



JC PAYNE (UK) LIMITED

TERMS AND CONDITIONS OF REPAIR

These terms and conditions apply to repair and refurbishment work which JC Payne (UK) Limited undertakes as a standalone contract, and excludes repair work undertaken pursuant to JC Payne (UK) Limited's standard terms and conditions of warranty.

JC Payne (UK) Limited agrees to repair and refurbish Vehicles in accordance with these Terms.

(1) INTERPRETATION

(a) In these Terms the following expressions have the following meanings:

"Authorised Signatory" means a person authorised by the Company to sign on its behalf.

"Business Day" means 9am to 5pm on any day (other than a Saturday, Sunday or public holiday) when banks in London are open for business.

"Contract" means the contract between the Company and the Customer for the supply of the Repair Services in accordance with these Terms.

"Company" means JC Payne (UK) Limited (registered in England and Wales with company number 06872056).

"Completion Date" means the date when the Company estimate the Repair Services will have been completed.

"Customer" means the person, company or firm who purchases Repair Services from the Company.

"Order" means the Customer's written instruction to provide the Repair Services.

"Repair Services" means the repair, alteration and/or restoration of all bodywork, superstructure, ancillary equipment and all parts and services to be supplied by the Company necessary to integrate and function with an incomplete chassis, and as a complete vehicle, and any other operation carried out for the Customer by the Company including the storage of vehicles.

"Terms" means the terms and conditions set out in this document as amended from time to time in accordance with Term (17)(f).

(b) In these Terms, unless the context requires otherwise, the following rules apply:

- i) A **person** includes a natural person, corporate or unincorporated body (whether or not having separate legal personality).
- ii) A reference to a party includes its personal representatives, successors or permitted assigns.
- iii) A reference to a statute or statutory provision is a reference to such statute or provision as amended or re-enacted. A reference to a statute or statutory provision includes any subordinate legislation made under that statute or statutory provision, as amended or re-enacted.



- iv) Any phrase introduced by the terms **including, include, in particular** or any similar expression shall be construed as illustrative and shall not limit the sense of the words preceding those terms.
- v) A reference to **writing** or **written** includes faxes and e-mails.

(2) BASIS OF CONTRACT

- (a) These Terms apply to the Contract to the exclusion of any other terms that the Customer seeks to impose or incorporate, or which are implied by trade, custom, practice or course of dealing.
- (b) These Terms constitute the entire agreement between the Customer and the Company and no other statements, representations or terms form part of it unless they are in writing and are signed by an Authorised Signatory. The Company's sales representatives, employees and agents are not authorised to make any representation or commitment concerning the Contract or otherwise on its behalf and in entering into the Contract, the Customer acknowledges that it has not relied on any statement, promise or representation and waives any claim for breach of any such representation or commitment which (i) is not contained in the Contract or (ii) has not been confirmed by an Authorised Signatory. No terms and conditions endorsed on, delivered with or contained in the Order or other document shall form part of the Contract simply as a result of such document being referred to in the Contract.
- (c) Any tender, quotation or estimate given by the Company will comprise an invitation to treat and in any event is valid for a period of 7 days only from the date of its issue, unless otherwise stated in the tender, quotation or estimate. An Order issued by the Customer is subject to acceptance by the Company and no order submitted by the Customer shall be deemed to be accepted by the Company unless and until confirmed in writing at which point the Contract shall come into existence.
- (d) Each order or acceptance of a tender, quotation or estimate for Repair Services by the Customer from the Company shall be deemed to be an offer by the Customer to purchase the Repair Services subject to these Terms. The Customer is responsible for ensuring that the terms of the Order are complete and accurate.
- (e) The Company may withdraw any tender, quotation or estimate at any time before it is incorporated into a Contract
- (f) The Company shall not be obliged to accept any order given by the Customer.

(3) ESTIMATES

- (a) An estimate given for a repair shall be provisional and may be subject to variations in the price of parts or materials between the date of the estimate and the date of the commencement and/or completion of the Repair Services. It will also depend on further work or parts which are found to be necessary subject to any conditions specified upon instruction either by the Company or the Customer.
- (b) The Company will not usually but reserves the right to charge for the provision of an estimate.

(4) RESTRICTIONS



- (a) The Company reserves the right to refuse to carry out work which:
- i) in the absolute discretion of the Company or its employees may make the vehicle unsafe whether for vehicle occupants and/or pedestrians;
 - ii) might have a detrimental effect on other parts of the vehicle; or
 - iii) in the opinion of the Company and/or its employees would render the vehicles use on the highway to constitute a criminal offence.

(5) SUB-CONTRACT

For the provision of the Repair Services under the Contract, the Company may instruct third parties to undertake certain specialist actions required where in the opinion of the Company, such actions require the use of such specialist parties. The Company undertakes that it shall only contract such professionals to undertake these services that are in the reasonable opinion of the Company suitably competent.

(6) REPLACEMENT PARTS

- (a) All parts and components removed from a vehicle and replaced, other than those exchanged for replacement parts shall become the property of the Company unless the Customer specifically requests their return prior to the commencement of the Repair Services and are contained in a pricing estimate accordingly.
- (b) All replacement parts and components shall remain the property of the Company until the Company receives payment in full for the Repair Services. Further the Company reserves the right to enter the Customer's property and remove parts from the Customer's vehicle to the value of any outstanding invoice. By entering into agreement with the Company, the Customer grants its express authority to the Repairer to enter its property and remove parts from the vehicle to the value of the outstanding invoice.

(7) PAINTWORK

- (a) The Company warrants that it will use reasonable skill and care when undertaking all paintwork on a vehicle. The Company warrants that on paintwork carried out on any new metal will be of satisfactory quality and free from defects in workmanship and materials for a period of 6 months from the date of the completion of the Repair Services, subject to any defects caused by extreme environmental conditions, user abuse, damage and extreme cleaning conditions and products, which may result in, without limitation peeling, flaking or adhesion defects.
- (b) Where new paintwork is required and the metal is found to be rusted, the Company will use reasonable endeavours to prevent such rust penetrating after the completion of the Repair Services. However, in such instances, the Company does not warrant that the paintwork on the metal shall remain free from defects following the completion of the Repair Services for any period of time and does not guarantee that the rust will not reoccur after the completion of the Repair Services.
- (c) The Company will use paint and materials as requested by the Customer to the extent such paint is approved for use for vehicle repairs by the relevant chassis manufacturer. Further, if partial paintwork is required, the Company shall use reasonable endeavours will be made to match the existing colour scheme, however the Company does not warrant



that it will in any case be able to provide a perfect colour match. The Company may be required to 'Blend or spray the adjoining panel' in order to obtain a satisfactory finish.

(8) COMPLETION DATES

- (a) Prior to the commencement of the Repair Services the Company will where possible provide the Customer with an estimated Completion Date. Such estimated Completion Date may be communicated orally.
- (b) Any Completion Date quoted for the completion of the Repair Services by the Company are approximate only and the Company shall not be liable for any delay in the completion of the Repair Services or failure to make them ready for collection on such dates howsoever caused. If a vehicle is delivered to the Company late, this will impact the Completion Date.
- (c) Delays in a Completion Date shall not entitle the Customer to:
 - i) claim damages; or
 - ii) terminate the Contract.
- (d) The Company shall have no liability for any failure or delay in delivering an Order to the extent that such failure or delay is caused by the Customer's failure to comply with its obligations under these Terms.

(9) COLLECTION

- (a) Following the completion of the Repair Services, the Company shall notify the Customer. Following receipt of such notification, the Customer shall arrange for the collection of its vehicle as soon as reasonably practicable, and in any event no later than any date contained in the Order and/or within 48 hours upon receiving the Company's request to collect the vehicle, unless agreed in writing by the Company.
- (b) The Company will only release a vehicle to the Customer after the Repair Services are completed, unless it is requested by the Customer to release the vehicle to the Customer's agent.

(10) VAT

- (a) VAT will be charged on completion of the Repair Services at the rate applicable upon that date.
- (b) By entering into this agreement the customer agrees to ensure that they are able, and prepared to pay the VAT element of the repair invoice, or their insurance excess when and if applicable. The amount of any excess and/or VAT must be confirmed, agreed and paid to the Repairer upon the completion of the Service.

(11) TERMS OF PAYMENT

- (a) The price of all Repair Services shall be due and payable by the Customer in cleared funds to the bank account specified by the Company prior to the vehicle being released unless otherwise agreed by an Authorised Signatory in writing. If the Customer fails to pay the Company, the vehicle will be retained and storage charges will accrue commencing at the



end of a 24 hour collection period, which shall commence following the notification by the Company to the Customer of the completion of the Repair Services.

- (b) If a Customer fails to contact the Company and make arrangements to collect the repaired vehicle, or the Customer fails to collect the repaired vehicle before the collection period expires or on a date prior agreed with the Company, storage charges will accrue at a daily rate until the vehicle is collected.
- (c) Time for payment shall be of the essence and such provision shall apply even if the Company has agreed to deliver the vehicle following completion of the Repair Services.
- (d) The Customer shall pay all amounts due under the Contract in full without any deduction or withholding except as required by law and the Customer shall not be entitled to assert any credit, set-off or counterclaim against the Company in order to justify withholding payment of any such amount in whole or in part. The Company may at any time, without limiting any other rights or remedies it may have, set off any amount owing to it by the Customer against any amount payable by the Company to the Customer.

(12) LIEN

- (a) The Company retains the right to hold a vehicle following the completion of the Repair Services until such time as the account is paid in full.
- (b) If the Customer fails to make any payment on the due date then, without prejudice to any other right or remedy available, the Company shall be entitled to:
 - i) charge the Customer interest at 4 per cent per annum above Barclays Bank plc. base rate for the time being on the amount unpaid, such interest being deemed to accrue on a day to day basis from the due date for payment until payment in full is made; and/or
 - ii) suspend performance of all or any of the Company's contractual obligations under or in connection with any other contract with the Customer.

(13) STORAGE

- (a) If the Customer fails to collect the vehicle when agreed with the Company, or arrangements are not made for its collection, storage charges will accrue commencing at the end of a 24 hour collection period. The Company undertakes to notify the customer as soon as reasonably practicable that the work has been completed and that daily storage charges.
- (b) A repaired vehicle will not be released until all outstanding amounts have been paid, which may include any excess and/or VAT and storage charges.
- (c) Daily storage charges may also be incurred, from the date on which the vehicle was left with the Company, if authority to proceed with the Repair Services is, in the sole opinion of the Company, unreasonably delayed or unreasonably refused.
- (d) If the Customer, and/or the Customer's insurance company, decides to collect the vehicle prior to the Company undertaking the services, thereby preventing the Company from undertaking the Repair Services, then the Company may charge storage at its usual daily rate. In such circumstances storage will accrue from the date when the vehicle was left at the Company's premises on the understanding that the Company would provide their



service. If the vehicle is to be removed without the Repair Services being undertaken by the Company then storage may be charged as if the original agreement was that the Company would provide storage for the vehicle.

(14) UNCOLLECTED GOODS

The Company may exercise its right as regards uncollected goods under the Torts (Interference with Goods) Act 1977, if the vehicle is not collected following the completion of the Repair Services and notification thereof to the Customer subject to the Company complying with the provisions of the Torts (Interference with Goods) Act 1977.

(15) LIMITATION OF LIABILITY

(a) Nothing in the Terms shall limit or exclude the Company's liability for:

- i) death or personal injury caused by its negligence, or the negligence of its employees, agents or subcontractors (as applicable);
- ii) fraud or fraudulent misrepresentation;
- iii) breach of the terms implied by section 12 of the Sale of Goods Act 1979;
- iv) defective products under the Consumer Protection Act 1987; or
- v) any other matter in respect of which it would be unlawful for the Company to exclude or restrict liability.

(b) Subject to Term (15)(a):

- i) the Company shall under no circumstances whatsoever be liable to the Customer, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, for any loss of profit, or any indirect or consequential loss arising under or in connection with the Contract; and
- ii) the Company's total liability to the Customer in respect of all other losses arising under or in connection with the Contract, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, shall in no circumstances exceed the agreed price of the Contract.

(16) CUSTOMER LIABILITY

(a) The Customer shall be solely responsible for payment of the Company's invoice for the Repair Services. Liability for payment to the Company for the Repair Services will at all times remain with the Customer until payment is received in full. If a Customer's insurance company refuses to honour the Customer's insurance policy and therefore refuses to pay the Company's invoice directly, the Customer shall discharge the Company's invoice immediately in accordance with Term (11).

(b) Subject to Term (11)(a), The Company agrees that it will upon the provision of all relevant information liaise with a Customer's insurance company to facilitate a claim if the Customer intends to claim the cost of the Repair Services from its insurer.

(17) GENERAL

(a) Assignment and subcontracting

- i) The Company may at any time assign, transfer, charge, subcontract or deal in any other manner with any or all of its rights or obligations under the Contract.



- ii) The Customer may not assign, transfer, charge, subcontract or deal in any other manner with any or all of its rights or obligations under the Contract without the Company's prior written consent.

(b) Notices

- i) Any notice or other communication given to a party under or in connection with the Contract shall be in writing, addressed to that party at its registered office (if it is a company) or its principal place of business (in any other case) or such other address as that party may have specified to the other party in writing in accordance with this clause, and shall be delivered personally, or sent by pre-paid first class post, recorded delivery, commercial courier, fax or e-mail.
- ii) A notice or other communication shall be deemed to have been received: if delivered personally, when left at the address referred to in clause (17)(b)i); if sent by pre-paid first class post or recorded delivery, at 9.00 am on the second Business Day after posting; if delivered by commercial courier, on the date and at the time that the courier's delivery receipt is signed; or, if sent by fax or e-mail, one Business Day after transmission.
- iii) The provisions of this clause shall not apply to the service of any proceedings or other documents in any legal action.

(c) Severance

- i) If any court or competent authority finds that any provision of the Contract (or part of any provision) is invalid, illegal or unenforceable, that provision or part-provision shall, to the extent required, be deemed to be deleted, and the validity and enforceability of the other provisions of the Contract shall not be affected.
- ii) If any invalid, unenforceable or illegal provision of the Contract would be valid, enforceable and legal if some part of it were deleted, the provision shall apply with the minimum modification necessary to make it legal, valid and enforceable.

(d) Waiver

A waiver of any right or remedy under the Contract is only effective if given in writing and shall not be deemed a waiver of any subsequent breach or default. No failure or delay by a party to exercise any right or remedy provided under the Contract or by law shall constitute a waiver of that or any other right or remedy, nor shall it preclude or restrict the further exercise of that or any other right or remedy. No single or partial exercise of such right or remedy shall preclude or restrict the further exercise of that or any other right or remedy.

(e) Third party rights.

A person who is not a party to the Contract shall not have any rights under or in connection with it.

(f) Variation.

Except as set out in these Terms, any variation to the Contract, including the introduction of any additional terms and conditions, shall only be binding when agreed in writing and signed by an Authorised Signatory.

(g) Governing law and jurisdiction.



The Contract, and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims), shall be governed by, and construed in accordance with, English law, and the parties irrevocably submit to the exclusive jurisdiction of the courts of England and Wales.