

CUMMINS [Germany] PURCHASE ORDER TERMS AND CONDITIONS

1. INTERPRETATION

1.1 Definitions. In these Conditions, the following definitions apply:

Background Intellectual Property: means any and all Intellectual Property Rights owned by or licensed to a party prior to the date on which the Contract comes into existence in accordance with clause 2.2, or created or acquired by or on behalf of a party after such date but independently of the Contract. Buyer's Background Intellectual Property includes but is not limited to any and all Buyer Materials.

Business Day: any day other than a Saturday, Sunday or a public holiday at the place of business of the Buyer.

Buyer: Cummins Deutschland GmbH, Peter-Traiser-Straße 1, 64521, Groß Gerau, Germany, its subsidiaries, and affiliates ("Cummins" or "Buyer")

Buyer Materials: has the meaning set out in clause 4.9(c).

Claims: has the meaning set out in clause 11.3.

Conditions: these terms and conditions as amended from time to time in accordance with clause 15.14.

Confidential Information: has the meaning set out in clause 12.1.

Contract: the contract between the Buyer and the Supplier for the supply of Products in accordance with these Conditions.

Deliverables: all Documents, products and materials developed by the Supplier or its agents, contractors and employees as part of or in relation to the Products in any form, including without limitation computer programs, data, reports and specifications (including drafts).

Document: includes, without limitation, in addition to any document in writing, any drawing, map, plan, diagram, design, picture or other image, tape, disk or other device or record embodying information in any form.

Force Majeure Event: has the meaning set out in clause 15.4.

Foreground Intellectual Property: means any and all Intellectual Property Rights created by or on behalf of a party, or otherwise arising, pursuant to or in connection with the Contract, including but not limited to any such Intellectual Property Rights subsisting in or related to any Products or Deliverables.

GDPR: means, in each case to the extent applicable to the processing activities: (i) Regulation (EU) 2016/679; and (ii) Regulation (EU) 2016/679 as amended by any legislation arising out of the withdrawal of the UK from the European Union.

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Group: in relation to a company, that company, its subsidiaries, any company of which it is a subsidiary (its holding company) and any other subsidiaries of any such holding company; and each company in a group is a member of the group.

Unless the context otherwise requires, the application of the definition of Group to any company at any time will apply to the company as it is at that time.

holding company and **subsidiary:** mean a "holding company" and "subsidiary" as defined in section 15 of the German Stock Corporation Act (AktG).

Incoterms: the International Chamber of Commerce Incoterms rules for the interpretation of trade terms 2020 (or such future versions or amendments).

Intellectual Property Rights: all patents, rights to inventions, utility models, copyright and related rights, trade marks, service marks, trade, business and rights in domain names, rights in trade dress or get-up, rights in goodwill or to sue for passing off, unfair competition rights, rights in designs, rights in computer software, database right, topography rights, rights in and to use and protect the confidentiality of confidential information (including know-how and trade secrets) and any other intellectual property rights, in each case whether registered or unregistered and including all applications for and renewals or extensions of such rights, and all similar or equivalent rights or forms of protection in any part of the world and **Intellectual Property** will be construed accordingly.

MPA: any master purchase agreement entered into between the Buyer and the Supplier in connection with the Purchase Order.

Products: the products (or any part of them) set out in the Purchase Order, to be provided by the Supplier under the Contract.

Purchase Order: a specific purchase order for Products, given by the Buyer to the Supplier in accordance with these Conditions (including a material release form where the context permits).

Specification: any specification for the Products (including relevant plans or drawings) provided by the Buyer to the Supplier.

Supplier: the person or firm from whom the Buyer purchases the Products.

Supplier Know-How: has the meaning set out in clause 10.7.

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VAT: the value added tax payable in accordance with the German Value Added Tax Act (UStG).

- 1.2 Construction. In these Conditions, the following rules apply:
- (a) a **person** includes a natural person, corporate or unincorporated body (whether or not having separate legal personality);
 - (b) a references to a party includes its successors or permitted assigns;
 - (c) a reference to a statute or statutory provision is a reference to such statute or statutory provision as amended or re-enacted. A reference to a statute or statutory provision includes any subordinate legislation made under that statute or statutory provision, as amended or re-enacted;
 - (d) any phrase introduced by the terms **including, include, in particular** or any similar expression will be construed as illustrative and will not limit the sense of the words preceding those terms; and
 - (e) a reference to **writing** or **written** includes faxes and e-mails.

2. BASIS OF CONTRACT AND OFFER

- 2.1 The Purchase Order constitutes an offer by the Buyer to purchase Products from the Supplier in accordance with these Conditions.
- 2.2 The Supplier must confirm Purchase Orders in writing within three (3) Business Days of receipt or by performing the delivery or service within this time period. In the case of delivery call-offs, these are binding if the Supplier does not object within five (5) Business Days of receipt of the delivery call-off.. Cummins may withdraw or amend this Purchase Order (or any purchase order issued to Supplier by Cummins) prior to Supplier's acceptance (or deemed acceptance) thereof or as otherwise provided herein.
- 2.3 These Conditions apply to the Contract to the exclusion of any other terms that the Supplier seeks to impose or incorporate, or which are implied by trade, custom, practice or course of dealing.
- 2.4 In the event of any conflict:
- (a) If the Purchase Order is issued in conjunction with a detailed contract between the parties, the terms of the contract, including agreed quantity and pricing for the Products or the required acceptance by seller of this Purchase Order, will take precedence over any conflicts with these terms.

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- (b) between the information on the face of the Purchase Order, these Conditions and any attachments to the Purchase Order, the information on the face of the Purchase Order will prevail; and
- (c) the terms of any MPA will prevail over all other terms.

For the avoidance of doubt, any reference by the Buyer to the Supplier's quote will be for information purposes only and will not be construed as acceptance of the Supplier's own terms.

3. QUALITY, WARRANTIES AND INSPECTION

3.1 The Supplier warrants that the Products:

- (a) correspond with their description and any applicable Specification;
- (b) are of good and marketable title to all Products delivered to Buyer and the same shall be delivered to Buyer free and clear of any liens and encumbrances.
- (c) are of satisfactory quality and fit for any purpose held out by the Supplier or made known to the Supplier by the Buyer, expressly or by implication, and in this respect the Buyer relies on the Supplier's skill and judgment;
- (d) where applicable, are free from defects in design, materials and workmanship and remain so for 36 months after delivery; and
- (e) comply with all applicable statutory and regulatory requirements relating to the Products.

3.2 The Supplier warrants that at all times it has and maintains all the licences, permissions, authorisations, consents and permits that it needs to carry out its obligations under the Contract in respect of the Products.

3.3 The Supplier assigns and warrants that it has the authority to assign to the Buyer all manufacturer's warranties, express or implied, representations, service agreements and other indemnities, if any, applicable to all Products sold to the Buyer by the Supplier.

3.4 The Supplier further warrants that services provided shall be carried out with all reasonable skill, care and diligence and that Supplier personnel performing such services possess the training, skill, competence and experience necessary to safely and properly perform the services. These warranties shall survive acceptance and shall run to Buyer and Buyer's successors, assigns, customers and users.

3.5 The Buyer shall inspect the delivered Products and notify any apparent

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defects within fourteen (14) days after delivery or in case of hidden defects after discovery. In case Buyer and Supplier have entered into a separate quality assurance agreement, the Buyer shall only be obliged to inspect the delivered Products for quantity and identity as well as visual damages of packaging.

- 3.6 The warranty period shall expire thirty-six (36) months after transfer of risk to Buyer. If the Products are used for a building in accordance with the normal way they are used and this has resulted in the defectiveness of the building, the warranty period shall expire sixty (60) months after transfer of risk to Buyer. Statutory warranty periods exceeding the aforementioned remain unaffected.
- 3.7 The Buyer will have the right to inspect and test the Products at any time before delivery, including (but not restricted to) undertaking quality surveys and audits. The Supplier (whether directly or through a duly appointed sub-supplier) will, without additional charge to the Buyer, provide all reasonable facilities and assistance required for safe and convenient inspections by the Buyer. The Buyer will not unduly delay any of the Supplier's work while conducting inspections.
- 3.8 The Buyer will not be liable for any reduction in value of samples used in connection with any inspections nor will any rejected Products be delivered to the Buyer.
- 3.9 If following such inspection or testing the Buyer considers that the Products do not conform with the Supplier's warranties at clause 3.1 or in the event of a Supplier-caused disruption (to include but not limited to nonconforming material, line stoppages, or other warranty issues) the Buyer will inform the Supplier and the Buyer may, at its sole discretion and without limiting its other remedies: reject such Products and require Supplier, at Supplier's expense, including transportation cost, to inspect, sort out the non-conforming Products, rework or repair (or cause to be reworked or repaired) the non-conforming Products to render such Products conforming, or scrap the non-conforming Products and replace such Products in a timely manner. The Buyer also has the right, after a reasonable deadline set for the Supplier has expired, if the Supplier has refused subsequent performance or if subsequent performance has failed, which will be deemed to be the case after two unsuccessful attempts at subsequent performance, a) to rework or repair any such Product at Supplier's expense basing charges on the Buyer's then hourly rate; or (b) cancel the PO, in whole or in part, without charge or any liability to the Buyer; or (c) purchase substitute products from another supplier and Cummins recover all costs from Supplier. In the event that a third party is brought in to inspect, sort, rework or repair the non-conforming Products by Supplier, the third party shall be subject to the reasonable approval by the Buyer. Supplier shall be responsible for any

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additional charges that may be incurred by the Buyer in connection with nonconforming Products, including but not limited to scrap, rework, repair, engine damage, tear down/re-test expenses, premium freight, assembly disruptions/work stoppage, administrative expenses.

- 3.10 Notwithstanding any inspection or testing by the Buyer, the Supplier will remain fully responsible for the Products and any inspection or testing by the Buyer will not reduce or otherwise affect the Supplier's obligations under the Contract. The Buyer will have the right to conduct further inspections and tests after the Supplier has carried out its remedial actions. For the avoidance of doubt, the Buyer's inspection will neither relieve the Supplier of responsibility for Products that do not comply with these Conditions, imply approval or acceptance of the Products by the Buyer or waive the Supplier's liability for latent defects, fraud, mistake or breach of warranty.
- 3.11 Repeat Product failures experienced by end user, either inside or outside of Cummins standard warranty coverage, shall require Supplier's participation in the Product Problem Solving (PPS) process as stated in the Supplier Handbook.

If Cummins, any of Cummins' customers, or any governmental authority determines that a Supplier-caused failure becomes prevalent to the extent that a recall, campaign, or other field action (collectively a "Field Action") is requested, required, or determined by Cummins to be in its best interest, Cummins will have the right to implement a Field Action. If a Field Action is implemented Supplier shall be financially responsible for all expenses of the Field Action.

4. DELIVERY OF PRODUCTS

- 4.1 The Supplier acknowledges that time is of the essence regarding delivery of Products, that the Buyer has strict requirements regarding scheduled delivery dates for Products and that these requirements are essential to the Buyer's business. The Buyer is not obliged to accept early deliveries, late deliveries, partial deliveries or excess deliveries.
- 4.2 The Supplier will ensure that:
- (a) the Products are properly packed and secured in such manner as to enable them to reach their destination in good condition and free from damage;

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- (b) each delivery of the Products is accompanied by documentation specified by the Buyer or, in the absence of the Buyer's specification, a packing slip or delivery note which clearly identifies the Products and which shows the date of the Purchase Order, the Purchase Order number (if any), the type and quantity of the Products (including the bar code number of the Products where applicable), special storage instructions (if any), the invoice number, details of the delivery location (**Delivery Location**), the Buyer's part number and, if the Products are being delivered by instalments, the outstanding balance of Products remaining to be delivered; and
 - (c) if the Supplier requires the Buyer to return any packaging material for the Products to the Supplier, that fact is clearly stated on the packing slip or delivery note. Any such packaging material will only be returned to the Supplier at the cost of the Supplier.
- 4.3 The Buyer reserves the right to require the Supplier to submit shipment data to it electronically, whether as an advance shipment notification or otherwise.
- 4.4 The Supplier will deliver the Products:
 - (a) on the date specified in the Purchase Order;
 - (b) to the Delivery Location set out in the Purchase Order or as instructed by the Buyer before delivery;
 - (c) during the Buyer's normal hours of business on a Business Day, or as instructed by the Buyer.
- 4.5 The Supplier will not deliver the Products in instalments without the Buyer's prior written consent. Where it is agreed that the Products are delivered in instalments, the Products may be invoiced and paid for separately. However, failure by the Supplier to deliver any one instalment on time or at all or any defect in an instalment will entitle the Buyer to the remedies set out in clause 5.1.
- 4.6 Title and risk in the Products will pass to the Buyer on completion of delivery and upon inspection and acceptance of the Products by the Buyer.
- 4.7 Unless otherwise specified in the Purchase Order, all Products will be sold FCA Supplier's Facility Incoterms 2020 and all delivery terms will be interpreted in accordance with the most recently published Incoterms. Any shipment details will be as set out in the Purchase Order.

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- 4.8 The Supplier will adhere to any logistics procedures and warehousing instructions provided by the Buyer (including instructions provided in Supply Chain Agreement or transportation routing letters). The Supplier will also document the country of origin details relevant to the Products in the format specified by the Buyer and in compliance with all applicable regulations. It will be the Supplier's responsibility to monitor this information and to immediately notify the Buyer's customs department of any changes.
- 4.9 In supplying the Products, the Supplier will:
- (a) ensure that the Products conform with all descriptions and specifications set out in the Specification, and that the Deliverables will be fit for any purpose expressly or impliedly made known to the Supplier by the Buyer;
 - (b) use the best quality products, materials, standards and techniques, and ensure that the Deliverables, and all Products will be free from defects in workmanship, installation and design;
 - (c) hold all materials, equipment and tools, drawings, specifications, blue prints, media and data supplied by the Buyer to the Supplier (**Buyer Materials**) in safe custody at its own risk, maintain the Buyer Materials in good condition until returned to the Buyer, and not dispose of or use the Buyer Materials other than in accordance with the Buyer's written instructions or authorisation; and
 - (d) not do or omit to do anything which may cause the Buyer to lose any licence, authority, consent or permission upon which it relies for the purposes of conducting its business.

5. BUYER REMEDIES

- 5.1 If the Supplier fails to deliver the Products by the delivery date, the Buyer will, without limiting its other rights or remedies, have one or more of the following rights:
- (a) to terminate the Contract with immediate effect by giving written notice to the Supplier;
 - (b) to refuse to accept any subsequent delivery of the Products which the Supplier attempts to make;
 - (c) to recover from the Supplier any costs incurred by the Buyer in obtaining substitute products from a third party;
 - (d) where the Buyer has paid in advance for Products which have not been delivered by the Supplier, to have such sums immediately refunded by the Supplier; and

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- (e) to claim damages for any additional costs, loss or expenses incurred by the Buyer arising from the Supplier's failure to deliver the Products by the delivery date; and
- (f) recover additional freight costs (including for premium freight) that are directly caused by Supplier (including, but not limited to, delayed delivery of parts, early/unscheduled delivery of parts that are returned to the Supplier, non-conforming parts, returns, damage of parts due to Supplier incorrectly loading a vehicle or wrong packaging, in addition to other conditions which are attributed to Supplier's failure to perform as contractually agreed). To determine the cause of additional freight costs, the Supplier shall meet with the Buyer upon reasonable notice to discuss such costs. Where such costs are agreed to be directly caused by Supplier, the Buyer will determine to what extent (on a range between 0% and 100%) these extra freight costs shall be borne by the Buyer and by the Supplier and will notify the Supplier of the resulting percentage and the resulting amount of the allocated costs. The Buyer is entitled to set off the resulting amounts owing from Supplier to the Buyer against any amounts owed to Supplier from the Buyer (debits issued to the Supplier) following agreement with Supplier. If the Buyer and the Supplier do not agree on the costs to be borne by the Supplier, the decision will be escalated internally by the Buyer. If the parties cannot reach agreement following such escalation, each party has the right to use the dispute resolution mechanism mentioned in this Contract.

5.2 In addition to claiming delivery of the outstanding Products, the Buyer will be entitled to claim 0.2% of the delayed Purchase Order's value as delay liquidated damages ("Delay LDs") for each commenced day of delay. The Delay LDs are limited to an amount of 5% of the delayed Purchase Order's value. The Supplier will, however, not be liable to pay Delay LDs if it has neither intentionally nor negligently caused the delay. The Buyer is entitled to claim additional delay damages. The paid Delay LDs will be counted against the actually incurred delay damages. In any case, the Supplier is entitled to prove that the Buyer has not incurred any damages at all or that the actual amount of the Buyer's damages is lower than the amount of Delay LDs. The Buyer will be entitled to raise claims according to this provision until the (final) invoice has been settled, even if any such claim was not explicitly reserved upon delivery.

5.3 If the Supplier is in breach of the Contract by delivering a defective Product, the Buyer will be entitled, at his discretion, to claim remedy of the defect or

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delivery of a defect-free Product ("Subsequent Performance"). The Supplier will bear all costs of Subsequent Performance, in particular the costs for examination and analysis of a defect as well as labour, material, travel and transport costs. Furthermore, the Supplier will reimburse the expenses for the removal of the defective Products and the installation or attachment of the repaired or delivered defect-free Products.

Buyer is entitled to remedy the defect by itself but at the Supplier's costs if and to the extent that the Supplier was previously duly informed and

- (a) a reasonable period for the Subsequent Performance has lapsed,
- (b) the Supplier has rejected the Subsequent performance; or
- (c) the Supplier's prior Subsequent Performance has failed or
- (d) there is an extraordinary urgency due to a threat of physical injury or death or a risk of material financial losses.

5.4 In the event that the Supplier appoints a third party to inspect, sort or repair the rejected Products, that third party will be subject to the Buyer's prior approval.

5.5 The Supplier will ensure that all data provided on paper and electronically is accurate, complete and complies with the Buyer's specifications. The Buyer reserves the right to recover from the Supplier any costs it incurs in correcting data or manually entering electronic data, whether by way of a cost recovery debit or otherwise.

5.6 Notwithstanding the foregoing clauses, the Supplier grants the Buyer a licence to repair, rebuild and relocate Products itself.

5.7 These Conditions will extend to any repaired or replacement Products supplied by the Supplier.

5.8 The Buyer's rights under the Contract are in addition to its rights and remedies implied by statute and common law.

6. BUYER'S OBLIGATIONS

The Buyer will:

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- (a) provide the Supplier with access to the Buyer's premises for the purpose of supplying the Products during the Buyer's normal business hours or as instructed by the Buyer; and
- (b) provide such information as the Supplier may reasonably request for the supply of the Products and the Buyer considers reasonably necessary for the purpose of supplying the Products.

7. PLACING PURCHASE ORDERS, PRICING, INVOICING AND PAYMENT

7.1 The Buyer may place Purchase Orders electronically and may also provide other information to the Supplier electronically.

7.2 The price for the Products:

- (a) will be the price set out in the Purchase Order; and
- (b) will be fixed throughout the term of this Purchase Order and shall not be subject to increase for any reason unless Buyer expressly agrees to adjust such prices through a purchase order revision. Lead times are also fixed throughout the term of this Purchase Order unless Buyer expressly agrees to adjust them through a purchase order revision. Without limiting the foregoing no specific or additional charge shall be made for lead time, preservation, packing, kitting, lot sizes, carriage, insurance, raw materials, components, tooling, parts or storage unless agreement has been established in writing.
- (c) Unless otherwise agreed, in writing, the Price shall be inclusive of all duties, tariffs, levies, fees and taxes (collectively, "Taxes") that may be assessed at any point in the supply or distribution of the Product to Buyer. Supplier represents and warrants that all Taxes have been paid and no Taxes are unpaid or with the passage of time will result in a lien upon the Products. All prices are stated in EUR unless otherwise specified.

7.3 Supplier shall during the term of this Purchase Order provide Buyer with Products that are competitive in terms of price, quality, delivery and technical function. If Buyer considers the Supplier's delivery of one or more Products to no longer be competitive in relation to price, quality, delivery and/or technical function even though the delivered Products are otherwise in accordance with the terms of this Purchase Order, Buyer shall supply Supplier with information supporting its belief. Supplier will have thirty (30) days to re-establish its competitive position to the reasonable satisfaction of Buyer. If Supplier is unable to re-establish its competitive position, Cummins shall have the right to terminate this Purchase Order, in whole or

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in part, at the earlier of the end of the thirty (30) day period or an acknowledgment by Supplier that it cannot match or counter the competing offer. A partial termination of this Purchase Order shall consist of the removal/termination of, or lowering the volume commitment of, Supplier's non-competitive Product(s). The above obligations on the part of Supplier are a material condition to the Purchase Order, Buyer would not have entered into the Purchase Order but for Supplier having provided this undertaking and the failure by Supplier to comply with such condition shall constitute a material breach of the Purchase Order.

7.4 Unless Cummins explicitly agrees in writing to the contrary, Supplier shall not be entitled to any price increases hereunder other than those price increases that result from the application of the adjustment mechanisms agreed to, in writing, by the parties hereto. Cummins shall have the right, in its sole discretion, to accept or reject, in whole or in part, any other request for a price increase made by Supplier, and with respect to any such price increase request, Supplier agrees that:

- (1) Any Price increase request by Supplier must be supported by a submission, by Supplier, of such supporting information as may be required by Cummins and in the format required by Cummins. Supplier acknowledges that any price increase request that does not comply with Cummins's required format will require a minimum of ninety (90) days to resolve.
- (2) Prior to consideration of any such Price increase, Supplier agrees to have a third party conduct, at Supplier's sole expense, a lean assessment approved by Cummins in order to determine whether Supplier has margin enhancement opportunities or other efficiencies available to reduce the cost to supply the Products that could be implemented in lieu of Supplier's proposed price increase request

7.5 Supplier acknowledges and agrees that the continuous supply of the Product ordered by Cummins from Supplier pursuant to this Purchase Order is critical to the commercial interest of Cummins. In the event that Cummins and Supplier are not able to agree upon a Price increase acceptable to both parties, then Supplier agrees to continue to sell the Products to Cummins at the existing prices for such Products, without interruption, for a minimum period of twelve (12) months (or longer if necessary for resourcing) and otherwise to cooperate with Cummins to allow Cummins to resource the Products in question to an alternative supplier. Cummins shall also have the right to make one or more final bulk purchases in any quantity at the end of such period

7.6 The Supplier will invoice the Buyer on or at any time after completion of

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delivery. Each invoice will include supporting information required by the Buyer to verify the accuracy of the invoice, including but not limited to the relevant Purchase Order number and must reflect the prices stated in the Purchase Order. The Supplier will, if requested by the Buyer, receive Purchase Order(s) and send invoices (together with supporting information) electronically and, in the absence of such request, will send invoices to the address specified by the Buyer in the Purchase Order. For the avoidance of doubt, multiple invoices may be issued by the Supplier in respect of a single Purchase Order provided that there is no duplication of invoices by the Supplier. The Buyer will determine any discrepancies regarding invoices. Cummins may withhold payment of any amounts that it disputes in good faith.

- 7.7 In consideration of the supply of Products by the Supplier, the Buyer will pay the invoiced amounts within 30 days of the date of a correctly rendered invoice to a bank account nominated in writing by the Supplier.
- 7.8 If the Buyer fails to make payment in accordance with this clause 7, then the Supplier may charge interest on the overdue amount at a rate of 5% points above base rate. Such interest shall accrue on a daily basis from the date on which such overdue amount fell due until payment, whether before or after judgment. If there is any dispute about whether any amount is payable to the Supplier, this clause 7.6 will not apply to such amount until the dispute is resolved.
- 7.9 All amounts payable by the Buyer under the Contract are exclusive of VAT chargeable from time to time. Where any taxable supply for VAT purposes is made under the Contract by the Supplier to the Buyer, the Buyer will, on receipt of a valid VAT invoice from the Supplier, pay to the Supplier such additional amounts in respect of VAT as are chargeable on the supply of the Products at the same time as payment is due for the supply of the Products.
- 7.10 The Supplier will not be entitled to assert any credit, set-off or counterclaim against the Buyer in order to justify withholding payment of any amount in whole or in part, except in cases where the claim itself and the amount claimed are undisputed or have been decided with binding legal effect. The Buyer may, without limiting its other rights or remedies, set off any amount owed to it by the Supplier (or owed to it by any companies within the Supplier's Group) against any amount payable by the Buyer to the Supplier.

8. CHANGES

- 8.1 Insofar as this is reasonable for the Supplier, the Buyer may, at any time

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and by way of written or verbal instructions confirmed in writing, make changes in respect of the Products including, but not restricted to, any one or more of the following ways:

- (a) Drawings;
- (b) Designs;
- (c) Specifications;
- (d) Method of shipment;
- (e) Packing;
- (f) Time of delivery;
- (g) Place of delivery; and
- (h) Quantity of items ordered.

8.2 Under no circumstances will the Buyer be liable for incidental or consequential damages resulting from any changes and no changes will affect the Buyer's ability to enforce the Contract.

9. TOOLING AND SUPPLIER RESTRICTIONS

9.1 Unless otherwise agreed in writing by the parties, all tooling, gauging and facilities necessary for the manufacture of the Products (whether standard or customised) will be provided at the cost of the Supplier. The Supplier will provide the Buyer with detailed descriptions of tooling and related information confirming that the tooling complies with the required standard.

9.2 The Supplier will, at its own cost, maintain, repair and replace all Supplier owned tooling, gauging and facilities necessary for the manufacture of the Products and will maintain all tooling and gauging in its possession. The Supplier will also keep all tooling, gauging and facilities in good working order and condition and free from all liens and other encumbrances.

9.3 The Supplier agrees to reimburse the Buyer for all losses resulting from the premature failure of any Buyer-owned tooling or gauging in the Supplier's possession to the extent that such failure arises from the Supplier's failure to properly maintain tooling or gauging.

9.4 The Supplier will not make any changes to the specifications, physical composition, materials, location, tooling, material suppliers or processes used to manufacture or produce the Products without the prior written consent of the Buyer. At all times, the Supplier will ensure that any changes do not affect the Products' compliance with these Conditions.

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10. INTELLECTUAL PROPERTY RIGHTS

- 10.1 In respect of the Products, the Supplier warrants that it has full clear and unencumbered title to the Products, and that at the date of delivery of the Products to the Buyer, it will have full and unrestricted rights to sell and transfer the Products to the Buyer.
- 10.2 Each party acknowledges and agrees that other than the licences granted herein nothing in these Conditions or the Contract transfers any right, title, or interest in or to the other's Background Intellectual Property and each party (or, where applicable, the third party from whom its right to use the relevant Background Intellectual Property has derived) shall retain ownership of all its Background Intellectual Property.
- 10.3 The Supplier hereby grants to the Buyer a non-exclusive, perpetual, irrevocable, royalty-free, sub-licensable, transferable, worldwide licence to use any of its Background Intellectual Property for the sole purpose and only to the extent required to use and fully exploit any Foreground Intellectual Property.
- 10.4 The Supplier will obtain waivers of all moral rights in relation to any copyright works comprised in the Products.
- 10.5 The Supplier will, promptly at the Buyer's request, do (or procure to be done) all further acts and things and the execution of all other documents as the Buyer may from time to time require for the purpose of securing for the Buyer the full benefit of the Contract, including all right, title and interest in and to the Intellectual Property Rights assigned to the Buyer in accordance with clause 10.3.
- 10.6 For the avoidance of doubt, all Buyer Materials are the exclusive property of the Buyer and any Intellectual Property created in the performance of the Contract will be the sole property of the Buyer. The Supplier will do all things requested by the Buyer to transfer the ownership of that Intellectual Property to the Buyer and to perfect ownership of that Intellectual Property.
- 10.7 All ideas, concepts, processes, methods and technologies contained in inventions and developments created by the Supplier completely independent of the Contract (**Supplier Know-How**) will remain exclusively the property of the Supplier. To the extent that the Supplier discloses or uses Supplier Know-How in providing the Products to the Buyer under the

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Contract, the Supplier hereby grants the Buyer a perpetual, irrevocable, paidup, worldwide, non-exclusive licence to use Supplier Know-How in relation to the Buyer's business, including its services, products and processes.

11. LIABILITY, INDEMNITY AND INSURANCE

11.1 Nothing in this Contract will operate so as to exclude or limit the liability of either party to the other for fraud, death or personal injury arising out of negligence or any other liability that cannot be excluded or limited by law.

11.1 In no event shall Buyer be liable to the Supplier for:

- (a) any loss of profits, revenue, business opportunities or damage to goodwill; or
- (b) any indirect or consequential losses or damage,

arising under or in relation to these Conditions, even if Buyer was aware of the possibility that such loss or damage might be incurred by the Supplier.

11.2 The Supplier will keep the Buyer indemnified in full against all costs, expenses, damages and losses (whether direct or indirect), including any interest, fines, legal and other professional fees and costs awarded against or incurred or paid by the Buyer as a result of or in connection with:

- (a) any claim made against the Buyer by a third party for death, personal injury or damage to property arising out of, or in connection with, defects in the Products, to the extent that the defect in the Products is attributable to the acts or omissions of the Supplier, its employees, agents or subcontractors;
- (b) any claim made against the Buyer by a third party arising out of, or in connection with, the supply of the Products, to the extent that the claim arises out of the breach, negligent performance or failure or delay in performance of the Contract by the Supplier, its employees, agents or subcontractors; and
- (c) any claim made against the Buyer for actual or alleged infringement of a third party's Intellectual Property Rights arising out of, or in connection with, the manufacture, supply or use of the Products.

11.3 Each party will notify the other of any claim, recall or lawsuit relating to the Products (collectively **Claims**). In the event of any Claims, the Buyer will accept no liability on behalf of the Supplier and the Supplier will, at its own discretion, be responsible for the defence of Claims. If the Supplier fails to defend Claims, the Buyer reserves the right (subject to having first given

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the Supplier thirty (30) days written notice to assume the defence and the Supplier not having acted thereon by defending the Claim) to assume the defence, and the Supplier will remain obliged to indemnify the Buyer provided that the Buyer must act reasonably and mitigate its loss. The Supplier is not authorised to settle or compromise any Claims without the prior written consent of the Buyer except where the Supplier is indemnifying the Buyer in respect of the Claim. In any event, the Buyer will not unreasonably withhold its consent.

- 11.4 The Supplier will be solely responsible for, and its indemnification obligation under this clause 11 will extend to, all acts and omissions of any members of its Group, its affiliates, successors, and permitted assigns, and its or their respective officers, directors, employees, agents, or contractors in the performance of its obligations under the Contract.
- 11.5 In no circumstances will the Buyer be liable for anticipated losses or loss of profits, business interruption, incidental or consequential damages or for damage, loss, theft or injury to the Supplier's property at the Buyer's premises. The Buyer's liability for any claim arising out of or in relation to the Contract will be capped at the price of the Products giving rise to the claim. Any action by the Supplier arising out of or in relation to the Contract must be commenced by the Supplier within one (1) year after the cause of action has occurred.
- 11.6 For the duration of the Contract, the Supplier will maintain in force or cause to be maintained, with a reputable insurance company authorised to operate in the jurisdiction, certificates of insurance for the following types and specifications that will support the indemnities of this Contract in addition to insurance required by statute: (a) public/product liability covering bodily injury, property damage and personal injury with a limit of no less than £5,000,000, each and every occurrence; (b) employers' liability insurance with a limit of no less than £1,000,000 each Accident, Disease-Each Employee, Disease-Policy Limit; and (c) if the Supplier or its employees will operate a motor vehicle in performance of the work, automobile/motor liability insurance covering bodily injury and property damage with limits as required by law. These policies must be primary and non-contributory with any other insurance available to the Buyer (to the extent of Supplier's negligence) and contain a waiver of subrogation in favour of the Buyer and its affiliated companies and their employees, officers and directors (except to the extent of gross negligence of the Buyer). Insurance required by (a) and (c) above shall schedule the Buyer and its affiliates companies as an additional insured or on an indemnity to principals clause (NOT a co-insured) to the extent of Supplier's negligence. Supplier shall also carry

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umbrella/excess liability insurance that schedules the insurance required by (a), (b) and (c) above as underlying insurance with limits as follows:

- For contracts with an annual value up to £2M – no less than £2,000,000;
- Contracts with an annual value from £2M-5M – no less than £5,000,000;
- Contracts with an annual value from £5M-10M – no less than £10,000,000; or
- Contracts with an annual value over £10M – with limits of not less than £25,000,000.

If Supplier's work involves transporting or storing the Buyer's product, the Supplier shall also carry cargo/transit liability insurance or warehouseman's legal liability insurance with limits no less than £1,000,000. Any of the Supplier's standard shipping documents (such as, but not limited to, bills of lading, warehouse receipts, etc.) containing limitations of liability or limitations of time to file suit are invalid as to the Buyer and its affiliated companies. Should damage result to the Buyer's product, the Buyer will have complete discretion as to how salvage is managed. If Supplier's work involves waste, hazardous materials or construction, Supplier shall carry environmental impairment liability/contractor's pollution liability insurance with limits no less than £5,000,000. The Buyer and its affiliated companies shall be additional insured on these policies. The Supplier will, prior to contract inception, work commencement and/or entry upon Buyer's premises, deliver Certificates of Insurance confirming the above listed minimum insurance requirements to: contractor_prequalification@cummins.com. Certificates of Insurance must be sent electronically – do not mail by post. Supplier shall require any of its sub-contractors to carry commercially reasonable types and levels of insurance with the same provisions for Indemnity to Principals and waiver of subrogation in accordance with the requirements set out herein. Supplier shall be responsible for any damage or loss suffered by Buyer as a result of non-compliance by Supplier or any sub-contractor with this Section. Supplier shall waive and cause its insurers under the above policies to waive for the benefit of Cummins any right of recovery or subrogation which the insurer may have or acquire against Buyer or any of its affiliates, or its or their employees, officers or directors for payments made or to be made under such policies.

12. BUSINESS RELATIONSHIP

- 12.1 The Supplier will keep in strict confidence all technical or commercial know-how, specifications, inventions, processes or initiatives which are of a confidential nature and regardless of whether these are explicitly identified as being "confidential" or "proprietary" or which must be regarded as owing

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to the nature of the information (Confidential Information) and have been disclosed to the Supplier by the Buyer, its employees, agents or subcontractors, and any other confidential information concerning the Buyer's business or its products or its services which the Supplier may obtain. The Supplier will protect all Confidential Information from access to and notice by third parties. In particular, the Supplier will take all necessary technical and organizational steps such as limiting physical access, equipment access and data access, providing training, using state-of-the-art encryption technology, to ensure that unauthorized persons do not gain access to Confidential Information and will apply at least the same diligence it uses to protect its own confidential and proprietary information, but at least the reasonable diligence customary in the industry. The Supplier will restrict disclosure of such confidential information to such of its employees, agents or subcontractors as need to know it for the purpose of discharging the Supplier's obligations under the Contract, and will ensure that such employees, agents or subcontractors are subject to obligations of confidentiality corresponding to those which bind the Supplier.

12.2 Information shall not be deemed Confidential Information to the extent the Supplier can demonstrate that such information:

- (a) was known to the Supplier, was generally known, or freely accessible to the public at the time it was disclosed or made accessible;
- (b) became generally known or freely accessible to the public after the time of disclosure or making accessible without any direct or indirect breach of a confidentiality obligation toward Buyer;
- (c) was disclosed or made accessible to the Supplier by an authorized third party outside the scope of a confidentiality obligation toward Buyer after the time of disclosure or making accessible;
- (d) was created or developed by the Supplier without using or referring to the Confidential Information of Buyer; or
- (e) was expressly marked or described in writing by Buyer as not confidential.

Within the scope of any judicial order or regulatory action, a disclosure is only permitted to the mandatorily ordered extent and only provided that the Supplier informs Buyer of such order without delay and that the Supplier cooperates with Buyer in an appropriate manner to prevent disclosure, limit its scope or obtain a protective order or other similar legal remedy.

12.3 The Supplier will not disclose the existence of the Contract to another party and will not release any advertising material naming the Buyer nor quote the opinion of any of the Buyer's employees, use the name or trademark of the Buyer or make any public announcement or disclosure relating to the

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Contract or the Products without the prior written consent of the Buyer'.

- 12.4 All Products manufactured by the Supplier in accordance with the Buyer's drawings or in the manufacture of which the Buyer's tools, dies, patterns, jigs or special tooling are used, will not be sold by the Supplier to any party other than the Buyer.
- 12.5 The Supplier acknowledges that it may, during the course of supplying the Products, be required to process or otherwise have access to personal data in respect of which the Buyer is the data controller. The Supplier acknowledges that it will be the Buyer's data processor in respect of that personal data and warrants and undertakes that it will comply with the terms of the Data Protection Processor Agreement ("**DPA**") into which the parties have entered separately and which forms part of these Terms and Conditions. The terms used in this clause 12.5 shall be interpreted in accordance with the GDPR.

13. TERMINATION

- 13.1 The Buyer may terminate these Conditions for convenience at any time by giving prior written notice to the Supplier, with no further liability to the Supplier other than payment to the Supplier of the documented cost of work in process and material commitments made within the time specified in the Purchase Order or, if no time is specified, then within two (2) weeks prior to the date of notice of termination.
- 13.2 Without limiting its other rights or remedies (whether arising from these Conditions or under general law), the Buyer may terminate the Contract with immediate effect by giving written notice to the Supplier if:
- (a) the Supplier commits a material or persistent breach of the Contract and (if such a breach is remediable) fails to remedy that breach within 5 days of receipt of notice in writing of the breach;
 - (b) the Supplier suspends, or threatens to suspend, payment of its debts or is unable to pay its debts as they fall due or admits inability to pay its debts;
 - (c) the Supplier commences negotiations with all or any class of its creditors with a view to rescheduling any of its debts, or makes a proposal for or enters into any compromise or arrangement with its creditors other than (where a company) for the sole purpose of a scheme for a solvent amalgamation of the Supplier with one or more other companies or the solvent reconstruction of the Supplier;

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- (d) a petition is filed, a notice is given, a resolution is passed, or an order is made, for or in connection with the winding up of the Supplier (being a company) other than for the sole purpose of a scheme for a solvent amalgamation of the Supplier with one or more other companies or the solvent reconstruction of the Supplier;
- (e) the Supplier (being an individual) is the subject of a bankruptcy petition order;
- (f) a creditor or encumbrancer of the Supplier attaches or takes possession of, or a distress, execution, sequestration or other such process is levied or enforced on or sued against, the whole or any part of its assets and such attachment or process is not discharged within 14 days;
- (g) an application is made to court, or an order is made, for the appointment of an administrator or if a notice of intention to appoint an administrator is given or if an administrator is appointed over the Supplier (being a company);
- (h) a floating charge holder over the assets of the Supplier (being a company) has become entitled to appoint or has appointed an administrative receiver;
- (i) a person becomes entitled to appoint a receiver over the assets of the Supplier or a receiver is appointed over the assets of the Supplier;
- (j) any event occurs, or proceeding is taken, with respect to the Supplier in any jurisdiction to which it is subject that has an effect equivalent or similar to any of the events mentioned in clause 13.2(b) to clause 13.2(i) (inclusive); or
- (k) the Supplier suspends or threatens to suspend, or ceases or threatens to cease to carry on, all or a substantial part of its business.

14. CONSEQUENCES OF TERMINATION

On termination of the Contract or any part of it for any reason:

- (a) the Supplier will immediately return or destroy all the Buyer's unique tooling, fixtures, drawings and gauging relating to the Products. All tooling and gauging will be returned in working condition and will be packaged to minimise any potential damage during transit;
- (b) the accrued rights and remedies of the parties as at termination will not be affected, including the right to claim damages in respect of any breach of the Contract which existed at or before the date of

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termination; and

- (c) clauses which expressly or by implication have effect after termination will continue in full force and effect including (but not restricted to) clauses 3 (Quality, Warranties and Inspection), 10 (Intellectual Property Rights), 11 (Indemnity), 12 (Business Relationship), 13 (Termination) and 15 (General).

15. GENERAL

15.1 Dispute Resolution: If a dispute under the Contract arises:

- (a) the party claiming that a dispute has arisen must give notice to the other party indicating the nature of the dispute ("Notice of Dispute");
- (b) within 10 days of receipt of the Notice of Dispute, the Sourcing Team Manager and an equivalent authorised representative from the Supplier must meet and attempt to resolve the dispute within 30 days of receipt of the Notice of Dispute;
- (c) if the parties fail to resolve the dispute in accordance with clause 15.1(b), the EMEA Purchasing Leader of the Supplier and the equivalent authorised representative of the Buyer must meet and attempt to resolve the dispute within 60 days of receipt of the Notice of Dispute; and
- (d) if the parties fail to resolve the dispute in accordance with clause 15.1(c), the provisions of clause 15.19 will apply.

15.2 Communications between the parties during the process set out in clause 15.1, whether oral or in writing, will not be admissible as evidence in any legal process unless in writing and signed by both parties.

15.3 Nothing in this clause 15.1 prevents either party from issuing proceedings where the only relief sought is injunctive or declaratory relief.

15.4 Force majeure: Neither party will be liable to the other as a result of any delay or failure to perform its obligations under the Contract if and to the extent such delay or failure is caused by an event or circumstance which is beyond the reasonable control of that party which by its nature could not have been foreseen by such a party or if it could have been foreseen was unavoidable (a "**Force Majeure Event**"). If the Supplier is unable to supply Products as a result of the Force Majeure Event, the Buyer may procure the supply of Products from other suppliers but reserves the right to either (i) revert to the Supplier once the Force Majeure Event has ceased or (ii) if the

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Force Majeure Event prevents the Supplier from supplying the Products for more than 4 weeks, the Buyer may (without limiting its other rights or remedies) terminate the Contract with immediate effect by giving written notice to the Supplier. A Force Majeure Event shall not excuse a party simply because performance has become more expensive, more difficult, or where the failure to perform is due to a party's financial inability to perform, due to changes in market conditions, due to increased costs, due to contract disputes, or due to the non-performing party's fault, negligence, or lack of due diligence.

15.5 Assignment and subcontracting:

- (a) The Supplier will not assign, transfer, charge, subcontract or deal in any other manner with all or any of its rights or obligations under the Contract without the prior written consent of the Buyer. This shall not affect the applicability of Section 354a of the German Commercial Code (HGB).
- (b) The Buyer may at any time assign, transfer, charge, subcontract, or deal in any other manner with all or any of its rights under the Contract and may subcontract or delegate in any manner any or all of its obligations under the Contract to any third party or agent.

15.6 Notices:

- (a) Any notice or other communication required to be given to a party under or in connection with the Contract will be in writing and will be delivered to the other party personally or sent by prepaid firstclass post, recorded delivery or by commercial courier, at its registered office (if a company) or (in any other case) its principal place of business, or sent by fax to the other party's main fax number.
- (b) Any notice or communication will be deemed to have been duly received if delivered personally, when left at the address referred to above or, if sent by prepaid first-class post or recorded delivery, at 9.00 am on the second Business Day after posting, or if delivered by commercial courier, on the date and at the time that the courier's delivery receipt is signed, or if sent by fax, on the next Business Day after transmission.
- (c) This clause 15.6 will not apply to the service of any proceedings or other documents in any legal action. For the purposes of this clause, "writing" will not include e-mails and for the avoidance of doubt notice given under the Contract will not be validly served if sent by

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e-mail.

- 15.7 Each party must at its own cost and expense execute, or use all reasonable endeavours to ensure the execution of, whatever further documents or deeds the other party reasonably requires from time to time for the purpose of giving that other party the full benefit of the provisions of the Contract.
- 15.8 Each party must (except as expressly provided) bear its own costs and expenses in connection with the preparation, negotiation, and execution of the Contract.
- 15.9 The Contract may be entered into by the parties in any number of counterparts. Each counterpart will, when executed and delivered, be regarded as an original, and all the counterparts will together constitute one and the same instrument. The Contract will not take effect until it has been executed by both parties.
- 15.10 Waiver and cumulative remedies:
- (a) A waiver of any right under the Contract is only effective if it is in writing and will not be deemed to be a waiver of any subsequent breach or default. No failure or delay by a party in exercising any right or remedy under the Contract or by law will constitute a waiver of that or any other right or remedy, nor preclude or restrict its further exercise. No single or partial exercise of such right or remedy will preclude or restrict the further exercise of that or any other right or remedy.
 - (b) Unless specifically provided otherwise, rights arising under the Contract are cumulative and do not exclude rights provided by law.
- 15.11 Severance:
- (a) If a court or any other competent authority finds that any provision (or part of any provision) of the Contract is invalid, illegal or unenforceable, that provision or part-provision will, to the extent required, be deemed deleted, and the validity and enforceability of the other provisions of the Contract will not be affected.
 - (b) If any invalid, unenforceable or illegal provision of the Contract would be valid, enforceable and legal if some part of it were deleted, the provision will apply with the minimum modification necessary to make it legal, valid and enforceable.

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15.12 No partnership: Nothing in the Contract is intended to, or will be deemed to, constitute a partnership or joint venture of any kind between any of the parties, nor constitute any party the agent of another party for any purpose. No party will have authority to act as agent for, or to bind, the other party in any way.

15.13 Third parties:

- (a) The Supplier's obligations under this Contract (including the representations, warranties and undertakings) are given for the benefit of each member of the Buyer's Group.
- (b) It is intended that a member of the Buyer's Group may enforce the benefits conferred on it under this Contract.
- (c) The consent of the Buyer's Group members is not necessary for any variation (including any release or compromise in whole or in part of any liability) or termination of this Contract or any one or more clauses of it.
- (d) Except as set out in clause 15.13(b), a person who is not a party to this Contract may not enforce any of its provisions under the Contracts.

15.14 Variation: Any variation, including any additional terms and conditions, to the Contract will only be binding when agreed in writing and signed by an authorised representative of the Buyer.

15.15 Health and Safety: The Supplier will, at all times, remain under a duty to ensure that the Products do not present a health and safety risk when properly used and agrees to indemnify and hold harmless the Buyer in respect of all claims arising in connection with the breach of this duty. The Supplier will facilitate safe handling and use of the Products by ensuring that all packaging containing Products is clearly labelled to identify its contents and any hazards they present, including marking and accompanying such Products with sufficient literature and information to enable their safe handling, use and disposal.

15.16 The Buyer's policies: The Supplier will, at all times, comply with the following:

- (a) the Buyer's supplier code of conduct (as set out at <http://supplier.cummins.com>);
- (b) the Buyer's corporate environmental policy and environmental standards (as set out at <http://supplier.cummins.com>);

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- (c) the Buyer's supplier handbook (as set out at <http://supplier.cummins.com>);
- (d) the Buyer's green supply chain principles (as set out at <http://supplier.cummins.com>);
- (e) the Buyer's restriction of prohibited materials;
- (f) the Buyer's packaging policies (as set out at <http://scm.Cummins.com/scmintra/displayLevel2.jsp?deptId=Packaging&path=/content/Packaging/Level2/Operations/pkstds.html>); and
- (g) the Buyer's standard supplier chargeback policy (Supplier Accountability for Material Non-Conformance (MNC) Disruptions) (as set out at <http://supplier.cummins.com> or <https://ecollaborate.cummins.com/sites/CSP/Pages/Supplier-Accountability-for-Material-Non-conformance-Disruptions.aspx>);

15.17 Entire agreement:

- (a) The Contract constitutes the whole agreement between the parties in relation to its subject matter and replaces and extinguishes all previous agreements, draft agreements, arrangements, undertakings or collateral contracts of any nature made by the parties, whether oral or written, relating to its subject matter.
- (b) Each party acknowledges that in entering into this Contract it has not relied upon any oral or written statements, collateral or other warranties, assurances, undertakings, misrepresentations or representations that were made by or on behalf of the other party in relation to the subject matter of this Agreement at any time before its signature (together, "Pre-Contractual Statements"), other than those that are set out expressly in this Agreement.
- (c) Each party hereby waives all rights and remedies which might otherwise be available to it in relation to such Pre-Contractual Statements but for clause 15.18(b).
- (d) Nothing in this clause 15.18 will exclude or restrict the liability of either party arising out of its pre-contract fraudulent misrepresentation or fraudulent concealment.

15.18 Governing law, jurisdiction, legal compliance and dispute resolution:

- (a) For all disputes arising out of or in connection with the Contract the exclusive place of jurisdiction is Frankfurt am Main, whereby Buyer

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reserves the right to assert claims at the court with jurisdiction for Supplier's registered office.

- (b) In the event of any dispute between Cummins and Supplier, including any dispute over the Price of the Products or any Price increase proposed by Supplier, Supplier agrees that it will not refuse to accept Cummins's orders or releases hereunder or to ship any Products to Cummins in accordance with the terms of any of Cummins's orders or releases pending the resolution of such dispute through appropriate legal proceedings. Supplier acknowledges and agrees that any such disruption in the supply of Products to Cummins pending resolution of such a dispute would cause irreparable harm to Cummins. Accordingly, Supplier agrees that it will not oppose any proceeding initiated by Cummins to enjoin Supplier from interrupting the supply of Products to Cummins, pending resolution of such dispute. Should Supplier breach the terms of this section, then, in addition to any other damages which Cummins may be entitled to recover from Supplier, Supplier shall be required to reimburse Cummins for any costs incurred by Cummins in connection with any legal action to enforce its rights hereunder, including all of Cummins's cost and expenses, including reasonable attorney's fees, incurred in connection therewith.
- (c) The Contract and the transactions contemplated in the Contract will be governed by and construed and enforced in accordance with the laws of the Federal Republic of Germany. The UN Convention on Contracts for the International Sale of Goods (CISG) shall not apply.
- (d) The Supplier agrees that all activities and work performed directly or indirectly, by or on behalf of Supplier under the Contract will be carried out in accordance with all applicable laws, regulations and policies of Germany, the location where the Supplier is performing, directly or indirectly, such activities and work, and any other governmental authority to which Supplier, the Products are subject, and all relevant policies, procedures and reasonable instructions of the Buyer. The Supplier is solely responsible for such compliance and obtaining all permits and licences required to perform its obligations under the Contract.
- (e) The Supplier represents and warrants to Cummins that it shall comply with laws and regulations applicable to modern slavery and human trafficking and not authorise, approve, facilitate or engage in conduct constituting modern slavery and human trafficking, and will take all reasonable measures to identify and mitigate these risks in its supply chain, including but not limited to cascading similar covenants to its own suppliers and verifying its own suppliers' adherence to such covenants.

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- (f) The Supplier grants the Buyer access to its financial records in respect of the Products as may be reasonably necessary to assist the Buyer in discharging its financial reporting obligations.

15.19 Cyber Security

“Buyer Data” means any data or information and associated records, in any form or medium, (i) of the Buyer, its affiliates or their respective suppliers, customers, or other business partners that is provided to or obtained by Supplier in connection with the Contract, (ii) that is created, generated, collected, processed, maintained, stored, archived, or received in connection with the Contract, or (iii) that is derived or compiled from the foregoing.

Supplier agrees not to divulge Buyer Data to anyone (other than its personnel who have a need to know such Buyer Data in order for Supplier to perform its obligations hereunder and who are bound by confidentiality obligations no less stringent than those set forth herein), nor use Buyer Data for its own benefit or for any purpose other than performing its obligations under the Contract.

Supplier shall maintain and comply with a comprehensive cybersecurity and privacy program, which shall include reasonable, appropriate, and adequate technical, organizational, physical, administrative and security measures and safeguards and that prevent the unauthorized destruction, loss, use, disclosure, access or alteration of Buyer Data and the cybersecurity of the Products.

Supplier is responsible for monitoring cyber intelligence feeds customary in the industry using qualified and experienced personnel with appropriate expertise in cybersecurity for threats or vulnerabilities that may impact the cybersecurity of the Products.

In the event Supplier becomes aware of any actual or reasonably suspected unauthorized (i) access, control or use of, or loss of access to any Buyer Data (“Security Incident”), or (ii) access, control or use of, loss of access to or other interference with the Products (or any vehicle or any an electronic component or product in which the Products are embedded) (“Cybersecurity Incident”), Supplier shall notify the Buyer without undue delay upon discovering the Security Incident or the Cybersecurity Incident and in no case later than forty-eight (48) hours after Supplier becomes aware of such Security or Cybersecurity Incident.

Supplier acknowledges and agrees that the Buyer may disclose information (including confidential information of Supplier) that constitutes, in the Buyer’s reasonable discretion, cybersecurity threat or vulnerability

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intelligence information, having the potential to impact the cybersecurity of the automotive industry, to the Auto-ISAC, Inc., the automotive industry's information sharing and analysis center.