

GT MOTIVE End User Terms and Conditions

De Appendix 1 opgenomen "Terms and Conditions" zijn expliciet overeengekomen in de Engelse taal daar dit de clausules zijn die van toepassing zijn op de data/producten van GT Motive S.L. (Spanje).

This Terms and Conditions stipulate the licence conditions under which the Customer shall be allowed to access and use the Product, complementing any existing agreements of the Customer with the PLATFORM OPERATOR. As such, this Terms and Conditions do not constitute any right to access the Platform or the Product directly and independently of PLATFORM OPERATOR's services.

1. Definitions:

"Acceptable Use" shall mean the use of the Product under this Terms and Conditions that is restricted to searches on behalf of a Beneficiary with respect to workshop-specific assignments, especially for repair of damages of vehicles involved in an accident. Accordingly, it is not within the Acceptable Use to republish data obtained from the Product, nor to conduct searches without such relation to a specific workshop assignment, especially systematic searches to gather OEM Data through the Product, be it manually or electronically (e. g. web crawlers).

"Agreement" shall mean the relevant agreement entered into by and between GT MOTIVE and the PLATFORM OPERATOR together with its annexes, schedules and appendixes.

"Beneficiary" shall mean a workshop or expert that requires information on spare parts for a specific vehicle regarding a specific assignment for repair of damages. Customer shall be considered as Beneficiary if qualifies as such workshop or expert.

"Customer" shall mean any company located in the Territory that is authorised by PLATFORM OPERATOR to access and use the Product after declaring consent to this Terms and Conditions.

"GT MOTIVE" shall mean the Spanish company domiciled at C/ Teide, 3 - 1ª Planta, Parque Empresarial La Marina, 28703 San Sebastián de los Reyes, Madrid, with TAX number B82060120.

"Intellectual Property Rights" shall mean all the following: (a) all copyrights, including moral rights, registrations and applications for registration thereof (including all renewals and extensions thereof); (b) computer software programs, data and documentation; (c) database rights (d) patents, patent applications and all related continuations, divisional, reissue, utility model, design patents, applications and registration thereof, certificate of inventions; (e) mask works and registration thereof; (f) trade secrets and proprietary information; know-how, manufacturing and product process and techniques, designs, prototypes, enhancements, improvements, work-in progress, research and development information, and (g) other proprietary rights relating to the foregoing.

“License” shall mean the personal, limited, non-exclusive, non-transferable, revocable license provided by GT MOTIVE to the Customer more particularly defined in clause 2.

“OEM” shall mean original equipment manufacturers.

“OEM Data” shall mean the part of GT Motive's database information drawn directly from OEM catalogues.

“Party” or **“Parties”** shall mean either GT MOTIVE, PLATFORM OPERATOR or the Customer separately (Party) or jointly (Parties).

“Platform” shall mean the virtual environment where the PLATFORM OPERATOR will provide the Products.

“PLATFORM OPERATOR” shall mean any entity duly authorized by GT MOTIVE to integrate the Product into their Platform and to provide Customers access accordingly.

“Product” shall mean the products and services by which GT MOTIVE provides OEM Data matching a specific queried VIN.

“Terms and Conditions” shall mean the present end user terms and conditions.

“Territory” shall mean the geographic scope of this Terms and Conditions, which matches the Territory of the Agreement.

“VIN” shall mean vehicle identification number.

2. Licence Scope

2.1 Upon Customer's declaration of consent to this Terms and Conditions, GT MOTIVE grants the Customer a non-exclusive Licence to use the Product as follows:

- a) The Customer may use the Product as it is embedded into the PLATFORM OPERATOR's Platform to look up spare parts numbers (limited to OEM references) within the corresponding OEM Data for the specific queried VIN.
- b) The Customer may use the Product for Beneficiaries only. In this regard, Customers may be considered as a Beneficiary if they have a workshop and require spare parts for a specific vehicle regarding a specific assignment for repair of damages.
- c) The Customer may only make Acceptable Use of the Product as stipulated in clause 1.
- d) The Licence is restricted to access via Platform of the PLATFORM OPERATOR.
- e) Customers shall only use the Product with respect to vehicles registered at the Territory. Customer shall cease to use the Product if its venue is located outside the Territory.

2.2 Customer represents that the License grants access to the Product only within the context of repair estimates, and does not authorize to download, copy or create databases with the information available within the Product, and does only entitle LICENSEE to request estimates.

2.3 All the information provided by GT Motive is confidential, and Customer shall keep confidential and not apply for any patent, or registration of any trademark or design or any other intellectual property right in respect of information disclosed through the Product.

2.4 The obligation to keep information confidential shall survive the termination of this Terms and Conditions.

3. Licence Fees Payable by PLATFORM OPERATOR and Recording of Queries

3.1 Any licence fees for using the Product shall be covered in full by PLATFORM OPERATOR towards GT MOTIVE.

3.2 For the purpose of billing, GT MOTIVE will log any access to the Product and keep a record of the queries made by the Customers, and share this information with PLATFORM OPERATOR. Specifically, GT MOTIVE will log each queried VIN and allocate it with the respective genuine ID which is generated by GT MOTIVE for each query.

3.3 Supplementary to the provisions in this Terms and Conditions, PLATFORM OPERATOR's payment conditions as agreed upon by PLATFORM OPERATOR with the Customer shall apply.

4. Intellectual Property

4.1 All contents, layouts, logos and trademarks appearing in Product or GT MOTIVE Web Interface remain with GT MOTIVE or their respective owners, and are protected by Intellectual Property Rights. The permitted usage is limited to the usage explicitly granted under the Agreement and under the Terms and Conditions.

4.2 The Customers acknowledges that GT MOTIVE and/or the OEM are the sole owners of all Intellectual Property Rights with respect to all the services and information provided under the Product and/or the web interface embedded into the Platform, and that this Terms and Conditions do not entail the transfer of any of such Intellectual Property Right.

4.3 The Customer shall not alter, remove, cover or hide any copyright notices or other proprietary rights notices placed in or on the web interface embedded into the Platform, the Product or the OEM Data.

4.4 Parties shall take all reasonable steps necessary to prevent third parties from infringing GT MOTIVE's Intellectual Property Rights in the Product. If the Customer becomes aware that a third party or any of its products infringes any Intellectual Property Right of GT MOTIVE in the Product or the OEM Data, or that the Product or the OEM Data is claimed to infringe upon third party's rights, the Customer will promptly notify GT MOTIVE in writing thereof and shall take such further steps as may reasonably be requested by GT MOTIVE to prevent or remedy such infringement.

5. No Assignments or Sub-Licensing

5.1 This Terms and Conditions and all rights and duties herein are personal to the Customer and are not assignable, in whole or in part, by the Customer without GT MOTIVE's prior written consent unless the assignee is a purchaser of substantially all of the business of the Customer. The rights and duties hereunder may not be mortgage secured, or otherwise encumbered.

5.2 Any assignment or other change approved by GT MOTIVE shall make this Terms and Conditions fully binding upon and enforceable against any successors or assigns.

6. Term and Termination of this Terms and Conditions

6.1 This Terms and Conditions shall come into effect upon the Customer's declaration of consent and, subject to its remaining terms, shall remain in full force until it is terminated by either Party. This Terms and Conditions shall terminate automatically upon termination of either (i) the agreement governing the Customer's access to PLATFORM OPERATOR's Platform; or (ii) the Agreement between GT MOTIVE and the PLATFORM OPERATOR.

6.2 Each Party shall be entitled to terminate this Terms and Conditions at any time, by notice in writing to the other Parties with a period of notice of 3 months. Also, each Party shall be entitled to terminate this Terms and Conditions at any time, by notice in writing to the other Parties and without period of notice if:

- f) one of the other Parties is in material breach of this Terms and Conditions, which breach is irremediable or, if remediable, is not remedied by the defaulting Party or being requested to do so by the Party in writing;
- g) one of the other Parties ceases to do business, becomes unable to pay their debts as they fall due, becomes or is deemed insolvent, has a receiver, manager, administrator, administrative receiver or similar officer appointed in respect of the whole or any part of their assets or business, make any composition or arrangement with their creditors, take or suffer any similar action in consequence of debt or an order or resolution is made for their dissolution or liquidation (other than for the purpose of solvent amalgamation or reconstruction), or any equivalent or similar action or proceeding is taken or suffered in any jurisdiction;
- h) one of the other Parties challenges or disputes the validity or ownership of any of the terminating Party's Intellectual Property.

6.3 Termination in accordance with this clause shall be without prejudice to the rights of the Parties accrued at the date of termination.

7. Liability

7.1 GT MOTIVE shall use reasonable efforts in performance of the Terms and Conditions as regards the integrity, completeness, quality or accuracy of the OEM Data. GT MOTIVE does not guarantee that the OEM Data will be error-free, complete and up-to-date. GT MOTIVE shall not be liable for any damages resulting from inaccurate data.

7.2 GT MOTIVE shall not be liable for any loss of data that has been entered by Customers.

7.3 GT MOTIVE cannot guarantee uptime of the Product at all times and is not liable for any downtime of the Product.

7.4 GT MOTIVE's liability for damages shall be limited to the typical contractual foreseeable damage regardless of their legal cause (especially default or other breaches of duty).

7.5 The exclusion or restriction of GT MOTIVE's liability shall also apply to the liability of its employees, labourers, associates, representatives and agents.

8. Notices

Any notices or other communications under this Terms and Conditions are required in writing and shall be and mailed to:

For GT MOTIVE and PLATFORM OPERATOR:

GT MOTIVE and PLATFORM OPERATOR's business addresses.

For the Customer:

The Customer's address indicated in the Platform web service.

The same applies to any changes of this Terms and Conditions.

9. Miscellaneous

- 9.1 The business domicile of GT MOTIVE is the legal venue. However, GT MOTIVE is also entitled to sue the Customer at the court of its domicile and at its business domicile.
- 9.2 The place of performance is the business domicile of GT MOTIVE.
- 9.3 The Terms and Conditions is governed by the laws of Spain. The application of the CISG is excluded.
- 9.4 In the event that one of the provisions above is entirely or partially unenforceable, the remainder of the provision and the Terms and Conditions remain unaffected. Invalid terms shall be replaced by the statutory provisions.
- 9.5 Without prejudice to the Agreement, this Terms and Conditions constitute the entire agreement between the Parties and supersedes all prior oral or written terms and conditions between the Parties with respect to the subject matter thereof.