

# Kingslake Recovery Limited

## STANDARD SERVICES AGREEMENT

**THIS AGREEMENT** is made on the date of payment

### **BETWEEN**

1. **The Buyer or the 'Customer'**
2. **Kingslake Recovery Limited or the 'Service Provider'**

collectively referred to as the "**Parties**".

The Buyer wishes to be provided with the Services (defined below) by the Service Provider and the Service Provider agrees to provide the Services to the Buyer on the terms and conditions of this Agreement.

### **1. Key Terms**

Breakdown - An incident whereby a vehicle has become in-operative.

Casualty Vehicle - A vehicle involved in a Breakdown or Road Traffic Accident or a vehicle otherwise disabled.

Roadside Assistance - Attending a Casualty Vehicle at the Roadside to attempt a repair.

Recover - Attending a Casualty Vehicle with intents of removing or relocating the Casualty Vehicle.

Road Traffic Accident - An incident involving one or more vehicles on the public highway.

Rate Card - A list of services and prices set out by the Service Provider.

Ditched - Where a vehicle that has become disabled or stranded in a ditch, stream or river, culvert or other physical ground depression.

Bogged - Where a vehicle that has become disabled or stranded in high mud, sand or water.

Operative - A Representative of the Service Provider trained to assist the Customer.

Storage - The storage of the Customer's Vehicle in a site controlled by the Service Provider.

On Route - Where a Representative of the Service Provider has been instructed to attend the Customer and has expended time or other resources to provide the Services to the Customer.

Representative - An Operative of the Service Provider, a Sub-Contractor or qualified third party contracted by the Service Provider to fulfil the Services requested by the Customer.

### **1.1 Services**

The Service Provider shall provide the following services ("Services") to the Buyer in accordance with the terms and conditions of this Agreement:

In all cases where a physical attendance to the Casualty Vehicle is required, the Service Provider will attempt to provide one of the below Services to the Customer. The service provided is to be agreed by both parties:

Where **Roadside Assistance** is requested by the Customer, a Representative of the Service Provider will be dispatched to assist the Customer with the intent to repair the vehicle such that the Customer can continue their journey.

Where **Recovery** is requested by the Customer, a Representative of the Service Provider will be dispatched with the intent of recovering the Casualty Vehicle and its occupants to the destination agreed between the Customer and the Service Provider.

Where **Vehicle Storage** is required, the Service Provider agrees to store the vehicle for a short period for the Customer at a cost set out in the Service Provider's most recent Rate Card. A full policy is available on request for vehicles in storage.

Other ad-hoc Services may be discussed and provided as required by the Customer in an effort to assist them with any motoring issues they may have.

## 1.2 Delivery of the Services

- a. **Start date:** The Service Provider shall commence the provision of the Services on the date of payment.
- b. **Completion date:** The Service Provider shall complete the Services when we have provided the requested services to the Customer and the Services are deemed fulfilled..
- c. **Key Dates:** All services to be provided as a matter of urgency where time is of the essence. With the exception of pre-booked attendances whereby the Service Provider must attend at the date agreed between the Customer and Service Provider.

## 1.3 Site

The Service Provider shall provide the Services anywhere agreed by both parties; or in the event of vehicle storage or other situations that arise whereby extra safety or security is required, at Cherry Orchard, Brue Avenue, Bridgwater, TA6 5LT.

## 1.4 Price

- d. As consideration for the provision of the Services by the Service Provider, the price for the provision of the Services is calculated based on the current Rate Card of The Service Provider, this is available on request and a full breakdown of costs is always available.
- e. The Buyer shall not pay for the Service Provider's out-of-pocket expenses including parking charges, vehicle damage or loss of equipment or any other expenses incurred whilst providing services.

## 1.5 Payment

- f. The Buyer agrees to pay the Price to the Service Provider upon booking of each job.
- g. The Service Provider shall provide a receipt for the services provided upon request, or a full VAT invoice to qualifying businesses.
- h. The Buyer shall pay such invoices immediately, unless pre-agreed within 28 calendar days, of their receipt from the Service Provider.

- i. The method of payment of the Price by the Buyer to the Service Provider shall be by:
  - i. Card payment over the phone by Credit or Debit Card (excluding AMEX).
  - ii. BACS to the following account:  
  
KINGSLAKE RECOVERY LIMITED  
  
STARLING BANK  
  
21046254  
  
60-83-71
  - iii. Card payment 'in person' at the discretion of the Service Provider.
- j. Any charges payable under this Agreement are exclusive of any applicable taxes, tariff surcharges or other like amounts assessed by any governmental entity arising as a result of the provision of the Services by the Service Provider to the Buyer under this Agreement and such shall be payable by the Buyer to the Service Provider in addition to all other charges payable hereunder.

## **1.6 Refunds**

- k. The Buyer agrees to contact the Service Provider in the first instance if they believe the service has not been provided. The Service provider will assess on a case-by-case basis if they believe the service has been fulfilled.
- l. In the case of Roadside Assistance, once the Service Provider has attended the vehicle and made best efforts to assist, this contract is deemed fulfilled between the parties. If the vehicle is unable to be fixed at the roadside and requires additional services, this contract is deemed fulfilled and a new contract must begin.
- m. Any attendance to the Customers vehicle is considered fulfilment of services if the vehicle, its condition or description is not as reported by the Customer to the Service Provider..
- n. All refunds must first have prior authorisation from the Service Provider, chargebacks through a credit company or card provider will incur administration fees chargeable to the Customer at a rate of £40.00 per hour to process or contest plus any fees incurred by the Service Provider to external companies or consultants.
- o. A full refund policy is available at the Customer's request or is available online at [www.kingslakerecovery.co.uk](http://www.kingslakerecovery.co.uk).

## **2. General terms**

### **2.1 Intellectual Property Rights**

The Service Provider retains all IP rights to any photographs or diagrams created in the process or providing Services to the Customer

### **2.2 Warranty**

- a. The Service Provider represents and warrants that:
  - i. it will perform the Services with reasonable care and skill; and

- ii. the Services and the Materials provided by the Service Provider to the Buyer under this Agreement will not infringe or violate any intellectual property rights or other right of any third party.

### 2.3 Limitation of liability

- b. Subject to the Buyer's obligation to pay the Price to the Service Provider, either party's liability in contract, tort or otherwise (including negligence) arising directly out of or in connection with this Agreement or the performance or observance of its obligations under this Agreement and every applicable part of it shall be limited in aggregate to the Price.
- c. To the extent it is lawful to exclude the following heads of loss and subject to the Buyer's obligation to pay the Price, in no event shall either party be liable for any loss of profits, goodwill, loss of business, loss of data or any other indirect or consequential loss or damage whatsoever.
- d. The Service Provider will not be held liable for any additional damage to the customers property in the event of a vehicle Recovery unless it is proven to be due to negligence.
- e. Under no circumstances will the Service Provider be held liable for any additional damage to the Customers Vehicle in the event the Customers Vehicle has already sustained damage, either mechanical, cosmetic or otherwise, prior to the Service Provider's attendance. This includes but is not limited to Accident Recovery, Ditched or Bugged Vehicles etc.
- f. Nothing in this Clause 2.3 will serve to limit or exclude either Party's liability for death or personal injury arising from its own negligence.

### 2.4 Term and Termination

- g. This Agreement shall be effective on the date hereof and shall continue, unless terminated sooner in accordance with Clause 2.4(b), until the Completion Date.
- h. Either Party may terminate this Agreement upon notice in writing if:
  - i. the other is in breach of any material obligation contained in this Agreement, which is not remedied (if the same is capable of being remedied) within 30 days of written notice from the other Party so to do; or
  - ii. a voluntary arrangement is approved, a bankruptcy or an administration order is made or a receiver or administrative receiver is appointed over any of the other Party's assets or an undertaking or a resolution or petition to wind up the other Party is passed or presented (other than for the purposes of amalgamation or reconstruction) or any analogous procedure in the country of incorporation of either party or if any circumstances arise which entitle the Court or a creditor to appoint a receiver, administrative receiver or administrator or to present a winding-up petition or make a winding-up order in respect of the other Party.
- i. *[For European Buyers and Service Providers only]* If the Buyer is a consumer and the Distance Selling Directive (97/7/EC) (the "Directive") applies to this Agreement, the Buyer may terminate this Agreement within the relevant timescales prescribed by the regulations or laws in the relevant Member State which implement the requirements of the Directive in respect of a right for the Buyer to withdraw from a contract. In the event of termination in accordance with this Clause 2.4(c), the liability of the Buyer to the Service Provider shall be as prescribed in the Directive or in any regulations or laws implementing its requirements in the relevant Member States.

- j. Any termination of this Agreement (howsoever occasioned) shall not affect any accrued rights or liabilities of either Party nor shall it affect the coming into force or the continuance in force of any provision hereof which is expressly or by implication intended to come into or continue in force on or after such termination.
- k. This contract may be terminated and considered fulfilled by the Service Provider if the Customer has provided inaccurate information about the following:
  - i. Vehicle Type/ Make or Model.
  - ii. Location of the Casualty Vehicle including In relation to the Road or Carriageway.
  - iii. Amount, age or disabled status of vehicle occupants.
  - iv. The description of the fault.
- l. In all cases the Service Provider will make best efforts to accommodate minor inaccuracies in the information provided by the Customer, however the Service Provider will be under no obligation to accommodate inaccuracies it deems deceitful or inaccuracies it deems would otherwise incur additional costs to the Customer.
- m. In all cases where the Customer has contracted the Service Provider for Roadside Assistance; the Service Provider will be deemed 'On Route' once Payment has been made and a Company Representative or Sub-Contractor has been instructed to attend the Customer's Vehicle.
- n. In all cases where the Customer has contracted the Service Provider for Recovery; the Service Provider will be deemed 'On Route' once Payment has been made and a Company Representative or Sub-Contractor has been instructed to attend the Customer's Vehicle.
- o. In the event the Service Provider has been contracted by the Customer to Recover a Vehicle that has been involved in a Road Traffic Accident, become ditched or bogged down or otherwise damaged to the extent that it is not Roadworthy. The Service Provider is given the authority to recover the vehicle to the Service Provider's nearest Storage and charge applicable fees as laid out in the Service Provider's most current Rate Card.

## **2.5 Relationship of the Parties**

The Parties acknowledge and agree that the Services performed by the Service Provider, its employees, agents or Sub-Contractors shall be as an independent contractor and that nothing in this Agreement shall be deemed to constitute a partnership, joint venture, agency relationship or otherwise between the parties.

## **2.6 Confidentiality**

Neither Party will use, copy, adapt, alter or part with possession of any information of the other which is disclosed or otherwise comes into its possession under or in relation to this Agreement and which is of a confidential nature. This obligation will not apply to information which the recipient can prove was in its possession at the date it was received or obtained or which the recipient obtains from some other person with good legal title to it or which is in or comes into the public domain otherwise than through the default or negligence of the recipient or which is independently developed by or for the recipient.

## **2.7 Notices**

Any notice which may be given by a Party under this Agreement shall be deemed to have been duly delivered if delivered by hand, first class post, facsimile transmission or electronic mail to the address of

the other Party as specified in this Agreement or any other address notified in writing to the other Party. Subject to any applicable local law provisions to the contrary, any such communication shall be deemed to have been made to the other Party, if delivered by:

- i. first class post, 2 days from the date of posting;
- ii. hand or by facsimile transmission, on the date of such delivery or transmission; and
- iii. electronic mail, when the Party sending such communication receives confirmation of such delivery by electronic mail.

## **2.8 Miscellaneous**

- p. The failure of either party to enforce its rights under this Agreement at any time for any period shall not be construed as a waiver of such rights.
- q. If any part, term or provision of this Agreement is held to be illegal or unenforceable neither the validity or enforceability of the remainder of this Agreement shall be affected.
- r. Neither Party shall assign or transfer all or any part of its rights under this Agreement without the consent of the other Party.
- s. This Agreement may not be amended for any other reason without the prior written agreement of both Parties.
- t. This Agreement constitutes the entire understanding between the Parties relating to the subject matter hereof unless any representation or warranty made about this Agreement was made fraudulently and, save as may be expressly referred to or referenced herein, supersedes all prior representations, writings, negotiations or understandings with respect hereto.
- u. Neither Party shall be liable for failure to perform or delay in performing any obligation under this Agreement if the failure or delay is caused by any circumstances beyond its reasonable control, including but not limited to acts of god, war, civil commotion or industrial dispute. If such delay or failure continues for at least 7 days, the Party not affected by such delay or failure shall be entitled to terminate this Agreement by notice in writing to the other.
- v. This Clause 2.8(v) and Clauses 2.3, 2.5, 2.6, 2.7 and 2.8 of this Agreement shall survive any termination or expiration.
- w. This Agreement shall be governed by the laws of the jurisdiction in which the Buyer is located (or if the Buyer is based in more than one country, the country in which its headquarters are located) (the "Territory") and the parties agree to submit disputes arising out of or in connection with this Agreement to the non-exclusive of the courts in the Territory.

## **3. Amendments to existing clauses**

None

## **4. Additional clauses**

### **4.1 Additional terms**

Additional terms apply to certain Services the Service Provider may undertake for the Customer. These will be explained to the Customer prior to work commencing. This includes, but is not limited to, Accident Recovery, Parking and Roadside Assistance whereby parts may be replaced.

This agreement is freely available at <https://www.kingslakerecovery.co.uk/> and can be provided in physical form upon request. The Customer will be asked prior to all work commencing if they agree to the terms outlined above, the Customers acceptance of these terms is binding and payment will not be taken until the Customers acceptance is assured. Upon payment the Customer agrees that the Service Provider will assist the Customer and that no refunds are given once the Service Provider has expended resources or dispatched an Operative to them.