



## THE MOTOR INDUSTRY CODE OF PRACTICES FOR SERVICE AND REPAIR, AND VEHICLE SALES

### TERMS AND CONDITIONS FOR ACCREDITED BUSINESSES

#### DEFINITIONS

**CAPITALISED TERMS SHALL HAVE THE MEANING FIRST ASCRIBED TO THEM, AS FOLLOWS:**

- **“Us”, “We”, “Our”**: means The Motor Ombudsman;
- **“You”, “Your”**: means Your business;
- **“Account”**: means Your Accreditation account, garage profile or Accreditation on Our system and Website;
- **“Accreditation”**: means a subscription to the Code, adhering You to its obligations and the obligations of these Terms;
- **“Accredited Business”**: means a business with an active Accreditation to Us;
- **“Accreditation Fee”**: means the fee for Your Accreditation, as outlined in Schedule 1 (Fees);
- **“Accreditation Status”**: means the status of Your Accreditation with Us, on Our system and Website;
- **“Accreditation Term”**: means the duration of the Accreditation, which is usually for a twelve (12) month period unless otherwise agreed by Us at the commencement of the Accreditation including but not limited to a variation of a twelve (12) month period such as a Multi-Year Commitment;
- **“Add-on Modules”**: means services that can be purchased to complement features of the Accreditation and/or Products;
- **“Adjudication”**: means the first stage of Our formal process for investigating disputes and making a decision on them, based on the evidence provided by both parties, the Code and what is fair and reasonable in the circumstances;
- **“ADR”**: means alternative dispute resolution, the means of resolving a dispute without resorting to formal legal action;
- **“Agreement”**: means these Terms and Other Terms that are relevant to Your Accreditation;
- **“Auto-Renewal”**: means You have already been an Accredited Business for a previous Accreditation Term and consequently the Accreditation is automatically renewed in accordance with Clause 4.4;



- **“Case”**: means an Enquiry which has been escalated for investigation either through any of Our informal or formal investigation processes;
- **“Case Decision”**: means any decision made by Us on a Case, through any of Our investigation processes;
- **“Case Fee”**: means the Fee paid to Us by You for the investigation of a complaint, as outlined in Schedule 1 (Fees);
- **“Case Outcome Award”**: means any award made by Us to the Consumer for a Case that requires payment and/or action by You;
- **“Closer Scrutiny”**: means when You either demonstrate a consistent lack of compliance with the Code, a Case, and/or the Terms, and/or We identify a trend and/or pattern in Code breaches or complaint-handling, We may suspend Your Accreditation and We will review all of Your Code performance activities until such time as We are satisfied that Your performance has improved;
- **“Code”**: means The Code of Practice to which You are accredited;
- **“Compliance Check Audit”**: means any checks We might conduct on Your business to assess Your compliance to Our Codes including but not limited to Self-Assessments and/or Physical Audits;
- **“Consumer”**: means Your customers and/or service users who have access to Our ADR services;
- **“Early Resolution”**: means Our informal process for resolving disputes amicably between both parties;
- **“Enquiry”**: means a complaint sent by a Consumer about You to Us under the Code;
- **“Expulsion”**: means that, due to any severe or persistent Code or compliance breaches and/or where You have actively failed to cooperate with Us and/or ICAP and/or any representative of Ours, We and ICAP have taken the decision to expel You from the Code;
- **“Fees”**: means the fees associated with Your Accreditation as outlined in Schedule 1 (Fees);
- **“Final Decision”**: means the second stage of Our formal process for investigating disputes and making a potentially binding decision on them, if accepted by the Consumer, based on the evidence provided by both parties, the Code and what is fair and reasonable in the circumstances;
- **“Force Majeure Event”**: means any event that is reasonably outside of Our control and/or unforeseen or unanticipated by the parties entering this Agreement;
- **“Garage Finder”**: means the section on Our Website which displays a searchable directory of businesses in the UK who provide automotive services;
- **“ICAP”**: means the Independent Compliance Assessment Panel, which is authorised by Us to consider Your Status as an Accredited Business and whose determinations will be



enforced by Us. ICAP may exercise its discretion to pass any appropriate determination which may include, but is not limited to, termination or Expulsion of Your Accreditation, an accelerated Compliance Check Audit or any specific undertakings, depending on the nature of the breach or breaches of the Code being considered;

- **“Intellectual Property Rights”**: means any and all intellectual property rights and rights of a similar nature, including patents, trademarks, design rights, copyright, rights in databases, domain names and rights in confidential information (whether or not registered or capable of registration and whether subsisting in the United Kingdom or any other part of the world);
- **“Licence”**: means You are entitled to use The Motor Ombudsman Logo and other parts of Our intellectual property to promote Your Accreditation to Us;
- **“Multi-Year Commitment”**: means a commitment made by You and agreed by Us for an Accreditation Term that is a variation of a twelve (12) month period;
- **“Network”**: means a network of Businesses including but not limited to an independent motor group or a manufacturer franchised dealer network who You are a part of.
- **“On-site Training”**: means an optional service where We will visit Your premises, or another location of Your choosing, and deliver one (1) training session to You and Your staff;
- **“Other Terms”**: means the Terms of Use of the Website, the Privacy Policy, the Cookies Policy and The Motor Ombudsman Logo Guidance displayed on the Website, as well as the terms including but not limited to the commitments set out in these Terms and any other agreements between You and Us that are related the Code and/or Your Accreditation, as well as the warranties set out in Clause 3;
- **“Personal Data”**: means personal data as defined in the relevant data protection laws and regulations, including but not limited to name, address, date of birth, gender, email address, mobile and landline telephone numbers, which are supplied to Us by any person, Accredited Business or any other party in respect of any of their employees, contractors, Consumers or agents;
- **“Physical Audits”**: means any physical inspections or audits We might carry out on You as a part of Your Accreditation.
- **“Physical Audits Penalty Fee”**: means any Fees associated with Your Physical Audits due to Your breach of these Terms;  
**“Points”**: means the penalty points that We will add to Your Accreditation as a means of monitoring Your compliance;
- **“Pre-Case Advice”**: means an optional service where We will provide You with guidance on complaints before You have issued Your final response and/or the Consumer has contacted Us, for twelve (12) months from the point You purchase the Add-On Module and receive an order confirmation from Us;
- **“Products”**: means any products that can be purchased from Our Website or directly from Us;
- **“Re-admission”**: means You have previously been an Accredited Business, You wish to renew Your Accreditation and either:



- Your Accreditation has been terminated by Us in accordance with these Terms and six (6) months have elapsed since the date of Expulsion; or
- more than one hundred and eighty (180) days have elapsed since Your previous Accreditation expired;
- **“Registration”**: means the first time You purchase an Accreditation and register as an Accredited Business;
- **“Self-Assessment”**: means any assessments that are required to assess Your compliance to the Code and these Terms including but not limited to online self assessments;
- **“Status”**: has the same meaning as “Accreditation Status” and means the status of Your Accreditation with Us, on Our systems and Website;
- **“Suspension”**: means Your Accreditation may be suspended at Our discretion without written notice in the event of any breaches to these Terms including but not limited to any severe or persistent Code or compliance breaches and/or where You have actively failed to cooperate with Us and/or ICAP and/or any representative of Ours (including, without limitation and/or Your failure to pay any invoice by the due date as advised under these Terms);
- **“Terms”**: means the full terms and conditions referred to below including the Other Terms;
- **“The Motor Ombudsman Logo”**: means Our logo, and any other logo for which We give You permission to use, and/or any other widget or image.
- **“Website”**: means Our website, being [www.themotorombudsman.org](http://www.themotorombudsman.org);



## THE TERMS AND CONDITIONS

### 1 BACKGROUND

- 1.1 This document tells You information about Us and sets out the Terms on which You purchase an Accreditation and become an Accredited Business to the Code and/or purchase any of the Products listed on Our Website, or any of the additional Add-on Modules available.
- 1.2 By accepting these Terms, You agree to be bound by these Terms, together with any Other Terms. These will apply to any contract between us. Please read these Terms carefully and make sure You understand prior to making any agreement with Us.
- 1.3 You should retain a copy of these Terms in respect of Your purchase of an Accreditation and/or Products and/or Add-On Modules, and/or any other services We may offer at any time.
- 1.4 We may amend these Terms from time to time as set out in Clause 15. Where any changes are made, We will communicate this in writing with thirty (30) days' notice. These Terms were most recently updated on 31 August 2020.

### 2 INFORMATION ABOUT US AND THE CODE

- 2.1 The Website is owned and operated by Us.  
  
We are the owner and administrator of the Code. We are a limited company registered in England and Wales under company registration number 06517394 and Our registered office and main trading

address is at 71 Great Peter Street, London SW1P 2BN. Our VAT number is GB931974304.

- 2.2 We are an approved provider of ADR, providing an impartial service to assist Consumers and businesses to resolve automotive-related disputes and raise standards of service across the sector through its Codes of Practice.
- 2.3 The operation of the Code is independently overseen by ICAP. Information about ICAP and the determinations it can make against You are set out in Clause 9

### 3 WARRANTIES AND YOUR OBLIGATIONS

- 3.1 Accreditation is made available to trading entities operating in the UK in the course of their business only and not to private individuals/Consumers. Accordingly, by purchasing an Accreditation, You warrant that:
  - 3.1.1 You are purchasing an Accreditation on behalf of a business registered in the UK (whether a limited company, partnership or sole trader) wholly for its business purposes;
  - 3.1.2 the business operates within the UK and involves activities related to the Code to which You are Accredited.
  - 3.1.3 You have authority to bind the business or businesses on whose behalf You are purchasing the Accreditation.



3.2 At all times whilst You are an Accredited Business, You agree to:

3.2.1 ensure Your Consumers are aware of Your Accreditation as set out in these Terms;

3.2.2 work to maintain and achieve satisfactory levels of Consumer protection; and

3.2.3 implement all of the procedures required in order to comply with the Code;

3.2.4 comply with:

a) all applicable laws, regulations, guidance and sanctions including, but not limited to, the data protection laws, Modern Slavery Act 2015, Consumer Rights Act 2015, Consumer Protection from Unfair Trading Regulations 2008, Competition Act 1998, Enterprise Act 2002 and Bribery Act 2010, all as amended or modified from time to time or as replaced in their entirety by any legislation which replaces any of them and;

b) all policies and procedures issued by Us in respect of Your participation in any of Our activities, events and/or any other action in relation to Us.

3.2.5 have and shall maintain in place throughout the term of Your Accreditation, Your own policies and procedures, to ensure compliance with all legislative, regulatory and other requirements.

#### 4 PURCHASING AND REGISTERING FOR ACCREDITATION

4.1 An Accreditation Term may be purchased on a Registration, Renewal, Auto-Renewal or Re-admission basis.

4.2 Details of the Accreditation Fee and any other Fees can be found in Schedule 1 (Fees).

4.3 The Accreditation Term will run for twelve (12 months) unless We have agreed and approved a different time period for Your Accreditation Term.

4.4 Your Accreditation will automatically renew at the end of each Accreditation Term for a further term of twelve (12) months if this has been approved and agreed by Us.

4.5 If Your Accreditation has been purchased as an Auto-Renewal, Your Accreditation Term and Your obligations under these Terms will automatically continue for a further 12 months (or a variance of any Accreditation Term agreed by Us) even if You pay Your Accreditation Fee after Your new Accreditation Term has commenced.

4.6 At Our sole discretion, We may terminate Your Accreditation if You fail to pay any Fees as outlined in Schedule 1 (Fees) by the due date We have provided to You.

4.7 An application for Registration may be accepted or rejected entirely at Our discretion and Our acceptance shall be conditional upon You having satisfied these Terms.

4.8 The Accreditation Fee, Case Fee and any other Fees are subject to change at Our discretion. We will give You written notice thirty (30)



- days prior to any changes coming into effect.
- 4.9 You must, at all times, during the Accreditation Term:
- 4.9.1 ensure Consumers are aware of Your Accreditation Status and display Your certificate of Accreditation at Your business premises in a location which is clearly visible to Consumers;
- 4.9.2 display copies of the consumer guide within the customer-facing areas of Your premises so that they are clearly visible to Consumers and encourage Consumers to take copies;
- 4.9.3 make copies of the relevant Code available to Consumers on their request;
- 4.9.4 work to maintain and achieve satisfactory levels of Consumer satisfaction in line with the Codes;
- 4.9.5 implement all of the procedures required in order to comply with the Code;
- 4.9.6 make payment for the Fees as outlined in Schedule 1 (Fees) within thirty (30) days of the date of the invoice;
- 4.9.7 include information about Your Accreditation and display The Motor Ombudsman Logo on Your website and any other sales or promotional platforms such as Your social media.
- 4.10 Breach of any of the requirements set out in Clause 4.9 may result in disciplinary action as set out in Clause 9.
- 4.11 As part of Your Accreditation, You may be provided with an on-line Account to enable You to access Accreditation, Case and other data for which You will need to select a password. The password must be kept confidential and must not be shared, transferred or otherwise use
- by anyone other than You and Your authorised employees and agents.
- 4.12 You must notify Us immediately in the event of any known or suspected unauthorised use of Your Account, or any known or suspected breach of security, including loss, theft, or unauthorised disclosure of Your password. You are responsible for any and all activities which occur on Your Account. You agree to immediately notify Us of any unauthorised use of Your Account and/or any other breach of security known to You.
- 4.13 As a part of Your Registration, You will be issued with a welcome pack which will contain copies of the Code, Your certificate of Accreditation and other promotional materials related to the Code. On Renewal, Auto-Renewal and/or Re-Admission You will be provided with Your certificate of Accreditation.
- 4.14 Products are available for purchase via the Code Shop on Our Website
- 4.15 We may at Our discretion:
- 4.15.1 Update Your Accreditation Status in line with these Terms, Other Terms and or changes in Your business practices.
- 4.15.2 Display, remove or publicise You and Your Accreditation Status (and any relevant information related to Your Accreditation including but not limited to Your Accreditation term or the Codes You are Accredited to) in Our Website, Garage Finder or any other applicable platforms including but not limited to Our annual reports, social media or marketing communications.



## 5 ASSESSMENT AND AUDITS

- 5.1 As a part of Your Accreditation, You agree to carry out and/or submit to (as appropriate) Your Self-Assessment, Compliance Check Audits and/or other compliance requirements set out in Clause 5.

### Self-Assessment

- 5.2 On Registration, Renewal, Auto-Renewal or Re-admission, You will need to complete a Self-Assessment for Your Accreditation within 30 days from the date of payment of Your Accreditation.
- 5.3 You will not be deemed to be an Accredited Business and will not have any access to The Motor Ombudsman dispute resolution process along with the benefits of Your Accreditation until the Self-Assessment process is completed and has been approved by Us.
- 5.4 Failure to complete the Self-Assessment within the 30 days may result in Your application for Registration, Renewal, Auto-Renewal or Re-admission being Suspended and any Accreditation Fees may be forfeited at Our sole discretion.
- 5.5 You will ensure that You will provide true and accurate information and evidence to demonstrate Your compliance to the Code and Accreditation for the Self-Assessment and/or any Compliance Check Audits. Failure to do this will be in breach of these Terms, the Other Terms and the

Code.

This information will also be held on file against Your Account and used as a reference document for Us and Our representatives/agents (as applicable) in connection with Your Accreditation and Your dealings as an Accreditation Business.

- 5.6 On successful completion of the Self-Assessment:

- 5.6.1 Your Accreditation will 'go live' and You will be deemed to be an Accredited Business;
- 5.6.2 Your profile page will be visible within the Garage Finder on the Website, and
- 5.6.3 You will be entitled to access The Motor Ombudsman's dispute resolution process along with the benefits of Your Accreditation.

### Physical Audits

- 5.7 We may carry out a Physical Audit of Your premises in order to verify Your Self-Assessment results and compliance to the Code.
- 5.8 We will endeavour to limit the frequency of the Physical Audit to one in any twelve-month period, however more frequent Physical Audits may be required if We or ICAP consider (acting reasonably) that additional Physical Audits are necessary in connection to Your Accreditation, these Terms or the Code.
- 5.9 You will allow Us and any of Our representatives access to Your premises, personnel and records as may be reasonably required in order for Us to complete a Physical Audit.





5.10 If We (or Our representatives) are prevented from carrying out a Physical Audit due to Your act or omission, We reserve the right to charge You a Physical Audit Penalty Fee.

5.11 Your Accreditation Status may be updated and Your Accreditation may be terminated if You fail to complete Your Physical Audit and/or breach these Terms.

Accreditation to the Code and Your obligations to Consumers under the Code and these Terms (including the procedure that should be followed in the event of a complaint);

7.1.3 ensure customer relations representatives read the Code and understand Your role in the event of a complaint;

7.1.4 demonstrate to Consumers via Your website and terms of business Your commitment to submit to ADR through Us as part of Your complaint-handling process, in accordance with Your obligations under these Terms and the Alternative Dispute Resolution for Consumer Disputes (Competent Authorities and Information) Regulations 2015, using the example wording found at Annex 1;

7.1.5 ensure that Your Consumers receive information outlining Your commitment to resolve disputes through Us, which can be satisfied, for example, through the purchase of Our New Car Code brief guides;

7.1.6 make Consumers aware of their option to refer their complaint to Us if they are dissatisfied with Your investigation into a complaint, including details of Our Website and telephone number, using the example wording set out in Annex 2, in accordance with Your obligations under these Terms and the

## 6 ACCREDITATION FEES

6.1 An Accreditation Fee is payable on Registration, Renewal, Auto-Renewal or Re-Admission. This is outlined further in Schedule 1 (Fees). Your Accreditation Fee and any changes to Fees will be communicated to You prior to Your payment for Your Accreditation.

6.2. We may change Our Fees at any time at Our sole discretion, but such changes will not affect any Accreditation which have already been paid for by You and/or are already active.

## 7 COMPLAINT HANDLING AND ADR

7.1 As an Accredited Business, You shall;

7.1.1 thoroughly investigate every complaint received by You and make every effort to reach a conclusion which is mutually agreeable, ensuring all Consumers receive a response within eight (8) weeks of You receiving their complaint;

7.1.2 ensure that Your employees are aware of Your



Alternative Dispute Resolution for Consumer Disputes (Competent Authorities and Information) Regulations 2015;

- 7.1.7 assist and co-operate with Us in resolving any complaint that may be referred to Us by one of Your Consumers, including by entering into any of Our complaint-handling processes where directed to do so.

We refuse to deal with a complaint, We will write to the Consumer in the first instance with Our reasons for refusal. We may also notify You, depending on the stage of the dispute at the time of the refusal.

- 8.7 We will not provide a complaints-handling process where a legally binding judgement has already been made and/or enforced, but may record details about the nature of the dispute for monitoring purposes.

- 8.8 A Consumer may withdraw from the proceedings at any stage by notifying Us in writing. Accredited Businesses, however, may not withdraw from the dispute and are bound by these Terms and the Other Terms to respond to complaints accepted by Us through one of Our complaint-handling processes.

- 8.9 You agree that You consent to Us and any of Our representatives (including any member of Our staff) passing any information or evidence You provide to Us in connection with the complaint to the Consumer (and/or their representatives) as part of the dispute resolution process. If You notify Us that any such information or evidence is commercially sensitive information or evidence, We will use reasonable endeavours to:

- 8.9.1 only share such information or evidence with the Consumer (and/or their representatives) to the extent necessary to resolve the complaint;

- 8.9.2 notify You prior to sharing any such information or evidence with the

## 8 DISPUTE RESOLUTION

- 8.1 This Clause applies to any disputes between You and Your Consumers which are referred by either party to Us.
- 8.2 Our process may be adapted for complaints involving three or more parties at Our discretion.
- 8.3 A Consumer must confirm that every reasonable effort has been made to resolve the dispute with You (through Your in-house complaints procedure) and that they have given You at least eight weeks to respond before We will consider their complaint. If You have not had the opportunity to consider the complaint prior to its referral to Us, You must let Us know at the earliest opportunity.
- 8.4 We have the discretion to make an award of up to £10,000 in each Case raised.
- 8.5 You do not require legal representation when responding to a complaint raised with Us. Any legal representation will be at Your cost.
- 8.6 We may refuse to deal with a Consumer's complaint in accordance with Our jurisdiction. If



Consumer (and/or their representatives); and

- 8.9.3 take into consideration Your reasonable requests (having regard to Our duties to You and to the Consumer to resolve the relevant complaint) in relation to the content of such disclosure.

Notwithstanding the foregoing, You acknowledge that We have an overriding duty to You and to the Consumer to assist in resolving the relevant complaint and We must take this into consideration when determining what is reasonable under this Clause.

- 8.10 Without prejudice to Clause 8.9, We, and Our representatives, shall not disclose details of the proceedings to any third party unless and to the extent that it is necessary to do so in order to enforce a settlement or as may be required by law, any governmental or other regulatory authority or by a court or other authority of competent jurisdiction, provided that, to the extent We are legally permitted to do so, We shall give You as much notice of such disclosure as possible (and, where notice of disclosure is not prohibited and is given in accordance with this Clause, We shall take into account Your reasonable requests in relation to the content of such disclosure).

- 8.11 Notwithstanding Clauses 8.9 and 8.10, We and Our representatives may collate and process data pertaining to the use of the dispute resolution service, compile, analyse and publish statistics and monitor and review the operation of the dispute resolution service provided

always that (save with the express consent of the parties) no Personal Data, privileged or confidential information shall be published.

- 8.12 You may request the return of any original documents from Us and/or Our representatives, providing it is within three (3) months of Us confirming receipt, after which point they will be destroyed. A soft copy will be kept on file for six (6) years after the Case file is closed in accordance with Our Privacy Policy, which may be subject to change.

### **Early Resolution**

- 8.13 We will consider whether Early Resolution is an acceptable way of resolving the complaint when We refer it over to You. This decision remains wholly at Our discretion and We may decide to refer the complaint through Adjudication without attempting Early Resolution.
- 8.14 If You disagree with Our decision to bypass Early Resolution, You can have Our decision reviewed by a line manager or other senior member of Our staff.
- 8.15 If the complaint is not successfully resolved at Early Resolution, and We go on to uphold the complaint in the Consumer's favour and/or award a different remedy from that proposed by You, You will be liable to pay the Adjudication Case Fee set out in Schedule 1 (Fees) which is included with these Terms.

### **Adjudication**

- 8.16 Where You receive written notification from Us that one of Your Consumers has made a request for Adjudication, You will comply with



- the request to engage in Adjudication by providing Your response to the complaint and any information We request from You in the course of investigating the complaint.
- 8.17 You will be asked by Us to give written details of the complaint, including any evidence, and We will decide if the complaint is upheld and, if so, what You should do to put things right.
- 8.18 We shall have the power, at Our discretion, to:
- 8.18.1 allow submission of further evidence and the amendment of the complaint during the course of investigation;
  - 8.18.2 order the parties to produce goods, documents or property for inspection, and failure to do so may result in the Case being declined and/or an award being made in its absence which may not be overturned if this information is later disclosed after being withheld;
  - 8.18.3 receive and take into account any oral or written evidence as We shall decide to be relevant;
  - 8.18.4 request either party to appoint an expert to report on specific issues where evidence is required to support their complaint.
- 8.19 You may be charged an Adjudication Fee or any other relevant Case Fees for the relevant Cases as set out in Schedule 1
- (Fees) which is included with this Agreement.
- 8.20 Any Case Outcome Award made by Us on conclusion of the complaint must be paid to the Consumer within 14 days of their acceptance being communicated to You, where the outcome is accepted by both You and the Consumer.
- Final Decision**
- 8.21 Either party can challenge the outcome of Adjudication by requesting a Final Decision. A request for final decision must be lodged within the timeframe by Us. A party may request an extension to this timeframe where further time is required to obtain evidence. We will inform You whether such extension has been granted, regardless of who makes the request.
- 8.22 You agree to submit to the findings of the Ombudsman and agree that any Final Decision accepted by the Consumer shall be legally binding on both parties. Acceptance of a Final Decision is considered to be in full and final settlement of the complaint.
- 8.23 If the Consumer does not accept the Final Decision, You accept that they are entitled to pursue the matter in court.
- 8.24 Any Case Outcome Award made by Us in a Final Decision must be paid to the Consumer within 14 days of their acceptance being communicated to You.
- Response Times**
- 8.25 You shall co-operate with Us at all times in a timely and efficient manner, and We may issue penalty points against You as set out in the



table below, in the following scenarios:

8.25.1 failure to pay a Case Fee invoice within thirty (30) days of the date of the invoice (penalty points shall be applied as set out in the table below according to the number of working days late the payment is received);

8.25.2 failure to respond to any of Our or the Consumer's communications in connection with any Case by the deadline given to You (penalty points shall be applied as set out in the table below according to the number of working days late a response is received); or

8.25.3 if We receive a response to any of Our or the Consumer's communications in connection with any Case which We consider to be unsatisfactory (penalty points shall be applied at the rate set out in the table below for each unsatisfactory response), provided We explain to You why the response is considered unsatisfactory.

8.26 The terms of Clause 9 will apply to any penalty points incurred by You.

8.27 If You fail to comply with a request for information or the terms of a Final Decision then Your Accreditation may be placed in a state of suspension along with any other relevant sanctions in line with the terms set out in Clause 9.

## 9 SANCTIONS FOR NON-COMPLIANCE BY ACCREDITED BUSINESSES

### Penalty Points

9.1 We will monitor Your compliance with the Code and these Terms on an ongoing basis and may award Points and/or sanctions against You for non-compliance as follows.

Response to Enquiries and Cases	
Penalty Points	Number of working days late
0	5
6	10
12	15
24	20

Sanction Description	Penalty Points Threshold
Written Warning 1	30
Written Warning 2	60
Referral to ICAP – sanction to be determined	90

9.2 We may award further Points to Your Accreditation at any time for Your non-compliance with these Terms and the Other Terms, and/or any warranties, at Our discretion including but not limited to Your:

9.2.1 Non-compliance with any Case Decision(s) which We have made;

9.2.2 Failure to successfully complete Your Self-Assessment or Physical Audit.

9.2.3 failure to cooperate with Us and/or ICAP and/or any representative of Ours;



9.2.4 Your failure to pay any invoice under these Terms by the due date.

9.3 Any Points incurred under these Terms, the Other Terms and/or any warranties will remain on Your Accreditation for twelve (12) months from the date that the Points were incurred, after which time they will be removed from Your Accreditation.

9.4 We may also remove Points from Your Accreditation at any time at Our discretion.

9.5 Points are cumulative and the sanctions outlined in the table above will apply where the relevant Points threshold has been reached.

### **Closer Scrutiny**

9.6 In addition to incurring Points, We reserve the right at Our discretion to place You under Closer Scrutiny in the following circumstances:

9.6.1 You have repeated complaints, Code breaches and/or breaches to these Terms identified by Us and/or reported to Us;

9.6.2 You have operational and/or customer service issues identified by Us and/or communicated to Us by third parties and verified by Us.

9.7 During Closer Scrutiny, We will be monitoring aspects of Your Accreditation including but not limited to:

9.7.1 Consumer concerns;

9.7.2 Self-Assessment and Physical Audit information

9.7.3 call/Case volumes;

9.7.4 compliance issues;

9.7.5 operational activity;

9.7.6 payment status; and

9.7.7 customer survey satisfaction performance.

### **Suspension**

9.1 We reserve the right to amend Your Accreditation Status to but not limited to Suspension at any time in line with these Terms.

9.2 If Your Accreditation is Suspended:

9.2.1 You will no longer be deemed to be an Accredited Business and You must immediately cease to refer to Yourself as an 'Accredited Business';

9.2.2 You will lose any rights or licences associated with You being an Accredited Business in line with these Terms, the Other Terms and the Code to which You are accredited.

9.2.3 Our dispute resolution service will not be available to You for any new Cases;

9.2.4 You must immediately pay any outstanding Fees or other charges incurred by You as at the date of Suspension and any Fees paid in respect of Your Accreditation shall be forfeited; and

9.2.5 We reserve the right to refer You to ICAP, until such time as We inform You that You are no longer Suspended.



- 9.3 For the avoidance of doubt, You shall not be entitled to a refund of any Accreditation Fees paid or payable for any portion of the Accreditation Term in which You are Suspended.
- 9.4 These Terms and the Other Terms shall remain in force and continue to apply to You notwithstanding that You are Suspended. In particular, You must continue to respond to any outstanding Cases in accordance with Clauses 7 and 8.
- 9.5 If a Suspension continues for a period exceeding 90 days, We reserve the right to cancel Your Accreditation (and any Accreditation Fees paid and/or payable by You will be forfeited) and refer You to ICAP for Expulsion.

#### Referral to ICAP

- 9.6 ICAP is authorised by Us to consider and make determinations on Your Status where:
- 9.6.1 You have received ninety (90) or more penalty points in accordance with these Terms as a result of Your non-compliance with the relevant Code;
- 9.6.2 You have breached these Terms or the Code but have received less than ninety (90) penalty points against You, for which We authorise ICAP (at Our discretion) to consider Your Status in any event; or
- 9.6.3 We regard Your conduct as unsatisfactory for any reason in line with these Terms and the Code, irrespective of whether any penalty points have been imposed against You.

9.7 Your Accreditation may be suspended whilst an ICAP determination is pending at Our discretion.

9.8 We may also refer You or Your Case at any stage to any relevant regulatory bodies or enforcement agencies where deemed appropriate by Us and or as required by law and regulations that are binding on Us.

#### Expulsion

9.9 If ICAP determines that Your Status as an Accredited Business should be terminated:

9.9.1 You must immediately (and in any event within five (5) days from the date of Our notice of Your Expulsion to You) remove from the customer-facing area of Your premises any reference to the Code or Your Status as an Accredited Business, including but not limited to copies of the Code, the Consumer Guide, and Your certificate of Accreditation;

9.9.2 the Licence to use The Motor Ombudsman Logo set out in Clause 10 shall immediately be revoked;

9.9.3 In accordance with Clause 4, We may at Our discretion publicise Your Expulsion through a press release and/or any other media channels, including but not limited to placing a notice on Our Website;

9.9.4 You must continue to respond to any ongoing complaints, enquiries and Cases within the timeframes specified by Us, where We have already requested Your response;



9.9.5 You must immediately pay any outstanding Fees or other charges incurred by You as at the date of Enquiry and any Fees paid in respect of Your Accreditation shall be forfeited; and

9.9.6 At Our sole discretion, You may apply for Re-admission to the Code in accordance with the definition of Re-admission and Clause 4, six (6) months from the date of Expulsion.

9.10 We may also refer You or Your Case at any stage to any relevant regulatory bodies or enforcement agencies where deemed appropriate by Us and/or as required by law and regulations that are binding on Us.

## 10 INTELLECTUAL PROPERTY AND THE MOTOR OMBUDSMAN LOGO

10.1 Any intellectual property with reference to The Motor Ombudsman and/or the Code including but not limited to any logos, widgets or images is owned by Us and all intellectual property rights in The Motor Ombudsman Logo belong to Us.

10.2 We hereby grant You a royalty-free, non-exclusive Licence to use The Motor Ombudsman Logo within the United Kingdom for the purpose of promoting Your Accreditation only, subject to the terms set out in Clauses 10.3 and 10.4.

10.3 Your Licence to use The Motor Ombudsman Logo under Clause 10.2 shall only commence when You have received an Accreditation Confirmation from Us and shall continue for as long as You remain an Accredited Business. Upon termination of Your Accreditation for

whatever reason this Licence shall terminate.

10.4 Your Licence to use The Motor Ombudsman Logo under Clause 10.2 is subject to the following conditions:

10.4.1 You shall download The Motor Ombudsman Logo from the Website and use it to promote Your Accreditation;

10.4.2 You shall include The Motor Ombudsman Logo and a link to the Website on Your website and any other sales platforms You may operate from time to time, including the wording used in Annex 1;

10.4.3 You shall actively use The Motor Ombudsman Logo on Your literature wherever it is relevant (including without limitation Your customer booklets, guides, invoice folders, invoices, letterheads and compliment slips);

10.4.4 You will promote Your Accreditation to the Code within Your customer communications (such as press releases, press adverts, blogs, leaflets and social media posts).

10.4.5 Wherever The Motor Ombudsman Logo is depicted by You, You shall include the following acknowledgement:

*“The Motor Ombudsman logo is a trademark of The Motor Ombudsman Limited and permission has been granted for it to be reproduced”.*





- 10.5 You will only use The Motor Ombudsman Logo in accordance with the terms of The Motor Ombudsman Logo Guidance, which is available on the Website, [TheMotorOmbudsman.org/media](https://TheMotorOmbudsman.org/media). Using The Motor Ombudsman Logo in a manner prohibited by The Motor Ombudsman Logo Guidance will be considered a breach of these Terms. If there are any inconsistencies between these Terms and The Motor Ombudsman Logo Guidance, The Motor Ombudsman Logo Guidance shall prevail.
- 10.6 You shall not assign or grant sub-licences of the Licence or any part of it to any other party.
- 10.7 You shall not use, register or attempt to register in any jurisdiction, or otherwise appropriate or adopt, any name, mark or logo that is identical with or similar to The Motor Ombudsman Logo.
- 10.8 We reserve all legal and other rights in The Motor Ombudsman Logo and it is agreed that sections 30 and 31 of the Trade Marks Act 1994 are expressly excluded and shall not apply in respect of this Licence.
- 10.9 All intellectual property rights in The Motor Ombudsman Logo, the Code, the Consumer Guide, Products and all materials, manuals, instructions, processes and other documents which You may be privy to or entitled to use as an Accredited Business are owned by Us.
- 10.10 We hereby grant a royalty-free, non-exclusive to You to use the Code Materials within the United Kingdom to promote Your Accreditation and to assist You in complying with the Code and these Terms for as long as You remain an Accredited Business.
- 10.11 If You cease to be an Accredited Business or Your Accreditation is Suspended or lapses, or You are expelled from the Code, all Licences granted under this Clause 10 shall terminate and You will immediately cease all use of The Motor Ombudsman Logo and the Code Materials and return to Us any Code Materials in Your possession.
- 11 CONFIDENTIALITY AND DATA PROTECTION**
- 11.1 Subject to Clause 11.3, You agree that none of the information (other than payment details and Personal Data) that You submit to Us in order to purchase an Accreditation and/or Products and/or Add-on Modules is confidential information and that We and Our associates may use this data as We see fit, without restriction.
- 11.2 You agree that We may display on the Website or in any publication Your Status as an Accredited Business, including (but not limited to) performance reports, customer feedback and percentage scores and, where relevant, any penalty points imposed against You by Us and any sanction imposed on You following a determination by ICAP, including Expulsion.
- 11.3 Nothing in Clause 11.1 shall affect the treatment of Personal Data which shall be handled by Us in accordance with Our Privacy Policy.
- 12 OUR LIABILITY**
- 12.1 Subject to Clause 12.3, Our total liability to You in respect of all losses arising under or in connection with these Terms, whether in contract, tort (including



- negligence), breach of statutory duty, or otherwise, shall in no circumstances exceed Your Accreditation Fee.
- 12.2 Subject to Clauses 12.1 and 12.3, Our liability in connection with any contract is strictly limited to the purchase price of the relevant Product/Accreditation/Add-On Module (as applicable), depending on the agreement against which the breach occurs.
- 12.3 This does not include or limit in any way Our liability:
- 12.3.1 for death or personal injury caused by Our negligence;
- 12.3.2 for fraud or fraudulent misrepresentation; or
- 12.3.3 for any matter for which it would be illegal for Us to exclude or restrict, or attempt to exclude or restrict, Our liability.
- 12.4 We accept no liability for:
- 12.4.1 any loss of income or revenue, loss of business, loss of profits or contracts, loss of anticipated savings, loss or corruption of data, including Personal Data, waste of management or office time (in each case whether direct or indirect); or
- 12.4.2 any liability arising to any third party; or
- 12.4.3 any indirect or consequential loss or damage of any kind, howsoever arising and whether caused by tort (including negligence), breach of contract or otherwise, even if foreseeable.
- 12.5 Any warranties set out in these Terms and in the Other Terms are the only warranties which shall be given by Us and all warranties, conditions and other terms implied by statute or common law are, to the fullest extent permitted by law, excluded.
- 12.6 We only supply Products for Your use in accordance with these Terms and the Code and You agree not to use any such products for resale purposes.
- 13 INDEMNITY**
- 13.1 You shall indemnify Us against all liabilities, costs, expenses, damages and losses (including any direct, indirect or consequential losses, loss of profit, loss of reputation and all interest, penalties and legal and other reasonable professional costs and expenses) suffered or incurred by Us arising out of or in connection with:
- 13.1.1 any breach of the warranties contained in Clause 3;
- 13.1.2 Your breach or negligent performance or non-performance of these Terms;
- 13.1.3 any claim made against Us for actual or alleged infringement of a third party's intellectual property rights arising out of or in connection with Your Status as an Accredited Business;
- 13.1.4 any claim made against Us by one of Your Consumers arising out of or in connection with the Code, to the extent that such claim arises out of the breach, negligent performance or failure or delay in performing



Your obligations under the Code or these Terms;

- 13.2 This indemnity shall not apply to the extent that a claim under it results from Our negligence or wilful misconduct.

## 14 TERMINATION OF CONTRACTS AND ACCREDITATIONS

- 14.1 Without prejudice to any other rights of Suspension or Expulsion which We may have under other Clauses of these Terms, We may terminate a contract or Your Accreditation by written notice with immediate effect if:

14.1.1 You become or We believe that You are reasonably likely to become insolvent, if any steps are taken to have a liquidator, receiver or administrator appointed over any of Your assets or if You enter into a corporate voluntary arrangement as defined by the Insolvency Act 1986 or compromise any debts with creditors; or

14.1.2 You breach these Terms or the Other Terms; or

14.1.3 any sum payable under these Terms is not paid by its due date for payment; or

14.1.4 ICAP determines Your Expulsion; or

14.1.5 Your conduct is perceived by Us as having the object or effect of bringing Us and/or the Code into disrepute.

- 14.2 Termination of a contract and/or Your Accreditation for any reason shall be without prejudice to the rights and remedies of either Us or You which may have accrued up to

termination. On termination all sums owing pursuant to any contract shall become due and payable and You shall not be entitled to a refund of any Accreditation Fees paid.

- 14.3 On termination of a contract and/or Your Accreditation, Clause 13 and any other provision of these Terms that expressly or by implication are intended to come into or continue in force on or after termination of these Terms shall remain in full force and effect.

## 15 VARIATIONS

- 15.1 We may revise and amend these Terms from time to time. We stipulate when these Terms were last updated in the footer of each page.
- 15.2 You will be subject to the Terms and Other Terms in force and displayed on the Website and/or provided to You at the time that You purchase Accreditation and/or Products and/or Add-on Modules from Us, unless any change to the Terms and/or Other Terms is required to be made by law or governmental authority (in which case it will apply to Accreditation and/Product orders previously placed by You)
- 15.3 As an Accredited Business, You will be notified by Us of a change to the Terms or Other Terms thirty (30) days before such change comes into effect.
- 15.4 You shall be deemed to have accepted a change to the Terms or Other Terms by the fact that You remain an Accredited Business after any such change comes into effect, so long as We have provided You with sufficient notice of any such change.



## **16 NOTICES AND COMMUNICATIONS**

- 16.1 All notices given by You to Us must be sent by first class post to The Motor Ombudsman Limited at 71 Great Peter Street, London SW1P 2BN or by email to either a member of Our staff or [business@tmo-uk.org](mailto:business@tmo-uk.org).
- 16.2 We may give notice to You at either the e-mail or postal address You provide to Us as notified to Us by You from time to time.
- 16.3 Notice will be deemed received and properly served twenty-four (24) hours after an e-mail is sent, three days (3) after the date of posting of any letter or immediately when posted on the Website. You agree to this electronic means of communication and You acknowledge that all contracts, notices, information and other communications that We provide to You electronically comply with any legal requirement that such communications be in writing.
- 16.4 You will respond to all general communications sent to You by Us or Our representatives in a timely and diligent manner and You will ensure that all requests by Us or Our representatives for Your written response relating to Your obligations under these Terms and/or the Code are submitted to Us or Our representatives (as appropriate) within the prescribed timetable as notified to You from time to time.

## **17 TRANSFER, ASSIGNMENT AND THIRD PARTY RIGHTS**

- 17.1 You may not transfer Your rights and obligations under a contract or these Terms to a third party without Our prior written consent.

17.2 We may transfer Our rights and obligations under a contract or these Terms to a third party, but this will not affect Your rights or obligations under these Terms. We will notify You in writing if this happens.

17.3 No third party shall have the benefit of or the right to enforce these Terms or any contract.

## **18 EVENTS OUTSIDE OUR CONTROL**

18.1 We will not be liable or responsible for any failure to perform, or delay in performance of, any of Our obligations under a contract that is caused by a Force Majeure Event. We may cancel or suspend the performance of any contract in the event of a Force Majeure Event affecting the performance of that contract.

## **19 WAIVER**

- 19.1 If We fail, at any time during the term of a contract, to insist upon strict performance of any of Your obligations under the contract or any of these Terms, or if We fail to exercise any of the rights or remedies to which We are entitled under the contract or any of these Terms, this shall not constitute a waiver of such rights or remedies and shall not relieve You from compliance with such obligations.
- 19.2 A waiver by Us of any default shall not constitute a waiver of any subsequent default.
- 19.3 No waiver by Us of any of these Terms shall be effective unless it is expressly stated to be a waiver and is communicated to You in writing in accordance with Clause 16 above.



## **20 SEVERABILITY**

20.1 If any of these Terms or any of the Other Terms are determined by any competent authority to be invalid, unlawful or unenforceable to any extent, such term, condition or provision will to that extent be severed from the remaining Terms or Other Terms, which will continue to be valid to the fullest extent permitted by law.

implied from anything said or written in negotiations between Us and You prior to such contract except as expressly stated in these Terms.

21.3 You shall not have any remedy in respect of any untrue statement made by Us, whether orally or in writing, prior to the date of any contract (unless such untrue statement was made fraudulently) and Your only remedy shall be for breach of contract as provided in these Terms.

## **21 ENTIRE AGREEMENT**

21.1 These Terms, the Other Terms and any document expressly referred to in them represent the entire agreement between Us and You in relation to the subject matter of any contract and/or Your Accreditation and supersede any prior agreement, understanding or arrangement between Us and You, whether oral or in writing.

21.2 We and You each acknowledge that, in entering into a contract, neither We or You has relied on any representation, undertaking or promise given by the other or

## **22 LAW AND JURISDICTION**

22.1 These Terms and all contracts and any dispute or claim arising out of or in connection with them and/or their subject matter and/or formation (including non-contractual disputes or claims) shall be governed by and construed in accordance with the law of England and Wales. Any dispute arising from, and/or related to any contract or these Terms shall be subject to the non-exclusive jurisdiction of the courts of England and Wales.



## ANNEX

### EXAMPLE TEXT FOR ACCREDITED BUSINESS' WEBSITES

#### **1. Accreditation Statement**

*"We are a proud member of The Motor Ombudsman accreditation scheme and are accredited to the CTSI-approved Service and Repair Code of Practice, ensuring we operate to the highest standards of service and offering peace of mind for customers."*

#### **2. Customer Service Statement**

*"We pride ourselves in customer care and will aim to do whatever is reasonably possible to resolve an issue. If you have a problem, please get in touch with us by contacting [insert contact details here]. We will look into what's happened and aim to provide you with a response within [enter service level agreement here], and no later than 8 weeks after you've contacted us.*

*If you're not happy with our response, we are accredited to the [enter Code of Practice(s) here] and you can complain to The Motor Ombudsman. The Motor Ombudsman will offer free impartial information and, if appropriate, an alternative dispute resolution process in the event that you are not satisfied with the outcome of a concern.*

*For further information, you can visit The Motor Ombudsman's website at [www.themotorombudsman.org](http://www.themotorombudsman.org) or call their Information Line on 0345 241 3008. Calls are charged at your local rate*



## SCHEDULE 1: FEES

### **Fees:**

Your Fees includes your Accreditation and Case Fees for Your businesses.

We may amend the Fees at Our sole discretion on an annual basis in line with any relevant factors such as the Consumer Price Index (CPI) rate of inflation or the changes in the services provided to You for Your Accreditation.

Any changes to these Fees will always be communicated to You prior to Your Registration, Renewal, Re-Admission or Auto-Renewal at least 30 days before the date of Your payment for the Accreditation.

### **Case Fees:**

Consumer disputes escalated to Our Adjudication service are subject to the following Case Fees:

- All Adjudication Cases upheld / partially upheld in the Consumer's favour will be subject to a Case Fee charge of £275 + VAT.
- Goodwill and Early Resolution (where resolution is achieved at the Case Investigation stage) will not be subject to a Case Fee charge.
- Disputes utilizing our Mediation Service will be subject to a case fee charge of £160 + VAT.
- The Case Fee is applicable for each manufacturer brand You may represent on Your site or business.

We will provide You an invoice for Your Case Fees in line with the Cases You will be charged for. This may be communicated to You on a quarterly or monthly basis unless otherwise agreed by Us.

### **Communications:**

We may communicate the relevant Renewal, Auto-Renewal, Registration or any other relevant Accreditation information, including any changes to the Fees to You, through means including but not limited to phone calls, emails or letters. This information can include any relevant information about Your Fees or Accreditation. These communications may come directly from Us or Your manufacturer partners.

### **Payment:**

Payment for any Fees must be made by credit or debit card, direct debit, cheques, voucher code or any other form of payment that has been approved by Us.

You can find Our payment information on Our Website below.

<https://www.themotorombudsman.org/garages/tmo-accreditation/accreditation-explained>

**Monthly Direct Debit:**

You can pay Your Accreditation Fee monthly by direct debit if this is agreed and approved by Us. For the avoidance of any doubt, a monthly direct debit does not vary Your agreed Accreditation Term and You will still be subject to these Terms. Any cancellations of this direct debit or failure to pay this direct debit on a monthly basis as agreed shall have the same effect as failure to make any other forms of payment listed on these Terms, including but not limited to an online card payment, cheque or annual direct debit.

**Multi-Year Commitment:**

If You have opted for a Multi-Year Commitment for Your Accreditation, and decide to cancel this within the Multi-Year Commitment time period, You will be required to pay the difference between the discounted Multi-Year Commitment Fee against the twelve (12) month Accreditation Fee that would have been applicable to You for each year subject to these Terms.