TERMS AND CONDITIONS

1. **DEFINITIONS**. In these terms and conditions (**Terms**), the following definitions apply

Contract: this contract between You and Us for the sale and purchase of the Goods in accordance with these Terms;
Goods: the Vehicle and any accessories (if any) that We are selling to You, as set out in the Order.
Manufacturer:
Order: Your order for the Goods as set out overleaf;
Used Vehicle: the vehicle(s) (if any) to be part exchanged by You, as set out in the Order
Vehicle: the vehicle(s) which We are selling to You, set out in the Order.
We, Our and Us: Quay Garage (Barnstaple) Ltd (Trading as Quay Garage) (Company no 05092155)
You and Your: the person or body purchasing the Goods, as set out in the Order.

2. **CONTRACT** These are the Terms on which We supply the Goods to You (and any allowance in respect of a Used Vehicle is made). Please ensure that You read these Terms carefully, and check that the details on the Order and in these Terms are complete and accurate, before You sign the Order. If You think that there is a mistake please contact Us to discuss. We will confirm any changes in writing to avoid any confusion between You and Us. The Order shall only be deemed accepted when We have signed the Order, at which point the Contract shall come into existence. Unless the context otherwise requires, words in the singular shall include the plural, and in the plural shall include the singular.

3 **EXAMINATION OF GOODS**. The Vehicle shall be supplied as roadworthy at the date of delivery, and shall be supplied subject to any conditions or warranties implied by Sale of Goods Act 1979, and any other applicable statutory provision if You are a consumer. Prior to signing the Order You shall examine the Vehicle (if the Vehicle is available for inspection) and sign the Purchasers Certificate of Examination overleaf. You are reminded that the condition of satisfactory quality implied by The Sale of Goods Act 1979 does not operate in relation to any defects which that examination ought to reveal. Should the Vehicle be sold subject to defects notified by Us to You, the condition of merchantable quality does not operate to those defects.

4 **WARRANTY**. If the Vehicle and/or any accessories fitted or supplied by Us come with a manufacturer's warranty (**Warranty**), we will use Our reasonable endeavours to pass on such Warranty to You. The Warranty is in addition to Your legal rights in relation to the Goods that are faulty or not as described. We are under a legal duty to supply Goods that are in conformity with the Contract. Advice about Your legal rights is available from Your local Citizens Advice Bureau or Trading Standards Officer.

5. **ESTIMATED DELIVERY DATE**. We will use Our reasonable endeavours to secure delivery of the Goods by the Estimated Delivery Date (if any) as set out in the Order, but We do not guarantee the time of delivery. Delivery shall be deemed effective when We inform You that the Goods are available for You to collect.

6. **DELIVERY OF GOODS**. If We fail to deliver the Goods within 28 days after the Estimated Delivery Date, You may, by giving Us notice in writing, require Us to deliver the Goods within 7 days of Our receipt of Your notice. If We fail to deliver the Goods within the said 7 days, this Contract shall be cancelled, We shall return Your deposit, and We shall be under no further liability to You.

7 **FAILURE TO COLLECT GOODS**. If You fail to collect and/or pay for the Goods within 14 days of notification that the Goods are ready to be collected, We may treat this Contract as repudiated by You and Your deposit shall be forfeited without prejudice to Our right to recover from You by way of damages any loss or expense which We may suffer or incur by reason of Your default.

8. **PAYMENT** The Goods shall remain Our property until You have paid to Us all monies due under this Contract in full (**Contract Price**). Payment by cheque shall not be treated as discharge by You of your payment obligations until the cheque has been cleared. The proceeds of any Goods resold by You prior to such payment is to be held by You on trust for Us. The Goods will be Your responsibility from when You collect the Goods from Us.

9 **NEW GOODS**. If the Vehicle is new, the following provisions shall apply:

9.1 This Contract shall be subject to the terms and conditions (if any) (**Manufacturer's Terms and Conditions**) which the Manufacturer or the Manufacturer's concessionaire (if any) (**Concessionaire**) may from time to time lawfully attach to the supply of the Goods to Us or the resale of the Goods by Us, and We shall not be liable for any failure to deliver the Goods occasioned by Our inability to obtain the Goods from the Manufacturer or Concessionaire or by Our compliance with the Manufacturer's terms and conditions. A copy of the Manufacturer's terms and conditions is available for inspection at Our office during normal opening hours.

9.2 We shall use Our reasonable endeavours to ensure that any pre-delivery work specified by the Manufacturer or Concessionaire is carried out to the Vehicle.

9.3 We shall not make any reduction to the Contract Price for any standard equipment supplied with the Vehicle which You do not wish to own.

9.4 If after the date of this Order and before delivery to You of the Goods, the Manufacturer's or Concessionaire's recommended price for any of the Goods shall be altered, We shall give You notice of any such alteration and in the event that:

9.4.1 the Manufacturer's or Concessionaire's recommended price for the Goods has increased, We shall give You notice of the amount of such increase which We intend to pass to You (**Notice of Price Increase**). You may cancel this Contract within 14 days of receipt of the Notice of Price Increase by giving Us notice (**Notice of Cancellation (Price Increase)**). If You do not give Us Notice of Cancellation (Price Increase) in accordance with this clause, the increase in price shall be added to and become part of the Contract Price;

9.4.2 the Manufacturer's or Concessionaire's recommended price for the Goods has decreased, We shall give You notice of the amount of such decrease which we intend to pass to You (**Notice of Price Decrease**). If We do not pass on to You the full amount of the decrease, You may cancel this Contract within 14 days of receipt of the Notice of Price Decrease by giving Us notice (**Notice of Cancellation (Price Decrease)**). If You do not give Us Notice of Cancellation (Price Decrease) in accordance with this clause, the decrease in price shall be subtracted from the Contract Price.

9.4.3 the Manufacturer ceases to manufacture the Goods, We may cancel this Contract (at any time before or after the Estimated Delivery Date) by giving You notice in writing.

10 **PART EXCHANGE**. If We agree to accept a Used Vehicle as partial payment for the price of the Goods (**Allowance**), You warrant that:

10.1.1 You have good title to the Used Vehicle and it is unencumbered by any third party interest whatsoever;

10.1.2 if We have examined the Used Vehicle, then the Used Vehicle shall be delivered to Us in the same condition as at the date of such examination (fair wear and tear excepted).

10.1.3 that the particulars of the Used Vehicles given by You in the Order are correct and that so far as You are aware the milometer reading is accurate.

10.1.4 the Used Vehicle shall be delivered to Us on or before delivery of the Goods, and upon delivery title to the Used Vehicle shall pass to Us absolutely; and

10.1.5 without prejudice to clause 10.1.4 above, the Used Vehicle shall be delivered to Us within 14 days of written notification to You that the Vehicle is ready for delivery.

10.2 If any interests declared pursuant to clause 10.1.1 are capable of cash settlement We may elect to discharge such interests and deduct expenditure from the Allowance.

10.3 if, through no default on Our part, the Vehicle is not delivered to You within 30 days after the date of this order or the Estimated Delivery Date (whichever date is later), the amount of Allowance in respect of the Used Vehicle may at Our discretion be subject to reduction by an amount not exceeding 2.5% for each completed period of 30 days, commencing from the date of the expiry of the first mentioned 30 days, to the date that the Vehicle is ready for collection.

10.4 If You breach any of the warranties in clause 10.1, We shall not be obliged to accept the Used Vehicle or make any Allowance in respect thereof, and the Contract Price shall be amended accordingly.

11. **FINANCE**. You may, within 7 days after We have notified You that the Vehicle is ready for collection, arrange for a finance company to purchase the Goods from Us at the Contract Price, and the Goods shall be delivered to or to the order of the finance company (at Your cost).

12 **RETENTION OF TITLE** Notwithstanding delivery and the passing of risk in the Goods, or any other provision of these Terms, title to the Goods shall not pass to You until the Contract Price has been paid by You in full. Until such time as title to the Goods passes to Us, (a) You shall keep the Goods properly stored, protected and insured and identified as Our property; and (b) We shall be entitled at any time to require You to deliver up the Goods to Us, and if You fail to do so to enter upon Your premises or any third party premises where the Goods are stored and repossess the Goods; and (c) You shall not be entitled to sell, pledge or in any way charge by way of security for any indebtedness the Goods, and if You do so the Contract Price shall immediately become due and payable.

13 **CANCELLATION** Except as provided for in these Terms, no Order which has been accepted by Us may be cancelled by You except with Our written consent and on the terms that You forfeit Your deposit and You indemnify Us in full against all loss (including loss of profit), costs (including the cost of all labour and materials used), damages, charges and expenses incurred by Us as a result of the cancellation.

14 **TERMINATION**. If (a) You make any voluntary arrangement with Your creditors or become subject to an administration order or have an administrative receiver appointed or go into insolvent liquidation or become wound up or a receiver is appointed or enters into a voluntary arrangement, or (b) an encumbrancer takes possession of any of Your property or assets; or (c) You cease, or threaten to cease, to carry in business; or (d) We reasonably believe that any of the events mentioned in (a) to (c) of this clause is about to occur; or (e) We have reasonable cause to believe that You will be unable to meet Your financial obligations in respect of this Contract, or (f) You are in material breach of this Contract, then We shall be entitled to cancel this Contract or suspend delivery under this Contract and You shall forfeit Your deposit.

15 **EVENTS OUTSIDE OUR CONTROL**. We will not be liable or responsible for any failure to perform, or delay in performance of, any of Our obligations under these Terms that is caused by an event beyond Our reasonable control.

16 **DEFECTIVE GOODS** Any claim by You which is based on any defect in the quality or condition of the Goods or their failure to correspond with specification shall be notified to Us within 14 days from the date of collection of the Goods or the date of refusal of delivery as the case may be, or (where the defect or failure is not apparent upon reasonable inspection) within a reasonable time after the discovery of the defect or failure. We may then at Our sole discretion either replace or repair the Goods free of charge or refund You the price of the Goods (or a proportionate price of the Goods). If You do not notify Us in accordance with this clause You shall not be entitled to return or make any claim in respect of the Goods and We shall have no liability for such defect or failure, and You shall be bound to pay the Contract Price as if the Goods had been delivered in accordance with this Contract. If You are a consumer, this clause shall not limit Your legal rights in relation to Goods that are faulty or not as described. Advice about Your legal rights is available from Your local Citizens' Advice Bureau or Trading Standards office. Nothing in these Terms will affect these legal rights.

17 **DISTANCE SELLING**. If You are a consumer, and You have entered into this Order prior to a face-to-face meeting with Us, You may cancel the Order at any time up to the end of the fourteenth day after collection of the Goods by providing Us with a clear written statement of your decision to cancel the Order. You may use the attached model cancellation form, but it is not obligatory. On cancellation, the Goods shall be immediately returned to Us at Your cost. You must take reasonable care of the Goods. You remain liable for the Goods until delivery of the Goods back to Us. On cancellation any related credit agreement will be cancelled. If the Cancelled contract involved a part-exchange We will return the Allowance or the Used Vehicle to You. You shall indemnify Us for any loss We suffer as a result of alteration, modification or thing done to the Goods. If the Goods are made to Your specifications or is clearly personalised then You shall not have the right to cancel the Contract.

18 **OUR LIABILITY TO YOU (YOUR ATTENTION IS PARTICULARLY DRAWN TO THIS CLAUSE)**

18.1 Where You are a consumer, and We fail to comply with these Terms, We are responsible for loss or damage You suffer that is a foreseeable result of Our breach of these Terms or Our negligence (loss or damage shall be deemed foreseeable only if they were an obvious consequence of Our breach or if they were contemplated by You and Us at the time We entered into the contract).

18.2 Subject to clause 18.1 and 18.4, We shall under no circumstances whatsoever be liable to You, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, for any loss of profit, or any indirect or consequential loss arising under or in connection with the contract, except as expressly provided in these Terms.

18.3 Subject to clause 18.2 and 18.4, and except where You are a consumer, Our total liability to You in respect of all other losses arising under or in connection with the contract, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, shall in no circumstances exceed the value of the Contract Price.

18.4 Nothing in these Terms shall operate to restrict or exclude Our liability or limit Your rights in any way that cannot be restricted, excluded or limited by law (including (a) death or personal injury; (b) fraud or fraudulent misrepresentation; (c) breach of the terms implied by section 12 of the Sale of Goods Act 1979 and by section 2 of the Supply of Goods and Services Act 1982 (title and quiet possession); (d) defective products under the Consumer Protection Act 1987; and where You are a consumer any breach of the terms implied by sections 13,14 and 15 of the Sale of Goods Act 1979 and sections 3, 4 and 5 of the Supply of Goods and Service Act 1982 (relating to description, satisfactory quality, fitness for purpose and samples))

19 **SEVERANCE**. If any provision of these Terms is held by a competent authority to be invalid or unenforceable in whole or in part the validity of the remaining provisions of these Terms and the remainder of the provision in question shall not be affected thereby.

20 **THIRD PARTY RIGHTS**. This Contract is between You and Us. No other person shall have any rights to enforce any of its terms.

21. **ASSIGNMENT**. We may transfer Our rights and obligations under these Terms to another organisation, and We will always notify You in writing if this happens, but this will not affect Your rights or Our obligations under these Terms.

22 **WAIVER**. If We fail to insist that You perform any of Your obligations under these Terms, or if We do not enforce Our rights against You, or if We delay in doing so, that will not mean that We have waived Our rights against You.

23. **HOW TO CONTACT US**. If You wish to contact Us in writing, or if any clause in these Terms requires You to give Us notice in writing, You can send this to Us by e-mail, by hand, or by pre-paid post to the address and/or email address set out in clause 25. We will confirm receipt of this by contacting You in writing. If We have to contact You or give You notice in writing, We will do so by e-mail, or by pre-paid post to the address You provide Us in the Order.

24. **HOW WE MAY USE YOUR PERSONAL INFORMATION**. We will use any personal information You provide to Us to (a) provide the Goods, (b) process Your payment for such Goods, and (c) inform You about similar products or services that We provide but You may stop receiving these at any time by contacting Us.

25 **INFORMATION ABOUT US.** We are a company registered in England and wales. Our company registration number is 05092155 and Our registered office is RT Marke & co Ltd, 69 High Street, Bideford, N Devon, EX39 2AT.Our registered VAT number is 741892316. If you have any questions or complaints, please contact us. You can contact us by writing to us at Quay Garage, Exeter Road, Braunton EX33 2BH, or telephoning 01271 816007 or by e-mail quaygarage@btconnect.com.

26 **GOVERNING LAW**. These Terms are governed by English law.