

# Global Warranty Manual



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## **APPENDIX 2 SCANIA ENGINES: GENERAL TERMS AND CONDITIONS, GLOBAL WARRANTY AND DISPUTE RESOLUTION SUPPLEMENT**

### **E 5.3.0 GENERAL TERMS AND CONDITIONS – SCANIA ENGINE PRODUCTS**

The following Section E 5.3.1 contains the General Terms and Conditions applicable to the purchase and sale of all Scania Engine Products. While this document shall be located and housed for administrative purposes in the Scania Global Warranty Manual, the provisions of the Scania Global Warranty Manual (other than these General Terms and Conditions, the Engine Product Warranty and the Dispute Resolution Supplement) shall not be deemed to be part of the contract relating to the purchase and sale of Scania Engine Products between Scania and its Purchasers.

## E 5.3.1 GENERAL TERMS AND CONDITIONS – SCANIA ENGINE PRODUCTS

### PREAMBLE

1. These General Terms and Conditions (these “**General Terms and Conditions**”) shall apply to all sales of Scania Engine Products by Scania to a Purchaser. Any amendments to, modifications of or deviations from these General Terms and Conditions must be set forth In Writing between Scania and Purchaser.

### DEFINITIONS

2. In these General Terms and Conditions the following terms shall have the meanings hereunder assigned to them:

- “**Contract**” means an agreement In Writing between Scania and the Purchaser concerning the purchase and supply of Scania Engine Products. The Contract shall include (a) these General Terms and Conditions, (b) the Engine Product Warranty, (c) the Dispute Resolution Supplement, (d) all appendices, exhibits, supplements and addendums attached to the forgoing, (e) any Purchase Order Transaction Terms, and (f) any and all documents, instruments or other agreements agreed In Writing between the parties (including but not limited to distribution agreements);

- “**Dispute Resolution Supplement**” means the provisions applicable to the resolution of disputes with respect to a Contract or a claim under the Engine Product Warranty, as set forth in Section E 5.3.2 of the Global Warranty Manual;

- “**Engine Product Warranty**” means the means the warranty applicable to the sale of Scania Engine Products from Scania to Purchaser as set forth in Section E 5.3.2 of the Scania Global Warranty Manual;

- “**In Writing**” means a hard-copy or electronic written document that is physically or electronically signed by one or both parties, as the context requires;

- “**Purchase Order Transaction Terms**” means the information in each purchase order accepted by Scania.

- “**Purchaser**” means the party acquiring Scania Engine Products from Scania;

- “**Scania**” means Scania CV AB;

- “**Scania Components**” means axles, gearboxes, assembly components and other equipment manufactured by Scania CV AB; and

- “**Scania Engine Products**” means the Scania Industrial Engines, Scania Power Generation Engines, Scania Marine Engines, Scania Gensets and Scania Components to be supplied and sold by Scania to Purchaser under the Contract, including software and documentation.

### PRODUCT INFORMATION

3. The information and data contained in general product documentation and price lists shall be binding only to the extent that it is expressly indicated In Writing that they are to be incorporated in the Contract. Any purchase order accepted by Scania shall be deemed accepted solely to the extent of the Purchase Order Transaction Terms that are contained in such purchase order. The terms of the Contract shall prevail over any terms or conditions contained in any other documentation related to the purchase of Scania Products and expressly exclude any general terms and conditions contained in any purchase order or other document issued by a Purchaser.

### DRAWINGS AND TECHNICAL INFORMATION

4. All drawings and technical documents relating to the Scania Engine Product or its manufacture submitted by one party to the other, prior or

subsequent to the formation of the Contract, shall remain the property of the submitting party. Drawings, technical documents or other technical information received by one party shall not, without the consent of the other party, be used for any other purpose than that for which they were provided. They may not, without the consent of the submitting party, otherwise be used or copied, reproduced, transmitted or communicated to a third party.

5. Scania shall, not later than at the date of delivery, provide free of charge information and drawings which are necessary to permit the Purchaser to install, commission, operate and maintain the Scania Engine Product. Such information and drawings shall be supplied in the number of copies agreed upon or at least one copy of each. Scania shall not be obliged to provide manufacturing drawings for the Scania Engine Product or for spare parts.

6. Scania reserves the right to make, without previous notice, the alterations and modifications of design which it may deem appropriate. Such alterations and modifications shall not affect the validity of any contract and shall be no cause for any claims upon Scania.

### ACCEPTANCE TESTS

7. Scania shall be under no obligation to notify the Purchaser prior to carrying out acceptance tests and the Purchaser shall have no right to be represented at the tests. Further, Scania shall not be obligated to send any test report to the Purchaser.

### DELIVERY; PASSING OF RISK

8. Any agreed trade term shall be construed in accordance with the INCOTERMS® in force at the formation of the Contract. If no trade term has been specifically agreed, the delivery shall be Free Carrier (FCA) at the place named by Scania. If Scania, at the request of the Purchaser, undertakes to send the Scania Engine Product to its destination, the risk will pass not later than when the Scania Engine Product is handed over to the first carrier.

9. All deliveries are subject to the condition that such import- and/or export licenses, as may be required for the Scania Engine Products offered, are issued by the competent authorities. All fees for legalizing invoices, stamping bills or other documents required by the laws of the country of destination are payable by the Purchaser and are not included in the purchase price and Scania is hereby authorised to pay the same for the Purchaser's account and add the cost thereof to the invoice.

10. Scania will take out relevant documents on behalf of the Purchaser, who must state how the goods are to be declared, and if the Purchaser does not furnish the necessary instructions, Scania will make declarations according to best judgment but will not in any case be responsible for any fines or other charges due to errors or incorrect declarations. Partial delivery shall be permitted.

### TIME FOR DELIVERY; DELAY

11. If the parties, instead of specifying the date for delivery, have specified a period of time within which delivery shall take place, such period shall start to run as soon as the Contract is entered into and all agreed preconditions to be fulfilled by the Purchaser have been satisfied, such as official formalities, payments due at the formation of the Contract and securities.

12. If Scania anticipates that it will not be able to deliver a Scania Engine Product at the agreed upon time for delivery, Scania shall forthwith notify Purchaser thereof In Writing, stating the reason and, if possible, the time when delivery can be expected. If Scania fails to give such notice, the Purchaser shall be entitled to compensation for any additional costs which the Purchaser incurs and which the Purchaser could have avoided had it received such notice.

**13.** If delay in delivery is caused by any of the circumstances mentioned in Clause 24, by an act or omission on the part of the Purchaser, including suspension under Clauses 21 and 27, or any other circumstances attributable to the Purchaser, Scania shall be entitled to extend the time for delivery by a period which is necessary having regard to all the circumstances of the case. This provision shall apply regardless of whether the reason for the delay occurs before or after the agreed time for delivery.

**14.** If the Scania Engine Product is not delivered at the time for delivery, the Purchaser shall be entitled to liquidated damages from the date on which delivery should have taken place. The liquidated damages shall be payable at a rate of 0.5 per cent of the purchase price for each commenced week of delay. The liquidated damages shall not exceed 7.5 per cent of the purchase price. If only part of the Scania Engine Product is delayed, the liquidated damages shall be calculated on that part of the purchase price which is attributable to such part of the Scania Engine Product as cannot in consequence of the delay be used as intended by the parties. The liquidated damages shall become due at the Purchaser's demand In Writing but not before delivery has been completed or the Contract is terminated under Clause 15. The Purchaser shall forfeit its right to liquidated damages if Purchaser has not lodged a claim In Writing for such damages within six months after the time when delivery should have taken place.

**15.** If the delay in delivery is such that the Purchaser is entitled to maximum liquidated damages under Clause 14 and if the Scania Engine Product is still not delivered, the Purchaser may In Writing demand delivery within a final reasonable period which shall not be less than one week. If Scania does not deliver within such final period and this is not due to any circumstances which are attributable to the Purchaser, then the Purchaser may by notice In Writing to Scania terminate the Contract in respect of such part of the Scania Engine Product as cannot in consequence of Scania's failure to deliver be used as intended by the parties. If the Purchaser terminates the Contract the Purchaser shall be entitled to compensation for the direct damages the Purchaser suffers as a result of Scania's delay, excluding any consequential and indirect damages. The total compensation, including the liquidated damages which are payable under Clause 14, shall not exceed 15 per cent of that part of the purchase price which is attributable to the part of the Scania Engine Product in respect of which the Contract is terminated. The Purchaser shall also have the right to terminate the Contract by notice In Writing to Scania, if it is clear from the circumstances that there will occur a delay in delivery which, under Clause 14, would entitle the Purchaser to maximum liquidated damages. In case of termination for this reason, the Purchaser shall be entitled to maximum liquidated damages and compensation under the third sentence of this Clause 15.

**16.** Liquidated damages under Clause 14 and termination of the Contract with limited compensation under Clause 15 shall be the only remedies available to the Purchaser in case of delay on the part of Scania.

**17.** If the Purchaser anticipates that the Purchaser will be unable to accept delivery of the Scania Engine Product at the time for delivery, the Purchaser shall forthwith notify Scania In Writing thereof, stating the reason and, if possible, the time when he will be able to accept delivery. If the Purchaser fails to accept delivery at the time for delivery, the Purchaser shall nevertheless pay any part of the purchase price which becomes due at the time for delivery, as if delivery had taken place at the time for delivery. Scania shall arrange for storage of the Scania Engine Product at the risk and expense of the Purchaser. Scania shall also, if the Purchaser so requires, insure the Scania Engine Product at the Purchaser's expense.

**18.** Unless the Purchaser's failure to accept delivery is due to any such circumstance as mentioned in Clause 24, Scania may by notice In Writing require the Purchaser to accept delivery within a final reasonable period. If, for any reason which is not attributable to Scania, the Purchaser fails to accept delivery within such period, Scania may by notice In Writing terminate the Contract in whole or in part. Scania shall then be entitled to compensation for the loss Scania suffers by reason of the Purchaser's default, including any consequential and indirect loss. The compensation shall not exceed that part of the

purchase price which is attributable to that part of the Scania Engine Product in respect of which the Contract is terminated.

## PAYMENT

**19.** Unless otherwise agreed, payment shall be made in advance (PIA). Any pro forma invoice issued by Scania for the Scania Engine Products shall in total be paid in advance by Purchaser on order confirmation.

**20.** Whatever the means of payment used, payment shall not be deemed to have been effected before Scania's account has been irrevocably credited for the amount due.

**21.** If the Purchaser fails to pay by the stipulated date, Scania shall be entitled to interest from the day on which payment was due and to compensation for recovery costs. The rate of interest shall be in accordance with Scania's weighted average cost of capital ("WACC") as set forth on the invoice. The compensation for recovery costs shall be 1 per cent of the amount for which interest for late payment becomes due. In case of late payment and in case the Purchaser fails to give an agreed security by the stipulated date Scania may, after having notified the Purchaser In Writing, suspend its performance of the Contract until Scania receives payment or, where appropriate, until the Purchaser gives the agreed security. If the Purchaser has not paid the amount due within three months Scania shall be entitled to terminate the Contract by notice In Writing to the Purchaser and, in addition to the interest and compensation for recovery costs according to this Clause, to claim compensation for the loss the Purchaser incurs. Such compensation shall not exceed the agreed purchase price.

## RETENTION OF TITLE

**22.** The Scania Engine Product shall remain the property of Scania until paid for in full to the extent that such retention of title is valid under the relevant law. The Purchaser shall at the request of Scania assist Scania in taking any measures necessary to protect Scania's title to the Scania Engine Product. The retention of title shall not affect the passing of risk under Clause 8.

## LIABILITY FOR DEFECTS

**23.** Scania's entire liability and the Purchaser's sole and absolute remedy for defects in Scania Engine Products shall be as described in the Global Warranty – Scania engine products, which is incorporated herein by this reference.

## FORCE MAJEURE

**24.** Either party shall be entitled to suspend performance of its obligations under the Contract to the extent that such performance is impeded or made unreasonably onerous by Force Majeure, meaning any of the following circumstances: industrial disputes and any other circumstance beyond the control of the parties such as fire, war, extensive military mobilization, insurrection, requisition, seizure, embargo, restrictions in the use of power, currency and export restrictions, epidemics, natural disasters, extreme natural events, terrorist acts and defects or delays in deliveries by sub-contractors caused by any such circumstance referred to in this Clause. A circumstance referred to in this Clause whether occurring prior to or after the formation of the Contract shall give a right to suspension only if its effect on the performance of the Contract could not be foreseen at the time of the formation of the Contract.

**25.** The party claiming to be affected by Force Majeure shall notify the other party In Writing without delay on the intervention and on the cessation of such circumstance. If a party fails to give such notice, the other party shall be entitled to compensation for any additional costs which such other party incurs and which such other party could have avoided had it received such notice. If Force Majeure prevents the Purchaser from fulfilling its obligations, the Purchaser shall compensate Scania for expenses incurred in securing and protecting the Scania Engine Product.

**26.** Regardless of what might otherwise follow from these General Terms and Conditions, either party shall be entitled to terminate the Contract by notice In Writing to the other party if performance of the Contract is suspended under Clause 24 for more than six months.

## **ANTICIPATED NON-PERFORMANCE**

**27.** Notwithstanding other provisions in these General Terms and Conditions regarding suspension, each party shall be entitled to suspend the performance of its obligations under the Contract, where it is clear from the circumstances that the other party is not going to perform its obligations. A party suspending its performance of the Contract shall forthwith notify the other party thereof In Writing.

## **WAIVER OF CERTAIN DAMAGES; LIABILITY LIMIT**

**28.** In no event shall Scania be liable under the contract for loss of production, loss of profit, loss of use, loss of contracts, "downtime" losses or for any incidental, consequential, special, punitive, exemplary, incidental or indirect loss or damage whatsoever, whether arising at law or in equity.

**29.** Scania's total aggregate liability with respect to the Scania Engine Products and/or the contract shall not exceed the fair market value of the Scania Engine Products as of the date of delivery to the purchaser.

## **DISPUTES AND APPLICABLE LAW**

**30.** All disputes arising out of or in connection with the Contract shall be resolved according to the Dispute Resolution Supplement, which is incorporated herein by this reference.

**\*\*\* End of General Term and Conditions\*\*\***

## **E 5.3.2 GLOBAL WARRANTY – SCANIA ENGINE PRODUCTS**

The following Section E 5.3.3 contains the Global Warranty – Scania Engine Products reflecting the terms, conditions and limitations applicable to the warranty offered by Scania with respect to all Scania Engine Products. While this document shall be located and housed for administrative purposes in the Scania Global Warranty Manual, the provisions of this Global Warranty Manual (other than the General Terms and Conditions, the Engine Product Warranty and the Dispute Resolution Supplement) shall not be deemed to be part of the contract relating to the purchase and sale of Scania Engine Products between Scania and its Purchasers.

## E 5.3.3 GLOBAL WARRANTY – SCANIA ENGINE PRODUCTS

### PREAMBLE

1. This Global Warranty – Scania Engine Products (this “**Engine Product Warranty**”) shall apply to all sales of Scania Engine Products by Scania to a Purchaser. Any amendments to, modifications of or deviations from this Engine Product Warranty must be set forth In Writing between Scania and the Purchaser. For deliveries of Scania Engine Products for installation in trucks or buses of any make, Scania’s General Terms and Conditions of delivery and warranty for Scania trucks and buses in force at the time of delivery will apply instead. For Scania Engine Products that are exported to the United States, the terms and provisions of the Scania Emissions Control Systems Warranty contained in the applicable Scania Engines Operator’s Manual, each as amended from time to time, shall also be applicable and are incorporated herein in their entirety.

### DEFINITIONS

2. In this Engine Product Warranty the following terms shall have the meanings hereunder assigned to them:

- “**Contract**” has the meaning set forth in the General Terms and Conditions;
- “**Date of Delivery**” means the date that Scania CV AB first ships the applicable Scania Engine Product to its Purchaser;
- “**Dispute Resolution Supplement**” means the provisions applicable to the resolution of disputes with respect to a Contract or a claim under this Engine Product Warranty, as set forth in Section E5.3.2 of the Global Warranty Manual;
- “**General Terms and Conditions**” means the Scania General Terms and Conditions applicable to the sale of Scania Engine Products, as set forth in Section E5.3.2 of the Global Warranty Manual;
- “**In Writing**” means a hard-copy or electronic written document that is physically or electronically signed by one or both parties, as the context requires;
- “**Into Use**” means that the Scania Engine Product has undergone a “start-up” procedure and is installed; provided that, if a Purchaser fails to timely submit a Start of Warranty Report, such Scania Engine Product shall be deemed to have been put “Into Use” upon the date of delivery by Scania;
- “**Purchaser**” means the party acquiring Scania Engine Products from Scania;
- “**Scania**” means Scania CV AB;
- “**Scania Components**” means axles, gearboxes, assembly components and other equipment manufactured by Scania CV AB;
- “**Scania Engine Products**” means the Scania Industrial Engines, Scania Power Generation Engines, Scania Marine Engines, Scania Gensets and Scania Components to be supplied and sold by Scania to Purchaser under the Contract, including software and documentation;
- “**Start of Warranty Report**” means the report that is submitted to Scania at [www.scania.com](http://www.scania.com) promptly following the installation of a Scania Engine Product; and
- “**Warranty Period**” is described in Clauses 5 through 12 of this Engine Product Warranty.

### LIABILITY FOR DEFECTS

3. During the Warranty Period, Scania shall remedy any defect or nonconformity (hereinafter termed defect(s)) in its Scania Engine

Products resulting from faulty materials or manufacturing, subject to the terms and conditions of this Engine Product Warranty. Scania reserves the right to provide new, remanufactured or repaired components (in its sole discretion) in fulfillment of its obligations under this Engine Product Warranty.

4. This Engine Product Warranty shall be extended by Scania only to the Purchaser. The Purchaser may, at its discretion, extend its warranty to a final purchaser or end user and may, at its discretion, base such a warranty on this Engine Product Warranty granted by Scania to the Purchaser; provided that, Scania shall have no obligation to honor or fulfil such warranty except solely to the extent it conforms in all respects with the terms and provisions of this Engine Product Warranty. The Purchaser, final purchaser or end user, as applicable, shall always have the right to entrust the repairs to Scania Engine Product defects covered by this Engine Product Warranty to an authorized Scania workshop or, if so agreed by Scania, to the Purchaser.

### WARRANTY PERIOD; NOTICE

5. Except as set forth in Clauses 6 through 12, the Warranty Period during which the Purchaser may make a claim to Scania under this Engine Product Warranty shall begin on the date of Scania’s delivery of the Scania Engine Product. The Warranty Period shall then expire 12 months after the earlier of (a) the date on which the Scania Engine Product first was put Into Use or (b) 60 months after the Scania Engine Product’s Date of Delivery. Each Purchaser shall complete a Start of Warranty Report promptly following the installation of a Scania Engine Product to denote that such Scania Engine Product has been put Into Use. If no Start of Warranty Report is submitted to Scania, the Warranty Period will be regarded as having been put Into Use on the date of delivery from Scania.

6. For engines in standby generator sets (as defined by Scania) in use in Europe, North and South America, Australia, New Zealand, Japan, Hong Kong, Singapore, Taiwan, South Korea and South Africa the Warranty Period shall begin on the Scania Engine Product’s Date of Delivery. It shall then expire 24 months after the date on which the Scania Engine Product first was put Into Use or 36 months after the Scania Engine Product’s Date of Delivery, whichever occurs first. For the purpose hereof, “Europe” shall include the European Economic Area (EEA), the United Kingdom and Switzerland. For Scania Gensets, however, the Warranty Period shall always be as set forth in Clause 5.

7. When a defect in a part of the Scania Engine Product has been remedied, Scania shall be liable for defects in the repaired or replaced part under the same terms and conditions as those applicable to the original Scania Engine Product for a period of one year. For the remaining parts of the Scania Engine Product the period mentioned in Clause 5 or Clause 6 shall be extended only by a period equal to the period during which and to the extent that the Scania Engine Product could not be used as a result of the defect.

8. The Purchaser shall without undue delay notify Scania In Writing of any defect of which it (or its final purchaser or end user) becomes aware. Such notice shall under no circumstances be given later than the expiry of the Warranty Period or the extended period(s) under Clause 7, where applicable. The notice shall contain a full description of the defect and any known additional details that may be beneficial to Scania in remedying the defect. If the Purchaser fails to notify Scania In Writing of a defect within the time limits set forth in the first sentence of this Clause, the Purchaser shall lose the right to have the defect remedied under warranty. Where the defect is such that it may cause damage to persons or property (including the Scania Engine Product), the Purchaser shall immediately inform Scania In Writing. The Purchaser shall bear all risk of damage to persons or property (including the Scania Engine Product) resulting from the failure so to notify Scania. The Purchaser shall take reasonable measures to minimize damage and shall in that respect comply with instructions of Scania.

9. On receipt of the notice under Clause 8 Scania shall at its own cost remedy the defect without undue delay, subject to the terms and conditions of this Engine Product Warranty. Scania shall use commercially reasonable efforts to undertake the remedial work in a manner that minimizes any disruption of the Purchaser's activities. Repair shall be carried out at the place where the Scania Engine Product is located unless Scania deems it more appropriate that the Scania Engine Product is sent to Scania or a destination specified by Scania. If the defect can be remedied by replacement or repair of a defective part and if dismantling and re-installation of the part do not require special knowledge, Scania may demand that the defective part is sent to Scania or a destination specified by Scania. In such case Scania shall have fulfilled its obligations in respect of the defect when Scania delivers a duly repaired part or a part in replacement to the Purchaser.

10. If the Purchaser has given such notice as mentioned in Clause 7 and no defect is found for which Scania is liable, Scania shall be entitled to compensation for the costs Scania incurs as a result of such notice.

11. If Scania does not fulfil its obligations under Clause 8, the Purchaser may by notice In Writing fix a final reasonable period for completion of Scania's obligations, which shall not be less than one week. If Scania fails to fulfill its obligations within such final period, the Purchaser may itself undertake or employ a third party to undertake necessary repair work at the risk and expense of Scania. Where successful repair work has been undertaken by the Purchaser or a third party, reimbursement by Scania of reasonable costs incurred by the Purchaser shall be in full settlement of Scania's liabilities for the said defect.

## WARRANTY COVERAGE

12. If a Scania Engine Product has to be removed completely from its installation to make a warranty repair, Scania shall cover the reasonable access times for removal and fitting of the Scania Engine Product up to limits defined in Scania Global Warranty Manual.

13. Scania's warranty covers costs of mechanics travel, up to limits defined in the Scania Global Warranty Manual. Scania shall not be liable for travel costs of warranty repairs on Parts or exchange units fitted after the expiry of the Warranty Period for the original Scania Engine Product.

14. The Purchaser shall at its own expense provide access to the Scania Engine Product and arrange for any intervention in equipment other than the Scania Engine Product, to the extent that this is necessary to remedy the defect.

15. Unless otherwise agreed, necessary transport of the Scania Engine Product or parts thereof to and from Scania in connection with the remedying of defects for which Scania is liable shall be at the risk and expense of Scania. The Purchaser shall follow Scania's instructions regarding such transport.

16. Unless otherwise agreed, the Purchaser shall bear any additional costs which Scania incurs for remedying the defect caused by the Scania Engine Product being located in a place other than the destination stated at the formation of the Contract for Scania's delivery to the Purchaser or – if no destination has been stated – the place of delivery.

17. Defective parts which have been replaced shall be made available to Scania and shall be Scania's property.

## WARRANTY LIMITATIONS AND EXCLUSIONS

18. This Engine Product Warranty does not cover or include damage resulting from or related to accident, misuse, negligence, neglect or abuse, improper repair or maintenance, operating methods other than those in the applicable operating or owner's manual, or unauthorized modifications of the Scania Engine Products; normal wear and tear; cleaning, adjustment and normal maintenance work, or the replacement or repair of parts required to be replaced or repaired in the course of normal maintenance work; repairs made by unauthorized repair centers;

corrections of alleged defects where documentation is inadequate to support the claim or the failed parts needed for analysis have been improperly preserved rendering failure analysis impossible; and/or gradual reduction in operating performance commensurate with age of the Scania Engine Products.

19. Scania shall not be liable for any damage to persons or property caused by the Scania Engine Product after it has been delivered and whilst it is in the possession of the Purchaser. Nor shall Scania be liable for any damage to products manufactured by the Purchaser or to products of which the Purchaser's Scania Engine Products form a part. If Scania incurs liability towards any third party for such damage to persons or property as described in the preceding sentences, the Purchaser shall indemnify, defend and hold Scania harmless. If a claim for damage as described in this Clause is lodged by a third party against one of the parties, the latter party shall forthwith inform the other party thereof In Writing.

20. Products manufactured by a third party ("**Third Party Products**") may constitute, contain, be contained in, incorporated into, attached to or packaged together with, the Scania Engine Products. Third Party Products are not covered by the Engine Product Warranty. For the avoidance of doubt, **Scania makes no representations or warranties with respect to any Third Party Product.**

21. This Engine Product Warranty shall be valid only for Scania Engine Products installed according to valid installation instructions and approved by Scania.

22. This Engine Product Warranty shall only apply to Scania Engine Products of Scania's own design and manufacture and Scania shall not be liable for defects arising out of materials provided or a design stipulated or specified by the Purchaser.

23. Scania shall only be liable for defects which appear under normal operating conditions and under proper use of the Scania Engine Product.

24. Scania shall not be liable for defects caused by circumstances, which arise after the risk has passed to the Purchaser, e.g. defects due to faulty maintenance, incorrect installation or faulty repair by the Purchaser or to alterations carried out without Scania's consent In Writing.

25. Scania's liability shall be limited to defects which appear within the Warranty Period. If the use or operating conditions of the Scania Engine Product exceed that for which it was designed (as described in Clause 28), the Warranty period shall be reduced proportionately.

26. The Engine Product Warranty shall not apply to defects caused by unsuitable or faulty installation of Scania Engine Products. Faulty installation also includes absence of or non-correct torsional vibration calculations as well as non-compliance with Scania installation manuals and recommendations.

27. Should the Purchaser store Scania Engine Products for longer than 6 months, the Engine Product Warranty shall only apply if, at all times during the storage period, the Purchaser stores such Scania Engine Products under roof, in an enclosed building and in full compliance with all conservation and storage procedures established by Scania from time-to-time.

28. Without prejudice to the preceding provisions regarding warranty periods, Scania's warranty shall only apply to Scania Engine Products for use, purposes and total time in use within the limits applicable to the Scania Engine Product as set forth in the Scania Operator's Manual ("OPM") at [www.scania.com](http://www.scania.com).

**29. This Engine Warranty is the only Warranty and/or remedy applicable to the Scania Engine Products, and Scania makes no other warranties, express, implied or statutory, including any implied warranty of merchantability or fitness for a particular purpose and/or any warranty arising by course of dealing, course**



of performance, usage of trade or otherwise. all such warranties are hereby disclaimed and excluded.

30. In no event shall Scania be liable for loss of production, loss of profit, loss of use, loss of contracts, "downtime" losses or for any incidental, consequential, special, punitive, exemplary, incidental or indirect loss or damage whatsoever, whether arising at law or in equity.

31. Scania's total aggregate liability with respect to the engine products and/or the warranty shall not exceed the fair market value of the Scania Engine Products as of the date of delivery to the Purchaser.

32. The remedies set forth in this Engine Warranty are the purchaser's sole and exclusive remedies and are Scania's entire liability for any breach of this Engine Warranty. Except as stated in this Engine Warranty, Scania shall have no liability for any losses, costs, damages or other compensation of any kind and no Party asserting a right under this Warranty shall be entitled to assert any claims for such loss, cost, damage, or compensation.

#### **DISPUTE RESOLUTION; GOVERNING LAWS**

33. All disputes arising out of or in connection with this Engine Product Warranty shall be resolved according to the Dispute Resolution Supplement, which is incorporated herein by this reference. The provisions of this Engine Product Warranty are predicated and expressly contingent upon Purchaser's agreement to be bound by the terms of the Dispute Resolution Supplement

**\*\*\* End of Engine Product Warranty\*\*\***

#### **E 5.3.4 DISPUTE RESOLUTION SUPPLEMENT – SCANIA ENGINE PRODUCTS**

The following Section E 5.3.5 contains the Dispute Resolution Supplement – Scania Engine Products reflecting the dispute resolution processes applicable to disputes in regards to the purchase, sale, ownership, warranty or use of Scania Engine Products. While this document shall be located and housed for administrative purposes in the Scania Global Warranty Manual, the provisions of the Global Warranty Manual (other than the General Terms and Conditions, the Engine Product Warranty and the Dispute Resolution Supplement) shall not be deemed to be part of the contract relating to the purchase and sale of Scania Engine Products between Scania and its Purchasers.

## E 5.3.5 DISPUTE RESOLUTION SUPPLEMENT – SCANIA ENGINE PRODUCTS

### PREAMBLE

1. This Dispute Resolution Supplement – Scania Engine Products (this “**Dispute Resolution Supplement**”) shall apply to any and all disputes concerning (a) Contracts for sales of Scania Engine Products between a Purchaser and Scania and (b) claims under the Engine Product Warranty by Purchaser or by any end purchaser or user of Scania Products. Any amendments to, modifications of or deviations from this Dispute Resolution Supplement must be set forth In Writing between Scania and Purchaser.

### DEFINITIONS

2. In this Dispute Resolution Supplement the following terms shall have the meanings hereunder assigned to them:

- “**Contract**” has the meaning set forth in the General Terms and Conditions;

- “**Engine Product Warranty**” means the Global Warranty – Scania Engine Products applicable to the sale of Scania Engine Products from Scania to Purchaser as set forth in Section E5.3.2 of the Global Warranty Manual;

- “**General Terms and Conditions**” means the Scania General Terms and Conditions applicable to the sale of Scania Engine Products, as set forth in Section E5.3.2 of the Global Warranty Manual;

- “**In Writing**” means a hard-copy or electronic written document that is physically or electronically signed by one or both parties, as the context requires;

- “**Purchaser**” means the party acquiring Scania Engine Products from Scania;

- “**Scania**” means Scania CV AB;

- “**Scania Components**” means axles, gearboxes, assembly components and other equipment manufactured by Scania CV AB; and

- “**Scania Engine Products**” means the Scania Industrial Engines, Scania Power Generation Engines, Scania Marine Engines, Scania Gensets and Scania Components to be supplied and sold by Scania to Purchaser under the Contract, including software and documentation;

### GOVERNING LAW AND ARBITRATION

3. For Scania Engine Products that are located (at the time of the applicable dispute, claim, suit or demand) in any jurisdiction or country other than North America:

(a) Disputes, claims, suits or demands arising in connection with the Engine Product Warranty and/or the Contract shall not be taken to a court of law but shall be settled by arbitration in accordance with Swedish arbitration law. Unless the parties otherwise agree In Writing, such arbitration shall be held in Stockholm, Sweden, before one arbitrator and shall be conducted in English. The arbitrator shall not have authority to award damages beyond the remedies provided for in Engine Product Warranty and/or the Contract. The decision of the arbitrator shall be final and binding on the parties. Any court having jurisdiction may enter a judgment upon the award rendered by the arbitrator; and

(b) Notwithstanding the foregoing, Scania may – at its sole discretion – elect to apply the governing law and jurisdiction of the courts in the Country and State/Province of the Purchaser if Scania is seeking to collect any unpaid debt of the Purchaser owed to Scania.

4. For Scania Engine Products that are located (at the time of the applicable dispute, claim, suit or demand) in North America:

(a) The Engine Product Warranty and/or the Contract shall be governed by and construed in accordance with the laws of the State of Delaware, United States of America, without regard to conflicts or choice of law principles that could cause the application of the law of another jurisdiction;

(b) Disputes, claims, suits or demands arising in connection with the Engine Product Warranty and/or the Contract shall not be taken to a court of law but shall be settled by arbitration in accordance with the Commercial Arbitration Rules of the American Arbitration Association. Unless the parties otherwise agree In Writing, such arbitration shall be held in Wilmington, Delaware, United States of America, before one arbitrator and shall be conducted in English. The arbitrator shall not have authority to award damages beyond the remedies provided for in Engine Product Warranty and/or the Contract. The decision of the arbitrator shall be final and binding on the parties. Any court having jurisdiction may enter a judgment upon the award rendered by the arbitrator;

(c) Notwithstanding the foregoing, Scania may – at its sole discretion – elect to apply the governing law and jurisdiction of the courts in the Country and State/Province of the Purchaser if Scania is seeking to collect any unpaid debt of the Purchaser owed to Scania; and

(d) The parties agree that the United Nations Convention on Contracts for the International Sale of Goods does not apply to the Engine Product Warranty and/or the Contract.

\*\*\* *End of Dispute Resolution Supplement* \*\*\*