



## GENERAL TERMS AND CONDITIONS OF SALE

### 1. Supply of Products

#### 1.1 Ordering procedure

- (a) The Buyer must order the Products from TK VDMA by submitting a Purchase Order to TK VDMA.
- (b) Once placed, a Purchaser Order may, subject to clause 1.1(c), be cancelled, or delivery deferred, provided the Buyer pays TK VDMA a cancellation fee determined in accordance with clause 1.1(c).
- (c) A Purchase Order may only be cancelled with the written consent of TK VDMA. If TK VDMA agrees to cancel a Purchase Order, the Buyer must pay a cancellation fee advised by TK VDMA in writing, which TK VDMA deems reasonable and legitimate compensation (and not a penalty) for the costs incurred by TK VDMA in connection with such a cancellation.

#### 1.2 Acceptance by TK VDMA

- (a) TK VDMA is not bound by a Purchase Order unless and until it accepts the Purchaser Order, either by providing an Order Confirmation to the Buyer, confirming its acceptance of the Purchase Order to the Buyer, or by commencing performance of the Purchase Order.
- (b) To the fullest extent permitted by Law, TK VDMA is not obliged to accept any Purchase Order.
- (c) Once TK VDMA accepts a Purchase Order, the parties must comply with that Purchase Order in accordance with this Agreement which cannot be modified or varied without the written consent of TK VDMA.

#### 1.3 Inconsistency

- (a) If there is any inconsistency between the terms set out in a Purchase Order and the terms of this Agreement, the terms of this Agreement prevail to the extent of the inconsistency.
- (b) If there is any inconsistency between the terms set out in any Order Confirmation and the terms of this Agreement, the terms in the Order Confirmation will prevail to the extent of the inconsistency.

### 2. Delivery procedure

#### 2.1 Delivery by TK VDMA

- (a) TK VDMA must deliver the Ordered Products to the address specified in the relevant Order Confirmation (or if no Order Confirmation is provided or no address is specified in the Order Confirmation, as set out in the Purchase Order) (**Delivery Address**).
- (b) TK VDMA must use reasonable endeavours to effect delivery under clause 2.1(a) on the date or within the period specified in that Order Confirmation (or if no Order Confirmation is provided or no date or period is specified in the Order Confirmation, as set out in the Purchase Order), but in no circumstances will TK VDMA be liable for any loss or damage resulting from a delay in delivery.
- (c) TK VDMA may at any time defer delivery of Ordered Products by providing reasonable notice to the Buyer of a revised delivery date.
- (d) The Buyer must ensure that at the time TK VDMA (or its contractor) arrives at the Delivery Address to unload the Ordered Products, the Ordered Products are able to be unloaded in a manner acceptable to TK VDMA.

#### 2.2 Delivery docket and confirmation

The Buyer must ensure that its duly authorised representative signs TK VDMA's copy of the delivery docket accompanying each delivery of Ordered Products, as confirmation that the Ordered Products specified in it have been delivered in good order and condition.

#### 2.3 Defect on delivery

The Buyer must inspect the Ordered Products upon delivery. In the event of any defects, the Buyer must notify TK VDMA in writing within 7 days of delivery of the Ordered Products. If the Buyer fails to give notice to TK VDMA in accordance with this clause, the Ordered Products are deemed to be in all respects in accordance with the Purchase Order and any Order Confirmation (if applicable) and the Buyer is bound to accept and pay for the same without set-off. Processing of any Ordered Products which are claimed to be defective must immediately be discontinued.

#### 2.4 Products pending delivery

- (a) TK VDMA is entitled to store the Ordered Products in any manner it chooses and at the expense of the Buyer.
- (b) TK VDMA will determine the type and route of transportation of the Products, unless otherwise agreed. All charges and costs incurred as a result of using a particular type of transportation (eg. special trucks, express delivery, low water mark charges, incomplete cargo etc.) must be paid by the Buyer.
- (c) The Buyer must indemnify TK VDMA against any and all increases in incidental expenses, such as freight rates, insurance premiums and consular fees, which occur after TK VDMA has provided an Order Confirmation (if applicable, or if no Order Confirmation is provided after the date on which TK VDMA has commenced performance of the relevant Purchase Order) to the Buyer.
- (d) The Buyer acknowledges that TK VDMA is not liable for any consequences that may arise from the Buyer's delayed receipt of delivery notes and similar documents.



### 3. Price

- (a) The price payable by the Buyer to TK VDMA for each Ordered Product will be:
- (i) for each Purchase Order in respect of which TK VDMA has not provided a Quote, the price specified by TK VDMA for that Product at the time of delivery, plus any GST; or
  - (ii) for each Purchase Order in respect of which TK VDMA has provided a Quote, the price specified by TK VDMA in that Quote, provided that the Purchase Order has been placed within the period specified in that Quotation.
- (b) TK VDMA reserves the right to vary the rates, prices and Quotes for Ordered Products in the event of changes in exchange rates or price rises made by Service Providers. If the cost of any Ordered Product increases due to exchange rate fluctuations, price increases, tax changes or any other reason, the Buyer must pay the increase when notified by TK VDMA. TK VDMA is not liable in any way if any such increase occurs.

### 4. Weights and measures

Weights and measures stated in the Order Confirmation by TK VDMA are approximate and not binding on TK VDMA. Invoices will be based on the weights and measures determined by TK VDMA at the relevant time.

### 5. Payment

#### 5.1 Invoicing

For each delivery of Ordered Products, TK VDMA must provide a Tax Invoice to the Buyer for the amount payable under this Agreement for those Ordered Products (**Invoice**).

#### 5.2 Terms of payment

- (a) Unless otherwise agreed by TK VDMA, the Buyer must pay TK VDMA the full amount for each delivery of Ordered Products on receipt of the Invoice relating to those Ordered Products, except to the extent clause 5.2(b) applies.
- (b) If TK VDMA makes a delivery of Ordered Products, then to the extent that the sum of all amounts (including the amount of the Invoice relating to those Ordered Products) owing by the Buyer to TK VDMA at that time (whether under this Agreement or otherwise and whether or not actually payable at that time) does not exceed the Approved Credit Limit, the Buyer must pay TK VDMA the amount of that Invoice on or before the last Business Day of the month following the month in which the Invoice was dated by TK VDMA or as otherwise agreed by TK VDMA.
- (c) Clause 5.2(b) does not apply if the Buyer is the subject of an Event of Default.
- (d) Each payment under this clause 5 must be made without set-off or counterclaim and otherwise in the manner specified in the relevant Invoice.

#### 5.3 Default in payment

If the Buyer defaults in the payment of any money payable under this Agreement, or any other agreement between TK VDMA and the Buyer, then TK VDMA may do one or both of the following:

- (a) suspend performance of its obligations under this Agreement until all amounts owing by the Buyer to TK VDMA (whether under this Agreement or otherwise and whether or not actually payable at that time) are paid in full; and
- (b) charge interest on the amount outstanding at the Prescribed Rate accruing daily from and including the due date for payment until the date of payment in full.

#### 5.4 Other rights and obligations not affected

The exercise by TK VDMA of any of its rights under clause 5.3 does not affect:

- (a) the Buyer's obligations; or
- (b) any other rights or remedies TK VDMA may have in relation to any failure by the Buyer to pay an amount due (including a right to terminate this Agreement),

whether under this Agreement or otherwise.

### 6. GST

#### 6.1 Definitions

In this clause 6:

- (a) the expressions **Consideration**, **Input Tax Credit**, **Recipient**, **Supply**, **Tax Invoice** and **Taxable Supply** have the meanings given to those expressions in the GST Act; and
- (b) **Supplier** means any party treated by the GST Act as making a Supply under this Agreement.

#### 6.2 Consideration is GST exclusive

Unless otherwise expressly stated, all prices or other sums payable or Consideration to be provided under or in accordance with this Agreement are exclusive of GST.

#### 6.3 Payment of GST

- (a) If GST is imposed on any Supply made under or in accordance with this Agreement, the Recipient of the Taxable Supply must pay to the TK VDMA an additional amount equal to the GST payable on or for the Taxable Supply, subject to the Recipient receiving a valid Tax Invoice in respect of the Supply.
- (b) Payment of the additional amount must be made at the same time and in the same way as payment for the Taxable Supply is required to be made in accordance with this Agreement.

### 7. Default and termination

#### 7.1 Default notice

If an Event of Default, other than an Insolvency Event, occurs TK VDMA may give a notice (**Default Notice**) to the Buyer specifying the Event of Default and requiring the Buyer to remedy the default within 5 Business Days after the Default Notice is given to the Buyer.



## 7.2 Termination notice

If the Buyer (**Defaulting Party**):

- (a) receives a Default Notice and does not comply with the notice within the relevant period referred to in clause 7.1;
- (b) receives a Default Notice on 2 or more occasions in any period of 12 months; or
- (c) is the subject of an Insolvency Event,

then TK VDMA, without limiting its other rights and remedies, may terminate this Agreement by giving to the Defaulting Party notice with immediate effect (**Termination Notice**).

## 7.3 Termination for lack of account activity

If the Buyer does not submit a Purchase Order to TK VDMA for a period of 12 consecutive months, then TK VDMA will be taken to have terminated the Approved Credit Limit (if any) at that time and this Agreement.

## 7.4 Termination without cause

TK VDMA may at any time by giving not less than one month's notice to the Buyer terminate this Agreement for any reason.

## 8. Consequences of termination

### 8.1 Consequences generally

On the termination of this Agreement, this Agreement is at an end as to its future operation except for the enforcement of any right or claim that arises on, or has arisen before, the termination.

### 8.2 Obligations surviving termination

Despite any other provision of this Agreement, on termination of this Agreement:

- (a) all Purchase Orders (whether or not accepted by TK VDMA at the time of termination) will be automatically cancelled, except to the extent otherwise directed in writing by TK VDMA; and
- (b) the Buyer must within 5 Business Days, pay TK VDMA all amounts owing by the Buyer to TK VDMA, whether due at that time or not,

and otherwise this clause 8 and clauses 5, 7, 10.5, 12, 13, 14, 15 and 16 (if applicable) survive termination of this Agreement.

## 9. Risk

The risk of loss or damage to the Ordered Products is transferred from TK VDMA to the Buyer at the time of delivery of the Ordered Products in accordance with this Agreement.

## 10. Title

### 10.1 Retention of title

Title to all Products supplied by TK VDMA to the Buyer remains with TK VDMA and does not pass to the Buyer until the price for those Ordered Products and all other moneys owing by the Buyer to TK VDMA on any account whatsoever (whether under this Agreement or otherwise) (**Amount Outstanding**) is paid to and received in full by TK VDMA in cleared funds.

### 10.2 Buyer's obligations

Until title to Ordered Products supplied by TK VDMA to the Buyer passes to the Buyer in accordance with clause 10.1, the Buyer must:

- (a) store the Ordered Products separately from the Buyer's own goods and those of third parties, to enable them to be readily identified as TK VDMA's property;
- (b) hold the Ordered Products as the bailee and fiduciary agent of TK VDMA;
- (c) not supply or sell the Ordered Products to any person, other than with TK VDMA's prior written consent or in the ordinary and usual course of the Buyer's business, it being acknowledged that any such supply or sale by the Buyer will be as the bailee and fiduciary agent of TK VDMA;
- (d) when requested by TK VDMA, allow TK VDMA to enter the premises where the Products are stored to inspect the Ordered Products and provide to TK VDMA the consent of any person whose consent is required for that entry;
- (e) keep records that relate to the Ordered Products separately identifiable and readily distinguishable from those that relate to any other goods in its possession;
- (f) not allow any person to have or acquire any encumbrance or security interest in the Ordered Products; and
- (g) keep the Ordered Products insured against theft, damage and destruction (and if the Buyer fails to insure the Products, TK VDMA may do so and the Buyer must reimburse TK VDMA for the cost of insurance).

### 10.3 Sale of the Products

If the Buyer sells or otherwise disposes of the Products supplied by TK VDMA before title to them has passed from TK VDMA to the Buyer:

- (a) that part of the proceeds of any sale or dealing as is equal to the Amount Outstanding or if the proceeds of sale or dealing are less than the Amount Outstanding, the whole of the proceeds of sale or dealing (in either case, **TK VDMA's Entitlement**) must be held by the Buyer in a separate identifiable account on trust for TK VDMA and must not be mixed with any other moneys of the Buyer; and
- (b) the Buyer must account to TK VDMA for TK VDMA's Entitlement,

until all liability of the Buyer to TK VDMA has been discharged.

### 10.4 Buyer's rights limited

The Buyer has no right to sell the Products or deal with the Products if:

- (a) an Insolvency Event occurs in relation to the Buyer;
- (b) the Buyer breaches this Agreement and fails to remedy the breach within 5 Business Days after receiving notice from TK VDMA requiring the breach to be remedied; or
- (c) this Agreement is terminated for any reason.



## 10.5 Failure to return Products

If the Buyer loses its right to sell or deal with the Products under clause 10.4, then the Buyer must return the Products to TK VDMA on written demand. If the Buyer does not return the Products to TK VDMA within 24 hours after receipt of the demand, then without limiting any other rights or remedies TK VDMA may have:

- (a) TK VDMA may, as agent of the Buyer, enter the relevant premises or any other premises where the Products are located and do all things necessary to retake possession of the Products, without liability for trespass or any resulting damage;
- (b) TK VDMA may keep or resell any of the Products repossessed;
- (c) the Buyer is liable for all costs associated with the exercise by TK VDMA of its rights under this clause 10.5, which costs are payable to TK VDMA on demand; and
- (d) the Buyer indemnifies and must keep indemnified TK VDMA against all actions, claims, proceedings, demands, liabilities, losses, damages, expenses and costs (including legal costs on a full indemnity basis) that may be brought against TK VDMA or which TK VDMA may pay, sustain or incur as a direct or indirect result of the exercise by TK VDMA of its rights under this clause 10.5.

## 11. Return of Products

To the maximum extent permitted by Law, Products delivered by TK VDMA in accordance with this Agreement can only be returned by the Buyer to TK VDMA for a full or partial refund to the extent that TK VDMA, in its absolute discretion, authorises the return of the Products for that purpose.

## 12. General obligations in relation to Products

In addition to all its other obligations under this Agreement, the Buyer must:

- (a) immediately inform TK VDMA of all defects, warranty claims, customer complaints or other issues arising in relation to the Products, and comply with TK VDMA's reasonable directions in relation to those matters;
- (b) not, without TK VDMA's prior written consent, admit liability on behalf of TK VDMA regarding any complaint or claim, or attempt to resolve or settle any complaint or claim, made by a customer in relation to any Products; and
- (c) comply with all applicable Laws.

## 13. Force Majeure

- (a) The obligations of TK VDMA will be suspended during the time and to the extent that TK VDMA is prevented from or delayed in complying with those obligations as a result of a Force Majeure Event.
- (b) If TK VDMA is affected by a Force Majeure Event, it must:
  - (i) as soon as reasonably possible after being affected give the Buyer particulars of the Force Majeure Event and the manner in which TK VDMA's performance of its obligations will be prevented or delayed; and
  - (ii) take reasonable steps to remove, overcome or minimise the effects of the Force Majeure Event, except that TK VDMA is not obliged to settle a strike, lockout or other labour difficulty.

## 14. Warranty and liability

### 14.1 General

Under no circumstances will TK VDMA be liable to the Buyer for, and the Buyer is not entitled to make a warranty claim under this Agreement in respect of one or more of the following:

- (a) damage caused to Ordered Products by incorrect assembly, use or repair by the Buyer or any person not authorised by TK VDMA;
- (b) damage caused to the Ordered Products by any person (other than TK VDMA);
- (c) failure by the Buyer to comply with the directions of TK VDMA in using the Products;
- (d) cosmetic or paint damage;
- (e) build-up of such similar actions attributable to the environment or environmental factors;
- (f) failure of the Products to be fit for any particular purpose;
- (g) deviations in measurement, weight, number or quality that are permitted according to:
  - (i) DIN/EN (German Standard/Euronorm);
  - (ii) other internationally recognised standards; or
  - (iii) general commercial practice; and
- (h) any breach of this Agreement by the Buyer.

### 14.2 Limitations on liability

Subject to this clause 14 and to the maximum extent permitted by Law, TK VDMA is not liable to the Buyer or to any other person for:

- (a) any loss or damage of any kind caused by or resulting from any act or omission of the Buyer or any of its employees, agents or contractors; or
- (b) any loss of profits or anticipated profits, economic loss, loss of business opportunity, loss or damage resulting from wasted management time or any special, incidental, indirect or other consequential loss or damage, even if notified of the possibility of that potential loss or damage and irrespective of whether it is due to negligence, breach of contract or any other cause.

### 14.3 Exclusion of implied warranties

Any representation, warranty, condition or undertaking that would be implied in this Agreement by legislation, common law, equity, trade, custom or usage is excluded to the maximum extent permitted by Law.

### 14.4 Non-excludable rights implied by statute

Nothing in this Agreement excludes, restricts or modifies any condition, warranty, right or remedy conferred on the Buyer by the *Trade Practices Act 1974 (Cth)* or any other applicable Law that cannot be excluded, restricted or modified by agreement.



## 14.5 Liability for breach of non-excludable rights

To the maximum extent permitted by Law, the liability of TK VDMA for a breach of a non-excludable condition or warranty referred to in clause 14.4 is limited, at TK VDMA's option, to:

- (a) in the case of goods, any one or more of the following:
  - (i) the replacement of the goods or the supply of equivalent goods;
  - (ii) the repair of the goods;
  - (iii) the payment of the cost of replacing the goods or of acquiring equivalent goods;
  - (iv) the payment of the cost of having the goods repaired;
  - (v) a price reduction corresponding to the reduction in value of the Products as determined by TK VDMA on a subsequent Purchase Order; or
- (b) in the case of services:
  - (i) the supplying of the services again; or
  - (ii) the payment of the cost of having the services supplied again.

## 15. Indemnity

The Buyer must indemnify TK VDMA against all actions, claims, proceedings, demands, liabilities, losses, damages, expenses and costs (including legal costs on a full indemnity basis) that may be brought against TK VDMA or which TK VDMA may pay, sustain or incur as a direct or indirect result of any one or more of the following:

- (a) any breach or non-performance of this Agreement by the Buyer, including any breach of a warranty;
- (b) any wrongful, wilful or negligent act or omission of the Buyer or any of its employees, agents or contractors;
- (c) the storage, handling or use of any Product sold under or in connection with this Agreement, except to the extent that the relevant action, claim, proceeding, demand, liability, loss, damage, expense or cost was caused by the wrongful, wilful or negligent act or omission of TK VDMA or any of its employees, agents or contractors; and
- (d) any injury or loss sustained by any person who is employed or engaged by the Buyer as an employee, agent or contractor for the purpose of (possibly among other things) the performance by the Buyer of its obligations under this Agreement and who suffers any injury or loss arising out of or in the course of such employment or engagement.

## 16. General

### 16.1 Nature of obligations

- (a) Any provision in this Agreement which binds more than one person binds all of those persons jointly and each of them severally.
- (b) Each obligation imposed on a party by this Agreement in favour of another is a separate obligation.

### 16.2 Entire understanding

- (a) This Agreement contains the entire understanding between the parties concerning the subject matter of the Agreement and supersedes all prior communications between the parties.
- (b) Each party acknowledges that, except as expressly stated in this Agreement, that party has not relied on any representation, warranty or undertaking of any kind made by or on behalf of another party in relation to the subject matter of this Agreement.

### 16.3 Severability

Any provision of this Agreement which is invalid in any jurisdiction must, in relation to that jurisdiction:

- (a) be read down to the minimum extent necessary to achieve its validity, if applicable; and
- (b) be severed from this Agreement in any other case,

without invalidating or affecting the remaining provisions of this Agreement or the validity of that provision in any other jurisdiction.

### 16.4 Successors and assigns

This Agreement binds and benefits the parties and their respective successors and permitted assigns under clause 16.5.

### 16.5 No assignment

A party cannot assign or otherwise transfer the benefit of this Agreement without the prior written consent of the other parties.

### 16.6 No variation

This Agreement cannot be amended or varied except by TK VDMA providing 30 days written notice to the Buyer of such change.

### 16.7 Governing law and jurisdiction

- (a) This Agreement is governed by and must be construed in accordance with the laws in force in Victoria, Australia.
- (b) The parties submit to the exclusive jurisdiction of the courts of that State and the Commonwealth of Australia in respect of all matters arising out of or relating to this Agreement, its performance or subject matter.

### 16.8 Counterparts

If this Agreement consists of a number of signed counterparts, each is an original and all of the counterparts together constitute the same document.

### 16.9 Relationship of parties

Unless this Agreement expressly provides otherwise, nothing in this Agreement may be construed as creating a relationship of partnership, of principal and agent or of trustee and beneficiary.



## 16.10 Notices

- (a) A notice or other communication required or permitted to be given to a party must be in writing and delivered personally or sent by pre-paid post, email or facsimile to that party's address, email address or facsimile number as notified in writing by that party to each other party from time to time.
- (b) A notice or other communication is deemed given:
- (i) if personally delivered, on delivery;
  - (ii) if mailed, on the expiration of 2 Business Days after posting;
  - (iii) if sent by email, on confirmation of successful delivery to the receiver's email address; or (iv) if sent by facsimile, on confirmation of successful dispatch by the sender's machine or if this occurs after 5.00pm on a Business Day, at 9.00am on the next Business Day.

## 17. Definitions

In this Agreement:

**Agreement** means this agreement between TK VDMA and the Buyer, together with any other arrangement or understanding between the parties;

**Buyer** means the purchaser of the Products;

**Approved Credit Limit** means the dollar amount specified by TK VDMA in any credit application approved in respect of the Buyer which dollar amount may be varied from time to time by TK VDMA without any need to give notice to the Buyer;

**Business Day** means a day that is not a Saturday, Sunday, public holiday or bank holiday in Victoria;

**Change of Control** means, in relation to a body corporate, the occurrence of an event or circumstance where a person who is not presently able to do any of the following things becomes able to do one of the following things (whether directly or indirectly or through one or more intervening persons, companies or trusts):

- (a) control the composition of more than one half of the body's board of directors;
- (b) be in a position to cast, or control the casting of, more than one half of the maximum number of votes that might be cast at a general meeting of the members of the body; or
- (c) hold or have a beneficial interest in more than one half of the issued share capital of the body;

**Controller** means, in relation to a person:

- (a) a receiver, receiver and manager, administrator or liquidator (whether provisional or otherwise) of that person or that person's property; or
- (b) anyone else who (whether or not as agent for the person) is in possession, or has control, of that person's property to enforce an encumbrance;

**Corporations Act** means the *Corporations Act 2001 (Cth)*;

**Event of Default** means, in relation to the Buyer, the occurrence of any one or more of the following events or circumstances:

- (a) the Buyer fails to comply with any of its obligations under this Agreement;
- (b) an Insolvency Event occurs in relation to the Buyer (or any person comprising the **party**);
- (c) a Change of Control occurs in relation to the Buyer without the consent of TK VDMA;
- (d) a notice of deregistration of the Buyer (or any person comprising the Buyer) is given under sections 601AA(5) or 601AB(5) of the Corporations Act;
- (e) the Buyer fails to pay by the due date any amount due and payable by it under this Agreement;
- (f) the Buyer becomes unable to perform all of its obligations and take all actions contemplated under this Agreement; and
- (g) the Buyer ceases or threatens to cease to carry on business or a substantial part of it;

**Force Majeure Event** means any act, event or cause, other than a lack of funds:

- (a) as a direct or indirect result of which, the party relying on it is prevented from or delayed in performing any of its obligations under this Agreement; and
- (b) that is beyond the reasonable control of that party;

**Government Agency** means any government or any public, statutory, governmental (including a local government), semi-governmental, local governmental or judicial body, entity, department or authority and includes any self-regulatory organisation established under statute;

**GST** has the meaning given to that term in the GST Act;

**GST Act** means the *A New Tax System (Goods and Services Tax) Act 1999 (Cth)*;

**including** or any form of that word must be construed as if it were followed by "(without being limited to)";

**Insolvency Event** means, in relation to a party to this Agreement, any one or more of the following events or circumstances occurring in relation to the party (or any person comprising the party):

- (a) being in liquidation or provisional liquidation or under administration;
- (b) having a Controller or analogous person appointed to it or any of its property;
- (c) being taken under section 459F(1) of the Corporations Act to have failed to comply with a statutory demand;
- (d) being unable to pay its debts or being otherwise insolvent;
- (e) becoming an insolvent under administration, as defined in section 9 of the Corporations Act;
- (f) entering into a compromise or arrangement with, or assignment for the benefit of, any of its members or creditors; and
- (g) any analogous event or circumstance under the laws of any jurisdiction;



**Law** means:

- (a) principles of law or equity established by decisions of courts;
- (b) statutes, regulations or by-laws of the Commonwealth, a State, a Territory or a Government Agency; and
- (c) requirements and approvals (including conditions) of the Commonwealth, a State, a Territory or a Government Agency that have the force of law;

**Order Confirmation** means a confirmation sent by TK VDMA to the Buyer confirming that a Purchase Order has been accepted and any terms of that acceptance;

**Ordered Products** means the Products specified by the Buyer in a Purchase Order that has been accepted by TK VDMA;

**person** includes a natural person and any body or entity whether incorporated or not;

**Personal Information** means information of or relating to a person and, where applicable, includes "personal information" (as that term is defined in the *Privacy Act 1988 (Cth)*) of or relating to that person;

**Prescribed Rate** means the rate that is 2% per annum above the rate fixed from time to time under section 2 of the *Penalty Interest Rates Act 1983 (Vic)*;

**Products** means the products manufactured or supplied by or at the request of TK VDMA or any of its Related Bodies Corporate, but only to the extent that those products are authorised by TK VDMA from time to time for purchase by the Buyer under this Agreement;

**Purchase Order** means an order for Products that is in the form specified by TK VDMA from time to time, whether written, verbal or otherwise;

**Quote** means a quotation provided to a Buyer prior to it submitting a Purchase Order, which setting out the price for the proposed Ordered Products;

**Related Body Corporate** has the meaning given to that term in the Corporations Act;

**Service Provider** means a service provider to TK VDMA;

**Tax** means all forms of taxes, duties, imposts, charges, withholdings, rates, levies or other governmental impositions imposed, assessed or charged by any Government Agency, together with all interest, penalties, fines, expenses and other additional statutory charges resulting from a failure to pay when due the full amount of any such imposition; and

**TK VDMA** means ThyssenKrupp VDM Australia Pty Ltd ACN 005 760 547.