



JC PAYNE (UK) LIMITED

TERMS AND CONDITIONS FOR THE SUPPLY OF GOODS

JC Payne (UK) Limited agrees to supply Completed Vehicles to the Customer in accordance with these Terms.

(1) DEFINITIONS

(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 a day (other than a Saturday, Sunday or public holiday) when banks in London are open for business.

"Chassis" means vehicles which shall be supplied by the Customer to the Company for the purpose of the Supply.

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

"Completed Vehicle" means a Chassis that has been converted by the Company in accordance with the Supply.

"Contract" means the contract between the Company and the Customer for the supply of the Goods incorporating these Terms.

"Customer" means the person or firm who purchases the Goods from the Company.

"Force Majeure Event" has the meaning given in Term (11) (*Force Majeure*).

"Goods" means the Completed Vehicles to be supplied or where the context permits, the services to be performed by the Company.

"Order" means the Customer's order for the Goods, as set out in the Customer's purchase order form or the Customer's written acceptance of the Company's quotation as the case may be.

"Specification" means the specification for the Goods that is agreed in writing by the Customer and the Company as shown in the Company's order acknowledgment.

"Supply" means the supply and fitting of all parts to Chassis in accordance with the Specification.

"Terms" means the terms set out in this document together with any additional terms agreed in writing and signed by an Authorised Signatory

"Warranty" means the Company's standard Warranty for Goods as set out in the Schedule to these Terms.



- (b) In these Terms, 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.
 - vi) A reference to Goods being **delivered** or their **delivery** shall be deemed to include the Goods being made available for collection at the Company's premises.

(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 Goods 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 or quotation given by the Company will comprise an invitation to treat and in any event is valid for a period of 90 days only from the date of its issue, unless otherwise stated in the tender or quotation. 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 the quotation for Goods by the Customer from the Company shall be deemed to be an offer by the Customer to buy the Goods subject to these Terms. The Customer is responsible for ensuring that the terms of the Order and any applicable Specification are complete and accurate.
- (e) The Company may withdraw any quotation or tender 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) CANCELLATION

No order given by the Customer which has been accepted by the Company may be cancelled except where:

- i) expressly agreed by an Authorised Signatory; and
- ii) the Customer undertakes to indemnify the Company fully against all loss (including loss of profit), costs (including the cost of all labour and materials used), damages, charges and expenses incurred by the Company as a result of such cancellation.

(4) PRICE

- (a) The price of the Goods shall be the Company's quoted price or, if there is no quoted price, the price as detailed in the Company's acceptance of the Order.
- (b) All prices quoted are exclusive of VAT. The Customer shall, on receipt of a valid VAT invoice from the Company, pay to the Company such additional amounts in respect of VAT as are chargeable on the supply of the Goods.
- (c) Unless otherwise stated all prices quoted are ex works, and, if applicable, all costs or charges in relation to packaging, loading, unloading, carriage, delivery and insurance, all of which amounts are payable by the Customer in addition when the Customer is due to pay for the Goods.
- (d) The Company reserves the right at any time prior to delivery of the Goods (or any instalment), to increase the price to take into account of:
 - i) any factor beyond the Company's control, including, without limitation, foreign exchange fluctuations, increases in taxes and duties, and increases in labour, materials and other manufacturing costs (provided that, the price agreed by the Company following acceptance of the Order will not be increased due to increased supplier costs within a period of 30 days from the date of the initial invitation to tender quotation);
 - ii) any request by the Customer to change the delivery date(s), quantities or types of Goods ordered, or the Specification; or
 - iii) any delay caused by any instructions of the Customer or failure of the Customer to give the Company adequate or accurate information or instructions.

(5) TERMS OF PAYMENT

- (a) The price of all Goods shall be due and payable by the Customer in cleared funds to the bank account specified by the Company not later than the day prior to the date specified by the Company or agreed for delivery unless otherwise agreed by an Authorised Signatory.
- (b) Time for payment shall be of the essence and such provision shall apply notwithstanding any delay in delivery of the Goods by the Company or any adjustments or corrections which may be required to the Goods after delivery.



- (c) 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) cancel the Contract or suspend any further deliveries of the Goods;
 - ii) appropriate any payment made by the Customer to such of the Goods or services (or the goods or services supplied under any other contract between the Customer and the Company) as the Company elects;
 - iii) demand security for payment before continuing with the Contract or delivering any Goods;
 - iv) 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
 - v) suspend performance of all or any of the Company's contractual obligations under or in connection with any other contract with the Customer.
- (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.

(6) DELIVERY OF GOODS

- (a) The Goods will be deemed to have been delivered upon the date on which the Goods leave the Company's premises (whether the Goods have been collected by the Customer or on its behalf or the Goods have been delivered to the Customer by the Company).
- (b) Any date or dates quoted for delivery of the Goods by the Company are approximate only and the Company shall not be liable for any delay in delivery of the Goods or failure to make them ready for collection on such dates howsoever caused.
- (c) The Goods may be delivered by the Company in advance of the quoted delivery date upon giving reasonable notice to the Customer and where the Order includes more than one Completed Vehicle, part deliveries are permitted.
- (d) If the Customer fail to take delivery of the Goods within a period of twenty Business Days then, without prejudice to any other right or remedy available to the Company, the Company may elect (at its reasonable discretion) to:
- i) store the Goods until actual delivery and charge the Customer for the reasonable costs of storage (including insurance); or
 - ii) sell the Goods at the best price readily obtainable and (after deducting all reasonable storage and selling expenses) account to the Customer for the excess over the price already paid by the Customer under the Contract or charge the Customer for any shortfall below the price payable by it under the Contract.
- (e) Delays in the delivery of an Order shall not entitle the Customer to:



- i) refuse to take delivery of the Order;
- ii) claim damages; or
- iii) terminate the Contract.

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.

(7) RISK AND TITLE

- (a) Risk of damage to or loss of the Goods shall pass to the Customer at the time when:
 - i) in the case of Goods to be delivered otherwise than at the Company's premises, at the time of delivery or, if the Customer fails to take delivery of the Goods in accordance with the terms of the Contract, the time when the Company tenders delivery of the Goods; or
 - ii) the Company notifies the Customer that the Goods are available for collection.
- (b) Notwithstanding risk in the Goods passing in accordance with Term (7)(a) above, legal and equitable title in the Goods shall not pass to the Customer until payment in full in cleared funds is received by the Company for the Goods and no other amounts are outstanding from the Customer to the Company.
- (c) Until title to the Goods has passed to the Customer, the Customer shall:
 - i) hold the Goods on a fiduciary basis as the Company's bailee;
 - ii) store the Goods separately from all other goods held by the Customer so that they remain readily identifiable as the Company's property;
 - iii) not remove, deface or obscure any identifying mark or packaging on or relating to the Goods;
 - iv) maintain the Goods in satisfactory condition and keep them insured against all risks for their full price from the date of delivery;
 - v) notify the Company immediately if it becomes subject to insolvency proceedings, ceases or threatens to cease to carry on its business or is the subject of any enforcement action by a creditor (including the presentation of a petition for bankruptcy); and
 - vi) give the Company such information relating to the Goods as the Company may require from time to time,

however, the Customer may use the Goods in the ordinary course of its business.

- (d) The Company is irrevocably authorised at any time to enter the Customer's premises or any alternative location where the Goods are stored for the purpose of repossessing, removing and if necessary dismantling such Goods for the purposes of removal.
- (e) The Company's rights set out in this Term (7) shall survive any termination of the Contract.

(8) WARRANTY



The Goods are supplied with the benefit of the Warranty subject to the conditions and exclusions set out therein.

(9) INSPECTION AND ACCEPTANCE

(a) The Customer may reject any Goods delivered to it that do not comply with the Warranty, provided that:

- i) notice of rejection is given to the Company:
 - (1) in the case of a defect that is apparent on normal visual inspection, within five Business Days of delivery;
 - (2) in the case of a latent defect, within a reasonable time of the latent defect having become apparent; and
- ii) none of the events listed in Term (9)(d) apply.

(b) Subject to clause (9)(a), if:

- i) the Customer gives notice in writing to the Company during the Warranty Period within a reasonable time of discovery that some or all of the Goods do not comply with the Warranty;
- ii) the Company is given a reasonable opportunity of examining such Goods; and
- iii) the Customer (if asked to do so by the Company) returns such Goods to the Company's place of business at the Customer's cost,

the Company shall, at its option, repair or replace the defective Goods, or refund the price of the defective Goods in full.

(c) If the Customer fails to give notice of rejection in accordance with Term (9)(a), it shall be deemed to have accepted such Goods.

(d) The Company shall not be liable for the failure of Goods to comply with the Warranty if:

- i) the Customer makes any further use of the Goods after giving notice in accordance with Term (9)(a);
- ii) the Goods differ from the Specification as a result of changes made to ensure they comply with applicable statutory or regulatory requirements; or
- iii) the conditions of the Warranty have not been complied with and one or more of the exclusions to the Warranty are applicable.

(e) The Terms shall apply to any repaired or replacement Goods supplied by the Company.

(10) 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 (10)(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 price of the Goods.

(11) FORCE MAJEURE

- (a) The Company shall not be liable nor shall it be deemed to be in breach of the Contract for any failure or delay in performing its obligations under the Contract to the extent that such failure or delay is caused by a Force Majeure Event. A "**Force Majeure Event**" means any event beyond a party's reasonable control, which by its nature could not have been foreseen, or, if it could have been foreseen, was unavoidable, including strikes, lock-outs or other industrial disputes (whether involving its own workforce or a third party's), failure of energy sources or transport network, acts of God, war, terrorism, riot, civil commotion, interference by civil or military authorities, national or international calamity, armed conflict, malicious damage, breakdown of plant or machinery, nuclear, chemical or biological contamination, sonic boom, explosions, collapse of building structures, fires, floods, storms, earthquakes, loss at sea, epidemics or similar events, natural disasters or extreme adverse weather conditions, or default of suppliers or subcontractors.
- (b) The Company shall notify the Customer as soon as reasonably practicable after becoming aware that it is unable to perform its obligations under the Contract due to a Force Majeure Event.
- (c) If the Company's inability to perform its obligations under the Contract continues for six months after it provides a notice pursuant to (11)(b) above, then either party may by written notice to the other party terminate the Contract without liability.

(12) SPECIFICATION

- (a) Illustrations, drawings and other literature prepared by the Company and provided to the Customer in relation to a Specification of Completed Vehicle shall not constitute representations by the Company nor shall it be bound by them unless it has expressly agreed otherwise in writing signed by an Authorised Signatory.
- (b) No dimensions, details, statements or other information as to capacity, output or power specified or contained in the drawings, specifications, photographs or other documents or illustrations shall be treated as binding upon the Company unless it has expressly agreed otherwise in writing signed by an Authorised Signatory.



- (c) The Company reserves the right to make such changes to the Specification and/or the design of or material used in the Goods as may be required to conform with any applicable safety or other statutory or regulatory requirements.
- (d) The Customer shall indemnify the Company against any claim made by a third party claiming rights to the Specification.
- (e) The Customer is solely responsible for determining whether the Specification contained in the Company's order acknowledgment is suitable for the Completed Vehicle's specific requirements. The Company will manufacture in accordance with the Company's usual manufacturing design processes unless the Customer expressly instructs otherwise in writing prior to the formation of the Contract. The Customer shall indemnify the Company against all liabilities, costs, expenses, damages and losses (including any direct or indirect consequential losses, loss of profit and other reasonable professional costs and expenses) suffered or incurred by the Company arising out of or in connection with any claim made against the Company for a Completed Vehicle that matches the Specification but for which the Customer or the user of the vehicle has a different interpretation of items contained within the Specification and assert that the Specification is incorrect. The Customer undertakes that in such circumstances, it shall pay the Company's invoice in accordance with the Company's payment terms notwithstanding any such claim.

(13) TERMINATION

- (a) If the Customer fails to remedy any breach of the Contract within 7 days of notice of such breach, the Company shall be entitled by notice in writing to treat the Contract as repudiated or to terminate the Contract.
- (b) If the Customer becomes subject to insolvency proceedings, ceases or threatens to cease to carry on its business or is the subject of any enforcement action by a creditor (including the presentation of a petition for bankruptcy), or the Company reasonably believes that the Customer is about to become subject to any of them and notifies the Customer accordingly, then, without limiting any other right or remedy available to the Company, the Company may cancel or suspend all further deliveries under the Contract or under any other contract between the Customer and the Company without incurring any liability to the Customer, and all outstanding sums in respect of Goods delivered to the Customer shall become immediately due and payable.
- (c) Without prejudice to Term (13)(a), the Company shall be entitled to immediately suspend the performance of the Contract upon any breach of the Contract by the Customer until such breach is remedied to the satisfaction of the Company (acting reasonably).

(14) ASSIGNMENT

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

(15) NOTICES

Any notice to be given by either party to the other under the Contract or these Terms shall be in writing and shall be deemed to have been duly given if sent or delivered to the party



concerned at its registered office or such other address as that party may from time to time notify in writing.

(16) SEVERANCE

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.

(17) 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.

(18) THIRD PARTY RIGHTS

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

(19) 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 the Company.

(20) GOVERNING LAW

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.



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JC Payne (UK) Limited (the "Company") warrants that all Goods sold in the United Kingdom shall be free from defects in materials and workmanship for a period of 12 months from the earlier of (i) the date of collection or delivery of the Goods or (ii) 1 week after the vehicle has been invoiced, where "Goods" means 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.

If a defect occurs during the period of warranty with respect to the Goods or part of the Goods only, the Goods or part of the Goods will be repaired or replaced by the Company at the Company's expense (such election to repair or replace being at the Company's sole discretion), subject to and in accordance with the warranty conditions and exclusions detailed below.

Parts removed during warranty repairs will become the property of the Company. This warranty applies only to the materials and components that form part of the Goods as manufactured and fitted by the Company. Any replacement part or component fitted to the vehicle during the warranty repair is also warranted to be free from defects in material and/or workmanship until expiration of the original 12 month warranty period.

The warranty is subject to certain excluded items as set out below in the 'Specifically Excluded Items' section. Warranties of other manufacturers (including the manufacturer of the vehicle chassis) or suppliers who supply components or ancillary equipment to the completed vehicle are the responsibility of that particular manufacturer or supplier and the Company assumes no responsibility in this regard.

CONDITIONS OF WARRANTY

1. The vehicle must be regularly maintained in accordance with the manufacturer's and the Company's recommendations, using parts recommended by the manufacturer and/or the Company or parts of matching quality. If the vehicle requires repair work that is carried out by any party other than the manufacturer without the manufacturer's prior approval, then the warranty shall no longer apply.
2. This warranty shall not extend to instances where the defect:
 - a. is caused by the use of parts other than those described in condition 1 above;
 - b. is due to normal wear-and-tear or deterioration and corrosion which can occur during normal usage;
 - c. is a result of an accident;
 - d. is due to damage, operator or other abuse, abnormal use, neglect or vandalism;
 - e. is due to a modification that is not approved by the Company;
 - f. is due to the vehicle being used to participate in racing or other circumstances exposing the vehicle to undue risk or operating conditions;
 - g. is due to an act of God, riots, civil commotion, or abnormal weather conditions; or
 - h. has been caused by the vehicle being overloaded.
3. The vehicle must be purchased, serviced and maintained by companies or individuals based within the UK (including Northern Ireland). This warranty will extend to vehicles that travel outside



of the UK, however the vehicle's normal work/operation and its base or operating centre must be located in the UK (including Northern Ireland).

4. Save as provided in term 6 below, the terms of this warranty in association with the applicable terms of sale shall be the full extent of the Company's liability for any defects. The Company shall only be liable for repairs, replacements and any costs specified in this warranty, as long as the customer has met its obligations. The customer shall not be entitled to any further damages or compensation, in particular no claims for loss of use, loss of opportunity, loss of profit or any indirect or consequential losses, including, without limitation, those set out in the Specifically Excluded Items below.
5. The Company shall not be liable for contingent or consequential losses however arising. The maximum liability shall in any event be limited to the purchase price of the product in question.
6. Nothing in this warranty shall exclude or limit the Company's liability for death or personal injury caused by the Company's negligence or fraudulent misrepresentations.
7. The benefit of this warranty shall transfer automatically on the sale of the vehicle to any new owner provided that the vehicle remains within the UK (excluding Northern Ireland).
8. The Company must be informed of a claim under the warranty prior to any repair work being carried out on the vehicle and given the opportunity to (i) inspect the vehicle and (ii) carry out the repair work required. The Company reserves the right to reject claims under the warranty where repair work has been carried out by an alternative company prior to the Company's inspection.

SPECIFICALLY EXCLUDED ITEMS

1. Any part of the complete vehicle that does not comprise part of the Goods, including, without limitation, chassis, cabs, engine, tyres, etc.
2. Auxiliary/ancillary equipment supplied but not manufactured by the Company, where that manufacturer's own warranty will apply including, without limitation, tipping equipment, tail-lifts, audible warning devices, etc. In the case of tail lifts, there is a specific exclusion if the tail lift is not serviced and tested in accordance with relevant and applicable legislative and regulatory requirements.
3. Any direct or indirect costs and expenses of replacement vehicles are excluded from warranty. Travel (including all costs and expenses in relation to the returning of vehicles to the Company's premises for remedial work and re-delivery whether mileage, labour, fuel or otherwise), accommodation or costs of individuals requiring replacement vehicles are specifically excluded.
4. Any work carried out made necessary by fair wear-and-tear or normal usage, including, without limitation, routine replacement or adjustment.
5. 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 12 months, subject to any defects caused by:



- i) extreme environmental conditions;
- ii) user abuse;
- iii) damage; or
- iv) extreme cleaning conditions and products,

which may result in, without limitation, peeling, flaking or adhesion defects.

- (b) Corrosion due to impact damage, chips, surface abrasion, etc. is excluded from the warranty.
- (c) Other than in the case of complete vehicles where the Company has been contracted to paint the chassis, cab and/or chassis components, no warranty is provided for the paint applied to these parts of the vehicle.
- (d) 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 paintwork. 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 paintwork.
- (e) 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.
- (f) Should the Company be required to re-paint a vehicle, all consequential and inconsequential losses are excluded, including, without limitation, replacement sign-writing and/or livery.