Scania (Great Britain) Limited Standard terms and conditions for the purchase of Goods and/or Services

1. INTERPRETATION

1.1 The definitions and rules of interpretation in this condition apply in these conditions.
"**Applicable Laws**" means the laws of England and Wales and the European Union and any other laws or regulations, regulatory policies, statutes, guidelines or industry codes which apply to the supply of Goods and/or Services from time to time;
"Authorised Signatory" a person authorised by Scania to sign on Scania's behalf;
"Contract" the Order and the Supplier's acceptance of the Order for the sale and purchase of the Goods and/or supply of the Services;
"GDPR" means the General Data Protection Regulations 2016 (Regulation (EU) 2016/679)
"Good Industry Practice" means the exercise of that degree of skill, care, diligence, prudence, timeliness and foresight which would be expected from a leading and expert company within the industry, such company seeking to comply with its contractual obligations in full and complying with all Applicable Laws;
"Goods" any goods which the Supplier supplies to Scania (including any part or parts of them) under a Contract;
"Legislation" the GDPR and all Applicable Laws and regulations relating to the processing of personal data and privacy, including where applicable the guidance and codes of practice issued by the Information Commissioner;
"Order" Scania's written instruction to supply the Goods and/or Services, including a Scania purchase order;
"**Personal Data**", **"Controller"** and **"Processor"** shall have the meanings afforded by the GDPR;
"Scania" Scania (Great Britain) Limited or any other company within the Scania Group with whom the Supplier contracts in accordance with these conditions;
"Scania Group" Scania and from time to time Parent Undertakings and all Subsidiary Undertakings of Scania, and all Subsidiary Undertakings of any Parent Undertakings of Scania as such terms are defined in section 1162 of the Companies Act 2006;
"**Services**" any services which Scania receives from the Supplier (including any part of them) under a Contract;
"Standards" Scania standards and any other standards or national and EU standards on components materials including COSHH and similar together with any other standards that may be appropriate from time to time, and which may be available to the Supplier upon request from Scania;
"Supplier" the person, firm or company who accepts Scania's Order for Goods and/or Services;
"Supplier Personnel" means the employees, staff, other workers, agents and consultants and subcontractors who are engaged by the Supplier (or by any of the Supplier's consultants, agents, contractors or subcontractors) from time to time to supply the Goods/Services or are otherwise engaged in performance of the Contract.
"TUPE" the Transfer of Undertakings (Protection of Employment) Regulations 2006 (as amended);
"VWG" Volkswagen Group United Kingdom Limited;
"VWG Group" VWG, and from time to time Parent Undertakings and all Subsidiary Undertakings of VWG and all Subsidiary Undertakings of any Parent Undertakings of VWG as such terms are defined in section 1162 of the Companies Act 2006;
"Working Day" means 9am to 5pm on any day (not being a Saturday, Sunday, bank or public holiday in England);

1.2 A reference to a particular law is a reference to it as it is in force for the time being taking account of any amendment, extension, application or re-enactment and includes any subordinate legislation for the time being in force made under it.
1.3 A reference to one gender includes a reference to the other gender.
1.4 Headings do not affect the interpretation of these conditions.

2. APPLICATION OF TERMS

2.1 Subject to any variation under condition 2.4, these conditions are the only conditions upon which Scania is prepared to deal with the Supplier and they shall govern the Contract to the entire exclusion of all other terms or conditions.
2.2 Any quotation or other submission from the Supplier shall be deemed to be an offer by Scania to supply Goods and/or Services subject to these conditions. No agreement to supply shall be binding on Scania until Scania expressly accepts such an offer by issue of a Scania purchase Order or other express written agreement of Scania signed by an Authorised Signatory.
2.3 No previous oral or written representation or terms or conditions endorsed upon, delivered with or contained in the Supplier's quotation, acknowledgement or acceptance of order, specification, delivery note, invoice or similar document shall form part of the Contract and the Supplier waives any right which it otherwise might have to rely on such terms and conditions.
2.4 These conditions apply to all Scania's purchases unless varied upon the express written agreement of Scania signed by an Authorised Signatory.

3. SUPPLIER OBLIGATIONS

3.1 The Goods shall be of the best available design, quality, material and workmanship, be without fault and conform in all respects with the Order specification and/or patterns and bodywork instructions, supplied or advised by Scania to the Supplier. All Goods and packaging must comply with all applicable statutory and regulatory provisions and environmental standards.
3.2 The Services shall conform with the Order specification and the Supplier shall use reasonable skill and care in providing the Services in accordance with best industry practices and standards. The Services shall comply with all applicable statutory and regulatory provisions.
3.3 Scania's rights under these conditions are in addition to the statutory conditions implied in favour of Scania by the Sale of Goods Act 1979 and/or the Supply of Goods and Services Act 1982.
3.4 At any time prior to delivery of the Goods, Scania shall have the right to inspect and test the Goods. If Scania believes that the Goods are unlikely to conform with the Order or to any applicable specifications, patterns or Standards Scania shall inform the Supplier and the Supplier shall immediately take such action as is necessary to ensure conformity. The Supplier shall remain fully responsible for the Goods and any such inspection or testing shall not diminish or otherwise affect the Supplier's obligations under the Contract.
3.5 Where applicable the Supplier shall specifically be responsible for compliance with all requirements and provision of all documentation for Whole Vehicle Type Approval applicable to the Goods. This includes their interface/connection to Scania's vehicles.
3.6 The Supplier shall ensure that the Goods are accompanied by all instructions and technical documentation relating to the Goods in a clear and sufficiently detailed format as is necessary in order to enable Scania to install, start up, operate and maintain (including repair) the Goods.
3.7 The Supplier shall, on request by Scania, provide all relevant Health and Safety and other documentation.
3.8 The Supplier shall permit Scania or its external advisers (subject to reasonable and appropriate confidentiality undertakings) to inspect and audit the Supplier's premises and activities and those of its agents, subsidiaries and sub-contractors and comply with all reasonable requests or directions by Scania to enable Scania to verify and procure that the Supplier is in full compliance with its obligations under the Contract. If the Supplier is found not to be in compliance with its obligations under the Contract, the Supplier shall bear all direct or indirect costs of any such audit/inspection.

4. WARRANTIES

4.1 Without prejudice to other remedies under the Contract, in law or otherwise, the Supplier warrants to Scania:
4.1.1 that the Goods delivered will retain the characteristics required by condition 3.1 of these general terms for its normal working life, or if less, a period of two years after delivery;
4.1.2 that the Supplier will bear the costs of repair, modification or replacement of these Goods if it appears during the period referred to in condition 4.1.1 that any such repair is necessary to make them conform with the Order including the reimbursement of Scania for any direct, indirect or consequential damages, including but not limited to dealer charges, costs arising pursuant to any warranty that Scania has issued, or due to service, retrofit or product recall campaigns Scania undertakes in response to any failure of the Goods in accordance with this condition 4.
4.2 The warranty shall not extend to fair wear and tear, misuse or any incorrect assembly by Scania.

5. DELIVERY

5.1 Delivery shall be made, in normal business hours, DDP (in accordance with the latest version of Incoterms issued by the International Chamber of Commerce) to Scania's place of business or such other place of delivery as is agreed by Scania in writing prior to delivery.
5.2 The date for delivery shall be specified in the Order, or if no such date is specified then delivery shall take place within 7 days of the Order. Time for delivery or performance shall be of the essence.
5.3 The Supplier shall ensure that each delivery is accompanied by a delivery note which shows, inter alia, the Order number, date of Order, number of packages and contents and, in the case of part delivery, the outstanding balance remaining to be delivered.
5.4 If the Goods and/or Services are not delivered or performed on the due date then, without prejudice to any other rights which it may have, Scania reserves the right to:
5.4.1 cancel the Contract in whole or in part;
5.4.2 refuse to accept any subsequent delivery or performance which the Supplier attempts to make;
5.4.3 recover from the Supplier any expenditure reasonably incurred by Scania in remedying the defect or obtaining the Goods and/or Services in substitution from another supplier; and
5.4.4 claim damages for any additional costs, loss or expenses incurred by Scania including any sums due under clause 5.1 above which are in any way attributable to the Supplier's failure to deliver or perform on the due date.
5.5 If the Supplier requires Scania to return any packaging material to the Supplier that fact must be clearly stated on any delivery note delivered to Scania and any such packaging material shall only be returned to the Supplier at the Supplier's cost.
5.6 Where Scania agrees in writing to accept delivery by instalments the Contract shall be construed as a single contract in respect of each instalment. Nevertheless, failure by the Supplier to deliver any one instalment shall entitle Scania at its option to treat the whole Contract as repudiated.
5.7 If the Goods are delivered to Scania in excess of the quantities ordered Scania shall not be bound to pay for the excess and any excess shall be and shall remain at the Supplier's risk and shall be returnable at the Supplier's expense.
5.8 Scania shall not be deemed to have accepted the Goods until it has had five Working Days to inspect them following delivery. Scania shall also have the right to reject the Goods as though they had not been accepted for five business days after any latent defect in the Goods has become apparent.

6. TITLE

6.1 Title in Goods shall pass to Scania upon delivery.
6.2 Where Scania has delivered any property, whether a vehicle, chassis or otherwise (the **"Scania Property"**) to the Supplier or to the Supplier's order to have the Goods attached, installed or fitted and/or other works undertaken, beneficial ownership of Scania's Property is to remain vested in the Scania at all times whether or not the Goods have been pre-paid in part, in full or not at all. The Supplier is not under any circumstances permitted to sell or otherwise dispose of Scania's Property without prior agreement by an Authorised Signatory. Irrespective of ownership Scania's Property shall be at the risk of the Supplier until it has been returned to Scania.
6.3 Scania's Property must be stored separately from any other goods and must be marked and clearly identifiable as Scania's property. This is irrespective of whether any Goods or third party goods have been attached, fitted or installed. Scania shall have the right to enter the Seller's or other premises to check compliance.
6.4 In the event of breach by the Supplier, Scania or its employees or agents may enter the Supplier's or other premises (using reasonable force in case of urgency) in order to repossess and remove Scania's Property and if necessary dismantle and remove any Goods or anything third party goods.
6.5 Scania may at its sole discretion pay a proper amount in respect of Goods (being proportionate to the degree of completion of the Contract for the Goods) and ownership shall then pass to Scania.
6.6 The Supplier shall keep Scania indemnified in full against any loss, damage, injury costs and expenses awarded against or incurred or paid by Scania in connection with any of Scania's Property which is under the control of the Supplier.

7. RISK

7.1 Without prejudice to clause 6.1, the Goods shall remain at the risk of the Supplier until delivery to Scania is complete (including off-loading and stacking).

8. PRICE AND PAYMENT

8.1 The price of the Goods and/or Services shall be stated in the Order and shall be exclusive of value added tax but inclusive of all other charges. Prices are firm, and fixed for the duration of the Contract and shall not be adjusted in line with an index or exchange rate or otherwise.
8.2 No variation in the price nor extra charges shall be accepted by Scania.
8.3 Scania shall pay the price of the Goods and/or Services within 60 days from whichever date is the later of the delivery date of the Goods and/or Services to Scania or from the date of invoice. Time for payment shall not be of the essence of the Contract. Invoices shall be raised on or after delivery and must quote Scania's relevant Order number. Interest on late payments shall be 2% over Barclays Bank base rate.
8.4 Without prejudice to any other right or remedy, Scania reserves the right to set off any amount owing at any time from the Supplier to Scania against any amount payable by Scania to the Supplier under the Contract

9. CONFIDENTIALITY AND DATA

9.1 The Supplier undertakes to keep confidential and not disclose to any third party any information of a confidential nature disclosed to the Supplier by Scania under a Contract (including but not limited to any specifications, inventions, processes, initiatives, technical or commercial know how, product planning, prices, volume forecasts) without the prior written approval of Scania, except as maybe required by law.
9.2 Scania may disclose Confidential Data to any legal entity within the VWG Group.
9.3 The Parties acknowledge and agree that the only type of Personal Data that shall be Processed in connection with this Contract (and each Order as applicable) are: (i) the names and contact details of relevant personnel of Scania and the Supplier's Personnel; and (ii) any other Processing of Personal Data as agreed in writing between the parties. All such Processing shall be carried out only to the extent and duration necessary for the purposes of supplying the Goods/Services and the management and administration of this Contract and in accordance with these contract terms.
9.4 If and to the extent the Supplier or any of the Supplier's Personnel Processes Scania's Personal Data, the Supplier shall (and shall ensure that all Supplier Personnel shall):
9.4.1 comply with all Legislation and shall not, by its act or omission, cause Scania or any company in the Scania Group to breach any Legislation;
9.4.2 comply with the provisions set out in Article 28 of the GDPR (together with any provisions referenced therein) which shall have effect as obligations on the Supplier as if set out in full in this Contract, and (to the extent Scania Personal Data is shared and Processed) the expressions 'Controller' and 'Processor' used in those provisions and incorporated in those agreements pursuant to this clause shall in respect of Scania's Personal Data be deemed references to Scania and the Supplier respectively;
9.4.3 Process Scania's Personal Data only on behalf of Scania;
9.4.4 not otherwise modify or amend or alter the contents of Scania's Personal Data;
9.4.5 not disclose or permit the disclosure of any of the Personal Data to any third party (including the data subject itself) unless specifically authorised in writing by Scania;
9.4.6 ensure that only those employees of the Supplier who need to have access to the Personal Data for performance of the Contract are granted access to such data;
9.4.7 provide Scania with full co-operation and assistance in relation to any complaint or request made in respect of any Personal Data and provide Scania with any information requested by Scania to assist it; and
9.4.8 not transfer Personal Data outside the European Economic Area without the prior written consent of Scania.
9.5 The Supplier shall at all times comply with Good Industry Practice relating to data protection and implementation and maintenance of back-up systems. The Supplier shall provide to Scania at any time on request a detailed written description of the technical and organisational measures in place to protect Personal Data. The Supplier shall notify Scania immediately (and in any event within 6 hours) if it suspects or becomes aware of any actual, threatened or potential breach of security of Scania's Personal Data and shall ensure all such notices include full and complete details relating to such breach.
9.6 The Supplier shall indemnify Scania and the Scania Group against all and any losses, liabilities, damages, costs(including legal or other fees on a full indemnity basis) and expenses arising out of or in connection with any breach by the Supplier of this condition 9 including, in each case, all amounts paid or payable by Scania to a third party which would not have been paid or payable if the Supplier's breach of this clause had not occurred, except to the extent that such liabilities have arisen directly from Scania's reasonable instruction. This indemnity shall not be limited by any other clause of this Contract.
9.7 This condition 9 shall survive termination howsoever arising.

10. SCANIA'S INTELLECTUAL PROPERTY

10.1 Materials, equipment, tools, dies, moulds, (copyright, design rights or any other forms of intellectual property rights in all drawings, specifications and data) supplied by or made available by Scania to the Supplier shall at all times be and remain the exclusive property of Scania.
10.2 Neither party shall use the trade names, trade mark and other registered or unregistered designs, names, or logos of the other without the other party's prior written consent.
10.3 All patents, trademarks, service marks, registered designs, utility models, unregistered designs, copyright (including copyright in drawings, plans, specifications, designs and computer software), data base rights, rights in inventions, business or trade names (including internet domain names and e-mail addresses) rights in confidential information and trade secrets and all other intellectual and industrial property and rights of a similar or corresponding nature in any part of the world, whether registered or not or capable of registration or not and including the right to apply for registration and all applications for any of the foregoing rights and the right to sue for infringements of any of the foregoing rights whatsoever arising during the course of the Contract including without limitation anything developed jointly by the parties or by the Supplier during the course of or for the purpose of providing the Services or developing the Goods ("**Service IPR**") shall belong to and upon creation vest solely and absolutely in Scania.
10.4 To give effect to Condition 10.3 the Supplier with effect from the date of the Contract assigns to Scania with full title guarantee and free from all encumbrances, all of the right, title and interest in all the present and (to the extent that future rights are capable of assignment) future Service IPR together will all the rights, powers and benefits arising or accrued from them. To the extent that future Service IPR comes into existence to hold such Service IPR on trust for Scania and assign to Scania with full title guarantee and free from all encumbrances all of the right, title and interest in such Service IPR together with all the rights, powers, benefits arising or accrued from them.
10.5 The Supplier shall at the discretion and request of Scania execute any further documents, forms and authorisations and perform any such acts as Scania may reasonably require to enable Scania to secure full legal title to the Service IPR and to secure the benefits of the rights assigned in this condition 10 and to obtain registered protection in respect of the Service IPR.

11. TERMINATION

11.1 Scania shall have the right at any time and for any reason to terminate the Contract in whole or in part by giving the Supplier written notice whereupon all work on the Contract shall be discontinued and Scania shall pay to the Supplier fair and reasonable compensation for work-in-progress at the time of termination but such compensation shall not include loss of anticipated profits or any consequential loss.
11.2 Scania may by written notice terminate the Contract forthwith if:
11.2.1 the Supplier commits a material breach of any of the terms and conditions of the Contract or fails to remedy any other breach after notice to do so; or any distress, execution or other process is levied upon any of the assets of the Supplier or the Supplier has a bankruptcy order made against him or makes an arrangement or composition with his creditors, or otherwise takes the benefit of any statutory provision for the time being in force for the relief of insolvent debtors, or (being a body corporate) convenes a meeting of creditors (whether formal or informal), or enters into liquidation (whether voluntary or compulsory) except a solvent voluntary liquidation for the purpose only of reconstruction or amalgamation, or has a receiver or manager, administrator or administrative receiver appointed of its undertaking or any part thereof, or documents are filed with the court for the appointment of an administrator of the Supplier or notice of intention to appoint an administrator is given by the Supplier or its directors or by a qualifying floating charge holder (as defined in paragraph 14 of Schedule B1 to the Insolvency Act 1986), or a resolution is passed or a petition presented to any court for the winding-up of the Supplier or for the granting of an administration order in respect of the Supplier, or any proceedings are commenced relating to the insolvency or possible insolvency of the Supplier or the Supplier ceases or threatens to cease to carry on its business or
11.2.2 the financial position of the Supplier deteriorates to such an extent that in the opinion of Scania the capability of the Supplier adequately to fulfil its obligations under the Contract has been placed in jeopardy.
11.2.3 the Supplier breaches condition 16 in which case the Supplier shall not be entitled to any compensation or to any further payments or remuneration.
11.3 The termination of the Contract, however arising, is without prejudice to the rights and duties of Scania accrued prior to termination. The conditions which expressly or impliedly have effect after termination shall continue to be in force notwithstanding termination.

12. REMEDIES AND INDEMNITY

12.1 Without prejudice to any other right or remedy which Scania may have, if any Goods are not supplied or Services not performed in accordance with, or the Supplier fails to comply with, any of the terms of the Contract, Scania may at its discretion, whether or not any part of the Goods and/or Services have been accepted by Scania:
12.1.1 rescind the Order;
12.1.2 reject the Goods (in whole or in part) and return them to the Supplier at the risk and cost of the Supplier and require a full refund to be paid forthwith by the Supplier;
12.1.3 require the Supplier at its expense to either remedy any defect in the Goods or performance of the Services or to supply replacement Goods and/or carry out any works necessary work to ensure that the terms of the Contract are fulfilled;
12.1.4 refuse to accept any further deliveries of the Goods and/or further performance of the Services but without any liability to the Supplier;
12.1.5 carry out at the Supplier's expense any work necessary to make the Goods and/or Services comply with the Contract; and
12.1.6 claim such damages (whether resulting from direct, indirect or consequential loss (all three of which terms include, without limitation, loss of profit,)) as may have been sustained in consequence of the Supplier's breach of the Contract.
12.2 The Supplier shall indemnify Scania against all liabilities losses, damages, injury, costs, interest and expenses (including but not limited to any direct, indirect or consequential losses, loss of profit, loss of business, loss of reputation, pure economic loss and all interest, penalties, legal and other professional fees and expenses) and judgements awarded against or incurred or paid by Scania as a result of or in connection with:
12.2.1 defective workmanship, quality or materials, defective products in breach of the Consumer Protection Act 1985 or the General Product Safety Regulations 2005;
12.2.2 any deficiency in any applicable Whole Vehicle Type Approval process and any subsequent verification or enquiry from Scania or any appropriate authority relating to the Supplier's Goods and their contribution to the Whole Vehicle Type Approval process;
12.2.3 an actual or alleged infringement of any intellectual property rights caused by the use, manufacture or supply of the Goods;
12.2.4 any breach by the Supplier of condition 16; and
12.2.5 a direct or indirect breach or negligent performance or failure or delay in performance of the terms of the Contract by the Supplier, its agents or subcontractors.
12.3 Scania's total liability arising from or in connection with the Contract shall not exceed the price payable for the Goods and/or Services in accordance with its terms.

13. ASSIGNMENT

13.1 The Supplier shall not be entitled to assign or subcontract the Contract or any part of it without the prior written consent of Scania. In the event such consent is granted, the Supplier shall not set the existence of a sub-contract as a defence to any legal proceedings and shall be responsible for all acts and omissions of its sub-contractors or assignors as though they were its own.
13.2 Scania may assign the Contract or any part of it to any person, firm or company.

14. TUPE

14.1 Unless agreed in advance in writing by Scania no supply or change of supplier now or in the future is intended to transfer any employees from the Supplier or any third party to Scania or Scania's suppliers or contractors. If any transfer takes place under TUPE, or otherwise without our prior agreement, the Supplier shall fully indemnify Scania against all costs, claims and other expenses of any nature arising from such transfer.

15. CORRUPTION AND ANTI BRIBERY

15.1 The Supplier and its employees, contractors, advisers and agents will not engage in any conduct which could contravene the Bribery Act 2010 and any Applicable Laws relating to anti bribery and anticorruption and the Supplier will maintain adequate procedures to prevent any such conduct and enforce them where appropriate.

16. MODERN SLAVERY

16.1 The Supplier agrees that it shall, and it shall procure that its subcontractors and the Supplier's employees and any other person who performs Services and or supplies Goods within the Supplier's supply chain for the Supplier in relation to the Contract shall:
16.1.1 comply with all Applicable Laws relating to slavery and human trafficking ("**Anti-Slavery Requirements**") including the Modern Slavery Act 2015;
16.1.2 not take or knowingly permit any action to be taken that would or might cause or lead Scania to be in violation of any Anti-Slavery Requirements;
16.1.3 at Scania's request and cost, provide Scania with any reasonable assistance to enable it to perform any activity required by any regulatory body for the purpose of complying with the Anti-Slavery Requirements.
16.2 The Supplier represents warrants and undertakes to Scania that neither it nor any other person in its supply chain (including those referred to in condition 16.1) uses trafficked, bonded, child or forced labour or has attempted to use trafficked, bonded or child or forced labour with in its supply chain.
16.3 The Supplier shall ensure that it (and its Supplier Personnel) conforms with the guidelines and best practices of the UN Global Compact and the Code of Conduct for Scania (Great Britain) Limited and its Supply Chain available at www.scania.com/uk/en/businesswithscania

17. FORCE MAJEURE

17.1 Scania reserves the right to defer the date of delivery or payment or to cancel the Contract or reduce the volume of the Goods and/or Services ordered if it is prevented from or delayed in the carrying on of its business due to circumstances beyond the reasonable control of Scania including, without limitation, acts of God, governmental actions, war or national emergency, acts of terrorism, protests, riot, civil commotion, fire, explosion, flood, epidemic, lock-outs, strikes or other labour disputes (whether or not relating to either party's workforce), or restraints or delays affecting carriers or inability or delay in obtaining supplies of adequate or suitable materials.

18. GENERAL

18.1 Each right or remedy of Scania under the Contract is without prejudice to any other right or remedy of Scania whether under the Contract or not.
18.2 Any provision of the Contract which is prohibited or unenforceable shall be ineffective to the extent of such prohibition or unenforceability without invalidating the remaining provisions.
18.3 Failure or delay by Scania in enforcing or partially enforcing any provision of the Contract shall not be construed as a waiver of any of its rights under the Contract.
18.4 The Supplier shall not be entitled to assign its rights to receive payments pursuant to this Contract.
18.5 Any waiver by Scania of any breach of, or any default under, any provision of the Contract by the Supplier shall not be deemed a waiver of any subsequent breach or default and shall in no way affect the other terms of the Contract.
18.6 The parties to the Contract do not intend that any term of it shall be enforceable by virtue of the Contracts (Rights of Third Parties) Act 1999 by any person that is not a party to it.
18.7 The Supplier shall at all times maintain with a reputable insurance company adequate employers liability, public liability, professional indemnity and other such insurance policies as may be required to cover any and all liabilities arising out of the provision of the Goods and/or services.
18.8 All aspects of the Contract shall be governed by English law and the parties submit to the exclusive jurisdiction of the English courts.

These terms and conditions including any revisions are available at www.scania.com/uk/en/businesswithscania

11 May 2018