

Aston Workshop Limited
Terms and Conditions of Trade

Preamble:

The purpose of this document is to set out the basis on which Aston Workshop Ltd [AW] undertakes its trading activities with its customers. This applies both to private individuals and commercial entities in any jurisdiction worldwide. It applies to the sale; repair; supply or service undertaken by AW in relation to new or pre-owned vehicles and any parts; service (such as engine tuning or painting) or other activity pertinent to the particular transaction.

Please note that AW is bound by English law only, and subject to legal jurisdiction in England and Wales.

1. INTERPRETATION

1.1 For the avoidance of doubt the following words have the following meanings:

“Buyer” the person(s), firm or company who purchases the Goods and/or the Services;

“Buyer Materials” any documents or other materials, and any data or other information provided by the Buyer to AW relating to Goods and/or Services;

“AW Materials” any documents or other materials, and any data or other information provided by AW to the Buyer relating to Goods and/or Services;

“Aston Workshop Ltd” Aston Workshop Limited [AW];

“Principal” The customer approaching AW Ltd with a car for sale via consignment;

“Contract” any contract between AW and the Buyer for the sale and purchase of Goods and/or the supply and purchase of Services, whether written or oral;

“Goods” any goods agreed in the Contract to be supplied to the Buyer by AW (including any part or parts of them);

“Intellectual Property Rights” all patents, rights to inventions, utility models, copyright and related rights, trade-marks, service marks, trade, business and domain names, rights in trade dress or get-up, rights in goodwill or to sue for passing off, unfair competition rights, rights in designs, rights in computer software, database right, topography rights, moral rights, rights in confidential information (including know-how and trade secrets) and any other intellectual property rights, in each case whether registered or unregistered and including all applications for and renewals or extensions of such rights, and all similar or equivalent rights or forms of protection in any part of the world;

“Services” any works or services agreed in the Contract to be supplied to the Buyer by AW (including any part or parts of restoration work, servicing, repairs or other services with regard to the customers motor vehicles or activities);

1.2 In these Conditions references to any statute or statutory provision shall, unless the context otherwise requires, be construed as a reference to that statute or statutory provision as from time to time amended, consolidated, modified, extended, re-enacted or replaced.

1.3 In these Conditions references to the masculine include the feminine and the neuter and to the singular include the plural and vice versa as the context admits or requires.

1.4 In these Conditions headings shall not affect the construction of these Conditions.



1.5 References to any English legal term for any tax, right, action, remedy, court or any legal concept or thing shall in respect of any jurisdiction other than England be deemed to include what most nearly approximates in that jurisdiction to the English legal term.

2. APPLICATION OF TERMS

2.1 Subject to any variation under Condition 2.2, the Contract shall be on these Conditions to the exclusion of all other terms and conditions (including any terms or conditions which the Buyer purports to apply under any purchase order, confirmation of order, specification or other document). No terms or conditions endorsed upon, delivered with or contained in the Buyer's purchase order, confirmation of order, specification or other document shall form part of the Contract simply as a result of such document being referred to in the Contract.

2.2 Any variation to these Conditions shall have no effect unless expressly agreed in writing and signed by a duly authorised representative of AW – who shall be a director or officer of the company.

2.3 The Buyer acknowledges no reliance on any statement, promise or representation made or given by or on behalf of AW which is not set out in the Contract.

Nothing in this Condition (2.3) shall exclude or limit AW's liability for fraudulent misrepresentation.

2.4 Each order for Goods and/or Services by the Buyer from AW shall be deemed to be an offer by the Buyer to purchase Goods and/or Services subject to these Conditions.

2.5 The Buyer must ensure that the terms of its order and any applicable specification are complete and accurate.

2.6 No order which has been accepted by Aston Workshop Ltd may be cancelled by the Buyer except with the prior consent in writing of AW and provided that the Buyer indemnifies AW in full against all losses, costs, damages, charges and expenses incurred by AW as a result of the cancellation.

3. DESCRIPTION

3.1 Subject to Condition 8.1 the description of the Goods and/or the Services supplied by AW under the Contract shall be as set out in AW's quotation or as otherwise specified by AW to the Buyer prior to the Buyer placing an order.

3.2 All samples, drawings, descriptive matter, specifications and advertising issued by AW and any descriptions or illustrations contained in AW's catalogues or brochures are issued or published for the sole purpose of giving an approximate idea of the Goods and/or the Services described in them - and shall not form part of the Contract.

3.3 AW may subcontract all or any part of the Services, in our absolute discretion, where in AW's opinion specialist services are required for the purpose of completing the Services.

4. DELIVERY OF GOODS AND PERFORMANCE OF SERVICES

4.1 Unless otherwise agreed in writing by AW, delivery of Goods and/or performance of Services shall take place at AW's place of business.

4.2 The Buyer shall take delivery of Goods within 14 days of AW giving notice that the Goods are ready for delivery unless agreed otherwise and confirmed in writing.

4.3 The Services supplied under the Contract shall be performed by AW in accordance with AW's acknowledgement of the order.

4.4 Any dates specified by AW for delivery of Goods &/or Services and/or performance of the Services are intended to be an *estimate* and time for delivery and/or performance *shall not be of the essence*. If no dates are so specified, delivery and/or performance shall be within a reasonable time.

4.5 Subject to the other provisions of these Conditions. AW *shall not be liable* 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 loss), costs, damages, charges or expenses caused directly or indirectly by any delay in the delivery of the Goods and/or performance of the Services (even if caused by AW's negligence), nor shall any delay entitle the Buyer to terminate or rescind the Contract without the prior written agreement of a duly authorised officer of AW.

4.6 If for any reason the Buyer fails to accept delivery of any of the Goods when they are ready for delivery, or AW is unable to deliver the Goods on time for any reason due to the Buyer:

4.6.1 risk in the Goods shall pass to the Buyer;

4.6.2 the Goods shall be deemed to have been delivered; and

4.6.3 AW may store the Goods until delivery, and the Buyer shall be liable for all related costs and expenses (including without limitation charges for storage and insurance).

4.7 The quantity of any consignment of Goods as notified by AW to the Buyer as being ready for delivery at AW's place of business shall be conclusive evidence of the quantity received by the Buyer on delivery unless the Buyer can provide conclusive evidence proving the contrary.

4.8 AW may deliver the Goods and/or perform the Services in separate instalments. Each instalment shall be a separate Contract and no cancellation or termination of any one Contract relating to an instalment shall entitle the Buyer to repudiate or cancel any other Contract or instalment.

4.9 If the Buyer arranges for a third part to collect the goods from AW, the Buyer must inform AW of the name of the person or company collecting the goods.

4.10 AW may undertake reasonable mileage to road test any Goods which they deem necessary, but not limited to, the purpose of diagnosis, restoration, repair and testing of the vehicle/vehicles.

5. RISK/TITLE IN GOODS

5.1 The Goods are at the risk of the Buyer from the time of delivery.

5.2 Ownership/Title of the Goods shall not pass to the Buyer until AW has received in full (in cash or cleared funds) all sums due to it in respect of:

5.2.1 the Goods; and

5.2.2 all other sums which are or which become due to AW from the Buyer on any account.

5.3 The Buyer's right to possession of the Goods shall terminate immediately if:

5.3.1 the Buyer has a bankruptcy order made against him or makes an arrangement or composition with his creditors, or otherwise takes the benefit of any statutory provision for the time being in force for the relief of insolvent debtors, or (being a body corporate) convenes a meeting of creditors (whether formal or informal), or enters into liquidation (whether voluntary or compulsory) except a solvent voluntary liquidation for the purpose only of reconstruction or amalgamation, or has a receiver and/or manager, administrator or administrative receiver appointed of its undertaking or any part thereof, or documents are filed with the court for the appointment of an administrator of the Buyer or notice of intention to appoint an administrator is given by the Buyer or its directors or by a qualifying floating charge holder (as defined in paragraph 14 of Schedule B1 to the Insolvency Act 1986), or a resolution is passed or a petition presented to any court for the winding up of the Buyer or for the granting of an administration order in respect of the Buyer, or any proceedings are commenced relating to the insolvency or possible insolvency of the Buyer; or

5.3.2 the Buyer suffers or allows any execution, whether legal or equitable, to be levied on his/its property or obtained against him/it, or fails to observe/perform any of his/its obligations under the Contract or any other Contract between AW and the Buyer, or is unable



to pay its debts within the meaning of section 123 of the Insolvency Act 1986 or the Buyer ceases to trade; or

5.3.3 the Buyer encumbers or in any way charges any of the Goods.

5.4 If the buyer fails to accept delivery of Goods after 3 months without written exception AW shall be entitled to recover payment for the Goods and/or the Services notwithstanding that ownership of any of the Goods and/or the Services has not passed to AW.

AW shall be entitled to dispose of the Goods in the manner permitted by Section 12 of the Torts (Interference with Goods) Act 1977.

5.5 Removed or replaced parts during the service will be stored for a period of 10 days after the delivery of the Goods. The customer can request all used parts except fluids and consumables. After 10 days the parts will become the property of AW.

5.6 The Buyer grants AW, its agents and employees an irrevocable licence at any time to enter any premises where the Goods are or may be stored in order to inspect them, or, where the Buyer's right to possession has terminated, to recover them.

5.7 Where AW is unable to determine whether any Goods are the Goods in respect of which the Buyer's right to possession has terminated, the Buyer shall be deemed to have sold all Goods of the kind sold by AW to the Buyer in the order in which they were invoiced to the Buyer.

5.8 On termination of the Contract, howsoever caused, AW's (but not the Buyer's) rights contained in this Condition 5 shall remain in effect.

5.9 Registration of title in the Buyer's country is the responsibility of the Buyer and AW has no responsibility in relation to this.

6. Consignment Vehicle Sales

6.1 The Principal represents to AW as the sole legal beneficial owner of the Goods, free of encumbrances and third-party rights. The Principal appoints AW as an exclusive agent for the purpose of selling the Goods.

6.2 The Principal warrants that the factual statements about the Goods and its history and provenance stated verbally or in writing are correct and may be repeated and relied upon by AW in its selling activity.

6.3 The Goods title will remain with the Principal, but the Principal will permit AW to show the Goods to prospective Buyers by appointment.

6.4 AW shall use all reasonable endeavours to secure a Buyer for the Goods and shall be entitled to sell and/or enter into any contract for the sale of the Goods on behalf of the Principal, provided that the gross sale price in cash is not less than the agreed sum to be returned to the Principal, unless otherwise agreed in writing, or recorded call by the Principal.

6.5 AW does not represent that it will find a Buyer for the Goods on terms acceptable to the Principal, and (as agent only) will not be responsible for the failure or breach of contract of either the Buyer or the Principal.

7. INTELLECTUAL PROPERTY RIGHTS

7.1 The Intellectual Property Rights in any AW Materials shall, unless otherwise agreed in writing between the Buyer and AW, belong to AW, subject only to a licence in favour of the Buyer to use any AW Materials necessary for the purposes of receiving the Services.

7.2 The Intellectual Property Rights in any Buyer Materials shall, unless otherwise agreed in writing between the Buyer and AW, belong to the Buyer. The Buyer warrants that any Buyer Materials and their use by AW for the purpose of providing the Goods and/or Services shall not infringe the Intellectual Property Rights of any third party and the Buyer shall indemnify



AW against any loss, damages, costs, expenses or other claims arising from any such infringements.

7.3 The Buyer shall obtain and maintain all necessary licences and consents and comply with all relevant legislation in relation to the use of Buyer Material in all cases before the date on which AW is to supply the Goods and/or Services.

7.4 If AW manufactures Goods, or applies any process to Goods, or provides Services in accordance with a specification provided to AW by the Buyer for those purposes, the Buyer shall indemnify AW against all loss, damage costs and expenses awarded against or incurred by AW in connection with or paid or agreed to be paid by AW in settlement of any claim for infringement of any Intellectual Property Rights of any other person which results from AW's use of the Buyer's specification.

8. PRICE

8.1 Unless otherwise agreed by AW in writing, the price for the Goods and/or the Services shall be the price set out in AW's quotation/contract, valid on the date of delivery, deemed delivery or performance.

8.2 AW reserves the right to impose a minimum order charge.

8.3 The price for Goods and/or Services shall be exclusive of any value-added tax and all costs or charges in relation to loading and unloading, and, if applicable, any carriage and insurance, all of which amounts the Buyer shall pay in addition when it is due to pay for the Goods and/or the Services; unless otherwise agreed.

8.4 The price for the Goods and/or the Services and all cost or charges relating to import duty, customs clearance and taxes, which are levied once a shipment reaches the Buyer's country must be borne by the Buyer.

8.5 No work will be undertaken on the basis of a fixed or firm price unless otherwise stated. AW reserves the right to charge more should this prove unavoidable in order to complete a satisfactory/safe repair.

8.6 AW may purchase fuel for a vehicle without the Buyers notice, with the costs being applied to the next invoice period for the Buyers account.

8.7 Unless otherwise agreed upon AW reserves the right to increase its labour rates without any prior notice.

9. PAYMENT

9.1 Unless otherwise agreed in writing, payment shall be made 14 days after invoicing and by the Buyer in cash (limits apply) or debit/bacs transfer in Pounds Sterling prior to delivery of the Goods or performance of the Services.

9.2 Time for payment shall be of the essence.

9.3 No payment shall be deemed to have been received until AW has received cleared funds.

9.4 All payments payable to AW under the Contract shall become due immediately upon termination of the Contract unless agreed otherwise.

9.5 The Buyer shall make all payments due under the Contract **in full** without any deduction whether by way of set-off, counterclaim, discount, abatement or otherwise unless the Buyer has a valid court order requiring an amount equal to such deduction to be paid by AW to the Buyer.

9.6 If the Buyer fails to pay AW any sum due under the Contract, the Buyer shall be liable to pay interest to AW on such sum(s) from the due date for payment at the annual rate of 4% above the base lending rate from time to time, accruing on a daily basis until payment is made, whether before or after any judgment. AW reserves the right to claim interest under the Late Payment of Commercial Debts (Interest) Act 1998.



9.7 AW shall have a lien on any of the Buyer's equipment or Goods in AW's possession for any unpaid balance which the Buyer may owe to AW.

9.8 AW reserves the right to stop working on the Goods if outstanding invoices have not been paid in compliance with the terms of this Contract.

9.9 Where services are provided for a car which is subject to an insurance claim, the Buyer agrees to imbue AW with its authority to sign any documents required by the insurer of the Goods to authorise payment for the Services. If the insurer of the Goods does not pay some or all of AW's invoice the Buyer will be responsible for all unpaid sums.

9.10 Time for payment and delivery of any part exchange vehicle shall be of the essence of the contract if the buyer fails to comply with the terms of payment or time for delivery. AW shall be entitled to repudiate the Contract and the Buyer shall compensate AW in full on demand for all, loss, costs and expenses (including legal costs on an indemnity basis) arising in connection with or resulting from the Buyers failure to comply with the Contract. AW may in any event sell the Goods elsewhere and recover any loss from the Buyer, and forfeit any deposit which may be refunded in whole or part if it exceeds any reasonable estimate of loss suffered by AW.

10. QUALITY

10.1 AW warrants that (subject to the other provisions of these Conditions) upon delivery, the Goods shall:

10.1.1 for a period of 6 months from the date of delivery, be of satisfactory quality within the meaning of the Sale of Goods Act 1979;

10.1.2 be reasonably fit for use as component parts for automotive, aviation, marine, general power or locomotion applications, as the case may be; and

10.1.2 for a period of 6 months from the date of delivery, be reasonably fit for any particular purpose for which the Goods are being bought if the Buyer had made known that purpose to AW in writing and AW has confirmed in writing that it is reasonable for the Buyer to rely on the skill and judgement of AW.

10.1.3 for a period of 12 months AW affords a mechanical warranty on Goods which have been the result of nut and bolt restoration work.

10.1.4 for a period of 10 years AW provides a warranty on certain engine re-builds which fall under the gold specification rebuild program. Further Terms and Conditions apply to these Goods and as a matter of course when this warranty does apply AW will provide written confirmation.

10.1.5 for a period of 12 months where major restoration has been undertaken which involves the complete strip, panel repair and repaint of the vehicle, AW will warrant that the paintwork will remain free from defects, except unavoidable stone chips or minor damage-related to normal use.

10.1.6 for a period of 3 years where major restoration has been undertaken which involves the complete strip, panel repair and repaint of the vehicle, AW will warrant that any panel of ferrous structure will remain free of any corrosion of a severity that causes penetration.

10.2 AW shall not be liable for a breach of any of the warranties in Condition 10.1 unless:



10.2.1 the Buyer gives written notice of the defect to AW within 14 days of the time when the Buyer discovers or ought to have discovered the defect; and

10.2.2 AW is given a reasonable and timely opportunity after receiving the notice of examining such Goods and the Buyer (if asked to do so by AW) returns such Goods to AW's place of business at the Buyer's cost for the examination to take place there.

10.3 AW shall not be liable for a breach of any of the warranties in Condition 10.1 if:

10.3.1 the Buyer makes any further use of such Goods after giving notice pursuant to Condition.

10.3.2 the defect arises because the Buyer failed to follow AW's oral or written instructions as to the storage, installation, use or maintenance of the Goods or (if there are none) good trade practice; or

10.3.3 the Buyer alters or repairs such Goods without the written consent of AW.

10.3.4 the Buyer requests AW to fit parts during the service which are of used condition.

10.3.5 the buyer transfers ownership of the Goods.

10.3.6 where the paintwork is partially renewed further corrosion protection and perfect colour match cannot be guaranteed.

10.4 Subject to Conditions 10.2 and 10.3, if any of the Goods do not conform with any of the warranties in Condition 10.1 AW shall at its option repair or replace such Goods (or the defective part) or refund the price of such Goods at the pro rata Contract rate provided that, if AW so requests, the Buyer shall, at the Buyer's expense, return the Goods or the part of such Goods which is defective to AW.

10.5 If AW complies with Condition 10.4 it shall have no further liability for a breach of any of the warranties in Condition 10.1 in respect of such Goods.

10.6 Any Goods replaced shall belong to AW which may retain them on completion of the work(s) associated with them and any repaired or replacement Goods shall be guaranteed on these terms for the unexpired portion of the original warranty period.

10.7 AW warrants that (subject to the other provisions of these Conditions) the Services shall be performed using reasonable care and skill.

10.8 If any of the Services do not conform with the warranty in Condition 10.7 AW shall at its option re-perform such Services (or the defective part) or refund the price of such Services at the pro rata Contract rate.

10.9 If AW complies with condition 10.8 it shall have no further liability for a breach of the warranty in Condition 10.7 in respect of such Service.

11. LIMITATION OF LIABILITY

11.1 Subject to Conditions 4 and 9, the following provisions set out the entire financial liability of AW (including any liability for the acts or omissions of its employees, agents and sub-contractors) to the Buyer in respect of:

11.1.1 any breach of these Conditions;

11.1.2 any use made or resale by the Buyer of any of the Goods, or of any product incorporating any of the Goods; and

11.1.3 any representation, statement or tortious act or omission including negligence arising under or in connection with the Contract.

11.2 All warranties, conditions and other terms implied by statute or common law (save for the conditions implied by section 12 of the Sale of Goods Act 1979) are, to the fullest extent permitted by law, excluded from the Contract.

11.3 Nothing in these Conditions excludes or limits the liability of AW for:

11.3.1 death or personal injury caused by AW's negligence; or



11.3.2 any matter which it would be illegal for AW to exclude or attempt to exclude its liability; or

11.3.3 fraud or fraudulent misrepresentation.

11.4 AW shall have no liability to the Buyer for any loss, damage, costs, expenses or other claims for compensation arising from any Buyer Materials or instructions provided by the Buyer relating to the Services which are incomplete, incorrect, inaccurate, illegible, out of sequence or in the wrong form or arising from their late arrival or non-arrival, or any other fault of the Buyer.

11.5 Subject to Conditions 11.2, 11.3 and 11.4:

11.5.1 AW's total liability in Contract, tort (including negligence or breach of statutory duty), misrepresentation, restitution or otherwise, arising in connection with the performance or contemplated performance of the Contract shall be limited to the total value of the Goods and/or Services supplied under the Contract; and 11.5.2 AW shall not be liable to the Buyer for any pure economic loss, loss of profit, loss of business, depletion of goodwill or otherwise, in each case whether direct, indirect or consequential, or other claims for consequential compensation whatsoever (howsoever caused) which arise out of or in connection with the Contract.

12. Insurance

12.1 All Buyers' Goods are fully insured by AW whilst on AW's premises whilst the services are being carried out.

12.2 AW, and its employees, are insured to drive the Goods on private and public roads in relation to the provision of Services being carried out on the Goods.

13. Assignment

13.1 The Buyer shall not be entitled to assign the Contract or any part of it without the prior written consent of AW.

13.2 AW may assign the Contract or any part of it to any person, firm or company.

14. FORCE MAJEURE

14.1 AW reserves the right to defer the date of delivery and/or performance or to cancel the Contract or reduce the volume of the Goods and/or Services ordered by the Buyer (without liability to the Buyer) if it is prevented from or delayed in the carrying on of its business due to circumstances beyond the reasonable control of AW including, without limitation, acts of God, governmental actions, war or national emergency, acts of terrorism, protests, riot, civil commotion, fire, explosion, flood, epidemic, lock-outs, strikes or other labour disputes (whether or not relating to either party's workforce), or restraints or delays affecting carriers or inability or delay in obtaining supplies of adequate or suitable materials provided.

15. GENERAL

15.1 Each right or remedy of AW under the Contract is without prejudice to any other right or remedy of AW whether under the Contract or not.

15.2 If any provision of the Contract is found by any court, tribunal or administrative body of competent jurisdiction to be wholly or partly illegal, invalid, void, voidable, unenforceable or unreasonable it shall to the extent of such illegality, invalidity, voidness, voidability, unenforceability or unreasonableness be deemed severable and the remaining provisions of the Contract and the remainder of such provision shall continue in full force and effect.

15.3 Failure or delay by AW in enforcing or partially enforcing any provision of the Contract shall not be construed as a waiver of any of its rights under the Contract.



15.4 Any waiver by AW of any breach of, or any default under, any provision of the Contract by the Buyer shall not be deemed a waiver of any subsequent breach or default and shall in no way affect the other terms of the Contract.

15.5 No term of the Contract shall be enforceable by virtue of the Contracts (Rights of Third Parties) Act 1999 by any person that is not a party to it.

15.6 *The formation, existence, construction, performance, validity and all aspects of the Contract shall be governed by English Law and the parties submit to the exclusive jurisdiction of the English Courts.*

16. COMMUNICATIONS

16.1 All communications between the parties about the Contract shall be in English and in writing, and shall be given by delivery by hand at, or sent by prepaid registered first-class post (airmail if to an address outside the country of posting) to AW at:

Aston Workshop Limited, Durham, DH9 0RW United Kingdom, and to the Buyer at its registered office (if it is a company) or (in any other case) to any address of the Buyer set out in any document which forms part of the Contract or such other address as either party may notify to the other from time to time.

16.2 Communications given in accordance with Condition 16.1 shall be deemed to have been received:

16.2.1 if sent by pre-paid first-class post, two days (excluding Saturdays, Sundays and bank and public holidays) after posting (exclusive of the day of posting); or

16.2.2 if delivered by hand, on the day of delivery.

16.3 Parties to any discussions with AW in the course of its business dealings are hereby advised that such discussions or conversations may be recorded for the purposes of: Security; the later avoidance of doubt; AW's quality and staff training activities; and, monitoring and statistical activities. Recording may be written and/or electronic and/or visual (for example, visual data recordings).

All such records are made in compliance with the various UK Government Statutes and Regulations governing: Telecommunications and the requirements for the privacy and security of such information which falls under the auspices of the Government's Information Commissioner - including as defined by the Act, 'sensitive information'.

