



## **PURCHASE ORDER TERMS AND CONDITIONS**

**For the purchase of products and services by Cummins Sales and Service Singapore Pte Ltd**

**PRECEDENCE** If there is a conflict between these terms, the information on the face of this PO, or any attachments to the PO, the terms on the face of the PO shall take precedence over these terms, and these terms shall take precedence over any other attachment. If the PO is issued in conjunction with a detailed contract between the parties, the terms of the contract will take precedence over all other terms.

### **1. GENERAL**

- 1.1. As used in this document, the term "Purchase Order" or "PO" refers to the hardcopy or electronic form for designating the Supplier, the Supplies and other terms of transaction plus these Terms and Conditions and any other terms that are attached or incorporated by reference. "Cummins" means Cummins Sales and Service Singapore Pte Ltd., its subsidiaries and related corporations; "Supplier" means the supplier or seller identified on the face of this PO and its agents and representatives; "Specifications" means all applicable blueprints, product specifications, the provisions on the face of this PO and any attachments to it; "Supplies" designates raw materials, components, intermediate assemblies, equipment and other supplies including indirect materials, technical data, drawings, or services to be furnished by Supplier to Cummins for this PO.
- 1.2. This PO shall be construed as an offer to purchase the Supplies on the terms contained herein. The contract resulting from the acceptance of this order is to be construed according to the laws of Singapore. This PO is not assignable by Supplier in whole or in part. Any dispute shall be adjudicated in the courts of the Republic of Singapore.
- 1.3. Unless expressly set forth below, Cummins 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 Cummins and Supplier.
- 1.4. In the event of a direct purchase wherein the contract amount is \$1M SGD or above, a Direct Supply Agreement (DSA) if deemed necessary by Cummins shall be executed. Such DSA shall govern and take precedence over this PO terms and conditions.

### **2. CONTROLLING TERMS**

This PO is expressly limited to the terms and Specifications contained herein. This PO is an offer to purchase the goods and/or services set forth herein and any preceding offer or quotation of Supplier for alternative or modified terms and Specifications is (a) rejected and (b) expressly made conditional on the Supplier's acceptance of these terms, insofar as the alternative or modified terms are inconsistent with these terms. Supplier accepts the Specifications and terms by acknowledging or confirming this order, or commencing work on or shipping Supplies covered by this PO.

### **3. PRICES AND INVOICING**

- 3.1. Prices shown on the face of this PO shall include taxes (but shall exclude Goods and Services Tax) and may not be increased without prior written authorization by the relevant Cummins Sales and Service Singapore Pte Ltd representative.
- 3.2. Unless authorized by Cummins, Supplier agrees to issue no more than one invoice to cover all shipments made on any day.
- 3.3. Payment terms are net 90 (ninety) days unless otherwise noted on the face of the PO.
- 3.4. Unless otherwise expressly stated in the PO, all prices specified in this PO are fixed and are not subject to any adjustments whether due to price escalation or any other reason whatsoever, unless prior written authorisation by Cummins has been obtained with respect to such adjustments.

### **4. DELIVERY**

- 4.1. Deliveries are to be made in quantities and at times specified on the face hereof or, if not so specified, then as set forth on delivery schedules furnished by Cummins. Delivery shall be made FOB Cummins location that is delivered to Cummins point of use, freight pre-paid, unless otherwise stipulated on the face of the Purchase Order. Time for delivery shall be of the essence of the contract period. Delivery shall be as stipulated on the face of the Purchase Order and defined in INCOTERMS 2010 and title to Supplies shall pass to Cummins on delivery.
- 4.2. Supplier shall, upon Cummins' request, suspend shipment and delivery of Supplies to be furnished hereunder as Cummins may request.
- 4.3. Goods shipped must be as specified and no substitutes or changes are to be made without Cummins written permission. Any excess deliveries will be subject to return at the supplier's expense.
- 4.4. A full set of documents are to be rendered for each shipment and forwarded only to Cummins on the day of shipment. Bills of Lading must be forwarded under separate registered mail. All invoices and shipping documents must show the Purchase Order number as set out herein. Any loss of profits, bonding or wharf charges or consequential damages arising from not adhering to these and the following shall be payable by the Supplier. For Domestic Shipments or Deliveries, invoices (Original only), delivery dockets and/or shipping specifications (in



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triplicate) are required. Invoices are to be mailed to the invoicing address shown on this Purchase Order and not enclosed with goods supplied. For Foreign Shipments, Custom Invoices, Bills of Lading and Shipping specifications in quadruplicate, the whole properly completed and certified in accordance with Singapore Customs Regulations.

**5. QUALITY OF SUPPLIES**

- 5.1. Supplier warrants that all Supplies will conform to the Specifications and/or samples furnished in connection with this PO, and will be fit and sufficient for the purpose intended, merchantable, of good material and workmanship, and free from defect. Supplier's warranties shall survive Cummins acceptance of, inspection of, and payment for the Supplies. Where the Supplies include services, the Supplier warrants that the services will be provided in a timely, diligent, efficient and skilful manner by appropriately qualified and experienced personnel.
- 5.2. Supplier shall notify Cummins immediately (i.e. prior to the acceptance of this PO) if Supplier cannot satisfy the Specifications, terms or the delivery schedule of this PO.
- 5.3. Supplier acknowledges and undertakes that it shall:
  - 5.3.1. be wholly and solely liable for the supervision of the performance of the services; and
  - 5.3.2. engage appropriately qualified and experienced personnel to perform such supervision.
- 5.4. Supplier further undertakes to ensure, all equipment used in relation to the Supplies are appropriate, in good working condition and certified in accordance with all applicable industry standards.
- 5.5. Supplier 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.
- 5.6. If Supplier fails to provide assurance of performance of the above-mentioned undertakings to Cummins' satisfaction, Cummins may terminate this agreement forthwith without incurring any liability.

**6. DISPOSITION OF REJECTED MATERIAL**

With respect to any Supplies not in conformity with the requirements of this PO, Cummins shall have the right, at its option, to reject such Supplies and require Supplier to repair, replace or re-perform such Supplies or services immediately after notification at the Supplier's sole cost and expense. If such notification is not in writing, it shall be confirmed in writing.

**7. PACKING, SHIPPING, AND STORAGE**

Supplier shall, at his expense, package and preserve the Supplies in such a manner that they will arrive at the designated delivery point free from damage and in such a condition as to permit reasonable handling and six months' storage under normal environmental conditions without detrimental effects on the Supplies.

**8. CANCELLATION**

- 8.1. Subject to Clause 8.2, Cummins may cancel this PO or any part thereof at any time upon written notice to Supplier without liability except for payment to Supplier of the cost of work in process and material commitments made within the time specified on the face hereof or, if no time is specified, then within two weeks of the date of cancellation.
- 8.2. Notwithstanding the foregoing, Cummins may cancel this PO without liability or cancellation charges in the event of any causes beyond its control, such as, but not limited to, flood, drought, fire, war, riot, acts of terrorism, acts of God or acts or demands of any governmental authority.

**9. CHANGES**

Cummins may at any time, by written instructions or verbal instructions confirmed in writing to Supplier, 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; (ii) method of shipment or packing, (iii) time and/or place of delivery; and (iv) the quantity of items ordered. Supplier shall notify Cummins within fourteen days of notification of such changes of any proposed differences in price, quality or delivery. Such proposed changes shall be subject to approval by Cummins.

**10. INTELLECTUAL PROPERTY**

- 10.1. Supplier warrants that the Supplies specified herein (and their sale or use, alone or as a significant element of a combination) will not infringe any patents, copyrights, trade names, trade secrets or other intellectual property; and agrees to indemnify and hold harmless Cummins and anyone selling or using any of Cummins' products against all judgments, decrees, damages, claims costs, and expenses resulting from any alleged infringement, and agrees that Supplier shall, upon request of Cummins and at Supplier's own expense, defend or assist if the defence of



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any action which may be brought against Cummins or those selling or using any of Cummins' products by reason of any such alleged infringement.

- 10.2.** Any inventions, designs, discoveries, patents, copyrights, trade names, trade secrets, mask works or other intellectual property rights created in the performance of this PO (including works completed on or in relation to the Supplies) shall be the sole property of Cummins and Supplier shall do all things requested by Cummins to transfer the ownership thereof and to perfect the same.

**11. DESIGN AND INFORMATION**

It is understood that any article made in accordance with clause 10.2 above, including any design specified by Cummins (not previously a standard commercial design of Supplier) will not be furnished by Supplier to any other person, firm, or corporation. It is recognized that Supplier will have access to certain confidential information of Cummins and, therefore, Supplier agrees not to divulge to anyone or permit to disclose to anyone the confidential information of Cummins, nor use for its own benefit, any such information including drawings or other documentary information of a confidential nature.

**12. REMEDIES**

The remedies herein reserved shall be cumulative and in addition to any other or further remedies provided in law or equity. No waiver of a breach of any provision of this PO shall constitute a waiver of any other breach, or of such provision on the future occasion.

**13. INDEMNITY, INSURANCE & LIMITATION OF LIABILITY**

Supplier agrees to indemnify and protect Cummins against all liabilities, claims, or demands for injuries or damages to any person or property arising out of the Supplies or performance of this PO by Supplier, its servants, employees, agents or representatives.

Supplier further agrees to abide by the insurance requirements set out in Annex A below and to procure that its subcontractors shall similarly abide by the same unless expressly waived in writing.

Supplier also agrees to furnish Cummins, certificates from appropriate governmental agencies and insurance companies, upon request by Cummins, showing that Supplier has adequate worker's Compensation coverage.

In no event shall Cummins be liable for any indirect, consequential, economic or financial losses or incidental damages, however caused and howsoever arising in any way out of this agreement.

**14. ADVERTISING OR USE OF NAME "CUMMINS"**

Supplier shall not use or permit the use of the word "Cummins" or any similar word or any trademarks of Cummins in description of or in the marketing of products produced by Supplier, or in any manner advertise or publish the fact that Supplier has contracted to furnish Supplies pursuant to this PO or any PO with Cummins.

**15. SUPPLIER'S INSOLVENCY**

If Supplier ceases to conduct operations in the normal course of business or becomes unable to meet its obligations as they mature, if any bankruptcy or insolvency proceeding is brought by or against Supplier, if a receiver, administrative receiver, liquidator or similar is appointed or applied for, if Supplier makes an assignment for the benefit of creditors, or if Cummins reasonably believes Supplier may be unable to complete this PO, Cummins may demand adequate written assurance of performance or, at its option and to the extent permitted by the applicable laws, terminate this PO, in whole or in part, without liability except for Supplies previously delivered to and accepted by Cummins. If Supplier fails to provide written assurance of performance, Cummins may terminate this agreement.

**16. COMPLIANCE WITH LAWS**

The Supplier agrees to comply with all applicable governmental laws, regulations and rules applicable to Supplies furnished under this PO, including without limitation the US Foreign Corrupt Practices Act the U.K. Anti-terrorism, Crime and Security Act 2001 or any similar anti-corruption legislation and all US Export Regulations (and any national, EU or United Nations embargoes or restrictions). In this connection, the Supplier further agrees to indemnify, defend and hold Cummins harmless from and against any liability arising from a breach of the same and agrees to defend at its expense any action brought against Cummins.

**17. MISCELLANEOUS**



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- 17.1.**Force Majeure. Neither party shall be liable to the other for failure to perform its obligation under this PO when performance is prevented by flood, drought, fire, war, riot, acts of terrorism, acts of God or acts or demands of any governmental authority. During the Supplier's inability to supply the Supplies, Cummins may, its option, procure such Supplies from other suppliers but will revert to the PO once the element of Force Majeure has been overcome.
- 17.2.**Cummins may set off any amounts due to Supplier under this PO against amounts owed by Supplier to Cummins for any reason.
- 17.3.**If requested by Cummins, Supplier agrees to give Cummins or its authorized representative's access to all pertinent documents, data and other information relating to the Supplies, and to view any facility or process relating to the Supplies.
- 17.4.**Notice. Any notice required to be made hereunder to Cummins shall be made to: Cummins Sales And Service Singapore Pte Ltd, General Manager, 85 Tuas South Avenue 1 Singapore 637419 unless a different address is specified on the face of the PO. Any such notice to the Supplier shall be to the address shown on the face of the PO.
- 17.5.**Cummins expects Supplier to actively pursue sourcing of materials and services from minority owned and small disadvantaged businesses. Cummins reserves the right to periodically meet with Supplier's purchasing department to review minority sourcing programs and results.
- 17.6.**Supplier agrees to comply with the International Financial Reporting Standards (IFRS), and if requested to by Cummins, Supplier will comply with and assist Cummins as reasonably necessary in its compliance with the requirements of the Sarbanes-Oxley statute and related regulations.
- 17.7.**The contra proferentum rule shall not apply to this Agreement.
- 17.8.**The Contracts (Rights of Third Parties) Act, Chapter 53B shall not under any circumstances apply to this Agreement and any person who is not a party to this Agreement (whether or not such person shall be named, referred to, or otherwise identified, or shall form part of a class of persons so named, referred to, or identified, in this Agreement) shall have no right whatsoever under the Contracts (Rights of Third Parties) Act, Chapter 53B to enforce this Agreement or any of its terms.
- 17.9.**If the Contract or any of its provisions is or is held to be illegal, invalid or unenforceable in any jurisdiction, such illegality, invalidity or unenforceability shall not affect the legality, validity or enforceability of the Contract or such provision in any other jurisdiction or the legality, validity or enforceability of any other provision of the Contract in this or any other jurisdiction.

### **18. ENVIRONMENTAL**

The Supplier agrees to conform to Cummins' environmental policies (as set out in clause 23.1) and to the procedural requirements associated with such policies. The Supplier shall ensure it has an understanding of its obligations under these policies and assumes responsibility for the consequences of departing from specified procedures. To obtain further information, contact the site Environmental Manager.

### **19. ADMINISTRATIVE**

- 19.1.**Original packing slip must accompany material. PO number, department number, and receiving location code must appear on all invoices, shipping notices, bills of lading, express receipts, packing and packing slips.
- 19.2.**All invoices covering material listed below must refer to this PO number, including the suffix. Only one PO number is to be referenced on the invoice.
- 19.3.**Material shipped from other than Supplier's stock must plainly show Cummins PO number and Supplier's name on packing slips and shipping tags.
- 19.4.**Mexican and Canadian suppliers of goods who provide greater than \$100,000 per year to Cummins, must provide a NAFTA certificate to Cummins Inc. Manager International Materials and Logistics, Mail code 60216, Box 3005, Columbus IN 47202-3005
- 19.5.**This PO is deemed closed upon receipt of the Supplies or services described herein or one (1) calendar year from the date placed, whichever occurs first, unless otherwise stipulated on the face of this order. The foregoing notwithstanding, those terms which by their nature are intended to survive the delivery of the Supplies under the PO shall survive.
- 19.6.**The Supplier shall at all times comply with any legislation, regulations or by-laws, common law, requirements, consents or guidelines relating to occupational health and safety of persons and environmental protection".
- 19.7.**The Supplier acknowledges and undertakes that it shall:
  - 19.7.1.** be wholly and solely liable for the supervision of the performance of the services; and
  - 19.7.2.** engage appropriately qualified and experienced personnel to perform such supervision.



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**20. WARRANTIES**

- 20.1.** In the event the goods are defective while under the warranty stipulated on the face of the Purchase Order, the Supplier will replace or repair the defective goods at Cummins' option. Warranties against defects are provided by the Supplier as detailed below.
- 20.2.** The Suppliers' goods come with guarantees that cannot be excluded under Singapore Law. Cummins is entitled to a replacement or refund for a major failure and for compensation for any other reasonably foreseeable loss or damage. Cummins is also entitled to have the goods repaired or replaced if the goods fail to be of acceptable quality and the failure does not amount to a major failure. This warranty is in addition to other rights and remedies available to Cummins under the law.

**21. TEST CERTIFICATES**

If so stated on the face of this Purchase Order or any Attachments thereto Test Certificates for material and equipment supplied under this Purchase Order must be forwarded to the Purchaser upon completion of testing or upon request of such certificates from Suppliers.

**22. SITE WORK AND SERVICES**

- 22.1.** Invoices for site work and service must be accompanied by a schedule of 'work completed on site' certified by Cummins engineer or authorized representative.
- 22.2.** Progress payments will not be made unless specified in the Purchase Order.
- 22.3.** Evidence of the Supplier's current Workers Compensation insurance policy covering personnel involved in site work and service and an adequate Public Liability insurance policy issued by a reputable insurer must be supplied with the acceptance of the Purchase Order and the Supplier shall indemnify and keep indemnified the Purchaser and hold it harmless against all actions, suits, claims, proceedings, costs and expenses whatsoever arising there from. Any Supplier that enters the Purchaser's site must comply with the Purchaser's OH & S Requirements as well as complying with Singapore legislation, codes and/or guidelines on Safety Standards.

**23. CUMMINS POLICIES**

- 23.1.** Cummins requires that the Supplier comply with the following policies which are incorporated by reference:
- 23.1.1.** Cummins Supplier Code of Conduct
  - 23.1.2.** Cummins Corporate Environmental Policy and Environmental Standards
  - 23.1.3.** Cummins Supplier Handbook
  - 23.1.4.** Cummins Green Supply Chain Principles
  - 23.1.5.** Restriction of Prohibited Materials
- 23.2.** Link to access these policies: <https://supplier.cummins.com>
- 23.3.** The Supplier agrees to comply with Cummins' Supplier Code of Conduct as notified to the Supplier on or prior to the date of acceptance of these Supplier Terms and Conditions. Cummins may vary the Supplier Code of Conduct from time to time with the variation becoming effective as soon as Cummins provides the Supplier with notice of the variation ("Variation Date"). Any variation to these Supplier Code of Conduct will only apply to, and in respect of, any PO provided after the Variation Date and the parties acknowledge that nothing in this agreement requires the Supplier to accept any further PO after the Variation Date. Subject to this clause, the Supplier undertakes to sign and return to Cummins a copy of the Supplier Code of Conduct response form which requires the Supplier to comply with the applicable laws and Cummins' Supplier Code of Conduct.
- 23.4.** If requested by Cummins, and to the extent as allowed by law, Supplier agrees to give Cummins 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 Products, a list of the names and addresses of Supplier'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 Supplies, and to view any facility or process relating to the Supplies.

**24. GOVERNING LAW**

- 24.1.** Unless otherwise stated in this Purchase Order, the governing law of this Purchase Order shall be the laws of Republic of Singapore and the Supplier agrees to submit to the non-exclusive jurisdiction of the courts of Singapore.
- 24.2.** Any disputes of whatever nature arising in connection with this Purchase Order shall 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 a reasonable time, such unresolved disputes shall be referred to





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either litigation or arbitration which shall be held in Singapore in accordance with the rules of the Singapore International Arbitration Centre ("SIAC"). The arbitration tribunal shall consist of one (1) independent expert appointed by Cummins, such expert having the relevant experience in the subject matter of the dispute. The decision of the expert pursuant to this clause, after receipt of submissions by the parties, shall be binding. Costs of arbitration pursuant to this clause shall be borne by Cummins and the Supplier equally. Notwithstanding any dispute that may arise between Cummins and the Supplier, the Supplier shall continue its performance as required under this Purchase Order.

<b>Supplier Name in Full:</b>	<b>Phone Number:</b>
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<b>Registered Address of Supplier:</b>	
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<b>Supplier Registration Number:</b>	
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<b>Supplier Representative: Printed Name:</b>	<b>Job Title:</b>
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<b>Supplier Representative: Signature:</b>	<b>Date:</b>
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**SUPPLIER BANK DETAILS (for payment of invoices)**

**Bank Institution:**

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**Account Name:**

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**Account #**

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**Annex A (Insurance Requirements)**

Throughout the term of this Agreement, Supplier shall maintain or cause to be maintained, the following insurance policies, each in a form acceptable to Cummins acting reasonably.

1. The types and level of insurance is dependent on the nature of the Services:
  - 1.1. Public Liability – covering bodily injury and property damage with a minimum \$1,000,000 combined single limit. Supplier agrees to add Cummins as additional insured and Supplier's insurance shall be endorsed as primary coverage.
  - 1.2. Motor Vehicle Liability – limits no less than amounts required by statute and covering both bodily injury and third-party property damage. Supplier agrees to add Cummins as additional insured and Supplier's insurance shall be endorsed as primary coverage.
  - 1.3. Worker's Compensation - Minimum applicable Statutory Worker's/Workmen's Compensation Coverage for the State in which contract or work is delivered and/or the employee's normal State of employment.
2. Select applicable options depending on the Services:
  - 2.1. If Services involve accounting, legal, medical or other professional services, the following provision must be included:  
Professional Indemnity– Minimum \$1,000,000 per occurrence.
  - 2.2. If Services involve providing components and/or parts that will be incorporated into any Cummins product, the following provision must be included:  
Product Liability – Minimum \$5,000,000 Single Limit. Cummins must be added as additional insured and contractor's insurance to be endorsed as primary coverage.
  - 2.3. If Services involve transporting or storing Cummins assets, the following must be included:  
Cargo /Warehouseman's Legal Liability – Minimum \$1,000,000 Single Limit.
  - 2.4. If Services involve performing construction related activities on Cummins' premises, the following provision must be included:  
Works Liability in the amount of at least \$1,000,000 single limit with the interest of Cummins being.
  - 2.5. If Services involve construction services or performing hazardous or environmentally related activities, such as (but not limited to) waste disposal and environmental clean-up upon Cummins property, the following provision must be included:  
Environmental Impairment Liability – Minimum \$5,000,000 Single Limit Cummins must be added as additional and Supplier's insurance to be endorsed as primary coverage. If this coverage is issued on a "claims made" basis, the policy's retroactive date must precede the inception of work for Cummins and must be kept in place for a minimum of 3 years after the work is complete.
3. Umbrella/Excess –Supplier shall maintain a minimum \$1,000,000 Single Limit Umbrella/Excess Insurance Policy in addition to primary coverage requirements.
4. Supplier agrees to provide Cummins at least thirty (30) days' notice of cancellation of, or any material changes in, the above listed coverages.
5. The Supplier must provide certificates of currency of insurance to Cummins confirming the above listed minimum insurance requirements prior to contract inception, work commencement, and/or entry upon Cummins' premises and otherwise on request by Cummins from time to time.
6. Supplier will require its insurers to provide a waiver of subrogation in favor of Cummins and its affiliated companies and their employees, officers, and directors. Waiver of subrogation shall not apply to loss caused by the gross negligence or wilful misconduct of Cummins.