

## Greenhouse Group Limited Terms & Conditions of Trade – Sales of Commercial Vehicles, Parts and After-sales Services.

### THE CUSTOMER'S ATTENTION IS DRAWN TO THESE TERMS AND CONDITIONS

In these Terms & Conditions:

**Company** means Greenhouse Group Limited, a company registered in England with registered office at Greenhouse Village, Osbaston, Telford, Shropshire, England, TF6 6RA (Co. No. 34393415). Company VAT number is GB713241868.  
**Contract** means the contract for the sale and purchase of a Vehicle, for the supply of Parts or for the provision of Services in accordance with these Terms and Conditions.  
**Customer** means the customer named in and whose details are set out in the Order.  
**Order** means the Customer's written acceptance of the Company's quotation.  
**Parts** means any parts (including any instalments) sold by the Company or used or supplied by the Company in connection with the sale of a Vehicle or in connection with the supply of any Services or otherwise (and **Part** shall be construed accordingly).  
**Price** means the total price payable for the Vehicle and all related accessories, modifications and other goods as set out in the Order, or the price for Parts or Services (as applicable), as may be varied in accordance with these Terms and Conditions. Price shall exclude VAT unless otherwise expressly stated in writing.  
**Quotation** means a quotation in writing issued by the Company to the Customer.  
**Services** means the service and/or repair of a Vehicle, including warranty work, breakdown and roadside assistance services or any other services carried out by the Company for the Customer.  
**Terms and Conditions** means these terms and conditions for the sale and purchase of a Vehicle, the supply of Parts or the provision of Services as may be varied from time to time in writing by the Company.  
**Vehicle** means the new or used lorry, van or other heavy or light commercial vehicle together with all accessories fitted thereto, sold by the Company to the Customer in accordance with these Terms and Conditions and as more particularly described in the Order.

Any reference to a clause (unless otherwise stipulated) is reference to a clause of these Terms and Conditions. A reference to one gender includes a reference to the other gender. A reference to the singular includes the plural and vice versa. Clause headings are for convenience only and shall not affect the interpretation of these Terms and Conditions.

#### 1. Orders, terms and conditions and contract formation

1.1 These Terms and Conditions apply to the sale of all Vehicles and related accessories and the supply of Parts and Services. Any agreement by the Company to sell a Vehicle or to supply Parts or Services will be subject to these Terms and Conditions to the exclusion of all other terms and conditions (including any terms or conditions which the Customer purports to apply under any other document). Any quotations/illustrations or similar shall be on the basis of these Terms and Conditions.

1.2 Any Order placed by the Customer constitutes an offer by the Customer to purchase the Vehicle, Parts or Services in accordance with these Terms and Conditions and is subject to acceptance and confirmation in writing by the Company. The contract is only formed when the Company accepts the Customer's Order in writing i.e., when signed by an authorised representative of the Company. Nothing shall obligate the Company to accept any Order.

1.3 The Order, as accepted by the Company, these Terms and Conditions and any other special terms applicable to the purchase shall, together, form the Contract between the parties.

1.4 If there is any inconsistency between these Terms and Conditions and the details in the Order (in the form which has been accepted by Company in writing), the Order shall prevail.

1.5 These Terms and Conditions shall not be capable of being varied except in writing by an authorised representative of the Company.

1.6 The Customer shall be responsible for the accuracy of any Order, including the specification.

1.7 The Customer understands and confirms that any employee or agent of the Company has no authority to make any representation about the Vehicle, Parts or Services nor shall the Company be liable for any advice or recommendations given by it or its employees or agents to the Customer as to the Vehicle, Parts or Services, unless such advice is confirmed by Company in writing.

1.8 Once an Order has been accepted by the Company, the Company shall not be obliged to accept any amendments or additions to the Order that may be requested by the Customer. If the Company accepts any such amendments or additions, it reserves the right to amend the terms of the Order accordingly including the Price and payment and delivery terms.

#### 2. Sales of commercial vehicles and parts

2.1 Information about Vehicles and Parts may be included on the Company's website, in brochures or showrooms. The Company aims to describe Vehicles and Parts accurately but variations may occur between descriptions and the Vehicle or Part itself. Performance forecasts are estimates only.

2.2 Any error or omission in any document or information issued by the Company or other person relating to a Vehicle or Part shall be subject to correction by, and without any liability on the part of, the Company.

2.3 The Company may remove a Vehicle or Part from sale at any time including if for any reason the Company is no longer able to offer it for sale.

2.4 If the manufacturer or supplier discontinues the sale of a Vehicle or a Part, the Company reserves the right (without any further liability on the part of the Company) to cancel the Contract and refund to the Customer (as applicable) either any deposit or part exchange allowance paid by the Customer to the Company.

2.5 Appointments will be required for viewing Vehicles.

2.6 The Company is only authorised to sell Vehicles and Parts to end users and their authorised representatives. The Customer agrees to purchase in this capacity, and in the event of acting as an unauthorised reseller indemnifies the Company from and against all lawful penalties imposed on the Company including fines, lost commissions rebates or other pricing and promotional campaigns.

#### 3. Deposits and cancellations of Orders

3.1 Deposits are payable on an Order for a Vehicle. The Company shall not be obliged to place an order with a manufacturer for a Vehicle unless and until a deposit has been paid in full and cleared funds by the Customer. Deposits are non-refundable except where stated otherwise by the Company in writing.

3.2 If the Customer cancels or purports to cancel an Order after it has been accepted by the Company or fails to take delivery of the Vehicle then without prejudice to any other right or remedy, the Customer shall indemnify the Company in full against all loss (including loss of profit), costs, damages and expenses incurred by the Company as a result of cancellation. The Company may retain all or part of any deposit paid by the Customer in satisfaction or diminution of any liability attaching to the Customer as a result of the cancellation of its Order.

3.3 Deposits may be paid by MasterCard, Visa credit card, Maestro, Delta, debit card or by cheque, BACS payment or by electronic bank transfer.

3.4 If the Company is delayed in or prevented from supplying a Vehicle or a Part by reason of any circumstances outside the Company's control, including without limitation strike or trade disputes, manufacturer's delay or default, any inability to procure materials required for the performance of the Contract, legislation, accident, flood, fire, act of terrorism, pandemic or a force majeure event, the Company may cancel the Contract.

#### 4. Condition, modifications and used vehicles

4.1 The Customer is responsible for ensuring that a Vehicle or a Part satisfies its own requirements.

4.2 Vehicle bodies, Parts and/or accessories supplied with a Vehicle may not be the product of the Vehicle manufacturer. For the avoidance of doubt, this includes vehicle bodies, Parts and accessories fitted by third parties to the new Vehicle chassis. In this case, the Company will pass on to the Customer (in so far as the Company is able) the benefit of any guarantee or warranty which is given by the manufacturer of the vehicle body, Part or accessory which is fitted. Further, Vehicle modifications may be undertaken either by the manufacturer, the Company or a third party as the Company shall at its discretion determine.

4.3 A Vehicle or Part may at any time be the subject of alteration in design or specification by their manufacturer(s) if the manufacturer discontinues the sale of, or alters the specification of, any Vehicle or a Part, the Company reserves the right (without any further liability on the part of the Company) to: (a) deliver in satisfaction of the Contract a Vehicle or a Part conforming to the manufacturer's altered specification prevailing at the time of delivery provided always that the altered Vehicle or Part is not materially different from and is designed for the same purpose as the Vehicle or Part ordered; or (b) cancel the Contract and refund to the Customer (as applicable) either any deposit or part exchange allowance paid by the Customer to the Company and have no further liability to the Customer.

4.4 The Customer shall not alter, displace or remove any manufacturer identifying plates, numbers, marks, warnings or instructions on a Vehicle or Part without the Company's prior written consent. Any fittings, enhancements, alterations or other modifications other than by the Company (or its sub-contractor) or otherwise not in accordance with the standards published by the manufacturer(s) of the Vehicle shall be at the entire risk and responsibility of the Customer.

4.5 The Customer is responsible for reading any information which may be provided to it by the Company but the Company shall not be liable for any reliance on the same and the Customer shall be responsible for making all enquiries and inspections as it considers necessary or desirable in connection with the Vehicle.

4.6 Used vehicles are sold subject to their current condition. The Customer shall be responsible for inspection of the Vehicle prior to purchase and in all cases sales are subject to defects brought to the attention of the Customer or defects which the Customer ought to have been aware of following its inspection of the Vehicle.

4.7 The Customer shall observe the instructions provided by the Company for the proper assembly, maintenance, handling and use of Parts.

#### 5. Delivery/Collection

5.1 The Customer must inspect the Vehicle before taking delivery and notify any defects in the Vehicle which are or should be apparent on inspection, to the Company immediately on undertaking such inspection. Failure to notify may affect the remedies available to the Customer.

5.2 Dates for delivery of a Vehicle or Part are estimated delivery dates only and time of delivery shall not be of the essence. The Company shall not under any circumstances be liable to the Customer for any direct, indirect or consequential loss (all three of which terms include, without limitation, pure economic loss, loss of profits, loss of business, depletion of goodwill and similar losses), costs, damages, charges or expenses suffered or incurred by the Customer which are caused directly or indirectly by any delay in delivery of a Vehicle or Part.

5.3 Delivery shall take place at the Company's showroom at the address shown on the Order or at such other delivery location as the Company may agree.

5.4 If the Company agrees to vary the place of delivery in any case to an alternative location, the Customer shall be responsible for ensuring that the same is suitable and safe for delivery. For clarity, nothing shall obligate the Company to vary the place of delivery from its own premises and any such agreement to vary the location of delivery, shall only be where agreed in writing by an authorised signatory of the Company.

5.5 Delivery shall be deemed to have taken place when the Customer or its duly authorised representative takes possession of the Vehicle or Part.

5.6 Risk in the Vehicle or Part shall pass to the Customer on delivery.

5.7 The Company will notify the Customer that the Vehicle is ready for delivery, giving the date of availability for delivery. Unless otherwise stated in the Company's acceptance of the Order, where delivery is to take place at the Company's premises, the Customer will be wholly responsible for making the necessary arrangements for collection of the Vehicle from the Company premises.

5.8 If the Customer fails to take or accept delivery, the Company shall be entitled to storage charges at the actual rate incurred by the Company per day. While the Customer is in default, such charges will be added to and form part of the Price. In the event that the Customer fails to take or accept delivery within the period of ten [10] working days after the date of availability for delivery, the Company shall be entitled to cancel the Contract by written notice to the Customer, the Company shall not return the deposit to the Customer and the Company may offer the Vehicle for resale.

5.9 The Customer shall be responsible for ensuring that it or its authorised driver shall have a UK photo driving licence and appropriate identification together with evidence that insurance is in place for the Vehicle in order for a Vehicle to be released by the Company to the Customer. The Company shall not under any circumstances be responsible for or have any liability to the Customer in the event that the Customer fails to take steps to ensure the secure collection of a Vehicle. Notwithstanding the foregoing, the Customer shall notify the Company of the identity of the person collecting a Vehicle

in advance of collection and the Customer confirms that any person collecting the Vehicle has its authority to collect the Vehicle and has the authority to sign all relevant documentation as may be necessary for the purposes of delivery. The Customer's representative will be required to sign relevant handover documentation. The Company reserves the right to refuse to allow release of a Vehicle if the Company, acting reasonably, determines that the Customer's driver does not have the relevant documentation or authority to collect a Vehicle or sign the relevant documentation.

5.10 The full purchase Price of a Vehicle must be paid in full before delivery. If for any reason, the Company allows a Vehicle or a Part to be released prior to payment then until such time as the Company receives clear payment in full of all sums due to it for any sale, title shall remain with the Company, the Customer shall hold the Vehicle or Part (subject to Clause 5.11 below) and all accessories as the Company's bailee and must maintain the Vehicle in satisfactory condition and fully insured. Without prejudice to any other right or remedy the Company may have, the Company may recover payment for the Vehicle or any Part even though title has not passed. If, before title passes, and notwithstanding that a receiving order or bankruptcy order may have been made or that winding up proceedings have commenced or a winding up order made against the Customer or a receiver appointed over its assets or an administrator appointed to manage the affairs, business and property thereof, the Customer becomes insolvent or similar, or is unable to pay its debts as they fall due, then without limiting any other right it may have, the Company may by notice to the Customer rescind the Contract and require the Customer to deliver up the Vehicle or Part and if it fails to do so promptly, attend its premises (or any other premises where the Vehicle or Part is located) to recover it, at which time, the risk in the Vehicle or Part shall revert to the Company. For the avoidance of doubt, nothing shall obligate the Company to grant any credit to any Customer.

5.11 The Customer may sell the Parts before ownership has passed to it solely on the following conditions: (a) any sale shall be effected in the ordinary course of the Customer's business at full market value and the Customer shall hold such part of the proceeds of sale as to represent the amount owed by the Customer to the Company on behalf of the Company and the Customer shall account to the Company accordingly; and (b) any such sale shall be a sale of the Company's property on the Customer's own behalf and the Customer shall deal as principal when making such a sale.

5.12 Parts may be delivered in instalments. Failure by the Company to deliver any of the instalments in accordance with these Terms and Conditions shall not entitle the Customer to treat the Contract as a whole as repudiated.

5.13 Claims for shortages or discrepancies or loss or damage of Parts in transit will not be accepted unless notified to the Company (if appropriate) by the Company's carriers within 48 hours of receipt and confirmed in writing within seven [7] days after receipt. Packaging and damaged parts shall be retained for inspection.

5.14 Following delivery, the Customer will inspect the Part. Unless the Customer notifies the Company within 48 hours of delivery of any defect or non-conformity the Customer will be deemed to have accepted it as being in accordance with the Contract. The Company has no liability if not notified in accordance with this clause.

#### 6. Price and payment

6.1 Displayed prices for the Vehicle whether shown on a website, brochure or in the showroom is the Price for the Vehicle itself. Any other fees such as any delivery fees, cost of accessories or modifications or other goods and any services will be in addition and shall form part of the Price.

6.2 All Prices exclude VAT. The Customer shall pay VAT on all Vehicles and all other goods, properly charged at the prevailing rate.

6.3 The Price for a Vehicle shall be the Price applicable on delivery. If the manufacturer of a Vehicle increases their cost prices (e.g. as a result of currency exchange movements) the Company shall have the right to increase the Price for the Vehicle, including at any time after an Order has been accepted by the Company. Further, the Company reserves the right to add to the Price any cost increases which it does not control, such as changes in taxes, import duties, levies, government charges, vehicle duty, including at any time after an Order has been accepted by the Company. If there are any changes to the Price, the Company will notify the Customer as soon as the Company is aware.

6.4 Balances may be paid by MasterCard, Visa credit card, Maestro, Delta, debit card or by cheque, BACS payment or by electronic bank transfer. Charges which the Company incurs in processing payments will be passed to the Customer and the Customer shall pay such sum in addition and in cleared funds before delivery of the Vehicle.

6.5 If the Company has agreed to purchase a vehicle from the Customer as a trade-in (**Trade In Vehicle**) the Company may reduce the Price of the Vehicle by the value of the Trade In Vehicle but shall not be obliged to do so, and therefore any Trade-In will be at the Company's determination and may be subject to a separate transaction between the parties. The Customer is referred to clause 7 below.

6.6 Unless otherwise agreed by the Company when accepting the Order, the Price of the Vehicle and any and all additional costs and charges for modifications and accessories in connection with the Vehicle must be paid in full and in cleared funds on receipt of the invoice or on receipt of notice of availability for delivery, whichever is earlier. Time for payment shall be of the essence. The Company will not release a Vehicle for delivery unless it has received in full and cleared funds, all sums due to it.

6.7 Legal and beneficial title to the Vehicle or Part shall pass to the Customer on payment of the Price to the Company in full and cleared funds under the Contract and payment of all other monies due to the Company from the Customer on any other account with the Company.

#### 7. Trade in and valuations

7.1 Any valuation given to a Customer about the value of a Trade In Vehicle (**Valuation**) is a Valuation based on the information disclosed by the Customer about the Trade In Vehicle and is not the price at which the Company undertakes to purchase such Trade In Vehicle.

7.2 An inspection of the Trade In Vehicle will be undertaken by the Company before an offer will be made to use its value against a Vehicle or to purchase such vehicle under a separate arrangement. Accordingly, any initial Valuations given will need to be followed up by an inspection at the Company's premises (**Inspection Appointment**).

7.3 If the Company considers that the Trade In Vehicle is affected by history or condition, including any unusual feature or customisation not apparent on the initial Valuation, the price offered for trade in against a Vehicle following on-site inspection will differ from the initial Valuation. Once the Company has carried out the Inspection Appointment, the Company will provide the Customer with a trade in value for the Trade In Vehicle (**Trade In Value**) which is a quote valid for 10 days from the date given. Following the Inspection Appointment, the Company may offer to use the Trade In Value against the Vehicle but shall not be obliged to do so.

7.4 If the Company agrees to trade in the Trade In Vehicle, it relies on the Customer's representation that:

7.4.1 the Customer is the sole owner of the Trade In Vehicle and has the right to sell it;

7.4.2 other than in respect of any finance outstanding on the Trade In Vehicle which is capable of cash settlement as disclosed to the Company, no person has any claim to it;

7.4.3 the mileage reading is true and accurate and the odometer has not been tampered with;

7.4.4 the Customer has disclosed all matters which a prudent customer would want to know, such as physical defects in the Trade In Vehicle (e.g. if it has any material problems or damage);

7.4.5 all information supplied about the Trade In Vehicle (whether at initial Valuation, Inspection Appointment or otherwise) is true and accurate in all respects; and

7.4.6 the Trade In Vehicle is UK registered.

7.5 The Company may trade in the Trade In Vehicle even if the subject of a third party finance arrangement (**Finance Agreement**), provided it receives a written statement of the amount required to settle the Finance Agreement in full from the third party.

7.6 The Company will only pay to a third party, such sum as it agrees with the Customer in writing. The Company will make such payment as soon as reasonably practicable after it agrees to the trade in and following receipt of any sum due from the Customer to settle a Finance Agreement or the Company may in its sole discretion reduce the Trade In Value against the amount outstanding under the Finance Agreement.

7.7 Where it is agreed that a Trade In Vehicle is to be taken by the Company in part consideration of the sale of a new Vehicle, the Company will not purchase the Trade In Vehicle unless the Customer purchases a Vehicle from it. In such circumstances the Trade In Vehicle must be delivered by the day of Vehicle delivery and ownership of the Trade In Vehicle will pass to the Company on delivery or on payment for the Vehicle, whichever is sooner.

7.8 An offer by the Customer to sell a Trade In Vehicle will only be binding when the delivery documentation is signed by or on behalf of the Company. The purchase of the Trade In Vehicle is subject to these Terms and Conditions and will not contain any other terms or conditions which the Customer may try to impose.

7.9 Where the Company purchases a Trade In Vehicle, the Customer must provide keys, registration documents, plating certificate, any service history, MOT certificates, user manuals and any accessories e.g. locking wheel nut, radio fascia and remote control. Purchase of a Trade In Vehicle is also on the basis that it is delivered to the Company in the same condition as at the time of on-site inspection (except fair wear and tear).

7.10 If the Trade In Vehicle does not meet the requirements as set out in these Terms and Conditions, the Company may refuse to accept it and the Customer will be responsible for the full Price of the Vehicle.

7.11 If through no fault on the part of the Company, delivery does not take place within 30 days of the Order date or estimated delivery date (whichever is later), the Trade In Value allowance shall be reduced by an amount not exceeding 2.5% of the Trade In Value for each complete 30 day period from the date of expiry of the first mentioned 30 days until the actual date of delivery.

7.12 The Customer may, at least 7 days before the Vehicle is ready for delivery, arrange for a finance company to purchase it from the Company at the price payable under the contract. On such purchase, any Trade In Vehicle for which an allowance was agreed shall be bought by the Company at a price equal to such allowance, (subject to the Customer complying with its obligations in the contract) and the Company shall be accountable to the finance Company on the Customer's behalf for the said allowance price and any deposit paid by the Customer.

#### 8. After-sales Services

8.1 All estimates of the Price for the Services to be carried out by the Company are provisional and an approximation only. All estimates are valid for fourteen [14] days from their quotation to the Customer unless otherwise expressly varied by the Company. Estimates shall not constitute an offer by the Company to the Customer. Any errors in estimates may be corrected by the Company at any time and without liability on the Company's part.

8.2 The Price for Services excludes VAT unless otherwise stated which the Customer shall pay VAT at the prevailing rate. The Company reserves the right to request a deposit against the Price before proceeding with any Services.

8.3 All Prices quoted by Company for Parts and accessories are based on the prices current at the time of preparing the estimate and the Company reserves the right to increase such Prices if the price to it from third party suppliers is increased between preparing the estimate and obtaining the Parts or accessories, in order to perform the Services. The Company reserves the right to increase the Price for the Services to take account of any costs increases which it does not control, such as currency exchange movements, increases in taxes, import duties, levies, government charges and, including at any time after the Customer's booking has been placed or the Vehicle has been delivered or collected.

8.4 It is in the nature of the type of work which is undertaken that additional work, repairs or Services may be required due to an unforeseen problem which only becomes apparent on inspection or dismantling the Vehicle and/or following some or all of the initial Services having been commenced or completed, which require a change in the Services or additional Services to be performed.

8.5 Any such change in or additional Services to be performed shall be at additional cost and any estimate previously provided shall not cover the cost of any additional or varied Services nor the cost of additional parts or accessories which may be required. The Company shall use all reasonable endeavours to notify the Customer in advance of undertaking such additional Services and to obtain the authority of the Customer where the Price for the provision of Services is likely to significantly exceed the original estimate given. If the Customer wishes the Company to proceed, the Customer should confirm the instruction to the Company and such instruction need not be in writing. The Company will not be obliged to resume performance of the Services unless and until the Customer confirms the instruction to proceed. The exception to this is if the Customer has an account with the Company and it has been agreed that the Company will proceed to undertake Services as may be required without any limitations or restrictions imposed as to the scope or cost of the Services to be undertaken without prior reference to the Customer.

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- If the Company notifies the Customer that any additional Services are required but the Customer decides it does not wish the Company to proceed with the same, the Customer may remove the Vehicle from the service centre on payment of all fees incurred for the Services already performed by the Company at that time, together with any other additional charges which may be applicable including without limitation, any storage charges incurred by the Company in accordance with these Terms and Conditions, unless agreed by the Company that the Vehicle may be removed prior to such payments being made. For clarity, the Customer shall still be responsible for the full costs of the Services irrespective of whether a Vehicle is released prior to payment being received or not. Where the Customer has an account with the Company under which certain payment terms are afforded to the Customer, the Customer shall be entitled to remove the Vehicle prior to payment being made for the Services provided that the Customer adheres to such payment terms at all times. The Company does however reserve the right to refuse the release of a Vehicle in any given circumstance if the Customer at any time, fails to pay sums due to the Company in accordance with the agreed payment terms under this or any other contract.
- 8.6 The Contract for Services may be cancelled in writing at any time up until the Company commences the performance of the Services. However, once a Vehicle is at the service centre, the Company may begin the Services at any time and once the Company has started to perform the Services, the right to cancel shall no longer apply and the Customer will remain responsible for all costs and fees incurred by the Company.
- 8.7 Services will only be performed at the service centre which the Vehicle has been booked except where the Company has expressly agreed otherwise.
- 8.8 Any request by the Customer to change the centre at which the Services are to be performed shall be at the Company's discretion and may result in a change to the date or time for performance of the Services. The Company cannot in such circumstances, guarantee to provide the Services at any other service centre as may have originally been booked.
- 8.9 By delivering a Vehicle to the Company or making it available for collection by the Company, the Customer represents that it is the owner of the Vehicle or otherwise has the authority to make the Vehicle available to the Company for the Services on behalf of the Vehicle owner.
- 8.10 A set of keys for the Vehicle must be made available by the Customer to enable the Company to access the Vehicle.
- 8.11 If there are any problems with the Vehicle which the Customer considers, acting reasonably, may render the Vehicle unsafe in any way, the Customer must notify the Company of such matters: (a) when the Vehicle is collected by the Company or delivered to the service centre by the Customer; or (b) at the time of booking; whichever is sooner.
- 8.12 If the Customer leaves a Vehicle with the Company to prepare an estimate, the Company may charge the Customer a storage charge based on its current storage rates beginning on the fifteenth day following the day on which the Customer left the Vehicle at the centre unless: (a) the estimate which Company has provided for the Services is accepted by the Customer within fourteen [14] days of that estimate being sent to the Customer; or (b) the Vehicle is removed from the premises within that fourteen [14] day period.
- 8.13 The Company reserves the right to perform the Services in such manner as it shall determine and further, may appoint a sub-contractor to undertake all or any of the Services as the Company may determine.
- 8.14 The Company will use its reasonable efforts to perform the Services within any time estimates notified to the Customer but time shall not be of the essence and no liability is accepted by the Company for delay.
- 8.15 Where the Services include the fitting of Parts or accessories to the Vehicle, ownership in the same shall pass from the Company to the Customer on payment in full and cleared funds for all Services under all contracts, including for any other Services which the Company has performed but which are not performed in connection with the parts or accessories in question. Until then, the Company shall continue to own such Parts and accessories, notwithstanding that the same have been fitted to the Vehicle. If for any reason, the Company allows the release of the Vehicle, Parts or accessories prior to payment, then until the Company receives clear payment in full of all sums due to the Company from the Customer, the Customer holds the Parts and accessories as the case may be as the Company's bailee and must maintain the same in satisfactory condition and fully insured. In circumstances where the Company may release Parts or accessories prior to payment having been made, then risk in such Parts and accessories shall pass to the Customer on delivery. The Company may recover payment for the Parts and accessories even though title has not passed. If before title passes, the Customer becomes subject to any of the events referred to in Clause 9.1.1 to 9.1.7 (inclusive) then without limiting any other rights the Company has, the Company may at any time require the Customer to deliver up the Parts and accessories and if the Customer fails to do so promptly, attend the Customer's premises to recover them and remove them from the Vehicle.
- 8.16 If for any reason, new Parts or accessories cannot be obtained within a reasonable period of time or if the same are not available at all, the Company reserves the right to repair or fit non branded parts of the same quality to those supplied by a specific manufacturer, and/or reconditioned units and/or parts where these reconditioned units are supplied by the manufacturer. The Customer shall be notified by the Company when reconditioned parts are used.
- 8.17 No Parts or accessories will be accepted by the Company for credit unless returned within five [5] working days of collection in which case the Customer must quote the relevant invoice number. All new Parts returned for credit are subject to a 20% handling charge. Parts or goods specially ordered cannot be returned for credit.
- 8.18 Where possible, the Company will assign to the Customer the benefit of any manufacturer's warranty for any new, genuine Parts and accessories fitted to the Vehicle (being those which are manufactured by the manufacturer of the Vehicle). In respect of any other Parts (including any reconditioned Parts or accessories fitted, the Company shall where possible, assign to the Customer, the benefit of the applicable manufacturer's warranty or remainder thereof if there is any such warranty.
- 8.19 All Parts replaced during the performance of any Services such that they have been removed from the Vehicle, except those that have to be returned to manufacturers or suppliers under warranty or service exchange arrangements, will be retained by the Company for the Customer until the time when the Vehicle is collected by the Customer. If the Customer does not specifically ask to take possession of such replaced parts when collecting the Vehicle then they will become the Company's property to dispose of as it deems fit.
- 8.20 Where new paintwork is required as part of the Services and the metal work is found to be rusted, reasonable care will be taken to prevent rust penetrating through after painting, but no guarantee can be given that this will not happen and the Company will not be responsible if rust does penetrate.
- 8.21 If partial paintwork only is required as part of the Services, the Company will use reasonable care to match the existing Vehicle colour but no guarantee can be given of a complete colour match.
- 8.22 The Company reserves the right to undertake reasonable mileage to road test any Vehicle in its possession which it deems necessary for the purpose of diagnosis, repair and testing.
- 8.23 The Company will notify the Customer when the Services have been completed and the Vehicle is ready for collection. The Customer will then be responsible for collection of the Vehicle and if the Customer fails to collect the Vehicle, additional charges may apply as set out in Clause 8.25.
- 8.24 The Customer shall pay the Price for the Services (to the extent that the Customer has not already paid them) before the Vehicle is released to the Customer following the completion of the Services. Without affecting any other provision of these Terms and Conditions, if for any reason the Services requested by the Customer are not carried out in full by the Company, the Company reserves the right to charge a reasonable sum for the Services actually carried out. If the Customer fails to make payment of the Price for the Services, the Company reserves the right not to release the Vehicle and may also charge a storage charge based on current storage rates. If the Customer is an account Customer, release of the Vehicle may take place before payment if it is agreed under the express terms between the Customer and the Company for a particular account, that payment is not due before the date of Vehicle release from the service centre.
- 8.25 If the Customer fails to collect the Vehicle within seven [7] days following the completion of Services, the Company also reserves the right to charge the Customer a storage charge based on current storage rates if the Customer fails to collect the Vehicle within a reasonable period of time after the Company has notified the Customer that the Vehicle is ready for collection.
- 8.26 If the Customer requires another person to collect the Vehicle from the service centre on its behalf (**Agent**), the Customer shall be responsible for ensuring that such person has the full authority of the Customer to act on its behalf, shall ensure that the Agent carries sufficient identification and the Customer agrees to be bound by the Agent's actions. If the Customer appoints an Agent to collect a Vehicle on its behalf, the Company shall not be responsible for any loss which may arise to the Customer as a result of releasing the Vehicle to any person who presents themselves as the Customer's Agent. The Company will use reasonable efforts to verify the identity of a person presenting themselves as an Agent but shall not be liable for any loss arising to the Customer as a result of a failure to do so.
- 8.27 Further, the Company shall not be liable to the Customer for any loss or damage arising as a result of release of the Vehicle to any person who settles the account outstanding for Services provided always that such person has held themselves out as duly authorised by the Customer to have possession of the Vehicle.
- 8.28 It may be necessary for documentation to be signed before the Vehicle can be released from the service centre. Any person who the Customer uses as an Agent must also be given such authority by the Customer to sign that documentation on the Customer's behalf.
- 8.29 Vehicles may only be collected from the service centre during usual hours of operation which may vary between different centres. The Company does not undertake to make Vehicles available for collection at any other times.
- 8.30 The Company warrants that the Services will be free of defects for a period of 3 months or 3,000 miles whichever occurs sooner, from the date of completion of the relevant Services. If within such warranty period, the Customer discovers an alleged defect then it will notify the Company within no less than 7 days of discovering the alleged defect and return the Vehicle to the Company service centre to allow it to carry out an inspection. If on inspection, the Company discovers that the defect has arisen as a result of faulty materials or workmanship then the Company shall remedy the defect and if necessary and at its option, either repair or replace the faulty part. Any parts replaced shall be Company property to dispose of as it sees fit. The Company's liability for defective Services is limited in all cases to the remedial action outlined in this Clause 8.30. The Company's liability under the warranty set out in this Clause 8.30 shall only apply where the Vehicle is used in a proper manner and serviced in accordance with the manufacturer's recommendations.
- 8.31 No warranty is given and no remedies shall be available and accordingly, the Company will not be under any obligation to the Customer if any defect is caused or made worse as a result of: (a) any failure by the Customer to give the Company a reasonable opportunity to inspect the defect and remedy it; (b) the alteration, repair or maintenance of any Part or accessory which the Company has fitted, other than by the Company; (c) a failure by the Customer to adhere to either the Company's instructions in those accompanying the Part or accessory as to its proper use and maintenance; (d) any use of the Vehicle for purposes referred to in Clause 10.11.
- 8.32 For a Customer which has a credit facility with the Company, payment of the Price for Parts and/or Services is due by the end of the month following the month in which the invoice is issued, except where otherwise agreed in writing by the parties. For a Customer which does not have a credit facility with the Company, payment of the Price for Parts and/or Services must be made in full and cleared funds prior to supply of the Parts or before the vehicle is released following performance of the Services. Time for payment shall be of the essence. The Customer shall make all payments which are due without any deduction. Failure by the Customer to pay in accordance with the provisions of this clause shall entitle the Company, without prejudice to its rights to damages, to suspend any outstanding deliveries and/or performance of Services or to cancel the Contract and the Company shall further be entitled at any time to withdraw from the Customer any credit facility made available to the Customer until it receives such security for payment from the Customer as it may require.
- 8.33 The Company may sell a Vehicle to a third party if the Customer fails to pay for Services for a period which is more than three months from the date of completion of the Services or otherwise if the Customer fails to collect a Vehicle within three months of being notified that the Services have been completed including where Services have been paid for. The Company will notify the Customer of such intention to proceed to sell prior to the end of the three months period. Upon such a sale the Company shall pay to the Customer the balance of the proceeds of the sale after deducting all unpaid fees, costs and charges including any storage charges, together with all disposal costs as it may incur in disposing of the Vehicle in such circumstances.
9. **Suspension and termination following Customer's default**
- 9.1 Without prejudice to its rights to damages, the Company may (a) cancel the Contract; or (b) suspend the supply of a Vehicle and/or the supply of Parts; or (c) suspend or discontinue the performance of any Services; or (d) cancel any credit arrangements; without incurring any liability whatsoever to the Customer if any of the following events occur:
- 9.1.1 the Customer breaches any of these Terms and Conditions and (if capable of remedy) fails to remedy the breach within seven [7] days of receipt of a notice from the Company requiring the Customer to do so;
- 9.1.2 the Customer fails to pay any sum due on the due date under this or any other contract made with the Company or fails to adhere to any account terms as may be agreed by the Company from time to time;
- 9.1.3 the Customer ceases to carry on business;
- 9.1.4 the Customer is unable to pay its debts within the meaning of the Insolvency Act 1986 or a petition is presented for bankruptcy or an interim order;
- 9.1.5 the Customer makes any arrangement with its creditors or convenes a meeting of its creditors, a proposal is made for a voluntary arrangement or any scheme or arrangement for the benefit of creditors;
- 9.1.6 an administrator, receiver, or administrative receiver is appointed over any of the Customer's assets, or a petition is presented for an administration or winding up order or notice of intention to appoint such person is given or documents relating to such appointment are filed with any court; or
- 9.1.7 the ability of the Customer's creditors to take any action to enforce debts is suspended or any process is instituted which could lead to the Customer being dissolved and the Customer's assets being distributed (other than for solvent amalgamation or reconstruction) or anything similar to the foregoing occurs.
- On cancellation of the Contract, all payments payable to the Company under all Contracts between the parties shall become due and payable immediately and the Company's rights contained in these Terms and Conditions shall remain in effect.
10. **Liability**
- 10.1 **Nothing in these Terms & Conditions shall exclude or limit the Company's liability resulting from any Vehicle, Parts or other materials, parts, accessories or equipment supplied being found to be unsafe or any aspect of the performance of the Services being found to be unsafe or if something the Company does negligently causes death or personal injury. Further, nothing in these Terms and Conditions shall exclude the liability of either party for fraud or fraudulent misrepresentation or for any other liability to the extent that it would be unlawful to exclude or limit liability.**
- 10.2 **Subject at all times to Clause 10.1, the Company shall not be liable in contract, tort (including negligence or breach of statutory duty) or otherwise howsoever arising for any costs, claims, damages, liabilities or expenses in respect of:**
- 10.2.1 any direct loss of profit;
- 10.2.2 any direct loss of anticipated savings;
- 10.2.3 any indirect loss or damage including without limitation:
- (a) any indirect loss of profit including any loss of profits on contracts;
- (b) loss of use of money;
- (c) loss of anticipated savings;
- (d) loss of business;
- (e) loss of opportunity;
- (f) loss of goodwill or loss of or damage to reputation;
- (g) loss of data; and/or
- (h) business interruption;
- and the parties agree that the sub-clauses of this Clause 10.2 shall be distinct and severable.
- 10.3 The Company shall not be liable for any damage or loss suffered or incurred as a result of repairs, modifications or alterations to a Vehicle or Parts by any person other than the Company or its agents or sub-contractors.
- 10.4 Except in relation to liability under Clause 10.1, the Company's liability to the Customer arising under or in connection with the performance or contemplated performance of the Contract shall not exceed the total Price payable for the Vehicle, Parts or Services under that Contract however that claim arises, including without limitation, negligence, tort, breach of contract or breach of statutory duty.
- 10.5 Unless the Company agrees otherwise in writing: (a) the only warranty supplied with a Vehicle will be the warranty, if any, given by the manufacturer of the Vehicle for (unexpired period thereof); (b) the only warranty supplied with a Part will be the warranty, if any, given by the manufacturer of the Part (or unexpired period thereof); and (c) the only warranty supplied with an accessory will be the warranty, if any, given by the manufacturer of the accessory (or unexpired period thereof); and (d) the only warranty supplied with a vehicle body will be the warranty, if any, given by the manufacturer of the vehicle body (or unexpired period thereof). The Company shall provide all reasonable assistance in the pursuit of any proper claims under any such warranty and this shall be the extent of the Company's warranty liability.
- 10.6 If a manufacturer ceases to make available a particular model, accessory or feature, that is something beyond the Company's control and the Company will not be liable for an inability to supply the Customer due to any manufacturer action or inaction. The Company reserves the right to supply alternative accessories including those from a third party in the event that the manufacturer ceases to provide a particular accessory.
- 10.7 The Company shall not be liable whether in contract, tort or otherwise as a result of the driving or towing of a Vehicle with the consent of the Customer provided that this clause shall not operate to exclude any mandatory statutory obligations on the Company.
- 10.8 All conditions, warranties and representations, expressed or implied (by statute, law or otherwise) in relation to the Vehicle, Parts or the Services provided by the Company to the Customer pursuant to the Order (including the giving of advice) are hereby excluded to the fullest extent permitted by law.
- 10.9 Vehicles are sold by the Company on condition that the Customer may only participate with the Vehicle at exhibitions or competitions with the prior written consent of the Company, such consent to be withheld only if such participation is likely in the Company's opinion to be prejudicial to the Company or to the manufacturer.
- 10.10 The Customer must remove all contents from the Vehicle before it is delivered or made available for collection. The Company will not be liable for any costs, claims, damages, liabilities or expenses suffered as a result of such items being left in the Vehicle.
- 10.11 The Company's liability, whether under these Terms and Conditions or otherwise is wholly excluded if the Vehicle has been:
- (a) used for competitions, racing or record attempts or otherwise than for private or commercial use of the owner or other users with his permission.
- (b) abused in any way or damaged by wear and tear, neglect, rust, improper use or failure to maintain in accordance with the manufacturer's recommendations.
- (c) damaged in any subsequent accident.
- 11 **General**
- 11.1 If the Customer fails to pay any sum due on the due date for payment the Company shall be entitled to charge the Customer interest on the overdue amount, accruing on a daily basis, from the due date until payment is made in full, at the rate of 4% a year above the National Westminster Bank Base Rate from time to time in force.. Such interest shall be payable both before and after any legal judgement the Company may obtain against the Customer and will also include late payment compensation.
- 11.2 No claims by the Customer concerning errors in invoicing will be considered by the Company unless such claims are fully notified to the Company within ten [10] working days of receipt by the Customer of the invoice in question.
- 11.3 The Company may apply any payment the Customer makes to any outstanding sums as the Company may determine, irrespective of under which invoice such debt arose and irrespective of any purported application of that payment which the Customer may seek to make.
- 11.4 Where the Customer deals as a consumer within the meaning of the Unfair Contract Terms Act 1977, the Company shall be liable for any breach of the terms set out in Sections 13,14 and 15 of the Sale of Goods Act 1979 in so far as such terms are implied in the contract. Nothing in these Terms and Conditions excludes or limits the Company's liability for any breach of Sections 12 of the Sale of Goods Act 1979.
- 11.5 The Customer may not assign or otherwise transfer any of its rights under the Contract to any other person. The Company may transfer its rights under the contract to another business or company.
- 11.6 Failure by the Company to exercise or enforce any right shall not be a waiver of that right nor prevent the exercise or enforcement of that or any other right at any time.
- 11.7 Except as expressly set out herein, a person who is not a party to the contract shall have no rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any of its terms. Any remedy which exists or is available apart from the Act is not affected.
- 11.8 If any provisions become void or unenforceable then all other parts will continue to be valid irrespective of the provision which is not enforceable.
- 11.9 Nothing in these Terms and Conditions will imply a relationship of employment, partnership or agency between the parties.
- 11.10 The Company may at any time, without notice to the Customer, set off any liability of the Customer to the Company against any liability of the Company to the Customer, whether either liability is present or future, liquidated or unliquidated, actual or contingent and whether or not either liability arises under this Agreement or otherwise. Any exercise by the Company of its rights under this clause 11.10 shall not limit or affect any other rights or remedies available to it under this Agreement or otherwise. Further the parties hereto agree that the Company's right of set off in this clause 11.10, shall apply for the benefit of both the Company and other members within the same group of companies of the Company at any time, such that the right of set off shall also extend to any liabilities of other members from time to time within the same group of companies of the Company, to the Customer.
- 11.11 Any amounts due to the Company under or in connection with this Agreement or otherwise shall be paid by the Customer in full without any set-off, counterclaim, deduction or withholding (except to the extent required by law).
- 11.12 Nothing in these terms nor any contract shall commit the Company to any form of buy back obligation or residual value agreement unless a separate agreement is entered into between the parties in writing and signed by the Managing Director from time to time of the Company.
- 11.13 The Company reserves the right to appoint any third parties to assist it in performing its obligations or providing Services, as the Company may in its discretion determine.
- 11.14 The Company will not be liable to the Customer if it is unable to perform any of its obligations under these Terms and Conditions due to any reason beyond its reasonable control including legislation, fire, flood, failure of power supply, strike, employee stoppages or similar.
- 11.15 These Terms supersede any previous terms and conditions issued by the Company relating to the subject matter of these Terms.
- 11.16 All written notices given by the Company to the Customer shall take effect 24 hours after being posted by the Company.
- 11.17 Any communications or notices between the parties shall be in writing and may be delivered: (i) by hand, first class post or by fax and addressed to the addressee at its registered office or principal place of business; or (ii) by e-mail to the e-mail address stated in the Contract.
- 11.18 This Agreement is deemed made in England and its construction, validity and performance shall be covered in all respects by English Law and the parties submit to the exclusive jurisdiction of the English Courts except with regard to enforcement in respect of which jurisdiction of the English Courts shall be non-exclusive.
- Any questions or complaints then these should be addressed to the Managing Director of the Company at the address shown on the Order.**