

# TERMS AND CONDITIONS OF BUSINESS

Registered in England No. 2495131

Hazel Drive, Narborough Road South, Leicester LE3 2JG

Trading as: FORD & SLATER - PETERBOROUGH ENGINEERING COMPANY - CARROW COMMERCIALS

## I PRELIMINARY

1. The following expressions in these conditions shall mean respectively: "Breakdown Services" breakdown, repair and recovery services provided in respect of any Motor Vehicle(s) "the Company" FORD & SLATER LIMITED (registered in England number 2495131) "Contractor" person, firm or company based anywhere in the world who is a member of an industry recognised scheme approved by the Company to provide Breakdown Services. "the Customer" the person, company or body buying or offering to purchase Goods "Goods" as the context requires some or all of Motor Vehicles, Servicing and Repairs and Parts "Servicing and Repairs" the servicing and repairs of Motor Vehicles agreed to be carried out or carried out by the Company for Customers "Loan Vehicle" a motor vehicle agreed to be loaned by the Company to the Customer for demonstration purposes or for use by the Customer during the carrying out of Servicing and Repairs. "Parts" spare parts for Motor Vehicles sold or agreed to be sold by the Company to Customers (whether sold separately or in the course of Servicing and Repairs of Motor Vehicles) "Motor Vehicles" motor vehicles whether new or used, agreed to be sold by the Company to a Customer, or upon which the Servicing and Repairs are to be carried out, or in relation to which the Parts are to be supplied.
2. The following terms are the Company's standard terms and conditions of business. The Company contracts for the supply of Goods only on these terms. The Customer and/or its insurance company accepts that these terms shall govern relations between itself and the Company to the exclusion of any other terms including conditions, warranties and representations written or oral, express or implied even if contained in any of the Customer's and/or its insurance company's documents which purport to provide that the Customer's and/or insurance company's own terms shall prevail.
3. Quotations and/or estimates are tendered without engagement and remain valid for a period of 30 days after which they will automatically lapse. For the avoidance of doubt, a verbal or written estimate is an expression of the probable charges in respect of Servicing and Repairs and/or Parts, and a written quotation is an indication of the price at which the Company is willing to sell the relevant Motor Vehicle (subject to clause 5).
4. Subject to clauses 5 and 6 (as appropriate) the Customer may place orders for Goods by signing and returning the quotation or estimate to the Company or verbally communicating its order, provided that all verbal orders must be confirmed in writing within 10 days of such order instructions unless such requirement is waived by the Company in writing.
5. No contract for the sale of Motor Vehicles shall become binding on the parties until the Company issues an acknowledgement of the Customer's order, such acknowledgement to be signed by an authorised representative of the Company. For the avoidance of doubt no contract containing any term by which the Company agrees to repurchase any Motor Vehicle at any future time shall be binding on the parties unless the Company's acknowledgement of order is signed by the Chairman of the Company. Furthermore, no contract for the repurchasing of Motor Vehicles shall be valid unless signed by the Chairman of the Company.
6. No contract for the sale of Servicing and Repairs and/or Parts shall become binding on the parties until the Company acknowledges the Customer's order either verbally or in writing signed by an authorised representative of the Company.
7. Subject as provided in these conditions, contracts, once binding, cannot be varied or cancelled except with the written consent of both parties and then only on terms which fully indemnify the Company against any loss caused directly or indirectly by the variation or cancellation. The Company's consent to any cancellation may only be given by a director thereof.
8. Representations concerning the Goods made by the Company's employees and agents are not valid unless confirmed by the Company in writing. The Customer acknowledges that it does not rely on, and waives any claim for breach of any such representations which are not so confirmed.
9. No drawings, photographs, descriptions, weights, dimensions or shipping specifications issued by the Company or the manufacturer of the Goods, nor the descriptions and illustrations contained in the Company's or manufacturer's catalogues, price lists and other advertising matter shall be deemed to form part of any contract, nor be regarded as a warranty or representation relating to the Goods.
10. Any typographical, clerical or other error or omission in any sales literature, quotation, price list, acceptance of offer, invoice or other document or information issued by the Company shall be subject to correction without any liability on the part of the Company.
11. The Company shall not be liable for any advice or recommendation given by it or its employees or agents to the Customer or its employees or agents as to the storage, application or use of the Goods. The same is followed or acted upon entirely at the Customer's own risk.
12. Goods offered "ex stock" are subject to prior sales.
13. Any contract for Goods is subject to availability and to the manufacturer continuing to manufacture and/or supply the relevant Goods. Where the manufacturer discontinues any Goods which form part or all of any contract the Company shall at its option:
  - 13.1 offer to the Customer Goods of a similar description and price to the contract Goods, which the Customer shall not in the case of Servicing and Repair and/or Parts unreasonably reject; or
  - 13.2 cancel the contract and without prejudice to its other rights in these conditions, return to the Customer any deposit or prepayments and (where relevant) the Customer's Motor Vehicle.
14. If the manufacturer alters the design, specification and/or construction of the Goods, the Company reserves the right without previous notice to supply the Goods ordered with or without such alteration.

## II MOTOR VEHICLE SALES

15. Unless specifically advised to the contrary the Company will be entitled to presume that the Customer intends to use the Motor Vehicle for the ordinary type of use for

which the particular type of vehicle is normally applied. No liability will be accepted by the Company for loss or damage suffered as a result of the Motor Vehicle being used for a purpose inconsistent with the above, nor for mis-use in any other way, or failure to follow instructions for use (including without limitation failure to have the Motor Vehicle serviced in accordance with the manufacturer's recommendations).

16. Motor Vehicles are quoted for sale as they stand. The Company makes no representations as to the authenticity of the mileage recorded on the odometer installed in the Motor Vehicle, or of any servicing or other records supplied therewith. The Company's responsibility is limited to the rectification of defects which were present at the time of sale and which a reasonable examination would have revealed.
17. Where the Motor Vehicle is supplied by the Company to the Customer in accordance with specifications submitted by the Customer (including without limitation the stipulation by the Customer of any particular chassis manufacturer or body builder):
  - 17.1 Without prejudice to clause 17.2 below, no terms or conditions are made or to be implied, nor is any warranty to be given or to be implied, as to the life or wear of the Motor Vehicle, or to the suitability of the relevant chassis and/or body (where the chassis manufacturer and/or the body builder is stipulated or agreed by the Customer), or that the Motor Vehicle will be suitable for any particular purpose or for use under any specific conditions or for any particular load, notwithstanding that such purpose or conditions may be known or made known to the Company;
  - 17.2 The Customer warrants that the Motor Vehicle or any drawings, designs or specifications connected thereto do not infringe any patent, registered or unregistered design right or any other intellectual property rights of a third party or any provision of any statute, statutory instrument or regulation for the time being in force and the Customer will indemnify the Company against any liability it may incur as a result of or in connection with the Customer's breach of the warranty in this clause 17.2.
  - 17.3 The Company has the right to retain any drawings, specifications or other documentation supplied by the Customer.
18. The Customer may carry out reasonable tests and inspections during reasonable working hours and upon reasonable notice at the Company's premises prior to placing an order for, or accepting delivery of, a used Motor Vehicle.
19. The Customer acknowledges that the price for any Motor Vehicle includes all standard features and accessories of that type of Motor Vehicle and no allowance can be made for any part of the standard features and/or accessories not taken.

## Part Exchange

20. Save as disclosed to the Company at the time where the Customer offers a vehicle in part exchange ("the Exchange Vehicle") the Customer warrants, agrees and declares that:
  - 20.1 the particulars of the Exchange Vehicle communicated to the Company are correct;
  - 20.2 the Exchange Vehicle has not been involved in any serious or major accident (or all of the details of such an accident have been disclosed to the Company);
  - 20.3 the Exchange Vehicle is the absolute property of the Customer who is entitled to dispose of such Exchange Vehicle and such Exchange Vehicle is free from lien, charge or other encumbrance.
  - 20.4 the mileage shown on the odometer is true and accurate;
  - 20.5 the Exchange Vehicle was not used or purchased abroad before being registered in the United Kingdom.
21. It is agreed by the Customer that the value of any agreed part exchange allowance is based on the Exchange Vehicle's condition at the date of acceptance of the Customer's order by the Company and, if it is not handed over to the Company in the same condition (fair wear and tear excepted) or is handed over to the Company with a substantially increased mileage to that at the date of acceptance the Company may make a reasonable deduction from the allowance to cover the cost of any repair which may be necessary.
22. The Exchange Vehicle shall remain at the Customer's risk until actual delivery of the Exchange Vehicle to the Company.
23. The Exchange Vehicle shall be delivered by the Customer to the Company upon the earlier of 7 days of notification to the Customer that the Motor Vehicle to be supplied by the Company is ready for delivery, or actual delivery of the Motor Vehicle by the Company.
24. The Customer will hand the Exchange Vehicle registration documents and keys to the Company on delivery of the Exchange Vehicle to the Company and the property in the Exchange Vehicle shall thereupon pass to the Company absolutely.
25. If the Exchange Vehicle is returned to the Customer (or any third party on behalf of the Customer) for any reason, statutory or otherwise, after the Company has carried out any work or improvement or repair thereto (which the Customer hereby gives the Company authority to commence), the Customer shall pay the Company the costs and expenses incurred by the Company for any such work.
26. If the Motor Vehicle to be delivered by the Company through no default on the part of the Company shall not be delivered to the Customer within 30 days after the estimated delivery date, the allowance on the Exchange Vehicle shall be (without prejudice to any other rights the Company may have) subject to reduction by an amount determined by the Company but not exceeding 2.5% for each completed period of 30 days from the date of expiry of the first mentioned 30 days in this clause to the date of delivery to the Customer of the Motor Vehicle.
27. In the event of the non-fulfilment of any of the terms of clauses 20 to 26 the Company shall be discharged from any obligation to accept the Exchange Vehicle or to make any allowance in respect thereof and the Customer shall discharge in cash the full price of the Motor Vehicle to be supplied by the Company at the time of payment of the contract price or forthwith if the payment has already been made

and the Company shall return the Exchange Vehicle to the Customer.

### Breakdown Support

28. The provisions of clauses 28-33 shall apply when a new or used Motor Vehicle supplied by the Company or (in respect of which Servicing and Repairs or Parts have been supplied by the Company) breaks down outside the territory or area in which the Company normally provides its own Breakdown Services and where the Customer has elected to use the Breakdown Services provided by Motor Vehicle manufacturers nominated by the Company (including without limitation DAFaid, VANaid and FODENASSIST in the United Kingdom and DAF ITS outside the United Kingdom) and provided that the Customer has a current credit account with the Company for Servicing and Repairs and/or Parts.
29. To facilitate the ordering of Breakdown Services by the Customer from the relevant Contractor, the Company may in its absolute discretion agree to guarantee the payment obligations of the Customer to the relevant Contractor, provided that:
- 29.1 the Company is notified prior to the carrying out of the Breakdown Services of the Contractor's estimate of charges;
- 29.2 the relevant Contractor confirms the estimate referred to in clause 29.1 within 3 working days;
- 29.3 the Company in its absolute discretion is satisfied that the Customer is able to meet the estimated financial costs arising in connection with the Breakdown Services;
- 29.4 the Customer has at the time that the guarantee is to be given paid all sums due to the Company whether in connection with the Customer's credit account or otherwise, on the due date for payment.
30. The Company's guarantee under clause 29 shall be limited to the payment of the relevant Contractor's invoice for the Breakdown Services provided, on the same terms and conditions as the Customer (other than as to due date for payment), if and to the extent that the Customer fails to pay such invoice. The Company shall be entitled to the same discounts, payment terms and/or waivers as the relevant Contractor shall grant to the Customer. The Company shall not be liable to pay any other sums to the relevant Contractor for and on behalf of the Customer including but not limited to any fuel charges or any reimbursement for damage caused to the relevant Contractor's premises by the Customer or by the Customer's Motor Vehicle, or its load.
31. If the Company pays any sums to any Contractor as a result of or in connection with the guarantee given under clause 29 to the Contractor it shall be entitled to full reimbursement of such payment by the Customer. The Company shall also be entitled to make a reasonable charge for costs and expenses incurred in carrying out its obligations under this clause whether or not it is required to make payment under clause 30. The Company shall issue an invoice to the Customer in respect of any such reimbursement or charges under this clause 31 and the Customer shall pay such invoice within 7 days of the date of the invoice.
32. Where the Customer fails to make any payment of the Company's invoice under clause 31 above, the provisions of clauses 81 to 85 shall apply without prejudice to any other rights the Company may have.
33. The parties acknowledge that any contracts for Breakdown Services shall be between the relevant Contractor and the Customer and the Company will not accept responsibility for the quality of any work carried out by a Contractor or for any direct or consequential loss arising from the Breakdown Services and/or for any work carried out by the relevant Contractor or the conditions under which the Breakdown Services are provided. In the event of any dispute it is the Customer's responsibility to deal directly with the relevant Contractor and in such circumstances the Customer will remain liable to reimburse the Company in full in accordance with clause 31.

### III SERVICING AND REPAIRS

34. If the Customer deposits a Motor Vehicle with the Company for the purposes of preparation of an estimate, the Company reserves the right to charge at the prevailing rate from time to time for:
- 34.1 Any labour costs incurred in dismantling inspecting and rebuilding any Motor Vehicle for the purposes of preparing an estimate; and
- 34.2 Storage of the Motor Vehicle, such charge to be applicable from the tenth day after despatch of the estimate unless and until such estimate has been accepted by the Customer and an order placed for the Servicing and for Repairs, or the Motor Vehicle is removed from the Company's premises. The Company shall be entitled to invoice the Customer for such charges at any time after they become due, and payment by the Customer shall be made forthwith.
35. Motor Vehicles, contents and loads are accepted onto the Company's premises at the Customer's own risk, and whilst every care will be taken by the Company it cannot be held liable for a Customer's Motor Vehicle or any contents contained therein or any load thereon. Insurance of any Motor Vehicle, its contents or load is the Customer's responsibility whilst the Motor Vehicle is in the Company's possession or in the possession of the Company's subcontractors and/or contractors nominated by the Customer. Motor Vehicles left on the forecourts outside normal working hours are entirely at the Customer's risk. The Customer shall ensure that its insurance policy in respect of all relevant Motor Vehicles is sufficient to cover the movement of such Motor Vehicles (together with any contents contained therein and/or the load thereon) by the Company or its employees and/or subcontractors and/or subcontractors nominated by the Customer during the carrying out of Servicing and Repairs, including without limitation, the transfer of Motor Vehicles to and from government approved test centres or to or from the Company's subcontractors and/or subcontractors nominated by the Customer.
36. Routine servicing will be carried out in accordance with the manufacturer's recommendations and no assumption should be inferred as to the road worthiness of items not covered by such servicing. The Company shall use its reasonable endeavours to advise the Customer of any apparent defects not covered by the servicing but which are found during such servicing, and the Company will issue to the Customer an estimate for repairing such defects.
37. Unless otherwise agreed in writing, if it appears during progress of any Servicing and Repairs that the estimate will be exceeded by a significant amount (including without limitation the situation where the Servicing and Repairs required exceeds that originally expected by the Company) the Company will not continue the Servicing and Repairs without further express permission (which need not be in writing) from the Customer. Where the Customer refuses its permission the Company shall cease the Servicing and Repairs forthwith and the Customer shall

remove the Motor Vehicle from the Company's premises within 7 days.

38. The Company may sub-contract work to such competent repairers as it may think fit.
39. Where Servicing and Repairs are carried out pursuant to instructions from the Customer's insurance company a satisfaction note will be required on completion of the work before the Motor Vehicle is released.
40. The Company must be advised by the Customer that the Servicing and Repairs to be done are subject to warranty claim at the time the Motor Vehicle is delivered to the Company for Servicing and Repairs. If a manufacturer fails to reimburse the Company in respect of any claim on the manufacturer's warranty, the Customer shall forthwith reimburse the Company for the shortfall.
41. Where manufacturers' proprietary parts are not available the Company will fit equivalent available Parts unless specifically instructed to the contrary. If a factory reconditioned unit is fitted a surcharge may be made by the Company pending examination of the displaced unit by the manufacturers to confirm that the unit is, in their opinion, fit for reconditioning within their exchange scheme. If the unit is accepted the surcharge will be cancelled, but if the unit is not accepted the Company shall be entitled to retain or invoice for the surcharge.
42. Displaced Parts not subject to warranty claim or service exchange will be disposed of immediately on completion of the Servicing and Repairs unless instructions to the contrary are given to the Company by the Customer at the time the Motor Vehicle is delivered to the Company for that particular Servicing and Repairs to be done.
- ### IV PARTS SALES
43. Parts which:
- 43.1 in the opinion of the Company are normally held in stock;
- 43.2 which have been supplied by the Company to the Customer;
- 43.3 are unused and undamaged;
- 43.4 are not faulty;
- 43.5 have not been supplied in error; and
- 43.6 have not been made or ordered by the Company to the Customer's specific requirements (including without limitation parts supplied on vehicle off road terms); may be returned for a credit at the discretion of the Company provided that the requirements of clause 44 are met.
44. Parts supplied by the Company to the Customer will only be accepted for credit on disclosure of the original delivery note number. Parts correctly supplied and accepted for return may be subject to a handling charge of 15% of the value of the Parts returned (exclusive of VAT).
45. If any Parts are supplied by the Company on a vehicle off road emergency service or Servicing and Repairs, the Company will make such a handling charge as the Company considers appropriate.
46. If any Parts are supplied to a Customer under an emergency service or Servicing and Repairs (save under clause 45 above or under DAFaid or a similar scheme) the Company will make a handling charge of 20% of the invoice value of the Parts. If any Parts are supplied to a Customer under DAFaid or a similar scheme the Company will make such a handling charge as the Company considers appropriate.
47. Where Parts are marked "NF" on any Company documentation, the Customer is advised that such Parts are outside the Company's franchise scope and such Parts have not been approved by the manufacturer.

### V GENERAL

#### Limitation of Liability

48. The Company's liability shall be limited as stated in these Conditions
49. The warranty given by the Company in respect of new Goods sold shall only be that offered by the Manufacturer of such Goods, full details of which are available on request.
50. Save as otherwise provided in these conditions, the Company's liability in respect of any defect in or failure of the Goods supplied under the contract is limited to replacing or (in the Company's discretion) repairing or paying for the repair or replacement of the relevant Goods or (where applicable) carrying the Servicing and Repairs out again or paying for the Servicing and Repairs to be carried out again, which within six months of the delivery of the Goods to the Customer (in the case of Motor Vehicles and Parts) or three months of completion of the Servicing and Repairs, by reason of faulty or incorrect design, workmanship, parts or materials is found to be defective or fail or are unable to perform in accordance with the contract.
51. The Company shall use its reasonable endeavours to assign to the Customer the benefit of any manufacturer's warranty.
52. Subject as otherwise provided in these conditions, the Company's liability under or in connection with these Conditions or any contract shall not exceed the price of the Goods supplied by the Company under the relevant contract.
53. A condition precedent to the Company's liability in these conditions shall be that as soon as reasonably practicable the Customer shall have given to the Company reasonable notice of the defect, failure or error and shall have provided authority for the Company's servants or agents to inspect the Goods.
54. The Company shall have no other or further liability in respect of any direct loss or damage sustained by the Customer arising from or in connection with any such defect, failure or error as aforesaid.
55. The Company shall in no circumstances be liable for the loss of profits or loss of contracts of the Customer.
56. The Company shall in no circumstances be liable for the consequential or indirect losses of the Customer.
57. Without prejudice to the generality of clauses 55 and 56 above, the Company shall have no liability for any losses or expenses suffered or incurred by the Customer arising as a result of or in connection with the breakdown of any Motor Vehicle supplied under a contract, or in respect of which Goods have been supplied under a contract, which renders unusable any products (including but not limited to foodstuffs) transported by such Motor Vehicle.
58. The Company shall have no liability to the Customer for any defect in the Goods arising from any drawing, design or specification supplied by the Customer or by a third party on the Customer's behalf.
59. Save as otherwise provided in these conditions, the Company shall not be liable to the Customer in negligence.
60. Except as expressly set out in these conditions the Company grants no other warranties relating to defects in design, workmanship or materials of the Goods and all other conditions, warranties, stipulations or other statements whatsoever

whether express or implied by statute, common law or otherwise howsoever relating to such defects in the Goods are hereby excluded to the extent permitted by law.

61. Nothing in these conditions limits or excludes or is intended to limit or exclude the Company's liability for death or personal injury caused by its negligence or that of its servants or agents.
62. If the Servicing and Repairs includes any painting then no warranty is given by the Company that new paintwork will match existing paintwork exactly or that rust will not penetrate the paintwork where the Motor Vehicle is already rusted (although reasonable precautions will be taken by the Company in this regard)

#### Delivery

63. Delivery of the Goods shall be made as follows:
  - 63.1 in the case of Motor Vehicles and/or Parts by the Customer collecting the Goods at the Company's premises at any time after the Company has notified the Customer that the Goods are ready for collection or, if some other place of delivery is agreed by the Company, by the Company delivering the Goods to that place, or the Parts being fitted to the Customer's Motor Vehicle (as appropriate); or
  - 63.2 in the case of Servicing and Repairs, by the Company carrying out the work on or in relation to the Customer's Motor Vehicle, and the work shall be deemed complete and delivered when the Customer has been advised by the Company that the work is complete.
64. Any times stated for delivery of Motor Vehicles or Parts or completion of Servicing and Repairs are estimates only and time shall not be of the essence of the contract save where the Company specifically so agrees in writing under the hand of a director. If the Company is for any reason whatsoever not ready to make delivery within the time specified the Company shall not be liable for any loss or damage whatsoever sustained by the Customer.
65. Where the Company agrees to deliver Goods to an address stipulated by the Customer, the Company will only accept liability for:
  - 65.1 damage to the Goods caused in transit whether or not externally visible or any actual or apparent discrepancy between any delivery note and items delivered, if the same is notified to the Company and the carrier (if not delivered by the Company) within three days of receipt of the Goods by the Customer
  - 65.2 non arrival, if the same is notified to the Company within a reasonable period from the day that the Company informed the Customer that the Goods or the relevant consignment thereof was due to arrive. Where the Company accepts responsibility under this condition, it may, at its sole option, repair or replace (as the case may be) those of the Goods which are proved to the Company's satisfaction to have been lost or damaged prior to delivery to the Customer, and the Company shall have no further liability to the Customer for or in connection with such damage in transit or non-arrival of any Goods, including, without limitation any loss of profits, penalties for late delivery, loss of contracts or any indirect or consequential losses suffered or incurred by the Customer.
66. The Goods may be delivered by the Company before the due delivery date upon giving reasonable notice to the Customer.
67. If the Customer fails to take delivery of the Goods or fails to give the Company adequate delivery instructions at the time stated for delivery or fails to collect its Motor Vehicle after being advised by the Company that the Servicing and Repairs are complete) then the Company may (without prejudice to any other right or remedy available to the Company):
  - 67.1 store the Goods until actual delivery and charge the Customer for the reasonable costs (including insurance, where applicable) of storage; or
  - 67.2 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 under the contract or charge the Customer for any shortfall below the price under the contract.

#### Prices and Payment

68. The price of the Goods shall be the price contained in the Company's estimate or quotation or, where no price has been quoted or no estimate given, the price listed in the Company's published list of prices or the manufacturer's list of recommended retail prices current at the date of delivery.
69. Where relevant, the Company reserves the right to charge a reasonable sum in respect of packaging and/or delivery.
70. At all times the Company reserves the right by giving notice to the Customer at any time before delivery of the Goods to increase the price of the Goods to reflect any increase in the cost to the Company which is due to any fact beyond the control of the Company (including without limitation the increase cost to the Company in purchasing the Goods and significant increase in the cost of labour), any change in delivery dates, quantities or specifications for the Goods which is requested by the Customer, any permitted or agreed variation to the contract, or any delay caused by any instructions of the Customer to give the Company adequate information or instructions.
71. If for any reason any Servicing and Repairs requested by the Customer is not carried out in full, the Company will charge a reasonable amount for any Servicing and Repairs actually carried out and the current price of any Parts actually supplied or fitted.
72. All prices are ex works unless otherwise agreed and (unless expressly so stated) exclude VAT or other sales tax which the Customer shall be additionally liable to pay to the Company.
73. Subject to these conditions and any special terms agreed in writing between the Company and the Customer, the Company may invoice the Customer for the price of the Goods on or at any time after the Goods have been made available for collection or delivered to the Customer or to any third party on its behalf. Where the Customer's insurance company has agreed to pay the cost of the Goods, and the Customer is registered for VAT, the Company will issue the invoice for the Goods to the insurance company and the invoice for the VAT on the Goods together with any excess, consumables and/or betterment to the Customer. The Customer will indemnify the Company for the amount of any invoice issued to the insurance company if the insurance company fails to pay the invoice within 30 days of the date of the invoice.
74. Where delivery of the Goods is extended over a period of more than 7 days, the Company may request progress payments in accordance with the amount of work done and/or Goods delivered and the Customer agrees to make such payments

on demand.

75. The Company may invoice for partial deliveries of Goods if such partial delivery is deemed by the Company to be necessary or expedient.
76. Where the Customer stipulates that the chassis and/or the body of the Motor Vehicle shall be supplied by a particular manufacturer and/or body builder the Company reserves the right to invoice the Customer for the full amount of the chassis and/or body (as appropriate) prior to ordering the chassis and/or body. The Company shall have no liability to the Customer for any losses arising from or in connection with the Customer's failure to pay any such invoice in good time to allow the Company to supply the Motor Vehicle on the agreed delivery date.
77. In addition to the sum specified in clause 76 the Company may require the Customer to deposit with the Company a sum equivalent to 25% of the contract price for a Motor Vehicle. If such sum is not received in due time the Company shall cease to be under a liability to supply the Motor Vehicle in accordance with the Contract.
78. Credit terms are only granted subject to trade references satisfactory to the Company and the acceptance of each account by the insurance company underwriting the Company's trade debtors (if any). Unless otherwise stated by the Company either in its quotation or correspondence where credit terms have been agreed terms of payment are strictly net cash payable on the 20th of the month following the month of invoice.
79. If the Customer does not maintain an account with the Company the Customer must pay the price of the Goods with the order or otherwise before delivery of the Goods or collection of the Motor Vehicle (as appropriate) together with where appropriate, the cost of carriage freight and insurance.
80. Payment on the due date of all sums due by the Customer to the Company under any contract shall be of the essence of the contract.
81. Where the Customer:
  - 81.1 is overdue with any payment owed to the Company; or
  - 81.2 shall have failed to take delivery of the Goods; or
  - 81.3 makes default in or commits any breach of its other obligations to the Company hereunder; or
  - 81.4 becomes bankrupt, insolvent or has a petition presented in respect of an administration order or winding-up order in respect of it or has a receiver appointed of its assets or execution or distress levied upon its assets or under the national law of its own country suffers the equivalent of any of them, or takes any step with a view to entering into a voluntary arrangement with its creditors (within the meaning of the Insolvency Act 1986); or
  - 81.5 ceases or threatens to cease to trade, or if the Company shall reasonably doubt the solvency of the Customer;then (without prejudice to any other right or remedy available to it) the Company reserves the right to stop delivery or performance under any contract and performance by the Company will only recommence upon payment in full by the Customer of all outstanding amounts due on due completion of the Customer's obligations hereunder. If the Company exercises its said rights any Goods to be delivered to a Customer following default shall be paid for on pro forma invoice before or at the time of delivery of the Goods and payment will become due on receipt of such pro forma invoice. The Company shall not be liable for loss of any nature suffered by a Customer as a result of the application of this condition nor shall it be a reason for the cancellation by the Customer of this or any other contract which shall at the Company's option remain in full force and effect.
82. The Company may charge interest at a rate of 5 per cent per annum above the base rate from time to time of the Company's bankers on any overdue payments or in respect of any delivery not taken by the Customer.
83. Notwithstanding that credit may have been given to the Customer under the contract, the Company shall in its discretion be entitled to retain possession of the Goods or any of them until payment has been received from the Customer in full. Without prejudice to any other right which the Company may have, the Company shall be entitled to exercise a general lien or right of retention on all Goods in the Company's possession which are or are intended to become the Customer's property in regard to all monies (including without limitation all debts damages sums due under clause 34 and/or other sums) due to the Company under any contract whatsoever between the Company and the Customer. Pursuant to such lien or right the Company shall be entitled without notice to the Customer to sell all or any of such Goods in any manner and to keep the proceeds in diminution of such monies and of all costs and expenses incurred in effecting such sale. The Customer shall remain liable to pay the Company for any shortfall that the Company is not able to recover in the exercise of its rights under this clause.
84. Payment shall be made at a nominated branch of the Company's bankers in the UK in sterling or at such other place and such other currency as the Company may direct.
85. Any payment to be made by the Customer to the Company shall be made in full without any set off or deduction therefrom or any counterclaim or claim to a lien thereover howsoever the same may arise.

#### Risk and Property

- 86.1 Subject as otherwise provided in these conditions risk in the Goods shall pass to the Customer immediately on delivery to the Customer or into custody on the Customer's behalf whichever is the sooner.
- 86.2 Where applicable and without prejudice to any other provision of these conditions, the Customer's Motor Vehicle is stored at the sole risk of the Customer and it shall be the Customer's sole responsibility to insure the Motor Vehicle at all times.
- 86.3 Where the Company at the request of the Customer subcontracts to a third party nominated by the Customer the provision of any Goods, such Goods shall remain at all times at the risk of the Customer and the Customer shall be responsible for insuring such Goods at all times whether at the Company's premises or otherwise.
- 86.4 Notwithstanding delivery, the Goods shall remain the absolute property of the Company (which reserves the right to dispose of them) until the Company has received the full price for the Goods and the full price for the other Goods for which payment is due from the Customer on or before payment of the price of the Goods.
- 86.5 Until property in the Goods passes to the Customer the relationship

between the Company and the Customer shall be that of bailor and bailee and the Customer shall store the Goods in such a way that they are readily identifiable as the property of the Company.

- 86.6** If before the property in the Goods passes to the Customer:
- 86.6.1** the Goods are altered or other goods become attached to the Goods or if any part of the Goods is replaced such other goods or replacement parts shall accede to and from part of the Goods and such attachment and placement shall not affect the Company's title as absolute owner of the Goods;
- 86.6.2** the Goods are sold by the Customer, such sale or sales shall be deemed to be on behalf of the Company, but without imposing any liability on the Company to the sub-purchaser, and the Customer shall hold such part of the proceeds of sale or rights arising therefrom against the sub-purchaser as represents the sum due to the Company for such Goods as trustee for the Company and the Customer shall keep such part of the proceeds of such sale separate from its other monies and account to the Company accordingly.
- 86.7.** Without prejudice to the Company's other rights and remedies if payment of the price of the Goods or any part of it is overdue or if it appears to the Company that the Customer is or may be insolvent, the Company may require the Customer to deliver up the Goods to the Company and, if the Customer fails to do so forthwith, the Customer shall permit the Company to recover and resell the Goods and by its servants or agents enter upon the Customer's premises (or such other the premises where the Goods are stored or situated) for that purpose.
- 86.8** The Customer shall not be entitled to pledge or in any way charge by way of security for any indebtedness any of the Goods which remain the property of the Company but if the Customer does so or purports to do so, all monies owing by the Customer to the Company shall (without prejudice to any other right or remedy of the Company) forthwith become due and payable.

#### Loan Vehicles

- 87.** Upon the request of the Customer, the Company may in its sole discretion lend a Loan Vehicle to the Customer for demonstration purposes, or whilst the Company is carrying out Servicing and Repairs to the Customer's Motor Vehicle. Any such loan shall be for such time as the Company may agree, but in any case shall last for a maximum period of three months.
- 88.** The Loan Vehicle shall be made available by the Company for collection by the Customer at the time and at the location stipulated by the Company. At the end of the loan, the Customer shall deliver up the Loan Vehicle at the same location (unless otherwise agreed by the Company) at the time specified by the Company. Time for surrender of the Loan Vehicle by the Customer shall be of the essence of the contract. If the Customer fails to collect or deliver up the Loan Vehicle at the relevant time and/or location, then without prejudice to its other rights and remedies, the Company shall be entitled to make a charge to the Customer, and the Customer shall reimburse the costs and expenses of the Company incurred as a result of the Customer's failure.
- 89.** The Customer shall be entitled to use the Loan Vehicle for a reasonable mileage, for business or demonstration purposes only, and shall not use, or permit any third party to use, any Loan Vehicle for any social or domestic purposes.
- 90.** If the Company decides to lend a Loan Vehicle to the Customer, it shall use its reasonable endeavours to provide the type of Loan Vehicle reasonably requested by the Customer, but the Company shall have no obligation in this regard. The provision of any type of Loan Vehicle is strictly subject to availability.
- 91.** The Loan Vehicle will remain at all times the property of the Company.
- 92.** For the duration of the loan of any Loan Vehicle the Customer shall be fully responsible for insuring the Loan Vehicle on a fully comprehensive basis with an insurer of good repute and the Customer will not do anything to vitiate such policy. In particular, without limitation, the Customer will only use the Loan Vehicle for business purposes only, and not for social and domestic purposes, and the Customer will comply with all instructions given by the Company in respect of the Loan Vehicle. The Customer will not permit any driver below the age of 21 to drive the Loan Vehicle, and will allow the Company to have sight of the original driving licence of any proposed driver of the Loan Vehicle prior to the commencement of the loan, together with any other form of identification as may be required by the Company. The Company shall be entitled in its sole discretion to refuse to allow any particular driver(s) proposed by the Customer to drive the Loan Vehicle, and the Customer shall comply with the decision of the Company.
- 93.** The Customer acknowledges that all property left in the Loan Vehicle is at the Customer's risk at all times, and the Company shall not be liable for any loss or damage to such property.
- 94.** The Company reserves the right to make a charge for the loan of the Loan Vehicle, and shall be entitled to issue an invoice therefor (payable in accordance with these conditions) or to add any such charge to the invoice for the Servicing and Repairs.
- 95.** It is the Customer's responsibility to pay for the fuel consumed by the Loan Vehicle during the loan and if the Customer fails to do so, it shall promptly reimburse the Company in full for any such fuel.
- 96.** At all times during the loan of a Loan Vehicle, the Customer shall take care of the Loan Vehicle and shall deliver up the Loan Vehicle to the Company at the end of the loan in the same condition as at the commencement of the loan (fair wear and tear excepted). If the Customer loses the Loan Vehicle keys during the loan, it shall reimburse the costs and expenses of the Company in replacing such keys. If the Loan Vehicle or any part of it is stolen or damaged during the course of the loan, the Customer shall indemnify the Company in full for any costs and expenses incurred by the Company as a result of such theft or damage and shall apply any insurance monies received therefor for the purposes of repairing or replacing the Loan Vehicle.
- 97.** The Customer warrants that the Loan Vehicle will not be used:
- 97.1** for any kind of racing or speed testing, or for driving instruction;
- 97.2** in violation of the provision of any legislation, order or regulation affecting the use, loading or condition of the Loan Vehicle or for any illegal purpose;
- 97.3** outside the mainland United Kingdom without the prior written consent of the Company.
- 98.** The Customer shall indemnify the Company, and keep the Company fully

indemnified against any costs, losses, claims, demands, liabilities and expenses (including legal expenses) arising as a result of or in connection with the breach by the Customer of any of the warranties set out at clause 97 above. In addition, the Customer shall indemnify the Company, and keep the Company fully indemnified against all costs, losses, claims, demands, liabilities and expenses (including legal expenses) arising as a result of or in connection with any penalties for offences committed under the traffic legislation and regulations, including without limitation all parking tickets, clamping fines, compound charges and speeding fines incurred during the loan.

- 99.** The provision of a Loan Vehicle by the Company is at the Company's sole discretion, and accordingly the Customer acknowledges that the Company shall not be liable for any direct or indirect or consequential losses arising out of or in connection with:
- 99.1** the loan of a Loan Vehicle; or
- 99.2** the refusal by the Company to lend a Loan Vehicle to the Customer; or
- 99.3** the loan of a Loan Vehicle of a different type to that requested by the Company; or
- 99.4** the decision by the Company to delay or postpone the loan of a Loan Vehicle.
- 100.** The Company gives no warranty regarding the suitability of any Loan Vehicle for the carrying of a particular load, and the Company shall not be liable for any losses, costs or expenses incurred by the Customer where the Customer uses the Loan Vehicle for a purpose for which it was not intended (including but not limited to the transportation of foodstuffs).
- 101.** The Company shall be responsible for recovering the Loan Vehicle in the event of a breakdown. The Customer shall co-operate with the directions of the Company in order to effect the recovery of the Loan Vehicle. Where the breakdown is caused by the default of the Customer, the Customer shall reimburse the costs and expenses of the Company in recovering the Loan Vehicle. The Company shall have no liability to the Customer (including for any direct, indirect or consequential losses) in respect of any breakdown of a Loan Vehicle.

#### Force Majeure

- 102.** The Company shall be relieved of its obligations under any contract to the extent to which the fulfilment of such obligations is prevented, frustrated or impeded as a consequence wholly or partially by any cause beyond the Company's control including without limitation Act of God, war, invasion, act of foreign enemy, act of terrorism, hostilities (whether war has been declared or not), civil war, rebellion, revolution, insurrection or military or usurped power or any such event or by any statute rules regulations orders or requisitions issued by any government, council or duly constituted authority or from strikes, lock outs or breakdown of plant, power failure and fuel blockade.

#### General

- 103.** The Company shall be entitled to sub-contract all or any of its obligations hereunder and may, subject to these conditions, subcontract the supply of the Goods or any part of them to a subcontractor nominated by the Customer.
- 104.** Any condition hereof that is hereafter found invalid or enforceable in whole or in part for any reason shall whenever allowed by the context be deemed replaced by such valid and enforceable clause covenant or provision (if any) whose contents are as close as permissible to those of the invalid or enforceable clause covenant or provision. If such replacement is not possible, the offending condition or part thereof shall be severed herefrom and such severance shall not otherwise affect or deemed to affect the remainder (if any) of such condition or otherwise of any remaining clauses of these conditions.
- 105.** Any waiver, forbearance or failure by the Company in insisting in any one or more incidences upon the performance of these conditions shall not be construed as a waiver or relinquishment of the Company's right to future performance of such condition and the Customer's obligations in respect of such future performance shall continue in full force and effect.
- 106.** These conditions and any contract hereunder shall be governed by and construed under English law and the Company and the Customer submit to the exclusive jurisdiction of the English Courts in respect of any dispute claim or matter arising under such a contract or in regard to these conditions.
- 107.** Any notice or document required or permitted to be given to or served on one party hereto by another party shall be in writing and shall be given or served by delivering or despatching the same by one of the methods set out below to its registered office if a company and (if not) to the party's last known address. Provided that where necessary the despatch of such notice or document has been properly pre-paid a notice or document so given or served shall conclusively be deemed to have been received at the time set out alongside the respective manner of service namely:
- 107.1** by hand on the recipient or an authorised officer thereof - at the time of such service;
- 107.2** by first class post - at the commencement of the second business day after despatch;
- 107.3** by facsimile transmission - at the commencement of the first business day after despatch;
- 107.4** abroad by first class airmail post - at the commencement of the fourth business day after despatch.

#### Data Protection

- 108.** The Customer gives its consent to the Company for the Company, or any company in the same group as the Company, to process its personal data (within the meaning of the Data Protection Act 1998) for the purposes of carrying out its obligations under any contract or preparing to enter into contract with the Customer.
- 109.** Without prejudice to the general nature of clause 108 above, the Customer expressly gives its consent to the processing of personal data in connection with any credit checks that may be undertaken or requested by the Company under or in connection with any contract or the granting of any credit facilities to the Customer, including those credit checks that are undertaken by a third party credit reference agency. The Customer acknowledges that the Company or any credit reference agency may retain for a reasonable time information obtained for or in connection with any credit check, for the purposes of future credit checks for contracts, including contracts entered into with third parties unconnected with the Company, and the Customer expressly gives its consent to such retention.