

TERMS AND CONDITIONS – ALLPORTS GARAGES LIMITED (T/A ALLPORTS GROUP)

Definitions

- 1.1 'Company' Allports Garages Limited, and their respective successors or assigns.
- 1.2 'Customer' the customer of the company.
- 1.3 'Contract' and contract entered into for the supply of Goods by the Company.
- 1.4 'Goods' any new, used, or reconditioned vehicles, parts of other goods of whatsoever nature forming the subject matter of any contract including, unless the context otherwise so requires, services and any goods of the Customer on which the Company performs services.

Contracts and Variations

- 2.1 These conditions shall be incorporated in all contracts to the exclusion of any terms or conditions referred to by the Customer of any delivery or performance tendered by the Company shall in any event by conclusive evidence of the Customer's acceptance of these conditions and in respect of the sale of a new, used or reconditioned vehicle a Contract shall be constituted only by a written order signed on behalf of the Customer and a written acceptance signed on behalf of the company.
- 2.2 No amendment of any Contract or these Conditions shall bind the Company unless in writing and signed by a director of the Company or the Company Secretary.

Trade in

- 3.1 If the Company has agreed an allowance of the part of the price of any Goods against the delivery by the Customer of a used vehicle.
- 3.2 The vehicle shall be delivered by the Customer at the Company's premises on or before the date on which the Goods are available for delivery to the Customer.
- 3.3 The Customer shall be the absolute owner free from encumbrances of the vehicle and have the lawful right to sell and dispose of it and if the Customer has disclosed in writing that the vehicle is subject to a hire purchase, lease, or conditional sale agreement it must be capable of immediate cash settlement by payment of a sum not greater than the amount of the allowance by the company.
- 3.4 The vehicle shall be in the same condition as it was at the time of any previous inspection by the company and, without prejudice to the generality of the foregoing 'shall be in a legally roadworthy condition, free from and, without prejudice to the generality of the foregoing, shall be in a legally roadworthy condition, free from any Department of Transport prohibitions, shall have been properly maintained with spare parts supplied by the manufacturer of the vehicle and shall not have been damaged by frost, overheating or abuse or been involved in any accident.
- 3.5 The mileage shall be correctly shown on the tachograph or odometer (and shall not be materially greater than at the time of any prior inspection by the Company), the plated weights of the vehicle shall not have been exceeded or any lead seals broken.
- 3.6 The Customer shall hand to the Company the ignition keys and registration document of the vehicle and any necessary test certificate, and such certificate will remain in force for not less than thirty (30) days after delivery of the vehicle.
- 3.7 If any of the requirements are not met to the Company's satisfaction, the Company shall have the right, before or after delivery of the Goods, without prejudice to any other remedy, to exercise any or all of the following rights, namely:
 - 3.7.1 to rescind the contract.
 - 3.7.2 to reject the vehicle and require the price of the Goods to be paid in full.
 - 3.7.3 to repair the vehicle at the Customer's expense.
 - 3.7.4 to make such reduction in the allowance as it considers reasonable.

Finance Agreements

- 4 The Company will, at the Customer's request, transfer title in the Goods to any person operating a licensed consumer credit business, subject to the approval of the Customer's references, completion of any hire purchase, lease or conditional sale agreements and acceptance of any insurance proposal and such transfer shall be deemed to be complete discharge of the Company's obligations to the customer under the Contract and payment by the person to whom title in the goods is to be transferred shall be deemed to have been made by the Customer.

Price

- 5.1 The Company's prices exclude delivery, insurance, motor vehicle tax, VAT and all other taxes or duties whatsoever.
- 5.2 The Company's prices are those ruling at the date of delivery of performance. Accordingly, if the costs to the Company of supplying the Goods shall increase for whatever reason (including any increase in manufacturers' quoted or recommended prices) after the date of the customer's order, the Company may increase its price correspondingly.
- 5.3 No allowance will be given for any standard parts not taken by the Customer.

Payment

- 6.1 Payment shall, if the Company so requires, be received in fully by the Company before the goods are delivered or collection shall otherwise be made not later than the end of the month following the month in which the Company's invoice is issued. The company also reserves the right at any time to require the payment by the customer of a deposit as a condition of acceptance of the Customer order (or the performance or continued performance of the contract).
- 6.2 Payment shall be made in pounds sterling without any discount, set off or other deduction whatsoever.
- 6.3 The time for payment shall be of the essence of the Contract and, without prejudice to any other of the Company's rights, interest shall be payable on any overdue amount from the date on which payment was due to that on which it is made (whether before or after judgement) on a daily basis at the rate of two per cent (2%) per month.
- 6.4 Any expenses (including legal costs) incurred by the company in recovering any amounts owing from the Customer and any Goods in which title has been retained by the Company shall be due for payment immediately the invoice is issued or on such other dates as the Company shall notify to the Customer in writing.
- 6.5 The Company reserves the right to apply amounts received first in settlement of interest on overdue debts due beginning with oldest.
- 6.6 If the Customer fails to make any payment when and as due or other circumstances entitling the Company to terminate the Contract arise or if Customer exceeds any financial limit on the Customer's account (if any) from time to time applied by the Company then the price of all such goods as have been delivered or applied to any Contract shall forthwith thereupon become immediately due and payable.

Delivery, Risk Insurance

- 7.1 Goods shall be delivered and risk in them shall pass to the Customer when they are made available at the Company's premises or other delivery point agreed in writing by the Company or to a third party for work to be carried out on them.
- 7.2 The Company will endeavour subject to these conditions to comply with any date given by it but shall not be liable for any loss, damage or expense arising from any delay or failure in delivery or performance from any cause whatsoever not shall any such delay or failure entitle the Customer to refuse to accept any delivery or performance or repudiate any Contract.
- 7.3 If the Customer fails to take delivery of any goods when tendered or to collect them when notified they are ready for collection, the Company may at its discretion exercise any or all of the following rights, namely, to store the Goods at the risk of the Customer, to require the Customer to pay all storage, transportation, handling or other charges incurred by the Company as a result of such a failure or to require the Customer to pay for the goods as though delivery had taken place.
- 7.4 The Company may deliver the Goods by instalment each of which shall be deemed to be subject of a separate Contract and, unless otherwise agreed in writing, no failure by the Company in anyone or more instalment shall entitle the Customer to repudiate any Contract for Goods previously delivered or to refuse to accept any undelivered Goods.

Title

- 8.1 Notwithstanding the earlier passing the risk, title in Goods sold by the Company shall remain with the Company and not pass to the Customer (who shall, nevertheless, subject to the conditions stated below, be entitled in the ordinary course of business to use them and resell them as principal only) until the Company has received in cash or cleared funds payment in full (including any taxes) of the price of the Goods and of all other debts in respect of any other goods or services owed to it by the Customer on any account.
- 8.2 Until title passes:
 - 8.2.1 The Customer shall hold the Goods as bailee for the Company and ensure that they are at all times clearly identified as the property of the Company and obliterate or tamper with any identifying mark on the Goods or its packaging. The Customer shall comprehensively insure the Goods for their full replacement value and procure that the Company's interest if noted on the policy of insurance and, at the Company's request, furnish it with such evidence as it requires of the Customer's compliance with these requirements.
 - 8.2.3 The Company shall be entitled at any time on demand to:
 - 8.2.3.1 Repossess, and sell all or any of the Goods and thereby terminate (without any liability to the Customer) the Customer's right to use or re-sell them, and
 - 8.2.3.2 Enter any premises where the Goods are located for the purpose of inspecting or repossessing them.
 - 8.3 The Company shall, without prejudice to any other remedy, be entitled to maintain any action for the price of the Goods although title in them has not passed to the Customer.
- 8.4 The Company transfers to the Customer only such title and rights of use as the Company has in any Goods and in the case of material provided by any third party shall transfer only such title and rights as that party had transferred to the Company.

Loss or Damage

- 9.1 If at any time of delivery any Goods are missing or damaged the company will, at its expense, subject to these conditions, in its discretion, within a reasonable period, make good the discrepancy by repair, or, at its option by replacement at the original point of delivery or allow credit for the invoice value of the Goods.
- 9.2 The Company shall have no liability in respect of any such discrepancy within seven (7) days of receipt or collection of the goods.

Warranty

- 10.1 The Company shall at the Customer's request, assign to the Customer (so far as the company is able to do so) any warranty given by the manufacturer of the Goods and to the extent any Goods consist of Services supplied by the Company they shall be performed with reasonable skill and care.
- 10.2 The Company shall have no liability whatsoever in connection with any used or reconditioned Goods.

Claims

- 11.1 The Company shall have no Liability whatsoever in connection with any claims arising in relation to:
 - 11.1.1 any goods which have been adjusted, modified or repaired otherwise than by the company,
 - 11.1.2 any defects in any goods due to wear, accident, improper adjustment (including but not limited to governed engines in which the setting of the fuel pump or the engine governor has been altered or tampered with), misuse including but not limited to the use of dirty or unsuitable oil or overloading or neglect,
 - 11.1.3 the consequences of any faulty workmanship by or on behalf of the Customer in connection with the replacement or repair of or alteration or addition to any goods,
 - 11.1.4 any damage to any Goods due to defect in parts or items not supplied by the Company,
 - 11.1.5 failure by the Customer to comply with recommendations or instructions given by the Company or the manufacturer of the Goods.
- 11.2 The Company shall have no liability whatsoever in connection with any claim unless:
 - 11.2.1 the customer has afforded the Company reasonable opportunity and facilities for the investigation and making good of any claim and request by the Company for the return, at the Customer's expense, of any Goods and, in the case of any Goods sold by the Company, such opportunity shall be given before the Goods are resold by the Customer,
 - 11.2.2 (in the case of any loss of or damage to any goods which might have occurred in transit and where the Goods are transported by an independent carrier) the customer has complied in all respect with the carrier's conditions of carriage for notifying claims or loss or damage in transit, and
 - 11.2.3 the customer has paid the full amount of all Company's invoices under the Contract or other agreements between the Company and Customer prior to the date of the claim.
- 11.3 Any items replaced by the Company, or any manufacturer of a part alleged to be defective shall, as between the Customer and the Company, be deemed to be the Company's property and shall not be used or disposed of except in accordance with the company's written instructions.

Extent of liability

- 12.1 Except to the extent stated in these conditions or otherwise agreed in writing by it, the Company shall have no obligation of duty, or liability in contract (including negligence or breach of statutory duty or otherwise) however under or in connection with the contract other than for death or personal injury resulting from its negligence.
- 12.2 The Company accepts no liability for the quality of any Goods or their suitability for any particular purpose (whether or not known to the company or for any indirect or consequential loss or damage suffered by the Customer under or in connection with the Contract, including to wasted time or expenditure, towing charges, hire charges, charges for dismantling or reassembly of any Goods, loss or profits, production, business revenue, expected savings or goodwill, or any claims against the Customer by any person and the Customer shall be solely responsible for any such claims.
- 12.3 The Company shall be discharged of all liability to which these conditions apply unless proceedings are begun within twelve (12) months after the Customer became aware (or should reasonably have become aware) of the facts giving rise to such liability.
- 12.4 The Company's liability in connection with the Goods shall in no circumstance exceed their invoice price.
- 12.5 Any claim the Customer or acceptance of liability by the Company in respect of any particular Goods shall not entitle the Customer to reject or refuse to pay for any other Goods.

Termination or suspension

- 13.1 If the Customer fails to make any payment when and as due or otherwise defaults in any of its obligations under the Contract or any other agreement with the Company, is unable to pay its debts in the ordinary course of its business, has a receiver, manager, administrator or administrative receiver in bankruptcy (as the case may be) appointed for all or any part of its undertaking, assets or income, is the subject to any bankruptcy petition, has a resolution passed for its winding up, has a petition presented to any court for an administration order or for its winding up, enter into any composition or arrangement with its creditors (whether formal or informal) has any distress or execution levied on any of its assets, suffers any action similar to any of the foregoing in any jurisdiction or ceases to trade or the Company or the Company bona fide believes that any of the foregoing matters may occur, then, in any such event the Company shall, without prejudice to any other remedy, be entitled, at its discretion, by giving the Customer written notice at any time, to forthwith suspend its performance of or terminate such Contract without liability to the Customer.
- 13.2 The rights of the Company shall not be prejudiced or restricted by any induced by or forbearance extended to the Customer and no waiver by the company in respect of any breach shall operate as a waiver in respect of the same or any subsequent breach.

Force Majeure

- 14 The Company shall not be liable for any delay or other failure to perform the whole or any part of the Contract resulting from any cause whatsoever beyond the Company's control existing at the date of the Contract or arising thereafter including but not limited to fire, explosion, breakdown or failure of plant or machinery, lack or failure of transport facilities, supply of labour, materials, power of supplies, strike, lockout or labour dispute (whether or not at the Company's works) illness, epidemic flood, drought, war, civil commotion, or restriction of any authority or governmental agency and the time for performance shall be extended by the period of any such day.

Servicing of Customers' Goods

- 15.1 It shall be the responsibility of the Customer when leaving any Goods at the Company's premises or handing over the Goods to a person acting on behalf of the company (including but not limited to any vehicle recovery organisation).
 - 15.1.1 to deliver the Goods in a clean condition so that the service can be carried out,
 - 15.1.2 to remove all personal belongings, loose equipment, catering provisions, musical and video tapes, or other goods, and
 - 15.1.3 to advise the Company of the description of any payload or any other factor which may affect the service of consequences thereof the company shall not be liable for any claim for any loss or damage if the Customer fails to comply with these responsibilities.
- 15.2 The Company reserves the right to require the customer or its representatives collecting the Goods to produce their copy of their order form or of the Company's invoice before the Goods are delivered. The production of such an order form or invoice shall be conclusive that the person producing such document is the Customer or a person duly authorised by the Customer to take charge of the Goods and any contents.
- 15.3 Customers' goods are received, driven, towed, or transported by the Company's employees or on behalf of the company at the risk of the Customer. All Goods in the possession of the Company for service or otherwise are held by the goods at the Customer's risk as regards loss or damage, however arising and the Company shall have no liability whatsoever for any such loss or damage.
- 15.4 Unless alternative written instructions are given to the Company by the Customer prior to the Company agreeing to undertake the service all materials or parts permanently removed from any Goods will become the property of the Company.

General

- 16.1 The acceptance of any cancellation of the Contract requested by the Customer or return of any Goods shall be at the Company's discretion and take effect only when written confirmation of such acceptance or return has been given by the Company.
- 16.2 The Customer, unless otherwise agreed in writing, will be deemed to be acting as a principal and not as an agent or as a person acting on behalf of the Company.
- 16.3 Any specifications, drawings, particulars of weight and dimensions and other technical information contained in the quotations, catalogues, price lists and advertisements of the Company or the manufacturers of the Goods or elsewhere are approximate only and intended merely to present a general idea of the goods and (unless otherwise agreed in writing by the Company) are not to form part of the Contract. Such manufacturers may alter the designs and specifications of the Goods without notice at any time and accordingly the company reserves the right to deliver Goods conforming to the altered design or specification in fulfillment of any Contract. No contract shall constitute a sale by sample notwithstanding that any Goods or products may have been exhibited to or inspected by the Customer.
- 16.4 The Company shall have no liability for any advice, opinion or information furnished by the Company, its servant or agents unless given in writing in response to written request by the Customer referring to the Contract.
- 16.5 The Customer shall indemnify and hold harmless the company against any and all claims, proceedings, costs, damages liabilities and expenses incurred or suffered by the company arising from:
 - 16.5.1 any failure by the Customer to comply with any recommendations or instructions given by the Company or the manufacturer of any goods,
 - 16.5.2 any modification or alteration by the Customer or any third party of any Goods (including the fitting of any equipment, accessories, or replacement parts),
 - 16.5.3 any instructions data or good supplied by or on behalf of the Customer or any failure or delay in the supply of the same or any infringement of the rights of any third-party resulting from the Company's use of the foregoing items.
- 16.6 The Company may at its discretion subcontract all or any of its obligations under the contract but the Contract shall not be assigned by the Customer without the Company's prior written consent.
- 16.7 The Company shall have a lien on any Goods in the company's possession for all sums due at any time from the customer on any account and shall be entitled to keep possession of or or at its option sell or dispose of the same as agent for and at the expense of the customer and apply any proceeds in towards the payment of such sums on twenty-eight (28) days written notice to the customer.
- 16.8 Any provision of the Contract which is held by any competent authority to be invalid or unenforceable, shall to the extent of such invalidity or unenforceability be deemed to have been severed from it and its remaining provisions shall not be thereby affected.

Data and Services

- 17 For collection of personal data refer to <https://www.allportsgroup.co.uk/about-us/legal-information/>. We may collect personal data in order to facilitate the provision of products and services you have requested or to administer your account(s), this includes connected devices, telematics and information systems that are connected to our Vehicles.

Laws Jurisdiction and Construction

- 18 The Contract shall be governed by English law and the parties' consent to the exclusive jurisdiction of the English courts in all matters relating to the contract except to the extent the Company involves the jurisdiction of the courts of any other country.