

**DAVIS HARDWARE AND FARM PTY LTD, T/A TOODYAY HARDWARE AND FARM STORE CREDIT ACCOUNT TERMS AND CONDITIONS 2024:**

THE FOLLOWING TERMS AND CONDITIONS WILL SUPERSEDE ALL OTHER TERMS AND CONDITIONS AND TERMS OF TRADE 30 DAYS FROM JANUARY 1<sup>ST</sup> 2024.

EFFECTIVE JANUARY 1<sup>ST</sup> 2024, ALL CLAUSES WITHIN THE SUPERSEDED TERMS OF SERVICE AND TERMS OF TRADE WHICH FALL OUTSIDE OF NEW AND CURRENT LEGISLATION ARE WITHDRAWN.

**DEFINITIONS:**

"Goods" REFERS TO ALL PRODUCTS AND SERVICES THAT ARE AVAILABLE FOR PURCHASE OR LEASE FROM THE PROPRIETORS.

"PROPRIETORS" REFERS TO DAVIS HARDWARE AND FARM PTY LTD TRADING AS TOODYAY HARDWARE AND FARM OR THEIR AUTHORISED REPRESENTATIVES.

"CUSTOMER", "CUSTOMERS" REFERS TO INDIVIDUAL PRIVATE PERSONS, PERSONS AUTHORISED OR EMPLOYEES ACTING ON BEHALF OF A TRUST, CORPORATION, PUBLIC SERVICE OR ANY OTHER ENTITY WHO SEEKS TO ENQUIRE ABOUT, REQUEST A QUOTE FOR, PLACE AND ORDER FOR OR PURCHASE ANY GOODS OR SERVICES FROM THE PROPRIETORS.

"DOCUMENT" REFERS TO THIS CONTRACT UNLESS STATED OTHERWISE WITHIN THE CLAUSE IN QUESTION.

"CREDIT" REFERS TO A LINE OF STORE CREDIT OFFERED TO THE CUSTOMER BY THE PROPRIETORS WHEN CERTAIN CONDITIONS ARE MET.

"PURCHASE", "PURCHASES" AND "PURCHASED" REFER TO THE TIME THE CUSTOMER RECEIVED ANY GOODS FROM THE PROPRIETORS.

"STATEMENT" REFERS TO THE TOTAL OF ALL CREDIT BALANCES OWED BY THE CUSTOMER TO THE PROPRIETORS AT THE END OF EACH MONTH.

"PAYMENT" REFERS TO THE POINT WHERE GOODS PURCHASED BY THE CUSTOMER WERE PAID FOR BY THE CUSTOMER.

"PERSONAL INFORMATION" REFERS TO ALL CORRESPONDENCE, VERBAL COMMUNICATIONS, TELECOMMUNICATIONS, WRITTEN FORMS AND ALL OTHER INFORMATION GATHERED BY THE PROPRIETORS AND THE CUSTOMER IN THE COURSE OF CONDUCTING BUSINESS.

**1) ACCEPTANCE CLAUSE**

1A) BY ENGAGING IN THIS CONTRACT YOU AGREE TO BE BOUND BY ALL LAWFUL TERMS AND CONDITIONS FOUND HEREIN

1B) EACH CUSTOMER IS WITHIN THEIR RIGHTS TO NEGOTIATE ANY TERMS FOUND WITHIN THIS DOCUMENT PRIOR TO ACCEPTANCE OR THE DOCUMENT TAKING EFFECT. IF THE CUSTOMER DOES NOT DO SO THEN THE DOCUMENT IS TO BE CONSIDERED ACCEPTED OR WILL GO INTO EFFECT IN ITS ORIGINAL FORM. THE PROPRIETORS HAVE THE RIGHT TO AGREE TO OR REFUSE ANY CHANGES PROPOSED BY THE CUSTOMER DURING NEGOTIATION. IF THE CUSTOMER AND THE PROPRIETORS CANNOT COME TO AN AGREEMENT THEN THE CUSTOMER IS UNDER NO OBLIGATION TO ENTER INTO THIS CONTRACT. IF THE CUSTOMER AND THE PROPRIETORS CANNOT COME TO AN AGREEMENT AND THE CUSTOMER DOES NOT ENTER INTO THE CONTRACT THEN NO CREDIT WILL BE ISSUED.

1C) THE CUSTOMER IS TO HAVE COMPLETED A CREDIT APPLICATION FORM THAT HAS BEEN ACCEPTED AND APPROVED BY THE PROPRIETOR BEFORE ANY GOODS ARE PURCHASED USING CREDIT.

1D) ALL PRIOR AGREEMENTS ENTERED INTO BETWEEN THE CUSTOMER AND THE PROPRIETORS ARE TO BE SUPERSEDED BY THIS AGREEMENT 30 DAYS FROM THE BEGINNING OF JANUARY 2024.

1E) THE PROPRIETORS ARE WITHIN THEIR RIGHTS TO ALTER THIS AGREEMENT WITH 30 DAYS OF NOTICE. EACH CUSTOMER IS WITHIN THEIR RIGHTS TO NEGOTIATE ANY TERMS FOUND WITHIN ANY ALTERED DOCUMENT PRIOR TO ACCEPTANCE OR THE ALTERED DOCUMENT TAKING EFFECT. IF THE CUSTOMER DOES NOT DO SO THEN THE DOCUMENT IS TO BE CONSIDERED ACCEPTED OR WILL GO INTO EFFECT IN ITS ALTERED FORM. THE PROPRIETORS HAVE THE RIGHT TO AGREE TO OR REFUSE ANY CHANGES PROPOSED BY THE CUSTOMER DURING NEGOTIATION. IF THE CUSTOMER AND THE PROPRIETORS CANNOT COME TO AN AGREEMENT THEN THE CUSTOMER IS UNDER NO OBLIGATION TO ENTER INTO ANY ALTERED CONTRACT. IF THE CUSTOMER AND THE PROPRIETOR CANNOT COME TO AN AGREEMENT AND THE CUSTOMER DOES NOT ENTER INTO THE CONTRACT THEN CREDIT MAY BE WITHDRAWN BY THE PROPRIETORS.

1F) THE CUSTOMER HAS THE RIGHT TO REQUEST TO RENEGOTIATE ANY TERMS FOUND WITHIN THIS DOCUMENT AT ANY POINT. IF THE CUSTOMER DOES NOT DO SO THEN THE DOCUMENT WILL REMAIN IN EFFECT IN ITS ORIGINAL FORM FOR THE ENTIRE TIME THE CUSTOMER MAINTAINS A CREDIT ACCOUNT WITH THE PROPRIETORS. THE PROPRIETORS HAVE THE RIGHT TO AGREE TO OR REFUSE ANY CHANGES PROPOSED BY THE CUSTOMER DURING RENEGOTIATION. IF THE CUSTOMER AND THE PROPRIETORS CANNOT COME TO AN AGREEMENT THEN THE CUSTOMER IS UNDER NO OBLIGATION TO REMAIN BOUND BY THIS DOCUMENT. IF THE CUSTOMER AND THE PROPRIETORS CANNOT COME TO AN AGREEMENT AND THE CUSTOMER DOES NOT WISH TO CONTINUE WITH THE CONTRACT IN ITS FORM ORIGINALLY AGREED TO THEN THE CUSTOMER CREDIT WILL BE RESCINDED BY THE PROPRIETOR AND THE CUSTOMER MUST PAY ALL OUTSTANDING CREDIT BALANCES.

1G) ANY ALTERATIONS TO THIS DOCUMENT MADE DURING NEGOTIATIONS OR RENEGOTIATIONS MUST BE SIGNED AND DATED BY BOTH THE CUSTOMER AND THE PROPRIETORS. IF ANY ALTERATIONS TO THIS DOCUMENT ARE DISCOVERED THAT HAVE NOT BEEN SIGNED AND DATED BY BOTH THE CUSTOMER AND THE PROPRIETORS THEN THIS DOCUMENT WILL BE CONSIDERED INVALID AND THE CUSTOMERS CREDIT WILL BE SUSPENDED UNTIL A NEW DOCUMENT CAN BE SIGNED.

1H) THE PROPRIETORS HAVE THE RIGHT TO SET THE CREDIT LIMIT OF ANY ACCEPTED CREDIT APPLICATION. THIS LIMIT MAY BE LOWER THAN BUT NOT GREATER THAN ANY LIMIT REQUESTED BY THE CUSTOMER ON THEIR APPLICATION FORM. CREDIT LIMIT IS SUBJECT TO CHANGE UPON REQUEST OF THE CUSTOMER OR BY THE DISCRETION OF THE PROPRIETORS.

1I) BOTH THE CUSTOMER AND THE PROPRIETORS AFFIRM THEY ARE AUTHORISED TO ENTER INTO A CREDIT AGREEMENT AND AGREE TO THE TERMS LAID OUT IN THIS DOCUMENT.

1J) THE CUSTOMER AND THE PROPRIETORS MAY SIGN DOCUMENTS DIGITALLY IN ACCORDANCE WITH THE ELECTRONIC TRANSACTION ACT OF 2011

**2) PURCHASES, PAYMENTS AND RETENTION OF TITLE ON GOODS CLAUSE**

2A) GOODS PURCHASED BY THE CUSTOMER REMAIN THE PROPERTY OF THE PROPRIETORS UNTIL SUCH TIME AS PAYMENT HAS BEEN MADE TO THE PROPRIETORS.

2B) ONCE PAYMENT IS MADE BY THE CUSTOMER TO THE PROPRIETORS OF ANY OUTSTANDING CREDIT BALANCES RELATING TO THE PURCHASE OF SAID GOODS THEN THE PROPRIETORS WILL RELINQUISH TITLE OF SAID GOODS TO THE CUSTOMER.

2C) THE CUSTOMER MAY NOT DISPOSE OF, DESTROY OR CONSUME ANY GOODS PURCHASED WHERE AN OUTSTANDING CREDIT BALANCE STILL EXISTS. IF THE CUSTOMER DOES DISPOSE OF, DESTROY OR CONSUME ANY GOODS PURCHASED WHERE AN OUTSTANDING CREDIT BALANCE STILL EXISTS, EITHER BY DESIGN OR BY ACCIDENT, THE PROPRIETORS ARE ENTITLED TO COMPENSATION NOT EXCEEDING THE CREDIT BALANCE STILL OWED ON SAID GOODS.

2D) CLAUSE 2C DOES NOT APPLY TO GOODS SUCH AS: ANIMAL FEED, HERBICIDES, INSECTICIDES, ANIMAL MEDICAL PRODUCTS, WORKSHOP CHEMICALS, CEMENT AND CONSTRUCTION MATERIALS, PAINT PRODUCTS, POOL AND HOUSEHOLD CHEMICALS, AND OTHER SUCH PRODUCTS DESIGNED TO BE CONSUMED.

2E) THE CUSTOMER MAY NOT ENCUMBER, USE AS COLLATERAL OR OTHERWISE RELINQUISH POSSESSION OF ANY GOODS PURCHASED FROM THE PROPRIETORS UNTIL PAYMENT HAS BEEN RECEIVED BY THE PROPRIETORS FOR ALL OUTSTANDING CREDIT BALANCES RELATING TO SAID GOODS.

2F) A STATEMENT OF THE TOTAL CREDIT BALANCE OWED BY THE CUSTOMER TO THE PROPRIETORS WILL BE ISSUED AT THE START OF EACH MONTH. THE STATEMENT IS TO BE PAID 30 DAYS FROM THE START OF EACH MONTH UNLESS THE MONTH IS FEBRUARY IN WHICH CASE THE STATEMENT IS TO BE PAID 28 DAYS FROM THE START OF THE MONTH.

2G) THE STATEMENT IS PAYABLE ONLY BY CASH, EFTPOS TRANSACTION, BANK CHEQUE OR BANK TRANSFER. NO OTHER PAYMENT METHOD WILL BE ACCEPTED.

**3) PRIVACY CLAUSE**

3A) THE PROPRIETORS MAY COLLECT THE CUSTOMERS PERSONAL INFORMATION FOR THE PURPOSE OF CREATING AND MAINTAINING A CREDIT ACCOUNT IN THE NAME OF THE CUSTOMER.

3B) THE PROPRIETORS MAY ONLY COLLECT RELEVANT INFORMATION THAT IS NECESSARY TO CONDUCT BUSINESS BETWEEN THE PROPRIETORS AND THE CUSTOMER.

3C) THE PROPRIETORS MAY DISCLOSE THE CUSTOMERS PERSONAL INFORMATION TO RELEVANT PRIVATE OR PUBLIC ENTITIES ONLY IF IT IS NECESSARY FOR THE PROPRIETORS IN THE CONDUCTING OF BUSINESS. ENTITIES MAY INCLUDE BUT ARE NOT LIMITED TO "CREDIT REPORTING AGENCIES", "DEBT RECOVERY AGENCIES" AND "GOVERNMENT AGENCIES" WITH LEGAL AUTHORITY.

3D) THE PROPRIETORS MAY NOT SELL, DISCLOSE OR DISTRIBUTE THE PERSONAL INFORMATION OF THE CUSTOMER FOR COMMERCIAL OR FINANCIAL GAIN WITHOUT FULL AUTHORITY TO DO SO FROM THE CUSTOMER.

3E) THE CUSTOMER MAY NOT DISCLOSE PUBLICLY ANY INFORMATION DISCUSSED WITH THE PROPRIETORS DURING ANY NEGOTIATIONS OR OF ANY ALTERATIONS IN THE CREATION OF THIS DOCUMENT.

**4) LATE PAYMENT AND DEFAULT CLAUSE**

4A) IF THE CUSTOMER CANNOT MAKE PAYMENT BEFORE THE 30 DAYS FROM THE START OF THE MONTH, OR 28 DAYS FROM THE START OF FEBRUARY, THE OUTSTANDING CREDIT BALANCE WILL BECOME OVERDUE.

4B) ALL OUTSTANDING CREDIT BALANCES ARE TO BE SHOWN ON THE CUSTOMERS STATEMENT.

4C) INTEREST OF 2.5% WILL ACCRUE MONTHLY ON ALL BALANCES GREATER THAN 58 DAYS. INTEREST SHALL COMPOUND MONTHLY FOR THE DURATION THAT THE CUSTOMER MAINTAINS AN OVERDUE CREDIT BALANCE.

4D) THE CUSTOMER IS TO ARRANGE PAYMENT OF ALL OVERDUE CREDIT BALANCES AS SOON AS POSSIBLE WITH THE PROPRIETORS.

4E) THE PROPRIETORS RESERVE THE RIGHT TO SUSPEND THE CUSTOMERS CREDIT TEMPORARILY OR PERMANENTLY IF THE CUSTOMERS HAS AN OVERDUE CREDIT BALANCE.

4F) IF THE CUSTOMER IS NOT ABLE TO PAY THE FULL OVERDUE CREDIT BALANCE THEN A PAYMENT PLAN MUST BE ARRANGED BETWEEN THE CUSTOMER AND THE PROPRIETOR TO BE PUT IN PLACE UNTIL ALL OUTSTANDING CREDIT BALANCES HAVE BEEN PAID IN FULL.

4G) IF THE CUSTOMER IS NOT ABLE TO ENTER INTO OR MAINTAIN A PAYMENT PLAN THEN THE PROPRIETORS MAY SEEK ALL REASONABLE MEANS TO RECOVER MONEY OR ASSETS TO THE VALUE OF ANY OVERDUE CREDIT BALANCE OWED TO THE PROPRIETORS BY THE CUSTOMER. METHODS MAY INCLUDE BUT ARE NOT LIMITED TO SOLICITING THE SERVICES OF "DEBT COLLECTION ENTITIES", SOLICITING THE SERVICES OF "DEBT PURCHASING ENTITIES" AND "LEGAL ACTION".

4H) ALL COSTS INCURRED BY THE PROPRIETORS IN RECOVERY OF ANY OUTSTANDING CREDIT BALANCE FROM THE CUSTOMER WILL BE PASSED ON TO THE CUSTOMER AND WILL BE INCLUDED IN ANY OUTSTANDING CREDIT BALANCE RECOVERED.

**5) SUSPENSION AND TERMINATION CLAUSE**

5A) THE CUSTOMER MAY TERMINATE THEIR CREDIT ACCOUNT AND RENDER THIS DOCUMENT INVALID WITH 14 DAYS OF NOTICE AND ONLY WHEN THERE IS NO CURRENT OR OVERDUE CREDIT BALANCE

5B) THE CUSTOMER MAY TEMPORARILY SUSPEND THEIR CREDIT ACCOUNT WITHOUT NOTICE. DURING THIS PERIOD THE CUSTOMER MUST STILL MAKE PAYMENTS ON ALL CURRENT AND OUTSTANDING CREDIT BALANCES AS DEFINED IN CLAUSE 2A TO 2G.

5C) THE PROPRIETORS IN THEIR DISCRETION MAY IMMEDIATELY SUSPEND THE CREDIT ACCOUNT OF THE CUSTOMER IF THE CUSTOMER HAS AN OVERDUE CREDIT BALANCE. DURING THIS PERIOD THE CUSTOMER MUST STILL MAKE PAYMENTS ON ALL CURRENT AND OUTSTANDING CREDIT BALANCES AS DEFINED IN CLAUSE 2A TO 2G.

5D) THE PROPRIETORS IN THEIR DISCRETION MAY IMMEDIATELY TERMINATE THE CREDIT ACCOUNT OF THE CUSTOMER, IF THE CUSTOMER HAS HAD THEIR CREDIT ACCOUNT SUSPENDED UNDER CLAUSE 5C, ONCE THEIR OVERDUE AND CURRENT CREDIT BALANCES HAVE BEEN PAID.

5E) THE PROPRIETORS MAY SEEK TO SUSPEND CREDIT ACCOUNTS OF THE CUSTOMER FOR ANY REASON, NOT RELATED TO CLAUSE 5C OR CLAUSE 5D, WITH 14 DAYS OF NOTICE. DURING THIS PERIOD THE CUSTOMER MUST STILL MAKE PAYMENTS ON ALL CURRENT AND OUTSTANDING CREDIT BALANCES AS DEFINED IN CLAUSE 2A TO 2G.

5F) THE PROPRIETORS MAY SEEK TO TERMINATE CREDIT ACCOUNT OF THE CUSTOMER AND RENDER THIS DOCUMENT INVALID FOR ANY REASON, NOT RELATED TO CLAUSE 5C OR CLAUSE 5D, WITH 14 DAYS OF NOTICE. DURING THIS PERIOD THE CUSTOMER MUST STILL MAKE PAYMENTS ON ALL CURRENT AND OUTSTANDING CREDIT BALANCES AS DEFINED IN CLAUSE 2A TO 2G.

5G) IF THE CUSTOMER BECOMES DECEASED THE CUSTOMERS CREDIT ACCOUNT MUST BE SETTLED WITH THE PROPRIETOR BY THE CUSTOMERS ESTATE. ONCE THE OUTSTANDING CREDIT BALANCE HAS BEEN PAID IN FULL THE CREDIT ACCOUNT WILL BE TERMINATED.

5H) IF THE CUSTOMER BECOMES INCAPABLE OF TAKING CARE OF THEMSELVES THEN THE PERSON(S) NOMINATED BY THE CUSTOMERS ENDURING POWER OF GUARDIANSHIP OR THE ENDURING POWER OF ATTORNEY SHALL ENSURE THAT THE OUTSTANDING CREDIT BALANCE OF THE CUSTOMER IS PAID TO THE PROPRIETORS. ONCE THE OUTSTANDING CREDIT BALANCE HAS BEEN PAID IN FULL THE CREDIT ACCOUNT WILL BE TERMINATED.

5I) IF, IN RELATION TO CLAUSE 5H AND CLAUSE 5I, THE OUTSTANDING OR OVERDUE CREDIT BALANCE OF THE CUSTOMER IS LESS THAN ONE HUNDRED DOLLARS THE PROPRIETORS WILL FORGIVE THE CREDIT BALANCE OF THE CUSTOMER.

5J) IN THE EVENT THAT CONTROL OR AUTHORITY OF THE CUSTOMER CHANGES, I.E. THE DIRECTORSHIP OF AN ENTITY CHANGES, THEN THE PROPRIETORS WILL SUSPEND THE CREDIT ACCOUNT OF THE CUSTOMER UNTIL THE NEW CONTROLLING AUTHORITY SIGNS AND RESUBMITS THE RELEVANT FORMS WITH UPDATED PERSONAL INFORMATION. DURING THIS PERIOD THE CUSTOMER MUST STILL MAKE PAYMENTS ON ALL CURRENT AND OUTSTANDING CREDIT BALANCES AS DEFINED IN CLAUSE 2A TO 2G.

5K) IF THE CUSTOMER BREAKS THE TERMS OF THIS DOCUMENT ONCE AGREED UPON WITH NO AUTHORITY TO DO SO FROM THE PROPRIETOR THEN THE PROPRIETORS IN THEIR DISCRETION MAY IMMEDIATELY SUSPEND THE CREDIT ACCOUNT OF THE CUSTOMER IF THE CUSTOMER. DURING THIS PERIOD THE CUSTOMER MUST STILL MAKE PAYMENTS ON ALL CURRENT AND OUTSTANDING CREDIT BALANCES AS DEFINED IN CLAUSE 2A TO 2G.

5L) THE PROPRIETORS IN THEIR DISCRETION MAY IMMEDIATELY TERMINATE THE CREDIT ACCOUNT OF THE CUSTOMER, IF THE CUSTOMER HAS HAD THEIR CREDIT ACCOUNT SUSPENDED UNDER CLAUSE 5K, ONCE THEIR OVERDUE AND CURRENT CREDIT BALANCES HAVE BEEN PAID.

**6) MISCELLANEOUS CLAUSES**

6A) THE CUSTOMER HAS THE RIGHT TO REQUEST THE PROPRIETORS TO REQUEST AN "ORDER NUMBER", "ORDER REFERENCE" OR "TAKEN BY" WHEN THE CUSTOMER USES THEIR CREDIT ACCOUNT FOR THE SOLE BENEFIT OF THE CUSTOMER.

6B) CLAUSE 6A IS FOR THE BENEFIT OF THE CUSTOMER AND THE FAILURE OF THE PROPRIETORS TO RECORD AN "ORDER NUMBER", "ORDER REFERENCE" OR "TAKEN BY" DOES NOT PERMIT THE CUSTOMER TO REFUSE OR WITHHOLD PAYMENT OF THE TRANSACTION AS DEFINED IN CLAUSE 2A TO 2G.

6C) THE PROPRIETORS ACCEPT NO LIABILITY FOR ALLEGED OR ACTUAL ERRORS OR OMISSIONS THAT MAY HAVE BEEN MADE INADVERTENTLY AS THE RESULT OF A MISTAKE. INADVERTENT ERRORS AND OMISSIONS INCLUDE BUT ARE NOT LIMITED TO: INCORRECT SHELF PRICING, INCORRECT PRODUCT INFORMATION AND ACCOUNTING ERRORS.

6D) IF THE PROPRIETORS MAKE AN ERROR OR OMISSION, AS DEFINED IN 6C, IN NO WAY IS THIS DOCUMENT VOIDED.

6E) IN THE EVENT THE CUSTOMER PLACES AN ORDER WITH THE PROPRIETORS FOR GOODS NOT REGULARLY CARRIED IN STORE BY THE PROPRIETORS THE CUSTOMER WILL HAVE NO MORE THAN 48 HOURS IN WHICH TO REALIZE AN ERROR, MAKE AN ALTERATION OR CANCEL THE ORDER. AFTER 48 HOURS THE ORDER WILL BE CONSIDERED CORRECT AND THE CUSTOMER MUST GO AHEAD WITH THE ORDER AND MAKE PAYMENT AS DEFINED IN CLAUSE 2A TO 2G.

6F) THIS DOCUMENT IS SUBJECT TO CHANGE PENDING LEGAL ADVICE, CHANGES IN LEGISLATION, AND CHANGES IN CIRCUMSTANCES. IF ANY CLAUSE WITHIN THIS DOCUMENT NOW OR IN THE FUTURE UNINTENTIONALLY VIOLATE ANY STATE OR FEDERAL FAIR TRADE LAWS, RULINGS, REGULATIONS OR ACTS, OR IF ANY WORDING IN THIS DOCUMENT CAN BE INTERPRETED IN A WAY THAT WOULD DO SO, THEN THAT CLAUSE IS TO BE IMMEDIATELY REGARDED AS REDUNDANT BY THE CUSTOMER AND THE PROPRIETORS PENDING LEGAL ADVICE.