

PURCHASE ORDER GENERAL TERMS AND CONDITIONS

1. INTERPRETATION

In these terms:

Buyer means PACCAR Australia Pty Ltd (ACN: 004 669 669) and any of its related entities as defined in the Corporations Act 2001 (Cth).

Confidential Information means any written or oral information of a technical, business or financial nature or which is taken by any provision of this agreement to be Confidential Information, or which the Buyer makes the Supplier aware is considered by the Buyer to be confidential and proprietary, and includes all information that is personal information for the purposes of the Privacy Act 1988 (Cth), but does not include information which the Supplier can establish:

- (a) was in the public domain when it was given to the Supplier;
- (b) becomes, after being given to the Supplier, part of the public domain, except through disclosure contrary to this agreement;
- (c) was in the Supplier's possession when it was given to the Supplier and had not been acquired in some other way (directly or indirectly) from the Buyer; or
- (d) was lawfully received from another person who had the unrestricted legal right to disclose that information free from any obligation to keep it confidential.

Delivery Date means the date for delivery of the Goods and/or Services to the Delivery Point.

Delivery Point means the place where the delivery of the Goods and/or Service is to occur.

Goods means the goods purchased by the Buyer from the Supplier as set out in a Purchase Order or a RFQ and/or a Schedule.

GST has the meaning given to that term in the GST Law.

GST Law has the meaning given to that term in the A New Tax System (Goods and Services Tax) Act 1999 (Cth).

Governmental Agency means a government or government department or other body, a governmental, semi-governmental or judicial person or a person who is charged with the administration of any law.

Insolvency Event means, in relation to a person, when the person:

- (a) is insolvent as that term is defined in Section 9 of the Corporations Act 2001 (Cth); or
 - (i) the subject of an event described in sections 459C(2) (a) to (f) or section 585 of the Corporations Act 2001 (Cth) (or it makes a statement from which another party to this agreement may reasonably deduce it is so subject); or
 - (ii) an insolvent under administration or suffers the appointment of a controller, administrator, liquidator or provisional liquidator as those terms are defined in section 9 of the Corporations Act 2001 (Cth); or
 - (iii) dissolved;
 - (iv) other than to carry out an amalgamation or reconstruction while solvent; or
- (b) is otherwise unable to pay its debts as and when they become due and payable; or
- (c) being a natural person, commits or suffers an act of bankruptcy; or
- (d) takes or suffers a similar action or event under the law of any jurisdiction.

Intellectual Property Rights means all present and future rights throughout the world conferred by statute, common law or equity in or in relation to inventions, discoveries, innovations, know how, technical information and data, prototypes, processes, improvements, patent rights, circuitry, drawings, plans, specifications, copyright, trade mark rights, design rights, plant variety rights and other results of intellectual activity in the industrial, commercial, scientific, literary or artistic fields, whether or not registrable, registered, or patentable. These include all rights in all applications to register these rights, all renewals and extensions of these rights and all rights in the nature of these rights.

Purchase Order means a written document provided by the Buyer to the Supplier and titled 'Purchase Order', containing the following information:

- (a) Delivery Point;
- (b) Delivery Date;
- (c) the quantity of Goods or the Services to be purchased; and
- (d) the price of the Goods and/or Services.

RFQ means as defined in clause 5A(ii)(a)

Schedule means order schedules provided by the Buyer in response to a Supplier Offer which includes the:

- i. part number;
- ii. required delivery date;
- iii. chassis number or an order number;
- iv. Delivery Point; and
- v. lead times.

Services means the services purchased by the Buyer from the Supplier as set out in a Purchase Order or a RFQ and/or a Schedule.

Supplier means any company or individual authorised to supply Goods and/or Services to the Buyer and named in a Purchase Order or a RFQ and/or a Schedule

Suppliers Offer means as set out in clause 5A(ii)(b).

Terms means the Buyer's standard terms and condition of purchase as set out in this document (and any written variations to this document) unless the context otherwise requires.

2. GENERAL TERMS AND CONDITIONS

- (a) The Buyer agrees to buy and the Supplier agrees to sell the Goods and/or the Services in accordance with these Terms.
- (b) These Terms shall apply to all Goods and/or Services sold by the Supplier to the Buyer unless otherwise agreed in writing by the Buyer's purchasing manager.

- (c) These Terms are deemed to be incorporated into all contracts for the purchase of Goods and/or Services by the Buyer from the Supplier and will prevail over any inconsistent terms in any document of the Supplier unless otherwise agreed by the Buyer's purchasing manager in writing.
- (d) If the Buyer places an order with the Supplier for Goods and/or Services or enters into a contract with the Supplier and the Goods and/or Services are delivered or provided to the Buyer, or the Buyer makes any payment, the Supplier is taken to have accepted these Terms.
- (e) The Buyer does not require a written communication from the Supplier of acceptance of these Terms.
- (f) To the extent the Supplier's terms and conditions are supplied with the Goods and/or Services (including as printed on consignment notes or other documents) those terms and conditions will be of no legal effect and will not constitute part of any agreement to purchase Goods and/or supply Services (even if a representative of the Buyer signs those terms and conditions or annexure the Suppliers terms and conditions to a Purchase Order or a RFQ and/or a Schedule)

3. PRICE

- (a) Unless the Buyer consents in writing any order for Goods and/or the provision of Services may not be filled at a price higher than that set out in:
 - (i) the most recent Suppliers Offer or as otherwise agreed and loaded into the Buyers computerised ordering system; or
 - (ii) set out in a Purchase Order,save that in the absence of the above or where there is no stated price, then any order for Goods and/or provision of Services will be charged at a price no higher than a price previously quoted to the Buyer or charged by the Supplier to the Buyer.
- (b) Any reduction in the Supplier's costs resulting from refunds, reductions or drawback of

freight rates, customs duties, import taxes, excise taxes and/or sales taxes are to be paid to the Buyer through a price reduction. The Supplier will inform the Buyer and provide them any required documents that is necessary and which establishes the Buyer's entitlement to clawback from the Supplier.

4. PACKING, MARKING AND SHIPPING

The Supplier covenants with the Buyer that:

- (a) All Goods shall be properly packed to prevent damage or deterioration and in such manner as will obtain the lowest transportation rates.
- (b) The Supplier shall be responsible for all charges by way of preparation crating dunnage and other costs unless separately stated in these Terms.
- (c) All consignments shall be clearly marked with the Buyer's order reference and name.
- (d) Each consignment shall be issued with a packing slip which shall clearly state the Buyer's order number, the type of goods, quantities and product name.
- (e) The shipment of Goods and/or the provision of Services to the Buyer is deemed to be acceptance of these Terms.

5. DELIVERY AND ORDERING

A. ORDERS

(i) Purchase Orders

- (a) The Buyer may place Purchase Orders (orally or in writing) for Goods and/or Services.
- (b) The Supplier must use its reasonable endeavours to supply the Goods and/or Services according to the Purchase Order.
- (c) If the Buyer does not receive a written notification from the Supplier, that they are unable to supply to the Goods and/or Services according to the Purchaser Order, within 24 hours of receipt of the Purchaser Order, the Supplier will be deemed to have accepted the Purchaser Order.

(ii) Request for Quotation

- (a) If the Buyer provides the Supplier with a request for quotation (**RFQ**), this shall not constitute an offer. The Buyer may withdraw or alter the RFQ without notice.
- (b) All responses to RFQ provided by the Supplier and received by the Buyer in the Buyer's standard form will constitute a valid quotation and offer for the provision of the Goods and/or supply of the Services (**Suppliers Offer**). For the avoidance of doubt the Suppliers Offer does not constitute an acceptance by the Buyer of the Suppliers Offer.
- (c) The Supplier's Offer may be accepted by the Buyer providing Schedules to the Supplier either in writing or via an electronic system. The Supplier agrees that immediately upon the Schedules being uploaded onto the Buyer's electronic system such that they are accessible by the Supplier, the Schedule is deemed to have been provided.
- (d) All Schedules will be based on the most recent Suppliers Offer unless the parties otherwise agree.
- (e) A contract will be formed between the Buyer and the Supplier upon the Supplier being provided with the Schedule from the Buyer and each contract will be governed by these Terms. The Schedule and these Terms shall constitute the entire agreement between the Buyer and the Supplier. For the avoidance of doubt, no representation or statement by an employee, agent not expressly stated in the Schedule shall be binding on the Buyer.
- (f) Any other documents received by the Supplier from the Buyer will be deemed to be forecasts only and will not constitute an order.

(iii) Cancellation and Modification of Orders

Orders can be modified or cancelled by the Buyer, anytime prior to the delivery date, provided always that the Buyer will be liable for the Suppliers reasonable costs associated with any work in progress.

The Buyer is also entitled to cancel any order for Goods and/or Service made under these Terms, where the Supplier has failed to deliver those goods in whole or in part in accordance with the timeframes set out in clause 5B(a), without any liability to the Buyer.

B. DELIVERY

(a) Delivery:

- (i) In relation to Goods and/or Services where a Schedule forms the basis of the order, the Supplier shall deliver the Goods and/or Services such that they are delivered in accordance with required delivery date set out in the Schedule. The Supplier will comply with the stated Delivery Date and will use their best endeavours to satisfy any request by the Buyer for earlier delivery.
- (ii) In relation to Goods and/or Services where a Purchaser Order forms the basis of the order, the Supplier shall deliver the Goods and/or Services such that they are delivered in accordance with the delivery terms specified in the Purchase Order.
- (iii) The costs of delivery of the Goods and/or Services to the Delivery Point, will be at the Suppliers cost unless otherwise stated in the Purchase Order.

(b) Failure to Deliver:

If the Supplier does not supply the Services and/or deliver any or all of the Goods to the Delivery Point on the Delivery Date, the Buyer may, in addition to any other remedy:

- (i) obtain those Goods and/or Services from another source;
- (ii) refuse to accept the late delivery, and will not be liable for any payment of those Goods and/or Services;
- (iii) at its election accept or reject partial deliveries;
- (iv) approve revised delivery terms;
- (v) the Supplier if requested by the Buyer will then ship the Goods via air or other

expeditious route to minimise delay in delivery with the Supplier to bear all costs occasioned thereby; or

- (vi) treat such default as a repudiation by the Supplier and accept such repudiation and terminate the supply agreement by notice in writing whereupon the Buyer's obligations to the Supplier shall terminate absolutely.

6. INSPECTION – RETURN

Notwithstanding any prior payment, all Goods are subject to inspection and acceptance by the Buyer within a reasonable time after delivery at the Delivery Point.

If the Supplier delivers Goods to the Buyer that the Buyer, considers in its sole discretion:

- (a) do not match the description of the Goods ordered;
- (b) do not match the quantity of Goods ordered;
- (c) are not fit for the purpose specified by the Buyer;
- (d) breach any of the warranties given in under clause 11; or
- (e) are not of acceptable quality,

then the Goods shall not be taken to be delivered for the purposes of clause 5(B) and the Buyer must, at the cost of the Supplier, adequately store the Goods for the Supplier, and must, at the Supplier's cost arrange for the return of those Goods to the Supplier.

7. PAYMENT

- (a) Save in the event of breach by the Supplier or delivery of defective or inadequate Goods and/or Services, payment shall be made by the Buyer to the Supplier no later than thirty days from the Delivery Date unless specified otherwise by the Buyer.
- (b) In the event that the Supplier breaches these Terms payment (if any) shall be made upon resolution of the breach or deficiency as the case may be or, where the Supplier has already received payment (in whole or in part), the Supplier is to refund such payment

in full to the Buyer within thirty (30) days of the date of the notification of the breach or deficiency. If the breach has not been rectified within the stated time.

8. GST

- (a) Unless otherwise stated, the price is GST exclusive.
- (b) In addition to the price for the Goods and/or Services, the Buyer must pay to the Supplier an amount equal to any GST the Supplier must pay for any supply by the Supplier under these terms of sale.
- (c) The Buyer must pay GST, without deduction or set off of any other amounts, at the same time and on the same basis as the Buyer pays the price (or the corresponding first part of it if the Supplier agrees to the Buyer paying the price by instalments).

9. RISK AND TITLE

- (a) Title in Goods shall pass to the Buyer at the time of delivery to the Delivery Point.
- (b) Risk of damage or loss of the Goods shall pass to the Buyer at such time as the Goods are delivered to the Delivery Point and the Buyer has completed its inspection of the Goods and has accepted the Goods in accordance with clause 6. Until that time, the Goods remain at the risk of the Supplier.

10. SUPPLIER OBLIGATIONS

- (a) The Supplier will be required to provide traceability of manufactured parts based upon the degree of product liability risk involved, as set out in the Buyer's drawings provided with the Purchase Order or a RFQ and/or a Schedule which are based upon SC1, SC2, SC3, SC4 or SC0, QA1, QA2, QA3 or QA4 codes and the applicable standards of the Buyer which are referenced in the drawings.
- (b) It is the responsibility of the Supplier to ensure that all drawings and data as provided by the Buyer in the Purchase Order or a RFQ and/or a Schedule are followed and that the Goods are manufactured in accordance with those specifications. If the Supplier is unsure or has any doubt as to the meaning of any portion of any of the information provided or has not been provided with complete information by

the Buyer required to quote or provide the Goods and/or Services, the Supplier must contact the Buyer for clarification prior to proceeding.

- (c) The Supplier shall maintain all Goods in good condition and shall not knowingly sell any damaged Goods or any Goods not of acceptable quality. The Supplier acknowledges that the reputation and goodwill of the Buyer may be injured and that the Buyer will suffer loss and damage if the Supplier provides damaged Goods or Goods and/or Services not of an acceptable quality.

11. WARRANTIES AND INDEMNITY

- (a) The Supplier acknowledges that under applicable State, Territory and Commonwealth law(s) (including without limitation the Competition and Consumer Act 2010 (Cth) ("**Competition and Consumer Act**") certain statutory implied guarantees and warranties (including with limitation the statutory guarantees under the Competition and Consumer Act) may be implied into these Terms ("**Non-Excluded Guarantees**").
- (b) The Supplier acknowledges that nothing in these Terms purports to modify or exclude the Non-Excluded Guarantees.
- (c) In addition to the Non-Excluded Guarantees, the Supplier hereby agrees that:

- i. The Goods will:
 - A. comply with all requirements of the law and of any Government Agency for the packaging, promotion, distribution, storage, sale, leasing or hire of the Goods in the Commonwealth of Australia;
 - B. conform to the specification drawing samples or other descriptions furnished or specified by the Buyer; and
 - C. not infringe the Intellectual Property Rights of any third party.

- ii. The Services will be provided:
 - A. in compliance with any applicable law;
 - B. to the same standard to which a prudent and experienced provider would normally provide the Services;
 - C. diligently, competently, with care and skill and in a proper and professional manner; and
 - D. in compliance with the Buyer's reasonable directions, standards, policies, procedures and methodologies notified to the Supplier by the Buyer from time to time.

12. SUPPLIER LIABILITY

Subject to clause 11 and to the extent permitted by law, the liability of the Supplier and its employees or agents for a breach of any warranty or liability implied by these Terms, is limited, at the Buyer's option, to:

- (a) ,in the case of the Good:
 - i. the Buyer is entitled to a replacement or refund for a major failure and compensation for any other reasonably foreseeable damage. The Buyer is also entitled to have the Goods repaired or replaced if the Goods fail to be of acceptable quality and the failure does not amount to a major failure. This warranty against defects is given in addition to other rights and remedies of the Buyer under law.
 - ii. the replacement of the goods or the supply of equivalent Goods;
 - iii. the repair of the Goods;
 - iv. the payment of the costs of replacing the Goods or of acquiring equivalent goods; or
 - v. the payment of the cost of having the Goods repaired.
- (b) in the case of Services:
 - i. the supplying of the Services again; or
 - ii. the payment of the cost of having the Services supplied again.

Notwithstanding anything above, the Supplier is liable for:

- (c) all liabilities and losses incurred by the Buyer, the Buyer's customers and users of the Goods and Services; and
- (d) all legal costs and other expenses incurred by the Buyer,

respectively in connection with a demand, action, arbitration or other proceeding (including mediation, compromise, out of court settlement or appeal), arising directly or indirectly as a result of or in connection with:

- i. a breach by the Supplier of any representation or warranty or guarantee in these Terms or implied by law;
- ii. a breach or non-performance of any obligation of the Supplier under these Terms, whether express or implied; or
- iii. a claim that the Goods sold by the Supplier to the Buyer infringe any Intellectual Property Rights of a third party.

- (e) The provider of the warranties under these Terms is the Supplier.
- (f) Other than as expressly provided for in this clause 12 and subject to the limitations in clause 11, the Buyer, its contractors and/or agents will not be liable for any loss or damage (including consequential loss or damage, which includes without limitation, loss of profit and loss of revenue) of any kind whatsoever, even if due to the negligence of the Buyer its contractors and/or agents.

13. INTELLECTUAL PROPERTY

- (a) The Buyer grants to the Supplier a non-exclusive licence to use its Intellectual Property Rights for the sole purpose of fulfilling orders in accordance with these Terms.
- (b) The Supplier acknowledges that there is no transfer of title, interest or ownership to the Supplier of any Intellectual Property Rights in the Intellectual Property Rights of the Buyer.

14. CONFIDENTIALITY

The Supplier must:

- (a) keep the Confidential Information private and secret;
- (b) not access, use or reproduce Confidential Information for any purpose other than in connection with the Goods delivered or Services supplied to the Buyer by the Supplier, nor assist or permit any other person to do so;
- (c) not disclose Confidential Information except as permitted under these Terms; and
- (d) take all steps reasonably necessary to safeguard Confidential Information from unauthorised access, use or disclosure.

The Supplier may disclose Confidential Information:

- (a) to their representatives if they need to know the Confidential Information and provided that the Supplier:
 - i. ensures that their representatives do not use, reproduce or disclose the Confidential Information other than in accordance with these Terms; and
 - ii. accept liability for any failure of their representatives to do so;
- (b) if disclosure is required by law or the rules of any stock exchange, provided that the Supplier first notify the Buyer of the required disclosure (where practicable); or
- (c) with the Buyer's prior written consent.

15. VARIATION

The Buyer is entitled to vary these Terms in respect of future orders for Goods and/or Services at any time by providing the Supplier with 10 day prior written notice.

16. INSURANCE

All Suppliers providing Services shall maintain insurance coverage for the minimum amounts in relation to the following areas:

- (a) Public Liability Insurance - \$10,000,000;
- (b) Workers Compensation – to the minimum amount required by the law.
- (c) Professional Indemnity - to the minimum amount required by the law.

- (d) Pollution Liability - \$1,000,000 per occurrence and \$2,000,000 annual aggregate;
- (e) Automotive insurance - as advised by the Buyer;
- (f) Occupation Health and Safety - to the minimum amount required by the law and
- (g) Any other insurance as nominated by the Buyer from time to time

All Suppliers providing Goods shall maintain insurance coverage for the minimum amounts in relation to the following areas:

- (a) Professional Indemnity - to the minimum amount required by the law.
- (b) Product Liability Insurance – as advised by the Buyer;
- (c) Pollution Liability - \$1,000,000 per occurrence and \$2,000,000 annual aggregate; and
- (d) Any other insurance as nominated by the Buyer from time to time.

At the Buyer's request, the Supplier shall provide copies and proof of the currency of the insurance policies referred to above. The Supplier shall add the Buyer, as an interested party to the above policies if requested so by the Buyer.

17. GENERAL CONDITIONS

- (a) Entire agreement

These terms constitute the entire agreement and understanding between the parties concerning its subject matter and succeeds and cancels all other previous agreements, contracts, statements and understandings, whether verbal or in writing.

- (b) Non-exclusive

The Buyer reserves the rights to acquire the Goods and/or Services from a third party or parties at any time.

- (c) Jurisdiction

This agreement is to be governed by and construed in accordance with all applicable laws in force in the state of Victoria in the Commonwealth of Australia from time to time and the parties submit to the non-exclusive jurisdiction of the courts of that state.

- (d) Assignment

The Supplier must not assign its benefits or obligations under these Terms without the prior written consent of the Buyer in writing. The Buyer may assign its rights and obligations under these Terms to another person without the consent of the Supplier

(e) Waiver

- i. A right of the Buyer may only be waived in writing, signed by the Buyer's purchasing manager.
- ii. No other conduct of the Buyer (including a failure to exercise, or delay in exercising, the right) operates as a waiver of the right or otherwise prevents the exercise of the right.
- iii. A waiver of a right by the Buyer on one or more occasions does not operate as a waiver of that right if it arises again.
- iv. The exercise of a right by the Buyer does not prevent any further exercise of that right or of any other right.

(f) Severability

Any provision of these Terms which is unenforceable or partly unenforceable is, where possible, to be severed to the extent necessary to make these Terms enforceable, unless this would materially change the intended effect of the Terms.

(g) Time is of the essence

In this agreement time is of the essence unless otherwise stipulated.

(h) Survival

Clauses 11, 12, 13 and 14 continue despite the termination of these Terms.

(i) Set off

Subject to the terms set out in these Terms, the parties agree that the Buyer is entitled to set-off and adjust invoices so that they refer to the agreed price of the Goods and /or Services.