

Mercedes-Benz TradeClub

Member Terms and Conditions.

1. Recitals

- 1.1 The Mercedes-Benz TradeClub Program is a program designed to enable Eligible Customers to purchase certain TradeClub Promoted Part(s) through Participating Mercedes-Benz TradeClub Retailers at or below special Recommended TradeClub Price(s). Your membership in the Mercedes-Benz TradeClub Program is subject to these terms and conditions.
- 1.1 You are taken to have accepted and will be immediately bound by these terms and conditions if you submit an application to become a TradeClub Member, you are accepted as a TradeClub Member or you otherwise accept these terms and conditions all of which shall constitute acceptance of the terms and conditions contained herein.

2. TradeClub Membership

- 2.1 Mercedes-Benz TradeClub membership is limited to Eligible Customers only. Eligible Customers must provide evidence that they hold a valid Australian Business Number ("ABN") and/or Australian Company Number ("ACN") where applicable.
- 2.2 Eligible Customers must fall under one of the below categories and must not, and will not be, purchasing TradeClub Promoted Parts for the purpose of resale:
 - (a) independent workshop;
 - (b) independent bodyshop;
 - (c) independent workshop and bodyshop;
 - (d) fleet workshop;
 - (e) franchised fast-fit or service outlet;
 - (f) mobile mechanic/servicing;
 - (g) used car sales outlet; or
 - (h) eligible fleet customer as nominated by Mercedes-Benz.
- 2.3 There is no joining fee or ongoing annual fee to become a Mercedes-Benz TradeClub Member.
- 2.4 In order to register for the Mercedes-Benz TradeClub Program, Eligible Customers must complete all mandatory fields on the TradeClub Registration Form and accept the Mercedes-Benz TradeClub Terms and Conditions as provided by Mercedes-Benz from time to time. By submitting your TradeClub Registration Form, you represent and warrant to Mercedes-Benz that:
 - (a) The person submitting the TradeClub Registration Form on behalf of the Eligible Customer is an Authorised Representative and is authorised to do so;
 - (b) the information contained in your TradeClub Registration Form is true and correct;
 - (c) the information contained in your TradeClub Registration Form is not misleading to any extent; and
 - (d) the information contained in your TradeClub Registration Form does not breach any third party rights (including but not limited to intellectual property rights or individual rights under the Privacy Act (Cth)).
- 2.5 Eligibility for Mercedes-Benz TradeClub will be set and determined at Mercedes-Benz's sole discretion from time to time and Mercedes-Benz and nominated Participating Mercedes-Benz TradeClub Retailers reserve the right to refuse your application for Membership but shall not unreasonably reject it. If your application for Membership is rejected, you will be notified in writing by Mercedes-Benz.
- 2.6 Upon your application being accepted by Mercedes-Benz, you become a TradeClub Member.

- 2.7 As a TradeClub Member you agree to provide us with up to date and accurate information relevant to your Membership including your business operations. It is your responsibility to ensure your details are updated by logging into your Tradeclub Account online or by advising your Participating Mercedes-Benz TradeClub Retailer.

3. Member Benefits and TradeClub Pricing

- 3.1 By becoming a TradeClub Member, you are able to purchase TradeClub Promoted Parts from Participating Mercedes-Benz TradeClub Retailers at or below Recommended TradeClub Prices (as updated from time to time). The Recommended TradeClub Price is only available to TradeClub Members at participating Mercedes-Benz TradeClub Retailers.
- 3.2 In order to purchase the TradeClub Promoted Parts at or below the Recommended TradeClub Price, you must produce your TradeClub Membership Card or provide your Participating Retailer your unique TradeClub membership number at the time of purchasing the TradeClub Promoted Parts.
- 3.3 If you are unable to produce either your TradeClub Membership Card or TradeClub membership number at the time of purchase, you will not be eligible to purchase the TradeClub Promoted Parts at or below the Recommended TradeClub Price.
- 3.4 Mercedes-Benz reserves the right to amend the Recommended TradeClub Price of TradeClub Promoted Parts from time to time in its absolute discretion. The Recommended TradeClub Price for any given TradeClub Promoted Part will be set by Mercedes-Benz in its absolute discretion and may be published from time to time by Mercedes-Benz on the TradeClub Members website. Nothing in this clause is intended to impact TradeClub Promoted Parts which have already been purchased or ordered by you prior to such an amendment.
- 3.5 Mercedes-Benz reserves the right to vary or remove any TradeClub Promoted Part from and/or include additional TradeClub Promoted Parts into the Mercedes-Benz TradeClub Program at any time. The TradeClub Promoted Part(s) will be set by Mercedes-Benz in its absolute discretion and may be published from time to time by Mercedes-Benz on the TradeClub Members website. Nothing in this clause is intended to impact TradeClub Promoted Parts which you have already purchased or ordered prior to such an amendment.
- 3.6 TradeClub Members should contact their preferred Participating Mercedes-Benz TradeClub Retailer for the latest pricing and availability on any TradeClub Promoted Part they wish to purchase under the Mercedes-Benz TradeClub program before deciding to place an order.

4. Sales and Marketing

- 4.1 Mercedes-Benz will from time to time run direct marketing campaigns, including but not limited to promotions on TradeClub Promoted Parts, exclusive TradeClub offers, personalised offers, and newsletters. Registration in the TradeClub Program and acceptance of these terms and conditions provides consent for Mercedes-Benz to send you direct marketing communications related to TradeClub via various channels including email, SMS, phone and mail.

4.2 If you do not wish to receive TradeClub marketing campaigns from Mercedes-Benz and Participating Mercedes-Benz TradeClub Retailers you can click on the unsubscribe link on an email that you have received from Mercedes-Benz or one of our agencies or opt out by updating your marketing preferences online in your TradeClub Member Account on the Mercedes-Benz TradeClub website. www.tradeclub.mercedes-benz.com.au/Manage/YourDetails.

4.3 Participating TradeClub Members authorise the use of all transactional data (including non TradeClub Parts purchases by TradeClub Members) by Mercedes-Benz and third party service providers, to meet the operational and reporting requirements of the Mercedes-Benz TradeClub Program.

5. Privacy

5.1 On completion of the TradeClub Registration Form, and from time to time, Mercedes-Benz and its agencies will collect personal information from TradeClub Member Authorised Representatives in order to operate the Mercedes-Benz TradeClub Program and advertise Mercedes-Benz TradeClub Promoted Parts. Without this information, Mercedes-Benz would not be able to do so.

5.2 Upon your application as a Mercedes-Benz TradeClub Member being accepted by Mercedes-Benz, you agree to receive regular communications from Mercedes-Benz and Participating Mercedes-Benz TradeClub Retailers related to the Mercedes-Benz TradeClub, including news, updates or offers by email, phone, SMS and mail.

5.3 You also consent to Mercedes-Benz using your personal information for certain ancillary matters the details of which are set out in its Privacy Policy (located at www.mercedes-benz.com.au). Mercedes-Benz will disclose such personal information with related companies in the Daimler Group, Mercedes-Benz's authorised dealer (retailer) network and/or third party service providers some of which may be based overseas including but not limited to Germany, Singapore, New Zealand and the USA. Mercedes-Benz will otherwise collect, hold, use and disclose your personal information in accordance with its Privacy Policy (located at www.mercedes-benz.com.au) which contains information about how you can access the personal information that Mercedes-Benz hold about you, how you can seek to correct it and how to complain about a suspected breach of your privacy or about how we have handled your personal information.

5.4 Mercedes-Benz is bound by the Australian Privacy Principles contained in the Privacy Act 1988 (Cth) as amended from time to time. To complain about a privacy breach by Mercedes-Benz or for any privacy related questions or issues TradeClub Members can contact Mercedes-Benz's office on 1300 300 896 or by emailing mbauprivacyofficer@daimler.com

6. Liability

6.1 Whilst these terms and conditions for your TradeClub Membership is between you and Mercedes-Benz, the TradeClub Promoted Parts shall be sold to you by Participating Mercedes-Benz TradeClub Retailer. under the individual terms and conditions of the Participating Mercedes-Benz TradeClub Retailer that you choose to purchase the Mercedes-Benz TradeClub Promoted Part from.

6.2 Mercedes-Benz's goods and services come with guarantees that cannot be excluded under the Australian Consumer Law. Nothing in this Agreement is intended to exclude those guarantees

6.3 Subject always to clause 6.2 above, and to the fullest extent permitted by law, Mercedes-Benz excludes all implied terms and warranties whether statutory or otherwise, relating to the subject matter of these terms and conditions.

6.4 Subject always to clause 6.2 above, and to the fullest extent permitted by law, Mercedes-Benz's liability for loss or damage of any kind arising out of these terms and conditions is excluded, reduced or limited to the extent (if any) that it arises from:

(a) any alteration to the Recommended TradeClub Price of any TradeClub Promoted Part or the removal of any TradeClub Promoted Part from the Mercedes-Benz TradeClub Program:

(b) the acts or omissions of you and/or any third party including but not limited to:

- i. Loss or damage arising from the sale of TradeClub Promoted Parts by the Participating Mercedes-Benz TradeClub Retailer to you;
- ii. a failure by you to comply with these terms and conditions; and/or

(c) a Force Majeure Event; or

(d) the unavailability, and/or inability of Mercedes-Benz or a third party to supply TradeClub Promoted Part for whatever reason; or

(e) any problems or technical malfunction of any telephone network or lines, computer on-line systems, computer equipment, software, technical problems or traffic congestion on the Internet or at any web site, or any combination thereof, including any injury or damage to the Mercedes-Benz TradeClub Member's or any other person's computer related to or resulting from participation in or down-loading any materials for the Mercedes-Benz TradeClub.

6.5 Mercedes-Benz will not be liable to the extent that the loss or damage is for indirect loss however caused, including economic loss, loss of production or operating time, or loss of anticipated savings, opportunity, revenue, profit or goodwill.

6.6 The Mercedes-Benz TradeClub Member will defend, indemnify and hold Mercedes-Benz harmless from and against any and all claims, liabilities, costs, expenses, losses, damages and settlement expenses, including legal costs and third party claims, that Mercedes-Benz incurs, whether directly or indirectly, resulting from, in connection with or arising out of any fraud or breach of law/regulation, by the Mercedes-Benz TradeClub Member.

6.7 If the Mercedes-Benz TradeClub is not capable of being conducted due to circumstances beyond Mercedes-Benz's reasonable control or a Force Majeure Event, including due to any technical or communications problems, Mercedes-Benz reserves the right to amend, suspend or cancel the Mercedes-Benz TradeClub without liability whatsoever.

7. Variation of Terms and Conditions

7.1 Mercedes-Benz may make immaterial changes to these Terms and Conditions at any time, and notice of any change to the Mercedes-Benz TradeClub Terms and Conditions will be made available via the Mercedes-Benz TradeClub website found at www.tradeclub.mercedes-benz.com.au. Any material changes that Mercedes-Benz may wish to make to these Terms and Conditions shall be subject to your prior written consent.

7.2 To the fullest extent permitted by law, Mercedes-Benz will not be liable for any loss or damage suffered or sustained by any individual, company or TradeClub Member resulting from any withdrawal, cancellation, variation or change of these terms and conditions.

8. Term and Termination

- 8.1 These terms and conditions shall be effective from the date of acceptance and shall continue in force indefinitely unless terminated earlier by:
- you at any time by notifying your Participating Mercedes-Benz TradeClub Retailer or Mercedes-Benz that you no longer wish to be a Tradeclub Member in writing (ie: through the Contact Retailer section on the Mercedes-Benz TradeClub website. www.tradeclub.mercedes-benz.com.au/Retailers/Contact).
 - Mercedes-Benz providing you with 30 days written notice. If Mercedes-Benz exercises its right to terminate under this clause you agree that it shall not be in breach of any obligations of good faith;
 - You are no longer an Eligible Customer or fail to meet the eligibility criteria set out in these terms and conditions;
 - mutual written consent of the parties;
 - By either party in accordance with clause 8.2 below; or
 - By reason of a Force Majeure Event.
- 8.2 Either party (Innocent Party) may terminate this Agreement immediately on written notice to the other party (Breaching Party) if:
- the Breaching Party is in breach of these terms and conditions and, if the breach is capable of remedy, the Breaching Party has not remedied the breach within 14 days (or a reasonable period having regard to the breach) after receiving a written notice from the Innocent Party requiring it to do so; or
 - the Breaching Party is in breach of these terms and conditions and the breach is not capable of remedy; or
 - a party is the subject of an Insolvency Event.

9. General

- 9.1 Participating Mercedes-Benz TradeClub Retailers are not and do not act as agents for Mercedes-Benz and are separate legal entities. As such, any issues relating to the sale of TradeClub Promoted Parts should be directed to the Participating Mercedes-Benz TradeClub Retailer where the TradeClub Promoted Part was purchased.
- 9.2 You must not assign or purport to assign any of your rights or obligations under these terms and conditions without the prior written consent of us.
- 9.3 Mercedes-Benz may at any time assign in whole or in part any of its rights or obligations under this Agreement to DAG, MBAG, any Daimler Group Company or related entity, provided written notice of such assignment is given to you. You irrevocably consents to such assignment.
- 9.4 These terms and conditions shall be governed by and construed in accordance with the laws for the time being in force in the State of Victoria Australia and the parties agree to submit to the non-exclusive jurisdiction of the courts and tribunals of that State.
- 9.5 No forbearance, delay or indulgence by a party in enforcing the provisions of these terms and conditions shall prejudice or restrict the rights of that party, nor shall any waiver of those rights operate as a waiver of any subsequent breach.

- 9.6 If a provision in these terms and conditions is held to be illegal, invalid, void, voidable or unenforceable, that provision must be read down to the extent necessary to ensure that it is not illegal, invalid, void, voidable or unenforceable. If it is not possible to read down a provision as required in this clause that provision is to be severed to the extent necessary without affecting the validity or enforceability of the remaining part of that provision or the other provisions in these terms and conditions, and the rest of these terms and conditions remains in full force and effect.
- 9.7 These terms and conditions may be executed in any number of counterparts which, when taken together, constitute one instrument.
- 9.8 The rights, powers, and remedies of a party provided in these terms and conditions are cumulative with, and not exclusive of, any right, power, or remedy provided by Law. It is not necessary for a party to incur expense or make payment before enforcing an indemnity under these terms and conditions.

9. Definitions

The following definitions apply:

- Australian Consumer Law** means Schedule 2 of the Competition and Consumer Act 2010 (Cth);
- Authorised Representative(s)** means an individual who is authorised to do the following:
 - apply for an Eligible Customer to become a TradeClub Member
 - purchase TradeClub Promoted Parts on behalf of a TradeClub Member;
 - update the details of a TradeClub Member;
 - opt a TradeClub Member out of the Mercedes-Benz TradeClub Program.
- Eligible Customer** means a customer who is in the business of repairing or servicing Mercedes-Benz cars or vans and otherwise fulfill the criteria as set out in section 2 of these terms and conditions.
- "Force Majeure Event"** means anything outside the reasonable control of a party, including:
 - an act of God, lightning, fire, storm, explosion, flood, landslide, peril of sea or air, bushfire, volcano or earthquake;
 - strikes or other industrial action whether in Australia or overseas;
 - an act of public enemy, war (declared or undeclared), terrorism, piracy, sabotage, blockade, revolution, riot, insurrection, civil commotion, pandemics, epidemic;
 - any act or omission of a wharf or port authority, a government authority or agency or a shipping or transportation company;
 - the effect of any change in applicable laws; and
 - an embargo or power shortage;
- Mercedes-Benz** means Mercedes-Benz Australia/Pacific Pty Ltd (ACN 004 411 410) of 44 Lexia Place, Mulgrave, VIC 3170.
- Mercedes-Benz TradeClub Program** means the Mercedes-Benz TradeClub program conducted by Mercedes-Benz in accordance with these terms and conditions.
- Participating Mercedes-Benz TradeClub Retailer** means the Retailer who has chosen to participate in the Mercedes-Benz TradeClub Program.

8. **TradeClub Account** means the online TradeClub Member website found at: www.tradeclub.mercedes-benz.com.au/Account/Login
9. **TradeClub Member** means an Eligible Customer who has been accepted by Mercedes-Benz as a member of the Mercedes-Benz TradeClub.
10. **TradeClub Promoted Part(s)** means those Genuine Mercedes-Benz parts which are available for purchase as part of the Mercedes-Benz TradeClub as determined by Mercedes-Benz from time to time.
11. **TradeClub Registration Form** means the online or hard copy Registration Form used to register to participate in the Mercedes-Benz TradeClub.
12. **You or Your** means the party applying for Mercedes-Benz TradeClub Membership.