

TERMS AND CONDITIONS SERVICE AGREEMENTS

1. Subject to prior inspection, the prior rectification of any essential work and the general terms and conditions, Continental Automotive Trading UK Ltd (the "Company") undertakes to provide regular service support, as applicable to the Agreement type shown, for each piece of Equipment listed in the Schedule of Equipment

(the "Services") at the location specified in the Schedule of Equipment (the "Location").

2. The Company undertakes to;

a) Provide routine scheduled Inspections, re-calibration and certification to include the minimum number of legislative calibrations/inspections.

b) Any necessary rectification will be considered extra and charged at the Company's then current rates for labour and visit fees.

c) Any materials required will be invoiced at the full current list price subject to the other terms and conditions of this Agreement.

The Company's normal working hours are 9am - 4pm Monday to Friday, excluding UK bank holidays The Company shall carry out the Services at the Location during its normal working hours.

3. Customer's Obligations

a) The Customer undertakes to grant the Company's service personnel full access to the Equipment during normal working hours, and to provide assistance and adequate facilities to such personnel in the performance of the Services.

b) The Customer shall not move the Equipment from the Location without previously notifying the Company in writing.

c) The Customer shall use, keep and house the Equipment in accordance with the Manufacturer's instructions and ensure that only competent trained employees (or persons under their supervision) are allowed to operate the Equipment.

d) The Customer shall not attempt to adjust, repair or maintain the Equipment and shall not request, permit or authorise anyone other than the Company to carry out any adjustments, repairs or maintenance of the Equipment.

e) The Customer shall ensure, in the interests of health and safety, that the Company's personnel, while on the Customer's premises for the purposes of this Agreement, are at all times accompanied by a member of the Customer's staff familiar with the Customer's premises and safety procedure.

4. Replacement

a) The replacement of components or parts under this Agreement shall at all times remain at the Company's sole discretion and any which are replaced at the specific request of the Customer or a third party, but which the Company at its sole discretion considers to be in satisfactory condition, or capable of repair, shall be chargeable to the Customer at the full current selling price provided that the Company shall have notified the Customer of such price prior to replacement.

b) The Company undertakes to notify the Customer in writing, in advance of the renewal where its ability to provide cover may be impaired due to the obsolescence of replacement parts. In such circumstances the Customer will be advised of available alternative cover or options.

c) Any components or parts removed under the terms of this Agreement shall be the property of the Company. Any replacement parts shall become the property of the Customer.

5. Exceptions

This Agreement does not cover

a) Maintenance, repairs or replacement required in respect of deterioration or damage to the Equipment caused by use otherwise than in accordance with the manufacturer's instructions.

b) the repair or replacement of limited life parts such as filters, probes, leads, oxygen sensors, nox sensors, gas, batteries, Printers, monitors, and any other consumables.

c) The supply of labour or materials required to change the original basic design specification, whether at the Customer's request and/or to comply with changes in legislation or other legally enforceable requirements.

d) Software Exception. This warranty extends only to physical defects in the media (such as CD-ROM) that tangibly embodies each copy of any software sold or licensed and/or certified by Continental Automotive Trading UK Ltd for use with its Products. All other warranties in respect of software are excluded to the fullest extent permitted by law.

e) Repair of damage or additional services work arising from changes or alterations to the Equipment not performed by the Company.

f) Maintenance rendered more difficult because of changes or alterations to the Equipment, the Location or access thereto, or from any other cause outside the control of the Company.

g) The supply of labour or materials in respect of any attachments or associated equipment (whether or not supplied by the Company) which do not form part of the Equipment.

h) Repair of damage arising from failure or a surge of electrical power.

i) Repair or replacement parts required as a result of the Customer's failure to comply with Clause 5c).

j) Repair or replacement parts required as a result of wilful damage, negligence, accident, fire, flood, theft, act of God or any occurrence other than normal wear and tear when used in accordance with the manufacturer's instructions.

k) Materials or labour incurred in the re-gritting of Brake Testers.

l) Products that are operated in combination with ancillary or peripheral equipment or software not furnished with the Products. This includes batteries, chargers, adaptors, power supplies or third party software loaded to the system.

m) Products that have failed to be maintained in accordance to the Continental Automotive Trading UK Ltd maintenance guide as described in the user manual or if applicable, where someone other than an Continental Automotive engineer (or authorised service personnel) tests, adjusts, installs, maintains, alters, modifies or services the Products in any way

n) Physical damage to the surface of the Products, including scratches, cracks or other damage to the display screen or other externally exposed parts.

o) Cables and pins that have been broken, bent or subject to excessive stress or wear.

p) Products that have: (a) serial or date tags that have been removed altered or obliterated; (b) board serial numbers that do not match the housing; or (c) nonconforming housing or parts.

q) The cost of transportation, any necessary accommodation and subsistence expenses and any other incidental costs, incurred in servicing equipment at locations other than within the UK mainland.

6. Annual Premium and other payments

In consideration of the Services to be carried out by the Company under this Agreement, the Customer shall pay the total annual premium specified in the Schedule of Equipment ("Annual Premium") and all other sums expressed to be payable hereunder.

a) The Annual Premium shall be payable in advance, unless the Company has agreed that the Customer may pay his premium via Direct Debits, in which case payment will be made as specified on the Renewal Notice or Invoice as appropriate.

b) All other sums payable under this Agreement shall be paid in advance, unless the Company has given alternative terms in writing.

c) The Annual Premium and any additional charges payable under this Agreement are exclusive of Value Added Tax which shall be paid by the Customer at the rate and in the manner for the time being prescribed by law.

d) The Company reserves the right to alter the Annual Premium at any time, a notification of any change will be sent to the Customer not later than 30 days before the anniversary of the Commencement Date (as defined in Clause 11).

e) Any alteration shall be effective from the anniversary of the Commencement Date Immediately following the notice given. Labour and materials, when charged separately to the Customer, will be invoiced at the Company's then current charges, a copy of which will be supplied on request

7. Termination

This Agreement may be terminated by the Company forthwith by notice in writing or at its option, (and without prejudice to its right to terminate) the Company may suspend performance of its obligations hereunder.

a) If at any time during this Agreement any monies shall remain unpaid by the Customer under the terms of this Agreement or any other agreement with the Company for more than 30 days after the same have become due (without prejudice to the Company's rights to recover such monies under the normal process of law).

b) If the Customer commits a breach of its obligations hereunder and fails to remedy the same (if capable of remedy) within 14 days of written notice from the Company specifying the breach and requiring its remedy.

c) If the Customer has a receiver or administrative receiver appointed or shall pass a resolution for winding up (otherwise than for the purpose of a bona fide scheme of solvent amalgamation or reconstruction) or a court of competent jurisdiction shall make an order to that effect or if the Customer shall become subject to an administration order or shall enter into any voluntary arrangement with its creditors or shall cease or threaten to cease to carry on business. In no event shall any part of the Annual Premium be repayable to the Customer.

8. Interest

Notwithstanding the provisions of Clause 9 and without prejudice to the Company's other rights and remedies, if any sum payable under this Agreement is not paid within 7 days after the due date then the Company reserves the right to charge interest on such a sum in line with the "Late Payment of Commercial Debt Act 1998".

9. Work not covered by this Agreement

The Company reserves the right to charge at its then current rates for any work which it carries out at the request of the Customer which is not covered by this Agreement and for any work carried out after the expiry or termination of this Agreement.

10. Alteration of Schedule

The Customer undertakes to notify the Company immediately of:-

a) Any change affecting the Customer's trading arrangements, such as change of trading title, address or any other relevant details.

b) Any change affecting the Schedule of Equipment overleaf, such as the disposal or removal from service or relocation of any Equipment.

c) In the event of the relocation of the Equipment the Company shall be entitled to payment of an additional charge reflecting any administrative, travelling and/or other costs incurred by the Company.

d) In the event of any other change to the Schedule of Equipment the Company shall be entitled to payment of an additional charge reflecting any increase in the Services.

11. Duration

a) This Agreement shall operate from 14 days after the invoice date ("the Commencement Date") and shall continue for 12 months and thereafter for subsequent 12 month periods unless or until terminated by either party giving 30 day's notice in writing to the other to expire on the anniversary of the Commencement Date. Such termination shall not affect the accrued rights of the parties.

b) Should service be required before the 14 day period the Company may be able to arrange early service. If available a one off charge will be payable for this service.

12. Warranty

The Company warrants that it shall carry out the Services with all due care and attention. If the Customer notifies the Company within 7 days of any maintenance visit that the Services have not been carried out in accordance with the terms of this Agreement then the Company will use all reasonable endeavours to rectify any defect at its own cost and expense as soon as is reasonably practicable. Subject to Clause 15 the Company expressly excludes any other liability which may arise in connection with the performance of the Services.

13. Liability

a) The Company expressly excludes any and, all liability for indirect or consequential loss or damage, including but not limited to, indirect or consequential loss or damage to Equipment or property whether or not the same may be in the Company's care, custody or control, or for loss of profit, business, revenue, goodwill or anticipated savings.

b) The Company expressly excludes any and all liability for any losses, claims, demands, costs, expenses whatsoever resulting from any failure of the Company in performing its services which arises due to the Customer's failure to provide access and facilities pursuant to Clause 3a.

c) Without prejudice to Clause 16 the Company's liability for direct loss or damage to property resulting from a breach of this Agreement by the Company or for direct loss or damage to the Equipment resulting from the negligence of the Company, its employees, sub-contractors or representatives in carrying out the Services shall be limited to, and shall not exceed the Annual Premium paid by the Customer in the twelve month period in which any claim arises.

d) Without prejudice to Clause 16 the Company's liability for direct loss or damage to property other than the Equipment resulting from the negligence of the Company, its employees, subcontractors or representatives in carrying out the Services shall be limited to £250,000 in respect of any one event or connected series of events and £500,000 in aggregate.

e) The Company does not exclude liability for death or personal injury to the extent that it arises from the negligence of the Company.

14. Force Majeure

The Company excludes any and all liability for any loss, damages, costs, claims or expenses which may arise out of the Company's delay in or failure to perform its obligations under this Agreement where such delay or failure is due to causes beyond its control. Without limitation to the generality of the foregoing, these causes shall include: fire, flood, earthquake, accident, civil disturbances, war, rationing allocation or embargoes, strikes, labour problems, delays in transportation, inability to secure necessary materials, delay or failure of performance of any supplier or sub-contractor, acts of God and acts of government.

15. Assignment

a) The Customer shall not assign, sub-contract or otherwise transfer its rights and/or obligations under this Agreement without the prior written consent of the Company.

b) The Company may, at any time, having given written notice to the Customer, assign, subcontract, or otherwise transfer the whole or a portion of its rights, duties or obligations under this Agreement.

16. Regulations

The Customer must fully comply with all relevant statutes, bye-laws and regulations relating to the installation of the Equipment and its use. A delay or failure by either party to exercise any right or partial or single exercise of any right shall not be deemed to constitute a waiver of any such right or any other rights hereunder. Consent by either party to a breach of an expressed or implied term of this Agreement shall not constitute consent to any subsequent breach. In the event that any provision of this Agreement is not enforceable the remainder of this Agreement shall remain in full force and effect.

17. Notices

Any notices, or requests, or demands shall be in writing and sent by registered post or delivered personally or by facsimile transmission by one party to the other at the most recently specified address. Notices sent by registered post shall be deemed to have been received on the fifth business day after posting. Notices delivered personally or by facsimile transmission shall be deemed to be received on the day after delivery or transmission.

18. Entire Agreement

The Customer acknowledges that it has read and understood this Agreement. The Customer agrees to be bound by the terms and acknowledges that this Agreement constitutes the full and entire Agreement and understanding of the Customer and the Company superseding all previous negotiations, communications and commitments whether written or oral and all representations and warranties expressed and implied, statutory or otherwise with respect to the matters herein contained. No modification or amendment to any of the terms of this Agreement shall be effective unless in writing and signed by the duly authorised representatives of both the Customer and the Company.

19. Governing Law

This Agreement is governed by laws of England. The parties hereby submit to the exclusive jurisdiction of the English Courts.

Definition of Extended care

Parts and Labour breakdown - The standard warranty terms and conditions apply for the extended period with the same exclusions.

Calibrations – Includes the minimum number of legislative required calibrations **Routine consumables** - used at the time of calibration only (I.E. filters & Oxygen sensors) **MOT updates** - (Annual Gas update only)

Definition of Standard care

Parts and Labour breakdown - The standard warranty terms and conditions apply for the extended period with the same exclusions.

Calibrations – Includes the minimum number of legislative required calibrations **Routine consumables** - used at the time of calibration only (I.E. filters & Oxygen sensors)

Definition of Calibration Agreement

Calibrations – Includes the minimum number of legislative required calibrations **Routine consumables** - used at the time of calibration only (I.E. filters & Oxygen sensors)