

1. GENERAL

These Conditions of Purchase ("Conditions") apply to the supply of goods or services to Bosch Chassis Systems Australia Pty Ltd ABN 19 006 530 427 ("Bosch") by the supplier ("Supplier"). Quality related agreements and documentation which have been provided by Bosch also form part of these Conditions. Variations to these Conditions, or terms offered by the Supplier or contained in any invoice or order prepared or issued by the Supplier which differ from these Conditions, are incorporated into these Conditions only if accepted by Bosch's authorised representative in writing. Acceptance of goods or services or payment for them by Bosch will not be deemed acceptance of any such new or varied terms.

2. QUOTATIONS

All quotations and cost estimates provided by the Supplier are binding and may not be amended unless agreed in writing by the parties.

3. ORDERING

3.1 Each order from Bosch constitutes an offer by Bosch to purchase goods or services from the Supplier subject to these Conditions. An order may be constituted by a formal purchase order or by a delivery schedule (in respect of the period which is specified by Bosch to be binding) ("Order"). If there is any inconsistency between the terms of the Order and these Conditions, the terms of the Order prevail.

3.2 All Orders and variations to them must be in writing (which, where agreed, includes electronic data interchange ("EDI")). EDI Orders (or variations) shall conform to agreed EDI procedures and at least be of a standard customary in the automotive industry.

3.3 The Supplier is deemed to accept an Order subject to these Conditions if the Supplier does not refuse or reject the Order in writing within 5 days of the date stipulated on the Order, or if the Supplier performs any part of the Order before that time.

3.4 The Supplier acknowledges and agrees that Bosch has not made any representations or warranties that Bosch will purchase a minimum amount of goods or services at any time from the Supplier or that Bosch will exclusively purchase the goods or services from the Supplier.

4. PRICES APPLICABLE TO ORDER

4.1 Unless otherwise agreed by the parties in writing (for example, pursuant to a scheduling agreement), prices are as stated on the Order.

4.2 Unless otherwise agreed by the parties in writing or otherwise stated on the Order, prices are Delivered Duty Paid (DDP, as defined in Incoterms 2000) to the nominated place of delivery and include all packaging costs, goods and services tax ("GST") and any other applicable taxes, duties, levies, charges and costs.

5. DELIVERY AND DELIVERY REQUIREMENTS

5.1 The Supplier must deliver the goods or services at the time and in the quantities and manner specified in the Order and in the Supplier Manual.

5.2 If the Supplier anticipates being unable to comply with delivery dates or deadlines, or to supply quantities or quality of goods or services due to circumstances beyond the Supplier's control or for any other reason, the Supplier must immediately notify Bosch's logistics department giving full details. Bosch may, at its discretion, extend the delivery date or cancel the Order.

5.3 Notwithstanding the preceding sub-clause, time is of the essence for all of the Supplier's obligations under these Conditions.

5.4 If the Supplier fails to effect delivery of all or part of the goods or services the subject of the Order by the due date for delivery for any reason (other than due to an event of force majeure), Bosch may, on giving written notice and without affecting Bosch's other rights:

- (1) cancel the Order;
- (2) obtain replacement goods or services from a third party; and/or
- (3) claim reimbursement of additional costs arising from the Supplier's failure to comply with the delivery instructions and damages for breach of contract (including any loss, damage or cost incurred by Bosch as a consequence of stoppage of any of Bosch's factory operations or the factory operations of Bosch's customers).

5.5 The Supplier must ensure that the goods are packed, labeled, marked and loaded in accordance with the Order and Bosch's instructions or otherwise must be suitably packed and comply with all requirements of the carrier to ensure no damage occurs to the goods whilst in transit.

5.6 Bosch is not required to pay any packing costs unless agreed in writing by Bosch's authorised representative. Bosch is not obliged to return any packaging or packing materials for the goods.

5.7 The Supplier acknowledges and agrees that the delivery of goods or services by instalments is not permitted unless otherwise agreed by Bosch's authorised representative in writing.

6. INSPECTION AND ACCEPTANCE OF GOODS AND SERVICES

6.1 Bosch shall not be considered to have accepted goods and services prior to receiving them at the place specified by Bosch for delivery and fully inspecting them for compliance with the Order and these Conditions. Bosch may inspect the goods or services provided as soon as practicable in the normal course of business. If a more thorough inspection of goods or services is required on receipt as a result of unsatisfactory delivery (as determined by Bosch), the cost of this is to be borne by the Supplier. Quantities, weights, dimensions, quality, conformity to specifications and fitness for purpose of the goods or services ascertained by Bosch in the course of inspection will be final for the purposes of acceptance of the goods or services.

6.2 Bosch's right to inspect and reject goods or services and to enforce its rights under clauses 11.3 or 16 is not waived by the payment for the goods or services or by acceptance of delivery or supply prior to inspection. The acceptance of defective or overdue goods or services will not be deemed as a waiver of any of Bosch's rights.

7. RISK AND TITLE

7.1 Goods remain at the Supplier's risk until Bosch's representative takes physical possession of the goods at the nominated place of delivery.

7.2 Subject to clause 13.1, title to the goods or services passes on delivery of goods or services in accordance with clause 5.

8. CONDITIONS OF PAYMENT

8.1 A separate invoice must be sent to Bosch at the address provided by Bosch and must not be sent before Bosch receives the goods or services.

8.2 Unless otherwise agreed or stated on the Order, payment of invoices will be made within 62 days from the end of the month in which delivery is made. Payment of invoices does not affect Bosch's right to dispute invoices or to make claims against the Supplier in respect of goods or services. Payment for goods or services does not constitute acceptance of such goods or services. Payment is contingent upon the Supplier providing Bosch with a valid tax invoice and an adjustment note if any adjustment event occurs.

9. REFUND OF OVERPAYMENT OF GST

If by reason of the occurrence of an adjustment event or for any other reason whatsoever, the amount of GST paid or payable by the Supplier on any taxable supply the Supplier makes to Bosch is less than the amount of GST identified on any tax invoice for that supply or otherwise as may be determined by Bosch ("GST Overpayment") the Supplier must pay to Bosch by way of refund the amount of the GST Overpayment on the first to occur of:

- (1) the Supplier becoming aware of the occurrence of a GST Overpayment; or
- (2) the receipt by the Supplier of any refund of GST paid by the Supplier.

10. SET OFF

The account between the Supplier and Bosch is a running account. Where any amount is payable to the Supplier by Bosch or a Related Company of Bosch under any agreement, Bosch may set such amount off against any amount owed by the Supplier to Bosch or any Related Company of Bosch, and continue to do so until such time as the amount outstanding from the Supplier has been paid in full.

11. WARRANTY

11.1 The Supplier warrants and represents that:

- (1) the Supplier has the right to sell the goods free from all encumbrances and that Bosch will enjoy quiet possession of the goods or services;
- (2) the goods will be of merchantable quality and fit for any purpose which Bosch makes known to the Supplier (whether expressly or impliedly) or for which the goods are commonly supplied or used;
- (3) the goods will be free from defects in design, material and workmanship;
- (4) the goods or services will comply and will be provided strictly in compliance with specifications (if any) provided by Bosch from time to time, the Order and these Conditions;
- (5) the Supplier will provide adequate information relating to the goods or services and to the use of the goods or of the results of the services;
- (6) where the goods or services are supplied by reference to a sample, the goods or services will correspond with the sample;
- (7) the goods or services will comply with all laws in Australia and New Zealand, and any relevant laws in the place of manufacture, including laws relating to:
 - (a) their safety, manufacture, packaging, labeling, transportation and sale;
 - (b) the nature, substance, quality, weight and measurement of the goods; and
 - (c) the services;
- (8) the operation of the Supplier's business complies with all laws, including laws relating to employment, the environment and health and safety, bribery and corruption;
- (9) the Supplier's actions or omissions will not cause Bosch to be in breach of any applicable laws;
- (10) the services will be provided with due care and skill and in a timely, professional manner and in accordance with Bosch reasonable directions; and
- (11) the use of the goods or services will not infringe the intellectual property rights of a third party.

11.2 In the case of goods, the warranties in clause 11.1(2), 11.1(3) and 11.1(4) will, unless otherwise agreed by the parties, apply for a period of 36 months, effective from the date of delivery to the final consumer of the goods or the final product into which the goods are incorporated (or where applicable, date of the first registration of the vehicle into which the goods are incorporated).

11.3 If goods or services are, in Bosch's reasonable opinion, defective or not in accordance with the Order or these Conditions, Bosch may, without affecting Bosch's other rights, require from the Supplier, at Bosch's option and the Supplier's cost:

- (1) replacement or re-supply of the goods or services and return of any defective goods;
- (2) supply of equivalent goods or services and return of any defective goods;
- (3) repair of the goods or payment of the cost of repairing the goods;
- (4) payment of the cost incurred by Bosch replacing or acquiring equivalent goods or services;
- (5) a reduction of the purchase price; or
- (6) recall of the goods and a refund of any part of the purchase price paid.

11.4 If Bosch has incorporated the goods into other goods or assemblies ("Other Goods") which require repair or replacement as a result of the goods being defective Bosch may, in addition to its rights above, require the Supplier to pay for the replacement or repair of the Other Goods.

11.5 Where, in Bosch's reasonable opinion, it is necessary to avoid imminent danger or excessive loss or damage, Bosch may rectify deficiencies ascertained by it in the course of inspection of goods in accordance with clause 6 at the Supplier's expense.

12. PERFORMANCE OF SERVICES ON SITE

Persons, who perform services at Bosch's sites pursuant to these Conditions, must comply with Bosch's policies (as advised to the Supplier) and instructions given by Bosch or its representatives. Bosch's liability to the Supplier or the Supplier's employees, subcontractors or agents for injury or death suffered in the course of performance of the services is limited to the extent that they are directly caused by the Supplier's negligent act or omission. Without limiting the generality of clause 18, the Supplier indemnifies Bosch for any losses, costs or damages incurred by Bosch in relation to any adverse environmental event caused on site resulting from the Supplier's acts or omissions, including those of the Supplier's personnel, in the performance of services.

13. PROVISION OF MATERIALS, EQUIPMENT AND DATA

13.1 Materials, components, containers and special packaging provided by Bosch to the Supplier ("Materials") remain Bosch's property (unless Bosch agrees to sell the Materials to the Supplier separately, in which case this clause 13.1 will not apply), and may only be used in accordance with their intended purpose of supply to Bosch

- in accordance with these Conditions. Any surplus or scrap Materials must be returned to Bosch without delay. Materials must not be incorporated into any goods manufactured by the Supplier unless Bosch agrees in writing. The Supplier agrees that Bosch owns a proportion of the products manufactured using its Materials equivalent to the ratio of the replacement value of the Materials to the replacement value of the manufactured products, to which extent the Supplier holds the manufactured products or the proceeds of their sale on trust for Bosch. The Supplier will reimburse Bosch for the replacement value of Materials which are lost, destroyed or, in Bosch's reasonable opinion, rendered unusable as a result of or through the Supplier's manufacturing process.
- 13.2 All tools, gauges, jigs and other equipment ('**Equipment**'), drawings, models, samples, blueprints, specifications and other data provided by Bosch to the Supplier ('**Data**') remain Bosch's property and must be returned to Bosch (together with all copies) upon completion or cancellation of the Order in respect of which they have been provided to the Supplier or at any time as requested by Bosch. The Supplier must not provide any Materials, Equipment or Data (or copies of Materials, Equipment or Data) or any products comprising the Materials or Equipment and Data to a third party without Bosch's prior written consent.
- 13.3 All Materials and Equipment and Data must be kept secure, maintained and kept in good working order and condition. The Supplier agrees to replace any Materials and Equipment and Data that are damaged, lost or destroyed without cost to Bosch.
- 13.4 The Supplier will arrange insurance cover at full replacement value in respect of loss or damage to the Materials, Equipment or Data provided to the Supplier to the extent that insurance cover can be obtained.
- 13.5 The Supplier must ensure that the Supplier and its agents, employees and subcontractors do not copy, reverse engineer, destroy, encumber, misuse, part with possession of or modify any Materials, Equipment or Data.
- 13.6 Bosch may at any time inspect the goods or components of the goods and the processes of manufacture and packing, labeling or storage of such goods or to recover any goods that are Bosch's property. For this purpose, Bosch may enter any premises where the goods may be found. The Supplier will provide all reasonable assistance to Bosch in such inspections.
- 14. CONFIDENTIALITY**
- 14.1 The Supplier must ensure that the Supplier and its employees, subcontractors and agents do not disclose any information provided by Bosch to the Supplier or these Conditions ('**Confidential Information**') unless:
- (1) the information is in the public domain (other than by reason of a breach of these Conditions);
 - (2) the disclosure is approved by Bosch in writing; or
 - (3) the disclosure is required by law.
- 14.2 Confidential Information may only be disclosed to and used by the Supplier's employees, subcontractors and agents who have a need to know (and only to the extent that each has the need to know) for the purpose of the Supplier fulfilling the Supplier's obligations under these Conditions. The Supplier agrees to maintain adequate security measures to safeguard any Confidential Information from access or use by any unauthorised person. The Supplier must, on becoming aware of any breach of confidentiality, immediately inform Bosch, investigate the breach and report to Bosch as to the outcome of the investigation.
- 15. INTELLECTUAL PROPERTY**
- 15.1 Where the Supplier accepts an offer or Order from Bosch for the development by the Supplier of goods or of other work product through the performance of services, the Supplier agrees to and hereby assigns to Bosch, or agrees to procure the assignment to Bosch, all rights to or interests in any intellectual property developed by the Supplier, the Supplier's employees, subcontractors and agents in the course of developing the goods or providing the services, effective on creation. If requested by Bosch, the Supplier shall do all things reasonably necessary to assist Bosch, at Bosch's cost, to obtain the relevant patent, copyright or other intellectual property rights in Bosch's name, anywhere in the world.
- 15.2 Any intellectual property existing in or in relation to any Equipment remains Bosch's sole property.
- 15.3 The Supplier acknowledges that Bosch owns or licenses a number of registered trade marks and other marks, brands and logos ('**Trade Marks**'). Goods bearing Bosch's Trade Marks or produced pursuant to or with designs owned by or licensed to Bosch or Bosch's Materials, Equipment or Data must only be sold to Bosch. Where goods have been rejected or not taken up by Bosch, the Supplier must obtain Bosch's written consent to sell such goods to a third party. If such consent is given, the Supplier must remove all references to Bosch's Trade Marks from those goods before they are offered for sale.
- 15.4 The Supplier shall not use any Trade Mark or any other promotional material of Robert Bosch GmbH or its Related Companies without Bosch's prior written consent.
- 15.5 The Supplier must comply with Bosch's directions and policies in relation to the Trade Marks, as provided by Bosch from time to time.
- 15.6 The Supplier shall not use, or apply to register, a trade mark, business name, company name or domain name which incorporates any Trade Marks, or any substantially identical or misleadingly similar words.
- 15.7 The Supplier shall not, and shall ensure that the Supplier's employees, subcontractors or agents do not:
- (1) disparage Bosch or any of Bosch's Trade Marks, products or services; or
 - (2) do anything likely to damage Bosch's reputation or any of Bosch's Trade Marks, products or services.
- 16. CANCELLATION**
- 16.1 Bosch may terminate or cancel or suspend an Order (with or without prior notice as Bosch may determine in Bosch's sole discretion) if the Supplier:
- (1) breaches or repudiates these Conditions or an Order;
 - (2) breaches any warranty or representation;
 - (3) suspends payment or if proceedings are commenced (whether voluntary or involuntary), in bankruptcy or insolvency or winding up or for the appointment of a liquidator in relation to the Supplier's business or if the Supplier is unable to pay its debts as and when they fall due;
 - (4) if the Supplier or any of the Supplier's employees, subcontractors or agents:
 - (a) are charged with any criminal offence in relation to bribery or corruption; or
 - (b) act in a manner which in Bosch's reasonable opinion, brings Bosch into disrepute; or
 - (c) act dishonestly, fraudulently or illegally.
- 16.2 Upon termination or cancellation of any Order, the Supplier agrees to:
- (1) immediately cease all work on the Order. If Bosch requests that the Supplier transfers to Bosch title and deliver to Bosch all or any finished, unfinished Goods or materials purchased by the Supplier to complete the Order which cannot be used for other customers, Bosch agrees to pay the Supplier solely for such materials and Goods delivered to Bosch that comply with the Order; and
 - (2) if requested by Bosch, fully co-operate in the transition of supply to a new supplier and promptly provide all requested information, documentation, samples, components, and tooling reasonably requested by Bosch.
- 17. FORCE MAJEURE**
- Neither party is liable to the other for any failure to deliver or accept goods or services as a result of any acts of God, war, embargo, fire, flood or other natural disasters, industry or state wide industrial disputes, public disturbances, actions or inactions of public authorities or other circumstances that are not a party's fault and are outside its control ('**Force Majeure Event**'). Bosch may partially or completely withdraw the Order before delivery or make alternative arrangements for the supply of goods or services from a third party without liability to the Supplier.
- 18. INDEMNITY**
- 18.1 Without limitation to any other right Bosch may have under these Conditions, the Supplier agrees to indemnify Bosch against all claims, suits, actions, demands, loss, costs, liabilities, expenses (including legal expenses on a full indemnity basis), judgments and awards made against or incurred by Bosch arising directly or indirectly in relation to:
- (1) breach of warranty, representation or a term of these Conditions;
 - (2) actual or alleged defects or faults in the goods or services supplied by the Supplier;
 - (3) infringement of any intellectual property rights of another person; and/or
 - (4) liability under any law in Australia or New Zealand arising from the Supplier's supply of the goods or services, Bosch's use or re-sale of them or incorporation of them into goods or services and their on-supply or consumption.
- This indemnity is a continuing indemnity and is in addition to any statutory rights or remedies Bosch may have or exercise against the Supplier.
- 19. RECALL**
- 19.1 Without limitation to any other right Bosch may have under these Conditions, if any goods supplied by the Supplier fail to comply with the warranties in clause 11.1 and this necessitates a recall of any product incorporating the defective goods, whether such recall be made by Bosch or any other party, the Supplier shall indemnify Bosch, against all actions, demands, expenses, costs and liabilities incurred or arising as a consequence of any such recall.
- 19.2 For the purpose of clause 19.1, costs and expenses incurred by Bosch indirectly as a result of or in connection with any recall shall include any costs, damages or other monies paid or payable by Bosch to any other party as a result of or in connection with such recall.
- 20. INSURANCE**
- 20.1 The Supplier must take out and maintain an annual products liability policy of insurance (containing no unusual exclusions and covering all warranties in respect of the goods under these Conditions) and fully indemnifying Bosch against liability for and as a result of property damage, personal injury or death arising directly or indirectly out of goods manufactured, distributed and sold by the Supplier with an annual cover of not less than AUD\$10 million in the aggregate.
- 20.2 Where the Supplier is not the manufacturer of the goods, the Supplier must ensure that the manufacturer of the goods has the insurance cover set out in clause 20.1.
- 20.3 In the case of provision of professional advice or professional services, where required by Bosch, the Supplier will take out and maintain professional indemnity insurance of no less than AUD\$5 million in the aggregate.
- 20.4 The Supplier is responsible for insuring goods against loss or damage until property in them has passed to Bosch.
- 20.5 The Supplier must produce within 30 days from the date of request and on an annual basis a certificate of insurance to Bosch confirming the insurance(s) referred to above is in force.
- 21. FINANCIAL INFORMATION**
- Upon reasonable notice to the Supplier, Bosch may review the financial condition of the Supplier's business. The Supplier agrees to fully co-operate in such a review and promptly provide copies of or access to financial records and statements, forecasts, business plans, banking contacts and loan documents as requested by Bosch. Bosch will keep confidential any non-public information provided to Bosch pursuant to this clause and only use such information for the purpose of assessing the Supplier's ongoing ability to comply with these Conditions or to enforce an Order.
- 22. PLACE OF JURISDICTION, APPLICABLE LAW**
- 22.1 These Conditions are subject to the laws of Victoria, Australia and the parties irrevocably submit to the non-exclusive jurisdiction of the courts of Victoria (and any court which may hear appeals from those courts).
- 22.2 Application of the Hague Convention Relating to a Uniform Law on the International Sale of Goods, the UN Convention on Contracts for the International Sale of Goods or other conventions relating to the laws applicable to the sale of goods is excluded.
- 23. GENERAL**
- 23.1 Any provision of these Conditions will be read down to the extent necessary to prevent that provision or these Conditions being invalid, voidable or unenforceable in the circumstances.
- 23.2 Bosch does not waive its rights, powers and discretions under these Conditions by failing to exercise its rights, only exercising part of its rights or delaying in the exercise of its rights.
- 23.3 The Supplier must not assign or sub-contract all or any of its rights or obligations under these Conditions in whole or in part without Bosch's prior written consent.
- 23.4 Bosch is not liable for any indirect, punitive or consequential expense, loss or damage, penalties, interest, loss of profits, revenue, expectation or opportunity, lost production, product development costs or similar losses in connection with these Conditions or an Order including as a result of negligence by Bosch and its directors, servants and agents.
- 24. INTERPRETATION**
- In these Conditions, headings are inserted for ease of reference and do not affect interpretation; the singular includes the plural and vice versa and forms of words (including defined terms) include any other form of those words. The expressions 'supply', 'taxable supply', 'GST', 'tax invoice', 'adjustment event', 'adjustment note', 'consideration' and other expressions defined in A New Tax System (Goods and Services Tax) Act 1999 ('**GST Act**') have the meanings given to those expressions in the GST Act. 'Related Company' means related body corporate as that term is defined in section 9 of the Corporations Act 2001.