funds have cleared
- in accordance with the Payment Terms. All amounts are stated in Australian dollars and are inclusive of GST (unless otherwise stated).
- 4.2 Unless otherwise agreed between the Parties, the Price must be paid before we provide the Caravan to you.
- 4.3 If any payment has not been made in accordance with the Payment Terms, we may (at our absolute discretion):
- (f) charge interest at a rate equal to the Reserve Bank of Australia's cash rate from time to time plus 2% per annum, calculated daily and compounding monthly, on any such amounts unpaid after the due date for payment in accordance with the Payment Terms; and
- (g) after a period of 5 Business Days, cancel provision of the Caravan to you, and recover, as a debt due and immediately payable from you, our additional costs of doing so (including legal fees, debt collector fees and mercantile agent fees).
- 4.4 If and when applicable, GST payable on the Price will be set out in our invoice. You agree to pay the GST amount at the same time as you pay the Price.
- 5. OBLIGATIONS AND WARRANTIES**
- 5.1 Each Party represents, warrants and agrees that:
- (a) it has full legal capacity, right, authority and power to enter into this Agreement, to perform its obligations under this Agreement, and
- (b) this Agreement constitutes a legal, valid and binding agreement, enforceable in accordance with its terms.
- 5.2 You represent, warrant and agree:
- (a) to comply with this Agreement and all applicable Laws;
- (b) you must inspect the Caravan for any shortages, damage or non-compliance with the Specifications in the Schedule at the time of collection;
- (c) you must maintain the caravan and comply with the warranty policy set out by the manufacturer and if you do not use the caravan for its intended purpose, make any alterations to the original caravan supplied or misuse the caravan you may void your warranty.
- (d) if your Caravan is on backorder, that on commencement of the manufacture of the Caravan, you must pay for the Caravan in accordance with the Payment Terms. Commencement of manufacture begins once construction of the chassis has been started;
- (e) that your towing vehicle is legally capable of towing the Caravan and complies with all laws (including relevant transport laws);
- (f) that we are not responsible or liable for your towing vehicle compatibility with the Caravan;
- (g) that you have taken out the appropriate insurances to facilitate collection and use of the Caravan;
- (h) that you understand that all weights provided on bespoke caravans builds are estimates and not guaranteed, and that you have done your due research in understanding your weight requirements.
- (i) you have not relied on any representations or warranties made by us in relation to the Caravan (including as to whether the Caravan is or will be fit or suitable for your particular purposes), unless expressly stipulated in this Agreement or the Schedule;
- (j) that you will provide us with all information, instructions, cooperation and access reasonably necessary to enable us to provide the Caravan; and
- (k) that the information and documentation you provide to us is true, correct and complete.
- 6. COLLECTION, TITLE AND RISK**
- 6.1 You are responsible for collecting the Caravan from us, within 7 days of build completion. We will use reasonable endeavours to make available the Caravan at the collection location by the collection time as agreed between the Parties, and you agree to:
- (a) use reasonable endeavours to collect the Caravan from the collection location and by the collection date and time;
- (b) collect the Caravan with a vehicle that is legally capable (in accordance with any relevant transport laws) to tow the Caravan and is fitted with the appropriate towing equipment and connections; and
- (c) comply with any policies and procedures which apply at the collection location from which you collect the Caravan.
- (d) pay storage fees upon demand should you not collect the caravan by the date and time specified.
- (e) in the sale of a Stock Caravan, Caravan must be collected within 28 days of agreement to purchase, unless otherwise agreed in writing.
- 6.2 As between the Parties, you agree to pay for the reasonable costs of collecting the Caravan.
- 6.3 Title in the Caravan will remain with us until all amounts due and payable to us under this Agreement are paid by you in full. Risk in the Caravan will pass to you on collection of the Caravan by you at the collection location (as applicable).
- 6.4 You agree that we hold a general lien over any Caravan owned by us that are in your possession, for the satisfactory performance of your obligations under this Agreement. You agree that this Agreement and your

- obligations under this Agreement create a registrable security interest in favour of us, and you consent to the security interest (and any other registrable interest created in connection with this Agreement) being registered on any relevant securities register (and you must do all things to enable us to do so).
- 6.5 We offer a complimentary handover of the goods when collected by you from our premises. Should you choose to arrange alternative transport, the complimentary handover will be void and not offered.
- 7. TERMINATION**
- 7.1 We reserve the right to cancel the order at any point should we be unable to supply the Caravan or service, we may terminate the Agreement by providing you with written notice to you.
- 7.2 This Agreement will terminate immediately upon written notice by a Party (**Non-Defaulting Party**) if:
- the other Party (**Defaulting Party**) breaches a material term of this Agreement; or
 - the Defaulting Party is unable to pay its debts as they fall due.
- 7.3 Upon termination of this Agreement by us pursuant to clause 7.1:
- we will immediately cease providing the Caravan; and
 - refund your deposit.
- 7.4 Upon termination of this Agreement by you, or by us pursuant to clause 7.2:
- we will immediately cease providing the Caravan; and
 - without limiting your Consumer Law Rights, you agree that the Deposits made by you to us is not refundable to you.
- 7.5 The accrued rights, obligations and remedies of the Parties are not affected by termination of this Agreement.
- 7.6 This clause 7 will survive the termination or expiry of this Agreement.
- 8. YOUR CONSUMER LAW RIGHTS**
- Change of mind returns
- 8.1 We do not accept returns for change of mind or other circumstances. You may have rights under the Australian Consumer Law (see below) in addition to this clause.
- Australian Consumer Law
- 8.2 Certain legislation, including the Australian Consumer Law (**ACL**) in the *Competition and Consumer Act 2010* (Cth) and similar consumer protection laws and regulations, may confer you with rights, warranties, guarantees and remedies relating to the Caravan which cannot be excluded, restricted or modified (**Consumer Law Rights**). Nothing in this Agreement excludes your Consumer Law Rights as a consumer under the ACL.
- 8.3 You agree that our Liability for the Caravan is governed solely by the ACL and this Agreement.
- 8.4 Subject to your Consumer Law Rights, we exclude all implied warranties, representations and guarantees of any kind (whether statutory or otherwise), unless expressly stipulated in this Agreement.
- 8.5 Subject to your Consumer Law Rights and your express rights under this Agreement, all amounts paid by you for the Caravan are non-refundable.
- 8.6 The description of the Caravan in the Schedule will inform you whether the manufacturer provides a warranty for that Caravan. Unless otherwise stated, if a warranty applies, the manufacturer warrants that the Caravan will be free from manufacturing defects (**Manufacturer's Warranty**) for the period set out on the Schedule (**Warranty Period**). If there is a defect in the Caravan within the Warranty Period, the manufacturer may provide certain remedies, as set out in the Schedule or Specifications.
- 8.7 If the Manufacturer's Warranty applies, please contact us with details of the defect in the Caravan, alongside any pictures and additional information which we may request (e.g. proof of purchase), and we will liaise with the manufacturer as to your claim under the Manufacturer's Warranty. The manufacturer may require you to return the defective Caravan directly to them and the costs of the return may need to be borne by you.
- 8.8 You agree that we do not provide any warranty against defects in the Caravan, and, to the maximum extent permitted by law, our obligations to you for any defects in the Caravan is limited to the remedies you have available under the Australian Consumer law.
- 8.9 This clause 8 will survive the termination or expiry of this Agreement.
- 9. LIABILITY & INDEMNITY**
- 9.1 You may have rights under the Australian Consumer Law (see above), and nothing in this clause attempts to modify or exclude those rights.
- 9.2 Despite anything to the contrary, to the maximum extent permitted by law:
- our maximum aggregate liability arising from or in connection with the Agreement (including the Caravan and/or the subject matter of the Agreement) will be limited to, and must not exceed, the portion of the Price paid by you to us for the Caravan the subject of the relevant claim; and
 - we will not be liable to you for any loss of profit (including anticipated profit), loss of benefit (including anticipated benefit), loss of revenue, loss of business, loss of goodwill, loss of opportunity, loss of savings (including anticipated savings), loss of reputation and/or loss of use,

- whether under statute, contract, equity, tort (including negligence), indemnity or otherwise.
- 9.3 Despite anything to the contrary, to the maximum extent permitted by law, we will not be liable for, and you waive and release us from and against any liability caused or contributed to by, arising from or connected with any event or circumstance which is beyond our reasonable control including but not limited to, acts of God including fire, hurricane, typhoon, earthquake, landslide, tsunami, mudslide or other catastrophic natural disaster, civil riot, civil rebellion, revolution, terrorism, insurrection, militarily usurped power, act of sabotage, act of a public enemy, war (whether declared or not) or other like hostilities, ionising radiation, contamination by radioactivity, nuclear, chemical or biological contamination, any widespread illness, quarantine or government sanctioned ordinance or shutdown, pandemic (including COVID-19 and any variations or mutations to this disease or illness) or epidemic.
- 9.4 Despite anything to the contrary, to the maximum extent permitted by law, we will have no liability, and you release and discharge us from all liability, arising from or in connection with any:
- loss of, or damage to, the Caravan, or any injury or loss to any person;
 - failure or delay in providing the Caravan; or
 - breach of the Agreement or any law, where caused or contributed to by any;
 - event or circumstance beyond our reasonable control; or
 - act or omission of you or your related parties.
- 9.5 Despite anything to the contrary, to the maximum extent permitted by law, you are liable for and agree to indemnify us and hold us harmless, in respect of any Liability that we may suffer, incur or are otherwise liable for as a result of, or in connection with:
- your use of the Caravan including, without limitation, any property damages or personal injury or loss, resulting from your negligence, mistake or omission; and
 - any breach of this Agreement or any laws by you.
- 9.6 This clause 9 will survive the termination or expiry of this Agreement.
- 10. INTELLECTUAL PROPERTY**
- 10.1 All intellectual property (including copyright) developed, adapted, modified or created by us or our personnel (including in connection with the Agreement and the Caravan) (**Our Intellectual Property**) will at all times vest, or remain vested, in us.
- 10.2 We authorise you to use Our Intellectual Property solely for your own personal use, and in the manner in which it was intended to be used.
- 10.3 You must not, without our prior written consent:
- copy, in whole or in part, any of Our Intellectual Property;
 - reproduce, retransmit, distribute, disseminate, sell, publish, broadcast or circulate any of Our Intellectual Property to any third party; or
 - breach any intellectual property rights connected with the Agreement or the Caravan, including (without limitation) altering or modifying any of Our Intellectual Property or creating derivative works from any of Our Intellectual Property.
- 10.4 This clause 10 will survive the termination or expiry of this Agreement.
- 11. CONFIDENTIALITY**
- 11.1 Subject to clause 11.2, you must (and must ensure that your Personnel do) keep confidential, and not use or permit any unauthorised use of, all Confidential Information.
- 11.2 Clause 11.1 does not apply where the disclosure is required by law or the disclosure is to a professional adviser in order to obtain advice in relation to matters arising in connection with this Agreement and provided that you ensure the adviser complies with the terms of clause 11.1.
- 11.3 This clause 11 will survive the termination or expiry of this Agreement.
- 12. TRUST PROVISIONS**
- 12.1 Each Party described in this Agreement as a trustee (**Trustee**) enters into this Agreement only in its capacity as a trustee of the trust of which it is described as the Trustee (**Trust**).
- 12.2 Subject to clause 12.3, and despite any other provision of this Agreement, a Liability arising under or in connection with this Agreement is limited and can be enforced against a Trustee only to the extent to which the Trustee is indemnified out of the assets of the Trust.
- 12.3 The limitation set out in clause 12.2 does not apply where the Trustee's right to indemnification is reduced or lost as a result of fraud, breach of trust or breach of duty by the Trustee.
- 12.4 This clause 12 will survive the termination or expiry of this Agreement.
- 13. GENERAL**
- 13.1 **Amendment:** This Agreement may only be amended in writing and as agreed by the Parties.
- 13.2 **Assignment:** Subject to clause 13.3, a Party must not assign or deal with the whole or any part of its rights or

obligations under this Agreement without the prior written consent of the other Party (such consent is not to be unreasonably withheld).

- 13.3 **Assignment of Debt:** You agree that we may assign or transfer any debt owed by you to us, arising under or in connection with this Agreement, to a debt collector, debt collection agency, or other third party.
- 13.4 **Disputes:** A Party may not commence court proceedings relating to any dispute arising from this Agreement (**Dispute**) without first meeting with the other Party to seek (in good faith) to resolve the Dispute. Nothing in this clause will operate to prevent a Party from seeking urgent injunctive or equitable relief from a court of appropriate jurisdiction, or will operate to prevent a Party from taking steps to recover any debt.
- 13.5 **Entire agreement:** Subject to your Consumer Law Rights, this Agreement contains the entire understanding between the Parties, and the Parties agree that no representation or statement has been made to, or relied upon by, either of the Parties, except as expressly stipulated in this Agreement, and this Agreement supersedes all previous discussions, communications, negotiations, understandings, representations, warranties, commitments and agreements, in respect of its subject matter.
- 13.6 **Further assurance:** Each Party must promptly do all things and execute all further instruments necessary to give full force and effect to this Agreement and their obligations under it.
- 13.7 **Governing law:** This Agreement is governed by the laws of Victoria. Each Party irrevocably and unconditionally submits to the exclusive jurisdiction of the courts operating in Victoria and any courts entitled to hear appeals from those courts and waives any right to object to proceedings being brought in those courts.
- 13.8 **Joint and several Liability:** Where you constitute two or more individuals or entities, you will each be jointly and severally liable under this Agreement.
- 13.9 **Notices:** Any notice given under this Agreement must be in writing addressed to the relevant address last notified by the recipient to the Parties. Any notice may be sent by standard post or email, and will be deemed to have been served on the expiry of 48 hours in the case of post, or at the time of transmission in the case of transmission by email.
- 13.10 **Precedence:** To the extent there is any ambiguity, discrepancy or inconsistency in or between the terms of the Agreement and the Schedule, the Agreement will prevail.
- 13.11 **Severance:** If a provision of this Agreement is held to be void, invalid, illegal or unenforceable, that provision is to be read down as narrowly as necessary to allow it to be valid or enforceable, failing which, that provision (or that part of that provision) will be severed from this

Agreement without affecting the validity or enforceability of the remainder of that provision or the other provisions in this Agreement.

14. DEFINITIONS

- 14.1 In this Agreement, unless the context otherwise requires, capitalised terms have the meanings given to them in the Schedule, and:

Agreement means these terms and conditions, which includes the Schedule, and any documents attached to, or referred to in, each of them.

Business Days means a day on which banks are open for general banking business in Victoria, excluding Saturdays, Sundays and public holidays.

Caravan means the caravan we agree to provide under this Agreement, as further particularised in the Schedule.

Confidential Information includes information which:

- (a) is disclosed to you in connection with this Agreement at any time;
- (b) is prepared or produced under or in connection with this Agreement at any time;
- (c) relates to our business, assets or affairs; or
- (d) relates to the subject matter of, the terms of and/or any transactions contemplated by this Agreement,

whether or not such information or documentation is reduced to a tangible form or marked in writing as "confidential", and howsoever you receive that information.

Deposit means the deposit as set out in the Schedule.

GST has the meaning which it is given in the *A New Tax System (Goods and Services Tax) Act 1999* (Cth).

Liability means any expense, cost, liability, loss, damage, claim, notice, entitlement, investigation, demand, proceeding or judgment (whether under statute, contract, equity, tort (including negligence), indemnity or otherwise), howsoever arising, whether direct or indirect and/or whether present, unascertained, future or contingent and whether involving a third party or a Party to this Agreement or otherwise.

Payment Terms means the Price, method, special conditions and timing of payment, as set out in the Schedule.

Personnel means, in respect of a Party, any of its employees, consultants, suppliers, subcontractors or agents, but in respect of you, does not include us.

Price means the price set out in the Schedule for the provision of the Caravan and includes any Deposit.

Schedule means the contract of sale schedule or quote (including any online quote) to which this Agreement is attached by reference.

Specifications means any specifications for the Caravan, and, if applicable, as further particularised in the Schedule.

Contact us for further details:

Wildtrail Caravans

6b Hi-Tech Place, Seaford, Victoria, Australia, 3198

warranties@wildtrail.com.au

03 9785 1528

Stock Caravan means the caravan purchased complete direct from the premises.