



3/87 Keogh Street, West Ipswich, 4305 QLD

p: 07 3466 4422

ACN: 633 327 367

TERMS & CONDITIONS

PARTIES

- (a) "BB Garage" means Star Diesel Performance Pty Ltd (ACN 633 327 367) T/AS BB Garage; and
- (b) The Customer is the person (or corporate entity) engaging BB Garage for Services.

2. NATURE OF THIS AGREEMENT

2.1. Upon execution of this Agreement, the Customer agrees and acknowledges that they intend to be immediately bound by the terms of this Agreement in relation to services including:

- (a) All vehicle services prescribed in the Estimation and Booking Sheet; and
- (b) Any other services verbally agreed between the parties.
(the Services')

3. ACCEPTANCE

3.1. Any instructions received by BB Garage from the Customer for the provision of Services and/or the Customer's acceptance of Services provided by BB Garage after BB Garage has provided these Terms and Conditions to the Customer constitute acceptance of these Terms and Conditions.

3.2. By the Customer's vehicle being left at the premises of BB Garage, the Customer agrees it has read, understood and accepts these Terms and Conditions.

4. OBLIGATIONS AND RESPONSIBILITIES

4.1. BB Garage must use its reasonable endeavours to perform the Services agreed between the parties.

4.2. BB Garage agrees that it will provide the Customer where possible with an estimated cost of Services, however, does not warrant that any estimate given prior or during the undertaking of Services is binding, unless otherwise stated and agreed in writing between the parties.

4.3. The Customer warrants to BB Garage that the Customer:

- (a) agrees that the actual scope of works required may change during the undertaking of Services, which may be as a result of identification of unknown impediments which may delay or alter the original scope;
- (b) agrees where additional work and the costs of such work have been verbally agreed between the parties following the commencement of work under the estimation, BB Garage is authorised to proceed with the additional work, and this authorisation will warrant an acceptance of these Terms and Conditions;
- (c) information provided to BB Garage about the Customer is true and accurate in all respects;
- (d) has provided all information and documentation to BB Garage which may be appropriate for BB Garage to satisfactorily provide and complete the Services contained in the estimation;
- (e) has adequate finances to comply with its obligations under the agreed Services;
- (f) has full power to enter into any agreement for the undertaking of Services;
- (g) has provided authority to complete the Services fully and voluntarily based on its own information and investigation, and without reliance on any representations made by BB Garage unless such representations are contained in any written material, such as an estimation;
- (h) agrees that no undue influence or pressure was exerted by BB Garage prior to the Customer agreeing to the Services;
- (i) agrees that no unfair tactics were used by BB Garage prior to the Customer agreeing to the Services.

4.4. For the purposes of these Terms, the Customer acknowledges that it is responsible for the delivery of the vehicle to the Premises prior to the commencement of Services, and the pickup of the vehicle following the completion of Services, unless otherwise agreed between the Parties.

4.5. The Parties agree that there may be circumstances in which the vehicle may not be able to be delivered to the premises by the Customer, such as the event of the vehicle being towed, or subject of any other agreement between the parties allowing for a specific method of delivery.

5. ESTIMATION PRICE

5.1. This clause applies in the event BB Garage have provided the Customer with an estimation for the Services.

5.2. Unless otherwise stated herein, the estimation price is the price stated in the 'total price' section of the estimation.

5.3. The Parties agree, as identified in clause 4.3(a) of these Terms and Conditions, that the estimation price is subject to change.

5.4. In the event that the estimation price shall be altered as a result of changes subject to clause 4.3(a), BB Garage will inform the Customer by telephone at its earliest possibility of:

- (a) the nature of the change to the scope of works; and
- (b) if possible, an estimate of the change in price of the Services as a result of the change in scope.

5.5. No estimation price is binding between the Parties unless expressly stated.

6. PAYMENT

6.1. The due date for payment of the total amount owed to BB Garage in respect of all Services provided is the date prescribed in the Final Tax Invoice, which is given upon the completion of the Services, unless otherwise expressly agreed between the Parties.

6.2. The total amount owed to BB Garage will be contained in a Final Tax Invoice issued at the completion of the Services.

6.3. The Customer may provide a deposit to BB Garage, an amount agreeable between the parties, prior to the commencement of Services.



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- 6.4. The Customer is in default if full payment is not received within the payment terms prescribed in the Final Tax Invoice, unless otherwise expressly agreed between the Parties.
- 6.5. Payment must be made to the address and by a method shown on the Final Tax Invoice.
- 6.6. The Customer(s) guarantee(s) the payment of the total amount due by the Customer under the Final Tax Invoice.
- 6.7. The Customer(s) shall indemnify BB Garage against loss resulting from the Customer's failure to make payment including but not limited to interest and legal costs.

7. COLLECTION OF VEHICLE

- 7.1. The Customer agrees that it will collect the vehicle within 7 days of being notified that the vehicle is ready for collection.
- 7.2. If the Customer has entered into a Loan Vehicle Agreement with BB Garage, the loan vehicle must be returned to BB Garage prior to the Customer's vehicle being released.
- 7.3. In the event that the Customer does not collect the vehicle within 7 days of being notified of the completion of the Services, clause 15 will apply.
- 7.4. BB Garage may, at its discretion, vary the conditions of collection with the Customer as considered necessary.

8. WARRANTIES

- 8.1. BB Garage warrants that the Services will be provided with all due care and skill and in a professional and workmanlike manner and according to generally acceptable industry standards and practices.
- 8.2. To the extent permitted by law, all other express and implied warranties, representations, terms and conditions other than those expressly contained in any agreement for the undertaking of Services and these Terms and Conditions will prevail.
- 8.3. In the event of any defects in the Services provided as alleged by the Customer, BB Garage is entitled to first priority to inspect and remedy those defects which are under warranty.
- 8.4. In the event that the Customer has engaged a third party to undertake repairs to any work referred in clause 8.3 to the extent permitted by law, they shall not be entitled to any form of reimbursement from BB Garage for those works if BB Garage were not granted the opportunity in the first instance to inspect and rectify the alleged defects.

9. FEES

- 9.1. The Customer agrees to pay any fees or charges which BB Garage at its discretion, may decide to implement from time to time.
- 9.2. "Fees" include and are not limited to transaction fees, dishonoured cheque fees, government fees, account fees, replacement card fees, search fees, credit card payment fees, stamp duty, and any other fee which may be implemented.
- 9.3. Changes will be notified to the Customer in writing prior to implementation.

10. DEFAULT AND TERMINATION

- 10.1. If the Customer fails to pay in accordance with these Terms and Conditions, the Customer agrees to pay interest of 2.5% per month calculated monthly from the due date plus all legal and collection costs including on an indemnity basis.
- 10.2. BB Garage is also entitled to claim any losses incurred as a result of storage costs of the Customer's vehicle at the premises.
- 10.3. If a party breaches or repudiates any agreement between the parties including the estimation, nothing in this clause shall prejudice the right of the other party to recover damages or exercise any other right.
- 10.4. If either party commits a substantial breach of an agreement for services or these Terms and Conditions, the other party may give to the party who committed the breach a written notice to show cause. That notice shall:
 - (a) state that it is a notice under this clause;
 - (b) specify the alleged substantial breach;
 - (c) require the party who committed the breach to show cause in writing why the party giving the notice should not exercise a right referred to in this clause as the case may be;
 - (d) specify the time and date by which the party who committed the breach must show cause (being not less than 2 calendar days after the notice is given to that party); and
 - (e) specify the place at which cause must be shown.
- 10.5. Substantial breaches on the part of the Customer include and are not limited to:
 - (a) becoming insolvent; or
 - (b) a breach of any provisions of any agreement including the estimation or these Terms and Conditions;
- 10.6. Substantial breaches on the part of BB Garage are limited to:
 - (a) becomes insolvent; or
 - (b) refusing to perform the Works;
- 10.7. If the defaulting party fails to show reasonable cause, the non-defaulting may, by written notice terminate this agreement to undertake Services.
- 10.8. In the event the agreement is terminated, the respective rights and obligations of the parties shall be as follows:
 - (a) BB Garage shall be entitled to payment of all outstanding amounts under the agreement and those outstanding amounts shall become immediately due and payable upon termination of the agreement;
 - (b) excluding any amounts previously outstanding, BB Garage shall be paid by the Customer for:
 - (i) the value of services executed and completed as at the date of termination;
 - (ii) the costs of materials or goods properly ordered for the services for which BB Garage shall have paid or for which BB Garage is legally bound to pay; and
 - (iii) Notwithstanding anything in this clause to the contrary, BB Garage shall be entitled to add to any amount so payable any amounts claimed by BB Garage from the Customer in connection with any breach by the Customer of this estimation.
- 10.9. Nothing in the agreement precludes the agreement from being terminated in the circumstances provided by the general law. The parties acknowledge that general law termination entitlements are in addition to the circumstances contemplated by this clause.



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11. VARIATIONS

- 11.1. BB Garage may vary the works under the agreement or estimation in its discretion if it is deemed reasonably necessary to ensure the works are sufficiently completed in order to adequately provide its Services. This includes but is not limited to, changing the character or quality of any material or work such as may be necessary.
- 11.2. In the event the variation of the works under the agreement or estimation result in a change in costs, BB Garage will notify the Customer within a reasonable period of time, in accordance with clause 5.4 of these Terms and Conditions.
- 11.3. If BB Garage will not incur further costs as a result of the change, BB Garage is not obliged to inform the Customer of the alteration prior to commencing the varied work.

12. PERFORMANCE & EXECUTION OF SERVICES

- 12.1. In the absence of any requirement to the contrary, BB Garage shall reasonably endeavor to use suitable materials and proper and tradesman like workmanship.
- 12.2. Upon completion of any services, the Customer hereby releases and indemnifies to the extent permitted by law, BB Garage against any liability under the agreement or estimation arising from the Services under the agreement as referred in clause 17 of these Terms and Conditions.
- 12.3. The Customer acknowledges that it is liable to pay to BB Garage the costs of materials or goods properly ordered to provide the Services, which will be calculated into the Final Tax Invoice.
- 12.4. BB Garage may add to the Final Tax Invoice monies due or claimed to be due to BB Garage (whether on account of a breach of contract or otherwise) by the Customer.
- 12.5. BB Garage's liability under these Terms and Conditions is capped at either the costs of the Services provided, or the costs of rectification works at its option.

13. VEHICLE ACCESS

- 13.1. BB Garage will be given exclusive possession of the vehicle during the undertaking of services to enable BB Garage to execute the works in accordance with the agreement.
- 13.2. BB Garage at all times remains responsible for the proper security of the vehicle at its premises during the undertaking of Services.

14. LOAN VEHICLE ACCESS

- 14.1. The Customer will be given exclusive possession of the loan vehicle up until the Customer's vehicle is ready for handover, unless otherwise agreed between the Parties.
- 14.2. The Customer during its possession of the loan vehicle is obligated to act in accordance with the terms of the Loan Vehicle Agreement.
- 14.3. If the Customer breaches the Loan Vehicle Agreement, BB Garage is entitled to:
 - (a) Terminate the Loan Vehicle Agreement;
 - (b) Reclaim possession of the Loan Vehicle prior to the completion of the Services; and
 - (c) Claim any sum from the Customer that may be incurred by BB Garage as a result of the breach (including, but not limited to any damage to the loan vehicle), which may also be applied as an offset to the Final Tax Invoice amount for the services already provided.
- 14.4. This clause is to be read in conjunction with the Loan Vehicle Agreement.

15. NON-COLLECTION OF VEHICLE

- 15.1. The Customer agrees that BB Garage will hold the vehicle for a maximum period of 7 days after the Customer is notified that the Services have been completed and the vehicle is ready for collection, prior to issuing a notice prescribed in clause 15.2, unless otherwise agreed between the parties.
- 15.2. If the vehicle has not been collected by the Customer within the period prescribed at clause 15.1, or if no alternate arrangement has been communicated and agreed by the parties, BB Garage will issue a notice to the parties with an interest or claiming an interest in the vehicle in the form prescribed under the *Disposal of Uncollected Goods Act 1967 (Qld)*, and the Customer shall be taken to have appointed each of the directors of BB Garage severally as its attorney or agent for the purposes of this clause 15.
- 15.3. The vehicle may be disposed of by BB Garage in accordance with the provisions under the *Disposal of Uncollected Goods Act 1967 (Qld)*.
- 15.4. The entirety of clause 15 is governed by the *Disposal of Uncollected Goods Act 1967 (Qld)*.

16. DYNO AND ECU TUNING

- 16.1. This clause 16 applies if BB Garage has been instructed by the Customer to undertake Services in respect of Dyno and ECU Tuning.
- 16.2. The Customer acknowledges that they will complete the relevant Dyno and ECU Tuning Form provided by BB Garage in respect of any Dyno and ECU Tuning Services prior to the commencement of work.
- 16.3. The Customer acknowledges that they are aware of their responsibility relating to any issues arising from these Services and all other conditions contained in the Dyno and ECU Tuning Form.

17. GUARANTEE

- 17.1. This clause 17 applies if BB Garage requires that a person guarantee the Customer's performance of its obligations under these Terms and conditions in which event, in consideration for BB Garage entering into the estimation, the Guarantor guarantees and indemnifies the performance of the Customer's obligations under these Terms and Conditions and estimation, including but not limited to guaranteeing to BB Garage the payment of all monies payable by the Customer to BB Garage under the estimation or these Terms and Conditions.



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18. INDEMNITY

- 18.1. BB Garage is indemnified of any losses suffered by the Customer as a result of the Customer failing to disclose a material fact about the vehicle, which would reasonably be considered critical for the acceptable completion of Services.
- 18.2. The Customer's liability to indemnify BB Garage shall however, be reduced proportionately to the extent that a negligent act or omission of BB Garage contributed to the loss or damage.

19. CUSTOMER INFORMATION

- 19.1. The Customer agrees that upon entering into the agreement, they will provide various customer details to BB Garage for the purpose of Booking Sheets and estimations
- 19.2. BB Garage agrees that the information provided will not be made publicly available, but only accessible exclusively to BB Garage for the purposes of future business referencing and communication with the Customer.
- 19.3. BB Garage will not disclose any of the information contained therein without the prior written consent of the Customer.

20. GOVERNING LAW

- 20.1. The Law governing this estimation, its interpretation and construction is the law of Queensland and where applicable the Commonwealth of Australia. The parties hereto submit to the jurisdiction of the Courts of that State and of any court in appeal there from.

21. CONSTRUCTION

- 21.1. Where these Terms and Conditions are entered simultaneously to or in contemplation of another collateral agreement, then they shall be read together. To the extent of any inconsistency between these Terms and Conditions and any collateral agreement, then these Terms and Conditions shall prevail. These Terms and Conditions together with any collateral agreement, constitutes the entire agreement of the parties and supersedes any other prior writing or agreement or representation.

22. SEVERABILITY

- 22.1. Each covenant, obligation and restriction and any part of covenant, obligation and restriction is deemed to be severable and independent covenant, obligation or restriction.
- 22.2. If the provisions or part of any provisions of the agreement or written document are held by a Court of a competent jurisdiction to be void, invalid or otherwise enforceable, that any such provision or part provision is deemed to be eliminated or modified to the extent that it is necessary to make the remainder of the clause enforceable and the remainder of the agreement shall have full force and effect.

23. DECLARATION

- 23.1. I/we (the Customer) declare that I have informed BB Garage of all pre-existing, mechanical, structural, componentry, and other failures, defects or issues which are present in the vehicle which I have engaged BB Garage to undertake Services upon.
- 23.2. The information provided by the Customer is true and correct and BB Garage may rely on such information to its detriment and if not true and correct, this breach may constitute an attempt to or obtain benefit/financial advantage by deception and or may constitute actionable breach of contract, tort or fraud giving rise to damages and compensation reasonably flowing from such breach.
- 23.3. I/we (the Customer) have read and understood these terms and conditions.
- 23.4. I/we (the Customer) authorise BB Garage to make any checks necessary at the Customer's cost that are reasonably necessary to satisfy themselves that the information provided by the Customer is accurate.

Date:

Signed by Customer:

Signed by BB Garage:

.....
Signature of Customer

.....
Signature of authorised person

.....
Name of Customer (print)

.....
Name of authorised person (print)