



Cummins Japan Ltd.
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1-16-1, Kaigan, Minato-ku,
Tokyo 105-0022 JAPAN

PURCHASE ORDER GENERAL TERMS AND CONDITIONS

PRECEDENCE. In the event of any inconsistency between the terms of the (i) General Terms and Conditions, (ii) the Purchase Order Form (including the Special Terms and Conditions), and (iii) any attachments to the Purchase Order, the terms of the Purchase Order Form shall prevail. Notwithstanding the aforementioned, if the Purchase Order is issued in conjunction with a Supply or Service Agreement, the terms of such agreement shall prevail over all other terms set out in the aforementioned (i), (ii) and/or (iii) in the event of any inconsistency.

1. DEFINITIONS

- 1.1 In this Purchase Order, the following expressions shall have the meanings assigned to them:
 - 1.1.1 **"Client"** means, where applicable, CJL's client for whom CJL purchases the Materials under this Purchase Order, and its legal successors or assignees.
 - 1.1.2 **"Confidential Information"** means any research, development, technical, manufacturing, financial, or other commercial information or "know-how" of a confidential nature, including but not limited to products, technology, equipment, manufacturing processes, inventions, patent applications, designs, design applications, computer hardware and software or any other technical or commercial information which is not common knowledge or publicly available.
 - 1.1.3 **"CJL"** means Cummins Japan Ltd. and includes its legal successors or assignees.
 - 1.1.4 **"General Terms and Conditions"** means the terms and conditions hereinafter set out.
 - 1.1.5 **"Jobsite"** means the land and other places upon which the Materials are to be constructed, and such other land or places as may be specified in this Purchase Order as forming part of the Jobsite.
 - 1.1.6 **"Materials"** means (a) any materials, machinery, tools, supplies, equipment, articles, or any other items to be supplied to CJL by the Vendor under this Purchase Order and (b) any materials, machinery, tools, supplies, equipment, articles or any other items to be supplied to the Vendor by the Sub-Vendor in connection with this Purchase Order.
 - 1.1.7 **"Purchase Order"** means the Purchase Order Form issued to the Vendor, the Special Terms and Conditions, if any, and these General Terms and Conditions together with any specifications, requisitions, drawings, and other related documents that are attached thereto or referred to therein.
 - 1.1.8 **"Purchase Order Form"** means the purchase order form issued by CJL to the Vendor.
 - 1.1.9 **"Services"** means the inspection, site services, installation of the Materials (if required under the contract) and other services and/or work to be performed by the Vendor under the Purchase Order.
 - 1.1.10 **"Special Terms and Conditions"** means the terms and conditions specific to this Purchase Order, details of which are attached to the Purchase Order Form.
 - 1.1.11 **"Sub-Vendor"** means the person, firm or corporation who supplies the Vendor with materials, machinery, tools, equipment, articles, items, or other work or services that are used by the Vendor in connection with this Purchase Order and includes its legal successors or permitted assignees.
 - 1.1.12 **"Supply or Service Agreement"** means an executed service or supply agreement between CJL, and the Vendor issued in conjunction with this Purchase Order.
 - 1.1.13 **"Vendor"** means the person, firm, or corporation to whom this Purchase Order is issued and includes its legal successors or permitted assignees.

2. ACCEPTANCE AND ENTIRETY OF AGREEMENT

- 2.1 The Purchase Order Form is an offer by CJL to purchase the Materials and/or Services and the Vendor shall acknowledge receipt of the Purchase Order without delay.
- 2.2 Acceptance of the Purchase Order Form (made by written acknowledgment or delivery of the Materials and/or performance of the Services, whether in whole or in part) constitutes acceptance by the Vendor of these General Terms and Conditions.
- 2.3 Upon acceptance of the Purchase Order Form, this Purchase Order (including its attachments), along with the Supply Agreement (if any), shall constitute the entire agreement between CJL and the Vendor.
- 2.4 Any prior understandings and agreements written or oral, offer by CJL to the Vendor or quotation from the Vendor other than the Supply Agreement which is inconsistent with the terms of the Purchase Order shall either be (a) superseded or (b) expressly made conditional on the Vendor's written acceptance of the terms thereof, with express reference to this Purchase Order.
- 2.5 CJL shall not be bound by any statement, representation, promise, inducement, or understanding of any kind which is not stated in this Purchase Order, whether written or oral, express or implied by law, statute or custom.
- 2.6 Any change, amendment, modification or qualification of any terms and conditions of this Purchase Order shall be made in writing and executed by the parties.
- 2.7 For the avoidance of doubt, CJL is not subject to a minimum term of supply or a minimum volume expressed in any quotation or any other document sent or previously exchanged between CJL and the Vendor.

3. CONFLICTS AND DISCREPANCIES

- 3.1 The Vendor verifies, endorses and represents that all documents and information that the Vendor has received from CJL are sufficient and accurate for its performance of the work under this Purchase Order.
- 3.2 If either the Vendor or CJL shall find any inconsistency, conflict or ambiguity with or between the documents of this Purchase Order, the party shall immediately notify the other party of the same, and the Vendor shall promptly advise CJL in writing of its proposed amendment(s) to remove or clarify the inconsistency, conflict or ambiguity.
- 3.3 CJL shall issue a written notice setting out whether or not it accepts the Vendor's proposal, with or without amendments thereto as it may consider appropriate, deciding between the inconsistent or conflicting items and/or clarifying the ambiguity and the Vendor shall comply with such instruction without any cost to CJL and without change of any obligations of the Vendor under this Purchase Order.

4. PRICE AND PAYMENT

- 4.1 Unless otherwise expressly stated in this Purchase Order, all prices specified in this Purchase Order are fixed and are not subject to any adjustments whether due to price escalation or any other reason whatsoever, unless the prior written authorization by CJL has been obtained with respect to such adjustments.
- 4.2 Unless otherwise expressly stated in this Purchase Order, any applicable goods and services, sales, use, or similar taxes levied in the country of manufacture and export and all charges, fees and other expenses (including packaging and delivery charges) are included in the price.
- 4.3 Payment shall be made in accordance with the applicable provisions of this Purchase Order unless otherwise agreed in writing between CJL and the Vendor with express reference to this Purchase Order. For the avoidance of doubt, payment shall not be deemed to constitute acceptance by CJL of any damaged or defective or non-complying Materials.
- 4.4 CJL shall have the right to offset from any payment to be made to the Vendor and any monies claim to be due from the Vendor to CJL which have been agreed by the Vendor to be offset, regardless of whether such monies are due under this Purchase Order or not.
- 4.5 To the extent permitted by applicable law, against Delay in Payment of Subcontract Proceeds, etc. to Subcontractors, CJL shall have the right to retain and/or withhold from any payment to

be made to the Vendor any monies which have not been agreed by the Vendor to be retained or withheld but is reasonably considered by CJL to be due from the Vendor to CJL. Such monies may include, where appropriate, any claim that CJL may have for loss, cost, expense, or damage which CJL has suffered or incurred, or which CJL reasonably anticipates that it is likely to suffer or incur, as a result of a breach or non-observance of the terms of this Purchase Order by the Vendor. Upon agreement by the Vendor of the amount due from the Vendor to CJL, CJL shall immediately make settlement of the difference between the amount withheld by CJL and the agreed amount.

5. TERMS OF DELIVERY

- 5.1 The delivery terms of the Materials shall be as stated in this Purchase Order unless otherwise agreed in writing between CJL and the Vendor together with express reference to this Purchase Order.
- 5.2 The delivery of the Materials shall be completed by the date(s) specified on the Purchase Order Form or as otherwise agreed by CJL in writing with express reference to this Purchase Order. Time is of the essence in the performance of the Vendor's obligations under this Purchase Order.
- 5.3 Without prejudice to Clause 5.2, the Vendor shall only deliver the Materials after confirmation with CJL as to the location(s) and time(s) of delivery as specified on the Purchase Order Form.
- 5.4 Materials delivered in excess of the amount specified in the Purchase Order may be refused and returned to the Vendor at the Vendor's cost and expense. CJL shall have no obligation to pay for any Materials and Services performed in excess of what is called for or required by the Purchase Order.
- 5.5 Each package shall be clearly marked with the Vendor's name and CJL's Purchase Order number and reference (if any), delivery address, the Vendor's address and any other details required by CJL. Any Materials delivered which is not in compliance with the packaging instructions referred in this Clause 5.5 may be refused and returned to the Vendor at the Vendor's cost and expense.
- 5.6 The Vendor shall be responsible for proper packaging, loading and tie-down of the Materials to be delivered to prevent damage during transportation. All charges, costs and expenses relating to packing, crating, loading, or storage are included in the price stated in the Purchase Order.
- 5.7 All Materials shall be suitably packed having regard to the nature of the Materials, to withstand normal freight handling and to withstand extended periods of storage. If the Materials or any parts thereof are damaged due to faulty or inadequate packing, the damaged Materials or parts thereof shall be repaired or replaced at the Vendor's expense whether or not delivery has been accepted. The risk of loss or damage in transit shall always remain with the Vendor.
- 5.8 In the event CJL request to suspend shipment and delivery of Materials, the Vendor shall, upon CJL's request, suspend shipment and delivery of Materials until further notification by CJL to the Vendor.

6. TITLE

- 6.1 Without limiting the rights of CJL with respect to damaged or defective or non-complying Materials, the legal and beneficial title to the Materials shall pass to CJL upon delivery and unloading of the Materials in accordance with terms of delivery.
- 6.2 The Vendor warrants that neither the Vendor nor anyone claiming under or through the Vendor shall have or shall claim to have any lien, claims, encumbrance or security interest whatsoever against the Materials.
- 6.3 CJL shall be entitled, at any time, to require the Vendor to produce written evidence satisfactory to CJL of CJL's title in the Materials and absence of any such liens, claims, encumbrances and security interests, and shall be entitled to withhold payment for such Materials pending receipt of such evidence.

7. QUALITY OF SUPPLY

- 7.1 Vendor warrants that (a) all Materials shall meet the requirements of all the specifications, drawings and/or samples furnished in connection with this Purchase Order, and will be fit and sufficient for the purpose intended, merchantable, of good material and workmanship, and free from defect, and (b) no Materials delivered shall be of a lesser quality or standard than the corresponding samples or previous samples received by CJL from the Vendor. The Vendor's warranties shall survive CJL acceptance of, inspection of, and payment for the Materials or Services. Where the Materials include Services, the Vendor warrants that the Services will be provided in a timely, diligent, efficient and skillful manner.
- 7.2 CJL, the Client, and their designated representatives shall have the right to directly access Vendor's and any Sub-Vendor's Jobsites to enable CJL, the Client, and their designated representatives to take necessary actions at such locations for the purpose of and in connection with their verification of the Vendor's and/or the Sub-Vendor's compliance with the quality assurance requirements.
- 7.3 The Vendor shall notify CJL immediately prior to the acceptance of this Purchase Order if the Vendor is unable to meet any of the requirements the Purchase Order, which shall include the specifications, drawings and/or samples, terms or the delivery schedule of this Purchase Order.
- 7.4 With respect to any Materials which do not meet the requirements of this Purchase Order, CJL shall have the right, at its sole option, to (a) return such Materials and require Vendor to repair, replace or re-perform such Materials or Services at its own cost and expense immediately after notification and within a period of time specified by CJL, (b) carry out any necessary rectification works and then charge the Vendor's account for such work or (c) return such Materials to the Vendor and receive a full refund of the price from the Vendor within thirty (30) days of CJL's written notice.
- 7.5 Where the Vendor has the benefit of warranties in relation to components comprised in the Materials, the benefit of such warranties shall be assignable and hereby assigned to CJL. Upon CJL's request, the Vendor shall notify the warrantor of the assignment, and do all other things required by CJL to enable such assignment to be effected. CJL may, where applicable, assign warranties provided by the Vendor to the Clients and the Vendor shall do all things required by CJL to enable such assignment to be effected.
- 7.6 The representations, undertakings and warranties set out in this Clause 7 shall survive acceptance of the Materials provided hereunder or termination of the Purchase Order and are in addition to any rights of CJL under any applicable law (including statute) and undertakings of additional scope given to CJL by the Vendor. No implied representations, undertakings or warranties are excluded.
- 7.7 Vendor acknowledges and undertakes that it shall:
 - (a) be wholly and solely liable for the supervision of the performance of the Services; and
 - (b) engage appropriately qualified and experienced personnel to perform such supervision.
- 7.8 Vendor further undertakes to ensure, all equipment used in relation to the Services are appropriate, in good working condition and certified in accordance with all applicable industry standards.
- 7.9 Vendor undertakes that it will ensure all appropriate safety measures are in place such as but not limited to the following: a traffic management plan, emergency preparedness plan, hazard and risk assessment, and risk control measures.
- 7.10 If Vendor fails to provide assurance of performance of the above-mentioned undertakings to CJL's satisfaction, CJL may terminate this Purchase Order forthwith without incurring any liability.

8. AMENDMENT

- 8.1 CJL may, at any time, by giving written or verbal instructions and confirmed in writing to the Vendor, make changes in the work to be performed or the items to be furnished hereunder in any one or more of the following: (i) specifications, drawings and/or samples; (ii) method of shipment or packing, (iii) date, time and/or place of delivery; and (iv) the quantity of items originally ordered.
- 8.2 The Vendor shall promptly advise CJL (and no later than fourteen days of notification of such changes) of any reasonable proposed change in price, quality or delivery. Such proposed changes shall be subject to approval by CJL.

9. WARRANTIES AND GUARANTEES

- 9.1 The Vendor hereby warrants and guarantees that all the Materials supplied under this Purchase

- Order shall conform to all of the requirements of the Purchase Order. It should also conform to requirements of all of the applicable laws, regulations and industry standards, including safety, quality and environment matters.
- 9.2 The Vendor shall provide free repairs to CJL and where applicable the Client, where any damage, defect, non-conformity or deficiency of the Materials or any part thereof is discovered for a period of Twelve (12) months after commencement of commercial operation of the goods that the Materials are ultimately incorporated into or eighteen (18) months from the date of delivery of the completed Materials whichever expires later, unless otherwise expressly stated in the Purchase Order Form. The Vendor shall further guarantee a further twelve (12) months period for all remedial works carried out under this warranty.
- 9.3 Where a defect arises within the original warranty period but does not become apparent until that period has expired, the Vendor's liability shall not cease.
- 9.4 The Vendor shall reimburse CJL for all costs and expenses incurred by CJL if the Vendor does not repair and/or replace the Materials as provided herein in a timely manner satisfactory to CJL and/or for repair and/or replacement work performed by CJL on behalf of the Vendor.
- 9.5 CJL's rights under this Clause 9 are, unless prohibited by applicable law, in addition to any other right or remedy available under statute or at law including with respect to any claim for damages for any defective, non-complying Materials and Services which CJL becomes aware of, notwithstanding the expiration of the warranty period.
- 10 INDEMNITY AND LIABILITY; INSURANCE**
- 10.1 The Vendor shall indemnify, hold harmless and defend CJL, the Client, and their successors and assignees from and against any and all losses, damages, claims, actions, demands, cost and/or expenses whatsoever arising from or in connection with this Purchase Order, and reimburse CJL and the Client of the same in its entirety, unless directly caused by CJL's sole negligence. The Vendor's liability hereunder shall include but not be limited to liability for death of or injury to any person, loss damage to any property and damages or compensation, whether arising from, based upon, or sounding in contact, tort, negligence, strict liability law or otherwise.
- 10.2 The Vendor further agrees to maintain the following levels of insurance and to furnish to CJL certificates of insurance for General/Product liability insurance (\$1,000,000) Property Damage Insurance (\$5,000,000) and Worker Compensation Insurance (as required by statute). The said certificates must set forth the amount of coverage, number of policy, and date of expiration, unless waived in writing. The Vendor further agrees to furnish to CJL certificates from governmental agencies (where applicable) and insurance companies, upon request by CJL, showing that the Vendor has adequate Worker Compensation coverage. Where the Vendor provides Services, the Vendor must provide professional liability insurance (\$1,000,000 per occurrence).
- 10.3 In no event shall CJL be liable for any indirect, consequential, economic or financial loss, or for incidental or special damages, regardless of however caused and howsoever arising in any way out of this Purchase Order.
- 11 COMPLIANCE**
- 11.1 The Vendor when conducting business with and/or on behalf of CJL, shall comply with all laws, rules, regulations, orders, licenses, consents, and decrees of any national, municipal, local or other government body, and all other requirements having force of law applicable at any time which affect in any manner this Purchase Order or the Vendor's performance hereunder.
- 11.2 Notwithstanding the generality of the aforementioned, the Vendor expressly agrees to, when conducting business with and/or on behalf of CJL, (a) comply with the anti-corruption laws of the countries in which it does business, and not make or authorize any direct or indirect gifts, payments or promises of payments to any government officials or employees, in order to obtain or retain any business, or secure any improper advantage (b) conduct business in full compliance with antitrust and fair competition laws that govern the jurisdictions in which it conducts business and (c) comply with all applicable trade control laws as well as all customs, export, re-export and import laws, regulations and requirements.
- 11.3 If the Vendor, when conducting business with and/or on behalf of CJL, does not comply with any laws, or requirements, then CJL shall have the right to terminate this Purchase Order forthwith without incurring any liability and the Vendor shall bear any additional costs resulting from such non-compliance, including the cost of any necessary remedial work, penalties or fines.
- 12 GOVERNING LAW, DISPUTES AND ARBITRATION**
- 12.1 Unless otherwise stated in this Purchase Order, the governing law of this Purchase Order shall be the laws of Japan. The application of the United Nations Convention on Contracts for the International Sale of Goods shall be excluded.
- 12.2 Any disputes, controversies, or differences of whatever nature arising out of or in connection with this Purchase Order, including any question regarding its existence, validity or termination, shall be attempted to be resolved amicably by mutual agreement by the concerned parties as promptly as possible. If any amicable settlement is not reached between the parties in respect of a dispute within thirty (30) days after either party requested in writing negotiation under this Clause 12.2, or within such other period as the parties may agree in writing, such unresolved disputes shall be referred to and finally settled by arbitration in Tokyo, Japan in accordance with the Commercial Arbitration Rules of the Japan Commercial Arbitration Association. The arbitration tribunal shall consist of one (1) independent arbitrator appointed by CJL. The decision of the arbitral tribunal pursuant to this clause shall be final and binding. Costs of arbitration pursuant to this clause shall be borne by CJL and the Vendor equally. Notwithstanding any dispute that may arise between CJL and the Vendor, the Vendor shall continue its performance as required under this Purchase Order.
- 13 LATE DELIVERY AND PENALTY FOR DELAY**
- 13.1 CJL shall have a right to claim from the Vendor by way of penalty being a sum equivalent to one percent (1%) of the price for each week of delay up to a maximum of ten percent (10%) of the price if the Vendor fails to deliver the whole or any part of the materials, drawings and/or shipping documents within the delivery date or dates set forth herein. If CJL incurs damages in excess of such penalty amounts, CJL shall have a right to claim from the Vendor such excessive amounts.
- 13.2 CJL reserves the right to demand that the Vendor accelerate the late delivery (by transporting the delayed Materials by air at the Vendor's sole cost) and to claim for all damages suffered or incurred by CJL in connection with the late delivery.
- 14. TERMINATION OF AGREEMENT**
- 14.1 CJL may terminate this Purchase Order with immediate effect by giving notice in writing to the Vendor if:
- the Vendor commits a breach of its obligations under this Purchase Order and fails to remedy such breach within a period of seven (7) days after receipt of written notice indicating the nature of the breach; or
 - the Vendor becomes insolvent, or if an order is made or a resolution is passed for the winding up or liquidation of the Vendor, or if an administrator, administrative receiver or receiver is appointed in respect to the whole or any part of the Vendor's assets or business, or if the Vendor makes any composition with its creditors, or takes or suffers any similar or analogous action in consequence of debt.
- 14.2 The Vendor agrees to indemnify and save CJL harmless from any loss, penalty or damages resulting from the Vendor's failure to make progress or Vendor's refusal or failure to comply with any provision in the General Terms and Conditions. In the event CJL terminates the Purchase Order in whole or in part as provided in Clause 14.1, CJL may procure from any other third party, the Materials and/or Services, upon such terms and in such manner as CJL deems appropriate, and the Vendor shall be liable to CJL for any excess cost for such similar Materials. In such event, the Vendor shall, upon the written request by CJL, submit CJL the relevant documentation, including but not limited to, drawing, test data, covered by the Purchase Order.
- 14.3 The Vendor shall continue the performance of the Purchase Order to the extent not terminated

- under the provisions of Clause 14.1. The rights and remedies of CJL provided in this Clause 14 shall not be exclusive and are in addition to any other rights and remedies provided by law or under the General Terms and Conditions.
- 14.4 Upon the expiration or earlier termination of the Purchase Order, the Vendor shall promptly return or destroy any Confidential Information belonging to CJL as CJL directs.
- 14.5 CJL reserves the right to terminate, at any time and at its sole discretion, the Purchase Order, in whole or in part, by giving fourteen (14) days advance notice in writing to the Vendor. Any settlement of payment (which shall be the full and final settlement of all claims which the Vendor may have against CJL as a result of termination) shall be made through mutual negotiation between CJL and the Vendor, and shall be based on that portion of the work satisfactorily performed up to the date of termination. In no event shall CJL be required to reimburse the Vendor for indirect, consequential, incidental or special damages, including prospective profit or overheads arising out of or in connection with termination of the Purchase Order.
- 15. FORCE MAJEURE**
- 15.1 CJL shall not be liable for any delay or failure in taking delivery of all or any part of the Materials, or for any other default in performance of the Purchase Order due to the occurrence of any event of force majeure (hereinafter referred to as "Force Majeure") such as but not limited to, Act of God, actions by any government authority, fires, floods, windstorms, explosions, riots, natural disasters, embargo, terrorism, sabotage, war or armed conflict, prohibition of importation, governmental order, strike or any other similar cause which affects CJL or any of CJL's customers, directly or indirectly, connected with the purchase, resale, transportation, taking delivery of the Materials. In any event of Force Majeure, CJL shall notify the Vendor in writing of such event(s) and CJL may, in its sole discretion and upon notice to the Vendor, either terminate the Purchase Order or any portion thereof affected by such event(s), or delay performance of the Purchase Order in whole or in part for a reasonable period of time.
- 15.2 If the Vendor is unable to deliver the Materials in whole or in part as specified on the face of the Purchase Order due to Force Majeure without the Vendor's fault, the Vendor shall immediately notify CJL in writing of such delay with the reason thereof, and CJL shall, if requested by the Vendor, agree to extend the time of shipment until such event(s) shall no longer prevent delivery by the Vendor. In the event, however, the above-mentioned event(s) cause a delay beyond thirty (30) days, CJL may, in its sole discretion and upon written notice to the Vendor, terminate the Purchase Order or portion thereof affected by such event(s) without any liability, and the Vendor shall reimburse to CJL any amount of money paid by CJL to the Vendor with respect to any undelivered portion of the Purchase Order.
- 16 SUSPENSION**
- 16.1 CJL reserves the right to suspend at any time the execution of all or any portion of the work, by notice in writing to the Vendor. The Vendor shall then immediately discontinue the work from the date of CJL's notice thereof and up to the extended date specified in such notice.
- 16.2 CJL shall not be liable for any costs and damages, loss of foreign exchange or loss of the anticipated profits whatsoever resulting from such suspension.
- 17 RETENTION**
- To the extent permitted by applicable law, CJL shall reserve the right to withhold the corresponding percentage of the total amount of this Purchase Order as retention for uncompleted work and incomplete certification/identification/documents. The Vendor is to notify CJL of the fulfillment of the requirements, and CJL shall release the retention within ninety (90) calendar days or as may be specified in the Purchase Order after CJL's confirmation of acceptance.
- 18 DESIGN AND INFORMATION**
- 18.1 Any specification, drawing or other document supplied by CJL to the Vendor, or specifically produced by the Vendor for CJL, in connection with CJL's Purchase Order, together with the copyright, design rights or any other intellectual property rights in the specification, drawing or other document or anything made, delivered or performed by the Vendor in which intellectual property rights may subsist, shall be CJL's exclusive property, and the Vendor shall not disclose to any third party any such specification, drawing, other document or other proprietary information except to the extent that:
- it is or becomes public knowledge through no fault of the Vendor,
 - as required by law, provided that the Vendor gives CJL immediate notice of such legal requirement and cooperate with CJL's attempts to acquire an injunctive or protective order, or
 - for the purpose of fulfilling the Purchase Order provided that the third party is under an obligation of confidentiality no less stringent than stated herein.
- 18.2 Any article made according to a design specified by CJL (not previously a standard commercial design of the Vendor) shall not be furnished by the Vendor to any other person, firm, or corporation.
- 18.3 The Vendor shall not use any specification, drawing or proprietary information except to the extent that it is required for the purpose of fulfilling CJL's Purchase Order.
- 18.4 Where CJL commissions the Vendor to produce a design in accordance with the Purchase Order, the design supplied by the Vendor shall be capable of being implemented to achieve the purpose(s) specified in CJL's Purchase Order. Copyright, design rights or any other intellectual property rights in the design shall be CJL's exclusive property.
- 18.5 All copyright or other intellectual property rights in the work produced by the Vendor or (other than design rights under Clause 18.4) to the fullest extent possible under applicable law shall be assigned to CJL and the Vendor undertakes to execute all documents and take all steps necessary to secure to CJL all rights assigned by this clause. Moral rights must vest in accordance with Clause 18.1.
- 18.6 The Vendor warrants that the Vendor's performance under the Purchase Order will not infringe the rights of any third party and will not have been previously assigned, licensed or otherwise encumbered.
- 19 CONFIDENTIALITY**
- If CJL discloses or grants the Vendor access to any Confidential Information (research, development, technical, manufacturing, financial, or other commercial information or "know-how" of a confidential nature, including but not limited to CJL's products, technology, equipment, manufacturing processes, inventions, patent applications, designs, design applications, computer hardware and software or any other technical or commercial information which is personal to CJL and is not common knowledge among competitors to whom it may be useful and which may give CJL an advantage over its existing and prospective competitors, whether reduced to writing or not), the Vendor shall not use or disclose any such information to any other person or company at any time, and shall not use for its own benefit, any such information including drawings or other documentary information of a confidential nature. The Vendor further agrees and undertakes to keep confidential and not to disclose to any other person or company at any time any information in respect of, arising from or in connection with this Purchase Order, unless such disclosure is required by law or made with the prior written authorization of CJL.
- 20 SUB-CONTRACTING**
- CJL's Purchase Order is placed subject to the work being carried out by the Vendor and no assignment, sub-contracting or transfer to any Sub-Vendor is permissible without specific prior arrangement with CJL in writing which may be subject to any conditions CJL deems necessary. No assignment or subcontract (even with CJL's consent) shall relieve the Vendor of any obligations under the Purchase Order. Any purported assignment, transfer or subcontract without such written consent shall be void and ineffective.
- 21 WAIVER, SEVERABILITY AND OTHER**
- 21.1 No waiver or forbearance by CJL of any of its rights under the Purchase Order or any provision(s) of these terms and conditions shall preclude CJL from enforcing any of its legal rights whatsoever. The remedies herein reserved shall be cumulative and in addition to any

- other or further remedies provided in law.
- 21.2 If anything in these terms or conditions or Purchase Order is unenforceable, illegal or void, then it is severed and the rest of the terms and conditions or Purchase Order remains in force.
- 21.3 No rule of construction shall apply to the disadvantage of any party on the basis that the terms and conditions or Purchase Order was drafted by that party.
- 21.4 Any notice required to be made hereunder to CJL shall be made to the Purchasing Leader, 15F New Pier, Takeshiba South Tower, 1-16-1 Kaigan, Minatu-Ku, Tokyo, 105-0022, Japan, unless a different address is specified on the Purchase Order Form. Any such notice to the Vendor shall be to the address as shown on the Purchase Order Form.
- 22 SURVIVAL**
- All provisions of these terms and conditions and the Purchase Order setting out representations, warranties, indemnification obligations, confidentiality, non-solicitation and non-competition obligations by either party, all obligations which occurred prior to termination of the Purchase Order and the general provisions herein shall survive the termination, cancellation and expiration of the Purchase Order.
- 23 CUMMINS POLICIES**
- 23.1 CJL requires that Vendor comply with the following policies, as updated from time to time, which are incorporated by reference:
- (i) Cummins Supplier Code of Conduct
 - (ii) Cummins Corporate Environmental Policy and Environmental Standards
 - (iii) Cummins Supplier Handbook
 - (iv) Cummins Green Supply Chain Principles
 - (v) Restriction of Prohibited Materials
- 23.2 Link to access these policies: <https://supplier.cummins.com>
- 23.3 CJL may vary the Supplier Code of Conduct from time to time with the variation becoming effective as soon as CJL provides the Vendor with notice of the variation ("Variation Date"). Any variation to these Supplier Code of Conduct will only apply to, and in respect of, any Purchase Order provided after the Variation Date and the parties acknowledge that nothing in this agreement requires the Vendor to accept any further Purchase Order after the Variation Date. Subject to this clause, the Vendor undertakes to sign and return to CJL a copy of the Supplier Code of Conduct response form which requires the Vendor to comply with the applicable laws and Cummins' Supplier Code of Conduct. If the Vendor fails to comply with this Clause 23.3, CJL may terminate this Purchase Order forthwith without incurring any liability, and Clause 11.3 shall be applied *mutatis mutandis* for such termination.
- 23.4 To the extent permitted by applicable law, CJL may request, and Vendor agrees to comply with such request, to give CJL or its authorized representative access to all pertinent documents, a complete supply chain map (to include but not limited to a bill of material for all Materials, a list of the names and addresses of Vendor's tier 1 and sub-tier suppliers (collectively "Sub-tier Suppliers"), and what bill of material inputs/components/raw materials the Sub-tier Suppliers' supply), data and other information relating to the Materials, and to view any facility or process relating to the Materials.

