



## **PURCHASE ORDER TERMS AND CONDITIONS**

**For the purchase of indirect products and services by Cummins Inc., its subsidiaries, and affiliates**

### **1. GENERAL**

1.1 For the purposes of this document, the term 'Purchase Order' or 'OC' refers to the printed document or electronic through which designates a Supplier, describes the supplies, and laying down, in your case other terms of the transaction, in addition to these Terms and Conditions.

1.2 The term 'Cummins' refers to enterprises, Cummins Grupo Industrial S. de R.L. de C.V., Cummins S. de R. L. de C. V. , Cummins Comercializadora, S. de R. L. de C. V., Cummins Grupo Comercial y de Servicios S. de R.L. de C.V., and CMI Group Holdings B.V. or to that subsidiary or affiliate of these brought to the front of this OC, and their representative and agents. 'Supplier' means the supplier or vendor pointed out to the front of this OC and its representative and agents; The term 'Specifications' refers to any plane, product specifications, the specifications listed on the front of the OC or any annex to the same; 'Supplies' refers to the raw materials, components, intermediate assemblages, equipment, and any other supplies, including indirect materials, technical information, drawings, or services to be provided by the supplier at Cummins through this OC.

This OC should be considered as an offer to purchase the supplies in the agreed terms here.

According to apply the contract resulting from the acceptance of this Purchase Order shall be interpreted in accordance with the laws of the City of San Luis Potosi, S. L. P. , Mexico or the Netherlands as applicable according to apply. This OC may not be ceded by the provider in part or in its entirety. For all the purposes of this OC, the parties expressly submit to the courts and to the relevant laws of the City of San Luis Potosi, S. L. P. , Mexico or the Netherlands according to apply, expressly waive any jurisdiction that could correspond them by virtue of their present or future home or for any other reason.

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.

### **2. CONTROLLING TERMS**

2.1 This OC is expressly limited to the terms and specifications contained herein. This OC is an offer to purchase products and / or services set forth therein and any offer Provider or previous quote that contains terms and specifications other than those contained herein is: (a) rejected, or (b) expressly conditioned acceptance by the Supplier to the specifications and terms contained herein.

2.2 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.

2.3 The purchase of goods and services by Cummins is expressly conditioned on assent by Supplier to these terms; any additional or conflicting terms or provisions in other documents provided by Supplier relating to such purchase shall not apply to such purchase, and are hereby rejected by Cummins.

2.4 The Supplier expressly accepts these specifications and terms to acknowledge or confirm the order, or begin any work in relation to it, or to send supplies under this PO.

### **3. PRICE AND BILLING**

3.1 Prices show n on the face of this PO may not be increased without written authorization by Cummins' Purchasing Department.

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 provided for in the front of the OC.

### **4. DELIVERY**

4.1 Deliveries will be made in the amounts and on the dates indicated at the head of this PO, or if not specified therein, in accordance with delivery schedules provided by Cummins.

Delivery shall be made in accordance with Incoterms 2000 "Delivery Duty Paid " ( DDP ) at the home of Cummins , specifically

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in the establishment or use of Cummins point with all transportation prepaid , unless otherwise stipulated on the face of the Purchase Order. Time for delivery shall be of the essence of the contract period.

4.2 The Supplier shall, at the request of Cummins, suspend shipments and shipments of supplies hereunder, as requested by Cummins.

## **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.

5.2 Supplier shall notify Cummins immediately prior to the acceptance of this PO if Supplier cannot satisfy the Specifications, terms or the delivery schedule of this PO.

## **6. DISPOSITION OF REJECTED MATERIAL**

6.1 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. If such notification is not in writing, it shall be confirmed in writing.

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

7.1 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. CANCELATION**

8.1 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.

8.3 In addition to this Cummins may immediately terminate this PO without liability if the Supplier fails to comply with any or all obligations through this purchase, it being sufficient written notice addressed to the Supplier. In this sense, the Supplier shall be obligated to pay damages Cummins said he should come to cause cancellation.

## **9. CHANGES**

9.1 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 United States or foreign 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, 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 defense of 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, discoveries, patents, copyrights, trade names, trade secrets, mask works or other intellectual property created in the performance of this PO 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**

11.1 It is understood that any article made according to a 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 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**

12.1 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**

13.1 Supplier agrees to indemnify and protect Cummins against all liabilities, claims, or demands for injuries or damages to any person or property growing out of the Supplies or performance of this PO by Supplier, its servants, employees, agents or representatives. Supplier further agrees to maintain the following levels of insurance and to furnish to Cummins Risk Management Department 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). Said certificates must set forth the amount of coverage, number of policy, and date of expiration, unless 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. If Supplies involve accounting, legal, medical or other professional services, Supplier must also provide: Professional Liability Insurance (\$1,000,000 per occurrence). If Supplies involve transporting Cummins assets via motor vehicle, the Supplier must also provide: Motor Truck Cargo Insurance (\$300,000 Single Limit). If Supplies involve performing environmentally related activities such as (but not limited to) waste disposal and environmental cleanup upon Cummins property, the Supplier must also provide: Environmental Impairment Liability Insurance (\$5,000,000 Single Limit). 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. PUBLICITY, USE OF NAME "CUMMINS"**

14.1 The Supplier agrees not to use or permit the use of the word "Cummins" or any similar word or a brand of Cummins in describing or advertising of products manufactured by the Supplier, or advertise or otherwise disclose that Cummins has hired so that it will Provider Supplies under this Purchase Order or any other Cummins Purchase Order.

In the event that the provider does not carry out the provisions of this paragraph, shall be required to indemnify Cummins for damages that such failure get to cause, that regardless of the legal actions that Cummins can exercise against the Supplier.

## **15. SUPPLIER'S INSOLVENCY**

15.1 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, 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**

16.1 The supplier undertakes to comply at all times with all applicable laws, codes, regulations and rules in force in the Mexican Republic or the Netherlands (including any relevant requirement in accordance with a directive of the European Union), which are applicable to the supplies provided under this purchase order, including, without limitation, the law against corrupt practices in the alien of the United States of America, the law of security and against terrorism and the crime of the Netherlands from 2001 and any anti-corruption legislation applicable in the Netherlands, Mexico or elsewhere that may apply on the basis of time to this agreement and with the regulation on export of the U.S. (in case that may apply) (and any embargo or national restriction or the United Nations). In this regard, the supplier also agrees to indemnify, defend and hold in peace and safe to Cummins from any liability that might arise from the breach by the supplier of any of such provisions and is obliged to defend its cost to Cummins in any action against Cummins under this non-compliance.



## **17. SUNDRY**

### **17.1 Force Majeure.**

Neither party shall be liable to the other for breach of any of its obligations under this Order, where compliance is not possible under flood, drought, fire, war, acts of terrorism, acts of God or government. While the supplier is unable to provide the Services, Cummins may, at its option to acquire such supplies from other suppliers, but remain under the Purchase Order after the force majeure has ended.

17.2 Cummins may deduct any amount due to the Supplier under this Purchase Order, the Supplier any monies owed to Cummins for any reason.

17.3 If requested by Cummins, Supplier shall provide Cummins or its authorized representatives of relevant documents, information or other information relating to the Supplies and allow Cummins or its authorized representatives to inspect the facilities and the process relating to the Supplies.

### **17.4 Notices**

17.4 Any notice or notification to Cummins required to be done under this, should be sent to: Cummins S. de R.L.de C.V., with attention to Indirect Purchasing, at address Eje 122 # 200 Zona Industrial, San Luis Potosi, SLP CP 78395, Mexico, unless an address different point on the front of this Purchase Order. Any notice or notification to the provider must be sent to the address indicated on the front of this Purchase Order.

17.5 The Supplier undertakes to comply with generally accepted accounting principles in Mexico and the Netherlands as applicable.

17.6 The Supplier agrees to comply with Cummins polices has implemented to track your suppliers.

17.7 Supplier must maintain their POSITIVES OPINIONS issued by the SAT, and comply with their Tax obligations issued by authorities.

17.8 Supplier must notify any change of the legal name or Tax ID with a minimum anticipation of 30 working days before the application.

17.9 Supplier must send electronically all the appropriate documentation in order to ensure import and reception for all materials in Cummins location this includes; commercial invoice, packing list and Bill of Lading for each shipment.

## **18. ENVIRONMENTAL**

18.1 The Supplier agrees to comply with the Corporate Health Safety and Environmental Policy. The Supplier shall ensure to meet its obligations under the Environmental Management System Cummins and assumes no liability for failure to comply with specified procedures.

In order to obtain further information should 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 Purchase Order shall be considered completed once you receive the supplies and services described therein, or one (1) calendar year after the date on which it was issued, whichever occurs first, unless otherwise stated on the front of this order.

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However the foregoing, shall survive those terms which by their nature should survive even after the delivery of the supplies covered by this Purchase Order.

Applicable current standard

19.6 The supplier agrees to use the purchasing systems and processes designated by Cummins from time to time at its sole discretion to receive purchase orders and send invoices.

19.7 The supplier will be responsible for updating their information for the purpose of receiving the purchase orders and ensure that the supplier contact information is updated every time there is a change in the personnel for receiving the P.O. This information at a minimum should be validated every 6 months or when the event occurs, and continuous monitoring of the same.

## 20. CUMMINS POLICIES

20.1 Purchaser requires Supplier comply with the following policies 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

20.1 Link to access these policies: <https://supplier.cummins.com>

### Contacts

For questions regarding the status of your payments, please contact the regional department of accounts payable, dialing the follow telephone number: (+52) 01.44.48.70.64.00 or (+52) 01.44.48.70.64.02

Improvements to the process of payment:

- Cummins, updates and improves the process of validation of invoices for purchases of indirect through the authorization of indirect payments (IPA Global, for its acronym in English), which will automate and improve the process.
- Cummins, is increasing the accuracy of the validations between the purchase order and invoice, taking into account factors such as the exchange rate, the unit price, and the structure of lines (for example, multiple lines in a OC shall not be consolidated in a line on the invoice).
- Since end of 2009, Cummins uses the Ariba Supplier Network system to receive electronic invoices, and to give visibility to the suppliers of their invoices or status of payments.
- Cummins, is currently implementing an initiative called SIM (Supplier Information Management, for its acronym in English), with which to create a source of information from the supplier via a database available to all regions of Cummins.

## THIS COMMUNICATION IS NOT PART OF THE TERMS AND CONDITIONS OF PURCHASE ORDER

**Communication addressed to: Suppliers who sell products and services Cummins indirect and receiving Purchase Orders (PO) with the prefix " IND ".**

Cummins is committed to working with our suppliers to make payments on time and correct. Please use the information provided in this text as your guide to help you prepare invoices to ensure payments according to the terms negotiated.

**Improvements to the process of payment:**

- Cummins, updates and improves the validation process invoices for indirect purchases by Indirect Payment Authorization (IPA Global, for its acronym in English), with which automate and improve the process.
- Cummins, is increasing the accuracy of the validations between the purchase order and invoice, taking into account factors such as the exchange rate, unit price, and the structure of the lines ( for example , multiple lines on an OC should not be consolidated on a line on the invoice ) .
- Since late 2009, Cummins uses Ariba Supplier Network system to receive electronic invoices, and give visibility to suppliers invoices or payment status .
- Cummins, is currently implementing an initiative called SIM (Supplier Information Management, for its acronym in English) , with which to create a source of provider information through a database available to all regions of Cummins .

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### **Responsibilities of suppliers:**

Ensure that the Purchase Order and Invoice match exactly:

- Check that all lines in the PO and invoice regarding exactly match the item description , unit of measure , quantity, unit price , currency and vendor part number (if applicable )
- If there are any discrepancies or changes , contact requisitor (identified in the OC ) before checking to determine whether the OC should be corrected or changed the bill so that both match. The requisitor name and phone number are listed on the OC in the section "Contact". Should any inconsistency will result in a returned invoice and / or a delay of payment.

### **Submit Complete and Accurate Invoices:**

- The number of OC, with a prefix IND , must be included in the bill .
- Invoices must include the part number and / or a description of the services provided during a given period plus the number of OC.
- The invoice must contain lines that match the lines of the OC. There should be positive and negative amounts on the same bill. The credits or adjustments rejected goods or services must be processed through a credit note.
- The invoice must contain the name and official address of your company. The legal name of your company should be the same referenced by the OC. Tell requestor or Indirect Purchases of any changes in your tax data.

### **Give the correct invoice location:**

- To avoid a delay in your payments, you must submit your invoice manually (on paper) along with goods purchased at central receiving area delivery address specified in the OC. For services, the invoice must be requestor name and signature as well as the legend that the service was received, then the document must be delivered to the central receiving area delivery address specified in the OC.
- If you are located in a different city Cummins plant requested goods and / or services, send the invoice by mail to requestor. You need requestor sure to tell the guide number by which the document was sent to plant to avoid delays in payment.

### **Rejected Invoices:**

- Invoices may be rejected if one or more of the requirements expressed are not met. The invoice will be returned unprocessed if no PO number on it, if the OC is invalid or is closed, or if the vendor name on the invoice does not match the name of the supplier in the OC. Incorrect information currency or price may cause delays in processing or rejection of invoice.
- You must correct the error promptly and immediately rebilling.
- Any billing error could significantly delay your payments, since the validation process is restarted.

For questions regarding the status of your payments, please contact the regional department of accounts payable, at the following number: (+52) 01.44.48.70.64.00 or (+52) 01.44.48.70.64.02