



## **Auto Service Terms and Conditions December 2024**

### **1. Formation of agreement**

These Terms and Conditions govern the provision of automotive services (Services) and/or the supply of automotive parts (Parts) by The Trustee for ADR Group Trust for Agri World Australia PTY LTD ACN 622673376 trading as THOR Mechanical WA ABN: 41 771 077 565, Motor Vehicle Repair Business Number MRB10335 (herein referred to as “TMWA”, “we”, “us” or “our”) and the customer (in this Agreement herein referred to as “you”).

By engaging our services and or signing a Service Repair Order, you agree and accept to comply with and be bound by the following terms and conditions. **Please read them carefully.**

### **2. Services Provided**

TMWA provides a range of automotive mechanical services including, but not limited to, vehicle repairs, maintenance, diagnostics, inspections and/or the sale and supply of parts.

### **3. Estimates and Quotes**

3.1 We may provide you with a verbal or electronic estimate for Services and/or Parts when you book a Service (Estimate). All estimates and quotes provided by TMWA are based on the information available at the time and are subject to change. The Estimate is valid for 7 days. If Parts are not in stock at the time of the Estimate, the quoted price is subject to change based on the price payable by TMWA for the Parts at the time of Service.

3.2 On the scheduled date of Service, you must confirm the scope of work you would like us to perform and sign a service repair order.

3.3 We will notify you of any special conditions that apply to your service repair order in addition to these Terms and Conditions.

3.4 We reserve the right to amend an Estimate and/or Service Repair Order after an assessment of your vehicle. If we need to amend an Estimate and/or Service Repair Order, we will contact you and obtain your consent before commencing any work.

3.5 We will carry out the Services and/or install the Parts supplied specified in the service repair order subject to these Terms and Conditions.

3.3 If, during the performance of the Services, we discover that additional Services and/or Parts are required (Additional Work):

(a) we will notify you of the Additional Work required; and

(b) you may elect to have all, or part of the Additional Work performed.

3.4 TMWA excludes any liability to you in connection with any loss or damage you suffer or incur as a result of your decision not to proceed with all or any of the Additional Work required, if applicable

3.5 TMWA reserves the right to refuse to perform the Services and/or supply the Parts for any reason.

#### **4. Customer Supplied Parts**

4.1 We may install Parts that you have supplied (Customer Supplied Parts). However, we reserve the right to decline any request to install Customer Supplied Parts in our absolute discretion.

4.2 We cannot guarantee the quality or performance of any Customer Supplied Parts or the labour to install them should the Customer Supplied Parts fail. To the maximum extent permitted by law and without limiting liability, TMWA excludes any and all liability to you in connection with any loss or damage you suffer or incur as a result of TMWA installing any loss or damage you suffer or incur as a result of TMWA installing Customer Supplied Parts.

#### **5. Payment Terms**

5.1 **Upfront Payments** - Depending on the value of the Services and/or Parts (other than batteries), we may require you to pay a minimum 50% deposit or pay for the Services and/or Parts in full when you deliver your vehicle to our TMWA workshop.

5.2 **Payment** - Payment is due upon completion of services unless otherwise agreed upon in writing.

5.3 We accept payment via cash, credit/debit card, and electronic funds transfer (EFT).

5.4 Where you fail to pay any tax invoice on or before the due date, you agree that the TMWA will add interest to the total outstanding amount at the rate of 4.0% interest per calendar month and that the Customer will be liable to pay an accrued interest in addition to the outstanding amount.

#### **6. After hours Drop Off & Collection and disposal**

6.1. Drop Off - If you are dropping your vehicle off outside of our normal trading hours, you agree that you are leaving your vehicle outside of our premises unattended at your own risk and will not hold TMWA responsible for any incidents relating to your vehicle.

6.2 Collection - Where relevant, we will issue you with a notice when your vehicle is ready to be collected

(First Notice). You must:

(a) collect your vehicle; and

(b) pay any outstanding fees or costs that you owe to us, including towing and storage fees (Outstanding Amount), as soon as possible after the date of the First Notice and you acknowledge that your vehicle is stored by TMWA at your risk, and you indemnify TMWA from and against any claim, loss or damage of any kind arising out of, under or in connection with such storage.

6.3. If you do not collect your vehicle, and pay any Outstanding Amount, for any reason within 14 days following the date of the First Notice, we may:

(a) charge you \$25 per day from the date of the First Notice for continuing to store your vehicle; and

(b) issue you with a second and final notice (Final Notice). The Final Notice is a notice that we intend to sell or otherwise dispose of your vehicle if you do not collect it, and pay any Outstanding Amounts .

6.4. If you do not collect your vehicle, and pay any Outstanding Amounts, for any reason within 14 days following the date of the Final Notice, you agree that we may:

(a) dispose of your vehicle; or

(b) sell your vehicle and apply the proceeds of the sale in satisfaction of the Outstanding Amount and any legal fees, internal costs and expenses from TMWA, within 14 days following the date of the Final Notice.

6.6. You agree that:

(a) you appoint us as your agent for the purposes of selling or otherwise disposing of your vehicle in accordance with clause 6.4;

(b) and on the basis of our appointment as your agent under clause 6.6 we may sign any documents on your behalf in relation to the sale or disposal of your vehicle, including any Notification of Change of Ownership (or any other similar form) required by the Department of Transport in relation to the sale or disposal of your vehicle.

6.6. If applicable, we will hold any proceeds from the sale which are in excess of the Final Amount Owning (Surplus Amount) on trust for you for 6 months following the date of the sale. If you do not collect the Surplus Amount for any reason within this timeframe, then we may donate the Surplus Amount to a registered charity of our choice.

6.7. You agree that the process in clauses 6.1 to 6.7 replaces any other processes which may otherwise apply in relation to the disposal of uncollected goods, including under the Disposal of Uncollected Goods Act 1970 (WA).

## **7. Lien over vehicle**

7.1 You acknowledge and agree that we may, in our absolute discretion, exercise a lien over your vehicle and/or the Parts until all monies due and payable to us are paid in full and cleared funds

## **8. Warranty and Guarantee**

8.1 Our goods and services come with guarantees that cannot be excluded under the Australian Consumer Law. For major failures with the service, you are entitled:

(a) to cancel your service contract with us; and

(b) to a refund for the unused portion, or to compensation for its reduced value.

You are also entitled to choose a refund or replacement for major failures with goods. If a failure with the goods or a service does not amount to a major failure, you are entitled to have the failure rectified in a reasonable time. If this is not done you are entitled to a refund for the goods and to cancel the contract for the service and obtain a refund of any unused portion.

8.2 If a defect is identified and not repaired upon the customer's request, the customer acknowledges that this decision is at their own risk and that TMWA has fulfilled its obligation to inform and recommend necessary actions.

## **9. Defects and Repairs**

9.1 If a defect is identified during the service, TMWA will notify the customer and provide recommendations for repairs.

9.2 Customers have the right to decline recommended repairs. However, declining necessary repairs may void any warranty and may result in further damage or safety issues.

9.3 TMWA is not liable for any damage or issues arising from defects that the customer has opted not to repair.

## **10. Liability and Indemnity**

10.1 To the maximum extent permitted by law, the liability of TMWA if any, under or arising for supply of Parts and or performance of Services or breach of any term, condition or warranty implied in or imposed upon the sale or supply of Parts or performance of Services by law is limited, at the option of TMWA:

(a) In the case of Parts:

- i. the replacement of the Parts or the supply of equivalent Parts;
- ii. the repair of the Parts;
- iii. to the payment of the cost of replacing the Parts or of acquiring equivalent parts; or
- iv. to the payment of the cost of having the Parts repaired.

(b) in the case of Services:

- i. the supply of the Services again; or
- ii. the payment of the cost of having the Services supplied again.

10.2 Except as expressly provided above and to the extent permitted by law, TMWA is not liable to You for any loss or damage (including, without limitation, consequential or indirect loss or damage or loss of profits) howsoever caused which may be suffered or incurred or which may arise directly or indirectly in respect of the Parts or Services or the failure of TMWA to comply with these Terms and Conditions.

## **11. Extended Services, Parts and warranty**

11.1. In addition to the rights you have under the Australian Consumer Law, we offer the following extended warranty on Services performed and/or Parts (excluding batteries) purchased and installed by TMWA:

(a) a 6 month or 10,000km warranty (whichever occurs first) for private vehicles; or

(b) a 3 month or 5,000km (whichever occurs first) for commercial vehicles, (collectively, Extended Services and Parts Warranty).

11.2 The Extended Services and Parts Warranty starts on the date we first perform the Services and/or install the Parts.

11.3. The Extended Services and Parts Warranty is personal to you. It is not transferrable or assignable.

11.4. The Extended Services and Parts Warranty does not apply to:

(a) Customer Supplied Parts, including installation;

(b) your failure to properly maintain and use or operate the vehicle in accordance with the manufacturer's recommendations;

(c) your failure to carry out any repairs recommended by TMWA, either verbally or in writing;

- (d) repairs improperly performed or parts improperly installed by any person other than TMWA;
- (e) deterioration due to fair wear and tear or any environmental conditions including salt, hail, windstorm, lightning or flood;
- (f) Where goods come to the end of their natural service life;
- (g) Maintenance items such as globes, wiper blades, lubricants, and fluids; or
- (h) Where the defect is a result of:
  - Alteration, accident, misuse, abuse, or neglect;
  - Unsafe or inappropriate driving practices; or
  - Where the product or services are subsequently repaired or modified by an unauthorised service agent; and
- (i) Except as required by law, we will be under no obligation to accept goods returned for any reason.

11.5 Special order in parts, second-hand parts & some new parts, are non-refundable once placed on order with our supplier, therefore if you decide to cancel the order you will not be refunded for the payment of the part as we are unable to return it to our supplier

11.6 Without limiting any rights that may be available under the Australian Consumer law that are not lawfully excluded under these Terms, if you are seeking to make a claim pursuant to a third-party manufacturer warranty, the process is for the part to be sent back to the manufacturer for inspection and the remedy in relation to that claim will depend on the decision of the third-party manufacturer

## **12. Authority to use vehicle**

12.1 You agree to authorise us on the following:

- (a) To allow our employees to do every act, matter, and thing that we consider desirable or necessary for us to provide with the Products and/ or services set out in the repair service order in respect of your vehicle, including but not limited to): (i) Entering the vehicle; and (ii) Test driving your vehicle (including driving your vehicle to another location outside of the premises).
- (b) To sublet some or all the services and to deliver and collect the vehicle from the premises of any contractor to whom the services are sublet.

## **13. Force Majeure/Matters beyond our control**

13.1 We do not guarantee to carry out our services in whole, or in part, if we are prevented from doing so due to any circumstances beyond our reasonable control including, without limitation, as a result of any strike, war, cyber-attack, terrorist attack, trade dispute, fire, flood, tempest, theft, epidemic, pandemic, breakdown in machinery of any kind, disruption to electricity (or any other utility), or breakdown or disruption of any electronic communication support system

13.2 If we are affected by these circumstances, we will promptly notify you verbally or in writing.

13.3 You acknowledge and agree that when providing the services, the power supply in your vehicle may be temporarily interrupted. This may cause your audio system to lock and require an unlock code. We will take reasonable steps to prevent this from happening however it is usually outside of our control. The unlock code for your audio system is supplied by the manufacturer of your vehicle and you will be solely responsible for retrieving that code.

#### **14. Tuning and Performance Modifications**

14.1 You acknowledge and agree that any tuning or performance modifications to your vehicle are performed at your own risk. While TMWA aims to enhance your vehicle's performance, the nature of tuning means that there are inherent risks, including but not limited to, increased wear and tear, engine damage, voiding of the vehicle manufacturer's warranty, and non-compliance with roadworthiness or emission standards.

14.2 TMWA provides no warranty, guarantee, or assurance that tuning and performance modifications will not impact the longevity or reliability of your vehicle. You accept full responsibility for any potential outcomes arising from such modifications.

14.3 To the maximum extent permitted by law, TMWA excludes any and all liability to you in connection with any loss or damage you suffer or incur as a result of tuning and performance modifications performed by TMWA, including but not limited to consequential or indirect loss or damage or loss of profits.

14.4 By agreeing to tuning or performance modifications, you acknowledge and accept the risks involved and agree to release TMWA from any claims, liabilities, or damages resulting from these modifications.

#### **Privacy Policy**

15.1 TMWA respects your privacy and is committed to protecting your personal information.

15.2 Any personal information collected will be used solely for the purpose of providing our services and will not be shared with third parties without your consent.

#### **16. Video Footage & Recordings**

You understand that collecting recordings, video footage or filming of any kind without our express consent is not permitted and may constitute a breach of the Privacy Act 1988 (Cth) and the National Privacy Principles.

#### **17. CCTV**

You acknowledge that TMWA has installed CCTV cameras at various locations in and around TMWA's business premises. You agree to being video recorded as you enter, do business and leave our business premises. This includes video footage of your vehicle, yourself and any passengers. This video footage may be used to assess the condition of the vehicle upon presentation to TMWA.

#### **18. Governing Law**

These terms and conditions are governed by the laws of Western Australia. Any disputes arising from these terms will be subject to the jurisdiction of the courts of Western Australia.

**19.General**

19.1 We may subcontract some or all of the Services and/or the supply and installation of Parts to third parties where deemed appropriate by TMWA.

19.2 TMWA reserves the right to amend these terms and conditions at any time. Customers will be notified of any significant changes.

19.3 A term or part of a term contained in these Terms and Conditions that is illegal or unenforceable may be severed from the terms and the remaining terms or parts of the terms continue in force.

19.4 We may subcontract some or all of the Services and/or the supply and installation of Parts to third parties.