

DONALDSON MOTORS TERMS AND CONDITIONS 2016

WARRANTY TERMS AND CONDITIONS

IMPORTANT – READ THIS INFORMATION BEFORE INSTALLING YOUR PURCHASE

This warranty is for the original purchaser and is not transferable.

To validate our warranty you must comply with every installation procedure and the Warranty Terms and Conditions in this information

IF YOU ARE NOT PREPARED TO COMPLY WITH ANY OF THESE

INSTALLATION PROCEDURES AND WARRANTY TERMS AND CONDITIONS –

DO NOT USE OUR PRODUCT

Return your purchase to the point of sale and a refund can be arranged (Conditions apply) – contact our sales department for details.

ABOUT THIS WARRANTY

The words 'our', 'we' and 'the Company' in this document refer to Donaldson Motors Pty Ltd. All our goods are supplied with guarantees which cannot be excluded under the Australian Consumer Law. You are entitled to a replacement or refund for a major failure and compensation for any other reasonably foreseeable loss or damage. You are also entitled to have the goods repaired or replaced if the goods fail to be of acceptable quality and the failure does not amount to a major failure. Please note that the above clause only applies where you make a valid claim pursuant to the Australian Consumer Law. Without limiting the effect of the Australian Consumer Laws, The Company may take into consideration the following non-exhaustive list of factors in assessing the validity of any claim made under the Australian Consumer Law, particularly where: (i) There is in fact any fault or defect; (ii) You changed your mind; (iii) The Company brought to your attention any hidden defect before purchasing the part; (iv) You examined the part before purchasing and should have noticed the fault; (v) You used the goods in a manner which caused the goods to become unacceptable, damaged or to fail; (vi) You took reasonable steps to avoid the quality becoming unacceptable, damaged or fail; (vii) It was reasonable for you to have relied on our skill or judgment when buying the goods; or (viii) Something occurred which was beyond human control and that occurred after the part was supplied. In the event that the Company finds that any of the above have occurred, Donaldson Motors Pty Ltd may investigate, oppose or defend that claim under the Australian Consumer Laws.

CORRECT PRODUCT FITMENT AND INSTALLATION PROCEDURES

- (i) You must fully comply with any fitting requirements provided with your purchase.
- (ii) If no fitting requirements have been provided, you must use your best endeavor's to ensure that the part is fitted with reasonable due care and diligence by a suitably qualified person.

WARRANTY EXCLUSIONS

This warranty does NOT apply to:

- (i) Any part which has not been serviced in accordance with reasonable requirements and/or the manufacturer's recommendation.
- (ii) Any product which has been damaged due to the fault of any other product component.
- (iii)

Any product which has not been fitted in accordance with the listed Fitting Requirements. (iv) Damage to the product from a failure of the owner to properly repair the product or any other product component which affects the product. (v) Damage to the product due to airborne contamination (or dusting) entering the air intake system. (vi) Damage to the product caused by operating in contradiction to the instrumentation/gauge warning devices (high water temperature and low oil pressure, etc), and includes a 'dry-start' condition. (vii) Damage to the part associated to incorrect timing or caused by faulty ancillary components. (viii) A part which is incorporated in a product which has been fitted with an after-market turbocharger or supercharging system, or has been modified in any way to obtain additional horsepower/torque. (ix) Transportation/freight damage: where the Company has organized the freight and also included the freight charge on the sales invoice, you have enjoyed the benefits of a cheaper freight rate due to our established bulk freight rate. However, we are not the carrier and therefore will not be held responsible for any damage or loss incurred in the transportation process. All claims are to be taken up directly with the Freight forwarder concerned. We cannot guarantee that their decision will be to your favor. (x) Products installed into marine and industrial engines which have not been run-in on a dynamometer. (xi) Any product incorporated into an engine which is found to have been over-spiced/over revved, over loaded/lugged, or not serviced in accordance with the manufacturer's service intervals. (xii) Freight charges travelling time for mechanics, fault finding or diagnosis time, towing, demurrage, down time and charges for hire vehicles are not covered under our warranty and such charges will not be reimbursed regardless of the circumstances. (xiii) Labor charges exceeding the established \$70 per hour rate and job times in excess of job time frames established by the Company and recognized industry repair time's guides. (xiv) Unauthorized repairs, alterations or dismantling of any description. (xv) Wear and tear from normal operation.

WARRANTY PERIOD

The Warranty period is stipulated on the Tax Invoice. Where there is no Warranty Period on the Tax Invoice the Warranty Period is 12 months. Where applicable this warranty covers your purchase and/or labor against defective materials and/or workmanship during the Warranty period on the basis that all of the Fitting Requirements are met.

IMPORTANT

All claims will require detailed invoices/receipts proving that all our conditions were met at the time of the product installation. Failure to produce this evidence upon our request will void any warranty entitlement.

WARRANTY BENEFITS

Parts:

The Company will supply free of charge all components required to rectify any authorized claims and also reserves the right to supply used components in certain circumstances.

Reimbursement of costs to Purchaser:

If the part has been inspected by the Company and has been deemed warrantable by our warranty department the Company may in its absolute discretion reimburse reasonable

charges for outside preliminary inspections, its removal and return.

Exclusions to Warranty Benefits:

The Company will not recognize or be held responsible for time spent on fault finding and/or diagnosis towing charges, travelling time, demurrage/down time, loss of profits, consequential damage or loss. The Company cannot be held responsible for any implied or verbal representations outside the invoice description of the goods sold and warranted. The Company will not recognize any claim where the failure or defect is caused by: (i) The non compliance of our compulsory **FITTING REQUIREMENTS**, or (ii) The conditions as outlined under our **WARRANTY EXCLUSIONS**

IF YOU ARE NOT SATISFIED WITH THE TERMS AND CONDITIONS OF THIS WARRANTY – DO NOT USE OUR PRODUCT

Return your purchase to the point of sale and a Refund may be arranged (conditions apply).

MAKING A CLAIM

Customer's responsibilities and entitlements:

In the unlikely event of any preliminary signs of malfunction within the Warranty Period, the purchaser/operator must: cease operation of the product immediately; and notify our customer service department by phone on (03) 9706 4444 (8am to 5pm) weekdays – Eastern Standard Time). Failure to comply with this condition could result in more serious consequential damage to the product and will void any warranty entitlement. (i) There is in fact any fault or defect (ii) The purchaser must send the Company a completed warranty form via email, fax or post as soon as reasonably possible after discovering signs of malfunction. This form is available upon request from our warranty department. It is the purchaser's responsibility to ensure the company has received all paperwork. Claims will not proceed until all required information is received by our warranty department. (iii) Unless previously arranged with our warranty department the product deemed by the purchaser to be a warranty claim must be returned within 30 days of failure for inspection. The purchaser must return the product at their own cost to the Donaldson Motors premises regardless of where it was originally purchased. The company address is 60-62 Frankston Dandenong Road, Dandenong, Vic 3175. Warranty claims will not be processed if on accounts in arrears. (iv) Liability under the Warranty Claim will not be accepted by the Company until the product has been inspected by our Warranty Department and deemed warrantable. (v) If the Company does not accept liability for the Warranty Claim, the Company may in its absolute discretion recover any reasonable out-of-pocket expenses incurred in relation to the Warranty Claim including but not limited to the towing, freight, dismantling and inspection process, such costs to be reimbursed by the customer prior to delivery of the unit and only cleared funds will be accepted as payment. (vi) If the company accepts liability under the Warranty Claim, the Company will (if possible) within a reasonable time propose alternative repair measures to the purchaser. The Purchaser must accept one of the repair measures proposed by the Company within a reasonable time. (vii) If the purchaser proposes an alternative repair measure which is not endorsed by the Company the Company may in

its absolute discretion undertake repair works in accordance with the purchaser's proposed repair measures. (viii) The purchaser must not engage any third party repairers to undertake warranty repair works without written authorization from the Company to the commence repairs which may include labor charges fixed at standard factory amounts and at an hourly rate stipulated by our Warranty Department. (ix) If the Company instructs or gives authorization for a warrantable repair to be undertaken by an outside repairer (a third party repairer), the Company does not provide any warranty for such work undertaken by the third party repairer. (x) If there is a dispute arising in relation to liability or the quantum of the Warranty Claim a mutually acceptable third party expert opinion may be obtained at the purchaser's expense. The third party Engineer must be from the MVRIA or the Office of Fair Trading or be a recognized Automotive Consultant with membership of the SAE and IAME. (xi) Any opinion expressed or determination made by the third party expert shall not bind the Company or the purchaser. (xii) If the Company declines the Warranty Claim but is used as the repairer the purchaser must sign a release form prior to commencement of the repair. Cleared funds only will be accepted as payment.

WARRANTY CLAIMS – 03 9706 4444

The Operations Manager,

60-62 Frankston Dandenong Road, Dandenong
South Vic 3164

Tel: 03 9706 4444 fax: 03 9706 4094

Warranty department:
glenn@donaldsonmotors.com.au

CONDITIONS OF SALE

Offer to purchase

1. The purchaser hereby offers to purchase from the Company the goods identified on the invoice for the price on the invoice. If you place an order with us then from the moment we accept the order even if we do not tell you the order has been accepted. We may accept orders by phone or we may request written confirmation or company order numbers.
2. The company may in its discretion accept or decline the Purchaser's offer to purchase.
3. All prices quoted are in Australian Dollars irrespective of where you are located, goods are sold ex-warehouse and invoiced at the price we charge on the date of dispatch from our warehouse
4. Donaldson Motors is entitled to vary the price of any goods and services at any time prior to delivery. No reasonable variation shall entitle the Customer to cancel an order.
5. Goods and Services Tax or any other applicable tax or duty payable shall be paid by or reimbursed by the customer on demand
6. Any quotation is merely and invitation to you to place an order with the company. We offer quotation based on information supplied by you to us. If the information you supply is incorrect, you may order goods which conform to our specifications but are not suitable for your purpose
7. If you offer to purchase from us based on a quotation then your offer subject to these

conditions and valid for 28 days as at the date of quotation

8. Quoted prices for backorders are valid for 60 days as at the date of quotation

9. We reserve the right to correct any obvious errors in any quotation, tender or price list, whether technical or otherwise

Payment

10. The purchaser must pay the price noted on the invoice to the Company on delivery of the goods or if a credit account is held with the Company, then in accordance with the terms of their credit account

11. Interest will be charged on late payments at the rate of **1.5%** calculated monthly from the due date, plus all legal and collection costs including costs of a company solicitor

12. All representations made in the invoice are made on the basis that errors and omissions are excepted

13. Customers shall be not entitled to withhold payment of any account by reason of any account query, dispute, or off set. The customer agrees to pay Donaldson Motors administration and handling fees incurred in the normal course of business. Such fees will be charged to the customers account.

Delivery and Risk

14. The purchaser is liable for all transport charges and/or transport insurance of purchased goods unless the company agrees in writing otherwise. If such charges are paid by the Company, those charges are not refundable if (b) included in the purchase price in the event the goods are later returned.

15. If the company accepts liability for transport charges and transport insurance the Purchaser shall indemnify the company from all loss which occurs to the goods during transport and/or delivery including all consequential loss

16. The company will use all reasonable endeavours to deliver by the date specified in the order/quote it does not unless agreed in writing guarantee delivery on that date is not liable for any loss resulting from late or early delivery. Delivery of goods shall be affected when to goods are unloaded from the delivery vehicle or placed on the Purchasers or the Purchasers agents' nominated carrier. If no date for delivery has been specified then the Goods supplied to the Purchaser and the Purchaser shall receive the goods as soon as practicable after the Purchase order has been accepted by the Supplier.

17. The signing of delivery dockets or similar documents will constitute acceptance of goods specified in a docket or document. The Customer must immediately notify Donaldson Motors in writing if Goods or Customer property is not received within 7 days of receipt by the customer of Donaldson Motors invoice or delivery information. The customer shall examine the goods immediately after delivery or upon collection. Donaldson Motors shall not be liable for any claim for liability for any mis-delivery, shortage, defect or damage unless Donaldson Motors receives details in writing within seven (7 days) of the date of delivery of the goods

Cancellations

17. Any request by the Purchaser for cancellation of any order must be in writing and may be delivered by post, hand delivery, fax or email. The Purchaser is liable to reimburse the Supplier for the costs it has incurred for labour and materials in fulfilling the Purchase order up to the date the request for cancellation is received and acknowledged by the supplier.

Retention of Title

18. Title to and in all Goods sold, supplied or delivered by the company to the Purchaser shall not pass to the Purchaser, but shall remain with the company until such time as full payment is made by the Purchaser for all goods sold, supplied or delivered to the Company and all other amounts owing to the Company by the Purchaser have been paid in full, whether each such amounts are payable under this or any other contract or agreement between the Company and the Purchaser.

19. Until title to such goods passes to the Purchaser the Purchaser acknowledges and agrees to hold any goods delivered to it by the company as bailee

20. Notwithstanding any other provisions of these Terms and Conditions the Purchaser may sell the goods to a third party in the ordinary course of the Purchasers ordinary business and deliver them in full to the third party, provided that,

where the Purchaser is paid by the third party the Purchaser shall hold and be deemed to hold the whole of the proceeds of sale on trust for the Company;

where the Purchaser is not paid by that third party, the Purchaser agrees to assign at the option of the Company its claim against that third party to the Company upon receiving notice from the Company that it requires such an assignment

21. Until title such goods passes to the Purchaser or the goods sold by the Purchaser to a third party

the Purchaser agrees to hold and shall hold such goods as a fiduciary for the Company:

(b) the Purchaser agrees to store those goods in a manner which clearly indicates that the goods are the property of, and that the title to them remains with the Company

(c) notwithstanding that the title to such goods remains with the Company, the purchaser agrees to hold and shall hold the goods at its risk and expense and be liable to compensate the Company for all loss and damage sustained to the goods whilst they are in the Purchasers possession or control until such time as the Purchaser has paid all sums owing to the Company whether under this or an other contract or agreement, the company has the right to call for and/or recover the goods and the Purchaser agrees that the Company may in its absolute discretion enter upon the Purchaser's premises and retake possession of the goods and the Purchaser hereby irrevocable authorises and directs the Company's representative or agents to enter onto the Purchases premises during operating hours in order to repossess all Goods in the event that the purchaser fails to make any payment when it is due, or commences to be wound up, or is placed under official management or a receiver or manager is appointed to the purchaser or any amount in respect of the goods supplied by the Company is in the Company's opinion in jeopardy.

- (d) For the purposes of facilitation of Clause 12(d) the Purchaser shall raise no objection to the Company or its representative's entry on to the Purchaser's premises or to the reprocessing of those goods whether in the law of theft or trespass and agrees that the Company has claim of right over these goods. Where the purchaser locks or otherwise would prevent the Company from retaking possession of its goods, the Purchaser acknowledges Clauses 12(d) and 12(e) applies.

22. The provisions of this Retention of Title clause apply notwithstanding that the company may have allowed credit to the Purchaser

23. The Purchaser further acknowledges and agrees that all goods may be repossessed in lieu of payment of any moneys due from the Purchaser to the Company and that the Company shall not be liable for any costs, losses, damages or other expenses suffered by the Purchaser or any third party respect of the Company taking any action to recover such moneys

Returns policy

24. The company may accept in its absolute discretion the return of new parts which are deemed by the company to be an acceptable condition within 14 days after invoice date. If goods returned after 14 days to less than 28 days the Purchaser must pay a handling fee of 10% of the purchase price.

25. The return of parts will not be accepted after 28 Days after the invoice date except in accordance with the Company requirements under the applicable warranty and the Australian Consumer Law

The Company in considering whether a returned good is of acceptable condition will consider (amongst other things) whether the returned goods is in the original packaging accompanied by original invoice and in a condition suitable for the Company to re-stock and re-sell the returned goods

26. If the Company accepts the return of goods PURSUANT TO Clause 15 the company in its absolute discretion may allow for an exchange of goods of the equivalent price or to provide a credit to the value of the goods.

27. In consideration of accepting the returned goods and for assessing whether the goods is of acceptable condition, the purchaser may be asked to pay the company 10% of the value of the goods prior to the company accepting the returned goods.

(a) Without limiting the company Warranty terms and conditions its statutory obligations and its absolute discretion to reject returned goods, the company shall not exchange goods or provide credit for the following: electrical items, secondhand parts, engines, gearboxes, cabins, differential whether they be new, reconditioned, or second hand, incomplete kit sets such as gasket kits, ring sets and packs, bearing sets/packs, piston liner kits, separate goods which form part of an engine kit which was sold as a complete kit, new parts returned in packaging which is damaged, greasy/dirty, hand marked or shop soiled

28. Transport charges for returned goods must be prepaid by the Purchaser. The company will not accept "Freight Forward"

27. The Purchaser is liable for all transport charges and/or transport insurance of returned

goods unless the Company agrees in writing otherwise. If such charges are paid by the company those charges are not refundable if included in the purchase price in the event the goods are later returned.

29. If the company accepts liability for transport charges and/or transport insurance; the purchaser shall indemnify the company from all loss which occurs to the returned good during transport and/or delivery including all consequential loss.

30. Acknowledgement of receipt of returned goods by the company does not amount to acceptance of these returned parts not of any liability to provide the purchaser an exchange or credit.

31. The company will not accept the return of parts which are not normally stocked by the company and were ordered as a special procurement to buy in for the purchaser, except in accordance with the Company requirements under the applicable warranty and Australian Consumer Law.

Disclaimer and Indemnity

32. The Purchaser acknowledges that any representations made whether orally or in writing by the Company in relation to goods, services or otherwise are general in nature and is intended only as a guide to the Purchaser

33. The Purchaser acknowledges and accepts that it is responsible for ensuring goods purchased are fit for the purpose for which they are intended

34. The Purchaser acknowledges that it is not replying upon any representation made whether in writing or verbally by the company as to the suitability of the goods for the purpose intended and the purchaser acknowledges that it is responsible for undertaking its due diligence with respect to the goods and the respective fitness for purpose.

31. The Purchaser indemnifies the company against any damage arising out of fitment of the goods to an engine or any other part which occurs due the purchasers failure to undertake proper due diligence with respect to the suitability of the goods for the intended purpose.

Consequences of Default

35. Where credit has been extended by the Company, if the purchaser does not pay for the goods by the due date then the Company is hereby irrevocably authorized by the purchaser in which the goods are stored at such premise and use reasonable force to take possession of the goods without liability of the tort of trespass, negligence or payment of any compensation to the purchaser whatsoever.

36. The company may recover as a debt all monies due and payable under these Terms and Conditions after it becomes due and payable, together with any interest payable and the expenses of the Company incurred in recovering those amounts, including but not limited to costs assessed on an indemnity basis, commission charges and disbursements charged by any mercantile agent or solicitor engaged for the purpose of the collection or recovery of moneys due and payable by the Company

Outline of Warranty Policy

37. The company may in its absolute discretion warrant the goods in accordance with its standard Warranty Documents

38. Without limiting the full effect of the Company's the Warranty Documents, the company provides as a point of reference only a summary of the warranty periods.

New parts have a 12 months unlimited kms warranty period dated from the time of purchase from Donaldson Motors

No warranty period is extended to any Secondhand Parts

Reconditioned parts are subject to the manufactures terms and conditions

All parts returned for warranty must be returned no longer than 30 days after the alleged failure/fault

General

39. Names, descriptions, symbols, and numbers being quoted and appearing on invoices are used for internal reference purposes of Donaldson Motors, the Company only, and it is not implied that the parts supplied are the actual manufacturer's whose part numbers may be quoted.

40. Where these Terms and Conditions are executed simultaneously to or in contemplation of a Deed of Guarantee and indemnity, then they shall be read together and in contemplation of each other. To the extent of any inconsistency between the document and the Deed of Guarantee and indemnity, this document shall prevail. This Document together with any Deed of Guarantee and Indemnity (if any) constitutes the entire agreement of the parties and supersedes any other prior writing or agreement or representation.

41. These terms and conditions are governed by the law in force in Victoria. The parties' shall submit to the jurisdiction of the courts of Australia

42. If any part of these terms is unenforceable, that part must be read down to the extent necessary to preserve its operation. If it can not be read won, it must be severed.

43. This legal doctrine that a construction less favorable to the person putting forward the instruments should be accepted against it shall not apply to this Agreement

43. The purchaser agrees as and essential term of this agreement to act in good faith and honestly, in furtherance of the commercial efficacy intended by these terms and conditions

44. Parts mean parts, systems and components that the Purchaser has purchased

45. Product means the product in which a part is, or intended to be.

46. Purchase order is a document, in paper or electronic form, issued by Purchaser to Donaldson Motors

47. The Supplier is not the exclusive supplier of parts supplied.

Privacy and personal information

48. We collect, use and store and disclose personal information in accordance with our Privacy Policy which may be obtained from our office.

49. You will provide us with personal information where you have consent for the individual to do so for the purposes mentioned in Donaldson Motors privacy policy