

PROGRESS RAIL AUSTRALIA PTY LTD

SALES ORDER TERMS AND CONDITIONS

1. ACCEPTANCE

These Terms and Conditions apply to all sales by Progress Rail Australia Pty Ltd or one of its related bodies corporate (as that expression is defined in the Corporations Act 2001 (Cth)) stated in any related sales order or invoice ("**Seller**") issued or approved by such Seller. This is an offer to sell to Buyer by Seller. Seller may revoke this offer at any point whatsoever up to, and including, acceptance of the goods or services by Buyer. BUYER'S RIGHT TO ACCEPT THIS OFFER IS EXPRESSLY LIMITED TO THESE TERMS AND CONDITIONS AND ANY PRINTED ON SELLER'S SALES ORDER OR INVOICE BY SELLER. NO TERMS OR CONDITIONS ISSUED BY BUYER WHATSOEVER ARE BINDING ON SELLER AND SELLER REJECTS ANY SUCH TERMS OR CONDITIONS ENTIRELY, UNLESS SPECIFICALLY AGREED TO IN WRITING AND SIGNED BY SELLER. SUBJECT TO APPLICABLE LAW, THERE ARE NO UNDERSTANDINGS, TERMS, CONDITIONS OR WARRANTIES NOT FULLY EXPRESSED HEREIN. ACCEPTANCE OF THESE TERMS AND CONDITIONS SHALL BE EVIDENCED BY BUYER'S ACCEPTANCE OF GOODS OR SERVICES OR UPON BEGINNING OF PERFORMANCE BY SELLER.

2. PURCHASE PRICE

The purchase price of the goods and/or services shall be as stated on Seller's sales order or invoice (together with these terms and conditions, the "Agreement") however, if the Seller announces a general price increase, the purchase price shall be revised to include the price increase, unless the goods are scheduled for shipment or services are to be performed within thirty (30) days of the price increase.

3. QUOTATIONS

The purchase price of the goods and / services provided within a quote, shall remain valid for the period of fourteen (14) days after quotation has been provided to the Buyer, unless expressly stated otherwise.

4. LIMITED WARRANTIES

For the purposes of this Agreement:

(a) "**Australian Consumer Law**" means:

- (i) Schedule 2 to the Competition and Consumer Act 2010 (Cth) and regulations under that Act insofar as they apply to that Schedule 2; and

Progress Rail

A Caterpillar Company

- (ii) any law of any State or Territory by which the Australian Consumer Law applies as a law of that State or Territory;
- (b) **“Non-Excludable Law”** means any law of the Commonwealth or a State or Territory which:
- (i) provides for any guarantee, warranty, condition, remedy or other right or entitlement in respect of a supply of goods or services, including the Australian Consumer Law and any other law of the Commonwealth or a State or Territory that regulates contracts for the supply of goods or services; and
 - (ii) cannot be excluded, restricted, or modified.

Nothing in this Agreement shall be taken or construed as excluding, restricting, or modifying any Non-Excludable Law. If any term of this Agreement is inconsistent with a provision of a Non-Excludable Law, that provision shall prevail to the extent of that inconsistency.

To the extent that a Non-Excludable Law is applicable and available to Buyer, that Non-Excludable Law applies in addition to the terms of this Agreement.

Seller warrants that the goods and services sold to Buyer through this Agreement will comply with agreed upon specifications when performed. Subject always to all and any applicable rights and remedies under the Non-Excludable Laws, Seller does not, unless specifically required by the Non-Excludable Laws or any other law, or unless agreed in writing with Buyer, give any warranty other than those warranties detailed in this paragraph [3]. Seller may assign to Buyer, at Buyer's request and to the extent they are assignable, warranties applicable to goods or services provided by third parties and supplied by Seller in performance of the services. To the extent permitted by, and consistent with, the Non-Excludable Laws, the warranties in this Agreement are void and shall not apply if in the reasonable judgment of Seller, items on which services have been performed or goods supplied in performance of the services, have been damaged by improper application or operation, abuse or neglect, improper maintenance or repair, subjected to inappropriate environmental or operational conditions or services by third parties without prior written authorization from Seller. TO THE EXTENT PERMITTED BY, AND CONSISTENT WITH, THE NON-EXCLUDABLE LAWS, SELLER MAKES NO OTHER WARRANTIES, AND EXPRESSLY DISCLAIMS ALL OTHER EXPRESS OR IMPLIED WARRANTIES, INCLUDING, BUT NOT LIMITED TO, WARRANTIES OF INFRINGEMENT, MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE OR ANY WARRANTY RELATED TO PERFORMANCE OR TO THE SUITABILITY OF BUYER FURNISHED DESIGNS, MODIFICATIONS OR SPECIFICATIONS.

Warranty is provided as detailed in Warranty Statement in ANNEXURE A and the warranty handling process is detailed in the Material Return Instructions in ANNEXURE B.

5. FORCE MAJEURE.

In addition to all other limitations stated herein, Seller shall be excused for any failure or delay in the performance of any of its obligations whatsoever under this Agreement if such failure or delay is due to an industrial strike or stoppage, lockout, labour dispute or other industrial disturbance; shortage or reduction of necessary equipment, materials or goods required for developing, manufacturing, transporting or providing the goods and/or services, labour or restrictions on the use thereof; closing, unavailability or failure of port or port loading facilities or other facilities required for loading, shipment and discharge of the necessary materials, equipment or other supplies required for the goods and/or services; power blackouts, interruption, reduction or suspension of power supply; blockades and/or embargoes; fires and/or explosions; cyclones, hurricanes, typhoons, storms, floods, lightning, earthquakes, landslides, tsunamis, mudslides or any other catastrophic, severe, or extreme natural disaster or weather condition; cyber-attacks; epidemic, pandemic; imposition of sanctions, acts of any governmental authority or any restrictions upon, delays in receiving or failures to receive any permits, licences, or approvals from any governmental authority; acts or threats of civil riot, civil rebellion, revolution, terrorism, insurrection, militarily usurped power, act of sabotage, act of a public enemy, war (whether declared or not) or other like hostilities or the anticipated imminence ionising radiation, contamination by radioactivity, nuclear, chemical or biological contamination;; any other act or cause which is unpredictable and cannot be reasonably avoided; and any act or cause which is beyond the control of Seller, whether similar to or different from the causes above enumerated, and whether affecting Seller or its agents, subcontractors, or suppliers, for as long as such circumstances prevail. Seller will undertake, as soon as practicable, to notify Buyer of any actual or anticipated failure or delay, and Buyer will use its commercially reasonable efforts to mitigate any force majeure event and its consequences on performance hereunder. The parties shall remain liable for those obligations under this Agreement not affected by the force majeure event; provided however, that in the case of a U.S. sanction, embargo, or other trade order or rule that would prohibit or otherwise render Seller's performance under this Agreement impracticable, Seller shall be excused from the performance of any remaining obligations under this Agreement and this Agreement terminated, without cost or liability, upon written notice by Seller.

6. BUYER'S OBLIGATION TO PASS ON LIMITATION OF WARRANTIES AND REMEDIES.

In order to protect Seller against claims by any purchaser from Buyer, if Buyer resells any of the goods or services purchased under this Agreement, Buyer shall include the language contained in paragraphs 3 and 4 of these terms and conditions, dealing with Seller's warranties and limitations of warranties and remedies, in an enforceable agreement with Buyer's buyer.

Buyer shall also include a provision in its agreement with its buyer applying the law in state in Australia where goods are supplied, or services are provided to any claims its buyer might assert against Seller with respect to goods or services provided by Seller and requiring its buyer to submit to the non-exclusive jurisdiction of the courts of Queensland, Australia. Buyer shall defend, indemnify, and hold Seller harmless from any and/or all claims, causes of action, damages, losses, or expenses (including reasonable attorney's fees) whatsoever that Seller incurs by reason of Buyer's failure to comply with this paragraph expressly. The provisions of this paragraph shall survive the acceptance of the goods or services sold hereby or the termination of this Agreement for any reason.

7. UNIT EXCHANGE (UTEX) REBUILT PARTS PROGRAM & CORE RETURN REQUIREMENTS.

The price for any UTEX part does not include any charges related to the used core for which Buyer is purchasing a UTEX part, and the price of the UTEX part is conditional on the Buyer returning a used core that is acceptable at the sole discretion of the Seller. The purchase of UTEX parts shall be subject to the core return requirement set forth in ANNEXURE B.

At Buyer's sole cost and expense, Buyer must return the core to Seller to the location and times specified ANNEXURE B.

8. SHIPMENT/PASSAGE OF TITLE.

Unless otherwise stated in the Seller's Sales Order, all goods shall be shipped Incoterms® 2020 FCA - Seller's facility. Risk in the goods sold hereunder shall pass to Buyer upon delivery to the carrier at the point of shipment and Title to the goods shall pass to Buyer on payment in full.

If Seller is responsible for transportation, the Seller reserves the right to select the mode of transportation without any consultation to Buyer. If, through no fault of the Seller, the Buyer has not taken delivery of the Goods within one (1) day of the scheduled delivery date, the Buyer shall be deemed to have taken delivery of the Goods and the terms of payment shall apply from such date. In these circumstances the Buyer shall be liable for storage charges payable monthly on demand with storage being at the Buyer' risk.

For avoidance of doubt, in all instances, title to the goods only passes upon full payment by the Buyer, and risks passes upon delivery of the goods.

9. SERVICES.

The agreed scope of services will be performed at the agreed time(s) and/or by the agreed date(s). Where the services are to be performed at Buyer's premises or off-site, Buyer shall provide safe and unimpeded access at the agreed times to such locations to allow Seller to carry out the services timely, expeditiously, and unimpeded.

Where Buyer's items of plant and/or equipment are to be delivered by Buyer to Seller's premises to allow Seller to perform the services, Buyer shall ensure that such items of plant and/or equipment are delivered on the agreed date(s) and time(s) to allow Seller to perform the agreed services. In such instance, Buyer shall also ensure collection of serviced items of plant and/or equipment from Buyer's premises by the agreed date and time.

If Seller is responsible for collection of Buyer's items of plant and/or equipment to allow Seller to perform the services, Buyer shall ensure that the items of plant and/or equipment are available for collection at the agreed location, date, and time. If Seller is responsible for the return of the serviced items of Buyer's plant and/or equipment, Buyer shall ensure its resources are available for their receipt at the agreed location, date, and time. In either such instances, Buyer shall provide all resources for loading and unloading.

Progress Rail

A Caterpillar Company

Any delay caused by Buyer in providing access and/or effecting delivery and/or collection of the items of Buyer plant and/or equipment for service shall entitle Seller to a time extension for the performance of the services and/or additional costs which Seller incurs as a result of such delays.

10. PAYMENTS AND LATE CHARGES ON PAST DUE ACCOUNTS.

Unless otherwise agreed in writing by the Seller, payment terms are thirty (30) days from date of invoice. If Buyer fails to comply with any provision of the Agreement or fails to make payments pursuant to the Agreement or any other agreement between Buyer and Seller, Seller may at its option defer shipments or performance or, without waiving any other rights it may have, terminate this Agreement without any liability whatsoever. All offers shall be subject to the approval of Seller's credit department. Seller reserves the right before making any delivery, or providing any service, to require payment in cash or security for payment, and if Buyer fails to comply with such requirement, Seller may terminate this Agreement. A late charge of 1 1/2% monthly (18% annual rate) or the maximum allowed by law, if less, will be imposed on all past due accounts. Buyer acknowledges and agrees that this late charge is a genuine pre-estimate of Seller's loss as a result of the past due account and is not intended to be a penalty.

11. CLAIMS BY BUYER.

Buyer shall thoroughly inspect goods and services sold under this Agreement immediately upon receipt to verify that the goods and services conform to the specifications detailed in the Agreement. Buyer must notify Seller of claims for failure or delay in delivery within five (5) days after the scheduled delivery date. Buyer must notify Seller of any claims for nonconforming or defective goods or services within five (5) days after receipt or any claim by Buyer related to such goods or services shall be waived. In addition, Seller must be given an opportunity to investigate the claim before Buyer disposes of the goods or else Buyer's claim will be expressly barred. Seller shall incur and/or have no liability whatsoever for damage, shortages, or other cause alleged to have occurred or existed at or prior to delivery to the carrier unless Buyer shall have entered full details thereof on its receipt to the carrier.

12. PERMISSIBLE VARIATIONS.

The goods sold hereunder shall be subject to standard manufacturing variations, tolerances, and classifications of the Seller and in the industry.

13. TECHNICAL ADVICE.

Buyer represents that it has made its own independent determination that the goods or services it is purchasing under this Agreement meet all design and specification requirements of Buyer's project and are suitable for Buyer's intended application. Buyer further represents that it has not relied in any respect on any written or oral statements or advice from Seller.

14. TAXES.

Unless specifically stated otherwise in writing, the purchase price does not include GST and, if any GST is or becomes payable on any supply made by Seller, Seller may increase the purchase price for the supply by the amount of GST payable ("Additional Amount"), as calculated by Seller. The Additional Amount is payable at the same time and in the same manner as the purchase price for the supply. Seller may increase the Additional Amount if for any reason the amount of GST payable by Seller varies from the Additional Amount. In this paragraph 12, "GST" and other terms have the meaning used in A New Tax System (Goods and Services Tax) Act 1999 (Cth), as amended, substituted, or replaced with any other relevant legislation, including regulations, unless there is a contrary intention.

15. INDEMNITY.

To the fullest extent allowable by law, Buyer shall defend, indemnify and hold harmless the Seller and its officers, directors, employees, agents, representatives and affiliates from any and all loss, liability, claim, cause of action, cost, judgment, or damages, including reasonable attorney fees for any personal injury, death, property damage, or economic loss of any sort, related to any act or omission of the Buyer or use or abuse of the goods by the Buyer or any third party receiving, using or abusing the goods after Buyer's receipt, without regard to whether any loss is based upon breach of contract, breach of warranty, negligence, strict liability, or other tort or contract theory or cause of action.

16. LIMITATION OF BUYER'S REMEDIES AND SELLER'S LIABILITY

- (a) To the extent permitted by, and consistent with, the Non-Excludable Laws, and subject to paragraphs 16 (b) and 16 (c) of these Terms and Conditions, Seller's liability hereunder shall be limited to:
- 1) the assignable warranties referenced above with respect to goods;
 - 2) re-performance of services; or
 - 3) allowance of a credit, at its option. Seller's total cumulative liability in any way arising from or pertaining to any goods sold or required to be sold, or services performed or required to be performed shall NOT in any case exceed the purchase price paid by Buyer for such goods or services. TO THE EXTENT PERMITTED BY, AND CONSISTENT WITH, THE NON-EXCLUDABLE LAWS,
 - (i) IN NO EVENT SHALL SELLER HAVE ANY LIABILITY FOR COMMERCIAL LOSS, LOST PROFITS, CLAIMS FOR LABOR, OR FOR EXEMPLARY, INDIRECT, CONSEQUENTIAL OR INCIDENTAL DAMAGES OF ANY TYPE, WHETHER THE CLAIM BE BASED IN CONTRACT, TORT, WARRANTY, STRICT LIABILITY, NEGLIGENCE, OR OTHERWISE, AND IRRESPECTIVE IF SELLER WAS ADVISED OR AWARE THAT SUCH DAMAGES WERE POSSIBLE OR LIKELY.

Progress Rail

A Caterpillar Company

(ii) IT IS EXPRESSLY AGREED THAT BUYER'S REMEDIES EXPRESSED IN THIS PARAGRAPH ARE BUYER'S SOLE AND EXCLUSIVE REMEDIES. NO DELIVERY DATES ARE GUARANTEED. BUYER'S SOLE AND EXCLUSIVE REMEDIES AND SELLER'S ONLY LIABILITY FOR ANY DELAY IN DELIVERY OF GOODS OR SERVICES SHALL BE LIMITED AS SET FORTH HEREIN. THE PROVISIONS OF THIS PARAGRAPH SHALL SURVIVE THE ACCEPTANCE OF THE GOODS OR SERVICES SOLD HEREBY OR THE TERMINATION OF THIS AGREEMENT FOR ANY REASON.

(b) If Seller has a liability to Buyer under Division 1 of Part 3-2 of the Australian Consumer Law (other than a liability under section 51, 52 or 53 of the Australian Consumer Law), insofar as it is lawful and fair and reasonable to do so, the liability of Seller to Buyer is limited to one or more of the following, at Seller's discretion:

(i) in relation to the supply of goods:

- (a) the replacement of the goods or the supply of equivalent goods;
- (b) the repair of the goods;
- (c) the payment of the cost of replacing the goods or acquiring equivalent goods;
- (d) the payment of the cost of having the goods repaired;

in each case above (i) (a – d) Seller is not liable for the removal of the goods to be replaced or the installation of the replacement goods

(ii) in relation to the supply of services:

- (a) the supplying of the services again; or
- (b) the payment of the cost of having the services supplied again.

(a) In the event that:

- (i) Buyer re-supplies goods to a consumer (as that expression is defined in the Australian Consumer Law); and
- (ii) The Australian Consumer Law applies to the re-supply of the goods by Buyer to consumer, to the extent permitted by and consistent with the Australian Consumer Law where it is fair and reasonable to do so, the liability of Seller to Buyer in respect of the goods is limited to a liability to pay to Buyer an amount equal to:

- a. the cost of replacing goods; or
- b. the cost of obtaining an equivalent good or
- c. the cost of having the goods repaired, whichever is the lowest amount.

17. INTELLECTUAL PROPERTY RIGHTS.

All intellectual property rights, existing or coming into existence remain the property of the Seller.

18. CONFIDENTIALTY.

The Buyer agrees to keep any information provided by the Seller confidential and not disclose to any third party without the prior written approval of the Seller.

19. WAIVER.

Failure or inability of either party to enforce any right hereunder shall not waive any right in respect to any other or future rights or occurrences.

20. PERIOD OF LIMITATIONS.

To the extent permitted by, and consistent with, the Non-Excludable Law, Buyer and Seller agree that any action by Buyer against Seller for breach of this Agreement, including any action for breach of warranty, or otherwise in connection with the goods or services sold under this Agreement, must be commenced by Buyer against Seller within one year after the cause of action accrues.

21. PRIVACY.

Each party agrees to comply with its obligations under any privacy law by which it is bound in respect of all personal information (as defined in each applicable privacy law) collected, used, or disclosed under this Agreement.

22. SEVERABILITY.

In case any provision of this Agreement shall be declared invalid, illegal, or unenforceable, the validity, legality and enforceability of the remaining provisions shall not in any way be affected or impaired.

23. APPLICABLE LAW.

This Agreement is governed and construed in accordance with the law in force in the State of Queensland, Australia, excluding its choice of law provisions. Each party submits to the jurisdiction of the courts of Queensland, Australia.

24. COMPLIANCE WITH LAWS.

Buyer understands and agrees that goods and services sold by Seller, and any software, parts and components contained therein, along with any related manuals, materials, information or data, including but not limited to any parts, support or services provided by Seller (collectively, the "Product and Services"), as well as performance by the parties under this Agreement, are subject, in addition to all applicable laws in force in the state in Australia in which goods are supplied or services are supplied, and laws of the Commonwealth of Australia from time to time (including, without limitation, the Non-Excludable Laws, the

Progress Rail

A Caterpillar Company

Customs Act 1901 (Cth) (and all applicable regulations including the Customs (Prohibited Exports) Regulations 1958 and the Customs (Prohibited Imports) Regulations 1956), and Chapter 7 of the Criminal Code as contained in the Criminal Code Act 1995) (Applicable Australian Laws), to laws, rules, regulations, directives, ordinances, orders, or, where applicable in relation to re-sale or re-export of goods, statutes (the "Laws") of the United States and may be subject to the Laws of other, applicable countries (including, without limitation, Russia).

Buyer agrees to comply with such Laws, as applicable, which may include but are not limited to, the U.S. Foreign Corrupt Practices Act, UK Bribery Act, anti-bribery Laws of other countries, U.S. Export Administration Regulations, U.S. International Traffic in Arms Regulations, and Laws administered by the U.S. Treasury Department Office of Foreign Assets Control and U.S. Department of State.

In addition to Buyer complying with all Applicable Australian Laws, Buyer agrees to cooperate with Seller to ensure compliance with the Laws when engaging in activities related to Buyer's performance of obligations under this Agreement and further agrees to indemnify, defend, and hold harmless Seller, Seller's direct and indirect parent entities and affiliates, and its and their respective directors, officers, employees, agents, successors, and assigns, against demands, liabilities, fines, penalties, losses, and damages (including costs, investigation and litigation expenses and counsel fees incurred in connection therewith) arising out of or related to Buyer's obligations under this paragraph. In the event of an enforcement action against Buyer relating to Buyer's noncompliance with any Applicable Australian Laws or any Laws that reasonably relate to Buyer's performance under this Agreement, Buyer shall provide to Seller written notice of such enforcement action prior to publication or disclosure of such enforcement action, and in no event later than ten (10) business days following such enforcement action.

Notwithstanding the foregoing, and without limiting or restricting the application of the Applicable Australian Laws in any way, Buyer agrees not to export, reexport, transmit or otherwise transfer the goods or services, whether directly or indirectly:

- (i) to any person or entity listed or otherwise designated as a blocked, prohibited or trade restricted person or party by the U.S. Commerce Department, U.S. Treasury Department, or U.S. Department of State;
- (ii) (ii) for any purpose or use prohibited by the U.S. government, such as for nuclear, chemical, or biological weapons production or proliferation, or (iii) to any destination or transit point subject to trade prohibitions by the U.S. government, as may be amended from time to time, such as the prohibition against transactions or trade with Iran or the Government of Iran.

Progress Rail

A Caterpillar Company

ANNEXURE A

STATEMENT OF WARRANTY

Subject to part being used and maintained properly, Seller warrants that it will correct any defect or defects in material or workmanship in new or remanufactured parts or components sold separately by Seller that may develop under normal use and service:

- (a) Within (1) year after being placed in service by original purchaser; 2 years for UTEX turbochargers.
- (b) Within 100,000 miles/160,000 KM of operation if installed as a replacement item (Rail application only)
- (c) Within 4200 megawatt hours after application (Rail application only), or
- (d) Within two (2) years after shipment from Seller's warehouse

whichever occurs first.

Seller agrees to correct such defects, which examination shall disclose to Seller's satisfaction to be defective, by repair, unit exchange or new part replacement at Seller's option, shipped prepaid by Seller to Buyer, and such correction shall constitute fulfillment of all Seller's obligations and liability with respect to any defective part or component thereof covered under this warranty.

This warranty shall not apply to any part or component thereof (1) used for purposes for which it is not designed or intended; (2) which has been repaired or altered without Seller's prior written consent; (3) which has been subjected to misuse, negligence, accident, improper installation or improper operation; (4) which has not been maintained according to Seller's maintenance instructions applicable to the component; or (5) which, based on Seller's examination, discloses that the part or component conforms to the warranty.

Seller shall provide pre-authorized new, UTEX or remanufactured replacement parts to Buyer at no charge upon receipt of the completed warranty Service Notification from Seller's Service Engineer and a sales order referencing a billable Buyer purchase order which references that the replacement material is pursuant to the request for warranty,

If upon analysis by Seller, the Buyer is found to be responsible for the failure or defect, or if the original part is found to be free of a reported defect, following return of the part according to the procedures outlined below, then Seller shall invoice Buyer for all charges incurred by Seller with respect to any replacement or repaired parts supplied to Buyer.

Buyer shall also be responsible for all charges incurred by Seller in the event Buyer orders new parts under its warranty parts order, where Seller has determined that it shall fulfill its warranty obligations hereunder by either performing a warranty repair or by providing unit exchange parts/material. Administration of warranty applications and Seller's performance of its warranty obligations hereunder shall be according to EMD's Warranty Procedure Handbook, a copy of which is available to the Buyer upon request.

THIS WARRANTY IS EXPRESSLY IN LIEU OF ANY OTHER WARRANTIES, EXPRESSED OR IMPLIED, INCLUDING ANY IMPLIED WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, AND OF ANY NON-CONTRACTUAL LIABILITIES INCLUDING PRODUCT LIABILITIES BASED UPON NEGLIGENCE OR STRICT LIABILITY.

Progress Rail

A Caterpillar Company

Warranty Applications Deadline

All warranty requests must be submitted to and received by the Seller's Service Engineer by no later than:

- sixty (60) days after the date upon which the original part is reported to be defective.
- thirty (30) days after the date upon which the product, without being placed into service, is reported to be defective, within two (2) years after shipment of the original part from Seller's warehouse

Warranty applications submitted after these dates will be denied.

Defective Parts Warranty Return Procedure

In the event the Buyer makes a return of any parts reported to be defective under the provisions of the warranty, Buyer shall comply with the guidelines for the return of defective parts set forth.

Buyer shall return to Seller any parts reported to be defective which Seller's Service Engineer/Dealer has designated for return in the warranty Service Notification:

Within sixty (60) days from the date of the shipment of replacement material. When replacement material is not ordered, returns must be received within sixty (60) days from date of the ZW Service notification.

Progress Rail

A Caterpillar Company

ANNEXURE B

UTEX PARTS PROGRAM

- (a) **Seller's UTEX parts program allows Buyer to purchase a variety of Progress Rail-remanufactured components to maintain Buyer's equipment. UTEX components are readily available and incorporate the latest OEM innovations, wherever possible.**
- (b) If Seller does not appear to offer the UTEX component required, Buyer should contact Seller's Parts Sales Manager to inquire if that part may be remanufactured. Seller reserves the right to initiate and terminate any UTEX product offering at its sole discretion.
- (c) Repair and return service ("**Repair and Return**") is generally available for engines, cases and pans, and parts for which no UTEX service is offered. If a UTEX material is offered, Repair and Return will not be available. Notwithstanding the foregoing, Seller reserves the right to convert a UTEX part number to a Repair and Return. In such cases, Seller will notify Buyer of the Repair and Return price prior to repairing the core. Assuming that Buyer accepted the Repair and Return price quoted, Seller will proceed to repair the core. If, during Seller's diagnosis of the core, Seller determines that a core cannot be remanufactured, Seller will notify Buyer and a diagnostic fee shall be assessed. Buyer shall issue a purchase order to Seller for such diagnostic fee, and Buyer will pay such fee.
- (d) For delivery and price, please contact Seller's Buyer Service Department, or your Parts Sales Representative at PartSales_CustomerService@PROGRESSRAIL.com

CORE RETURN REQUIREMENTS

- (a) **Core Return Requirement**
 - (i) The price for any UTEX part does not include any charges relating to the core (failed unit) for which Buyer is purchasing a UTEX part, and the price of the UTEX part is conditioned on Buyer returning an acceptable core to Seller, as described below. At Buyer's sole cost and expense, Buyer must return the core to Seller to the location specified in the Material Return Instructions [as described in Section (c) below] within sixty (60) days of Seller's shipment of the UTEX part to Buyer, provided however, if the core is located in Alaska or Mexico, the period wherein the return of core is required will be 120 days.
 - (ii) If Buyer fails to return an acceptable core within the applicable return period described above, Seller shall invoice Buyer, and Buyer agrees to pay, upon receipt, an invoice for a non-return penalty charge to replace the core. Buyer agrees to provide either a new purchase order or amend an existing purchase order that authorizes payment for the non-returned core.
- (b) **Core Acceptability**
 - (i) **Acceptable Cores** - Any cores returned must be acceptable to Seller, as solely determined by Seller. An acceptable core is a repairable, like assembly or one that can be converted to the type of part

Progress Rail

A Caterpillar Company

ordered without undue expense to Seller and passes visual inspection and that otherwise meets the conditions set forth in Seller's core return instructions as described herein.

- (ii) Unacceptable Cores - In the event that Buyer returns an unacceptable core, Seller will notify Buyer of such unacceptability and Buyer has five (5) days to resolve the discrepancy. At Seller's option: (1) ask that Buyer to return the acceptable core; or (2) modify and upgrade the unacceptable core to make it acceptable. If Seller elects to perform (2), Seller will invoice Buyer a fee to upgrade the unacceptable core. Buyer will pay such invoice upon receipt. Buyer is responsible for all associated return shipping expenses of the unacceptable core. If Buyer elects not to have the unacceptable core returned, Seller reserves the right to determine how to process the unacceptable cores. If the discrepancy is not resolved, at Seller's option (1) the received core will be scrapped and Buyer will be charged a non-return penalty, provided however, if there is value to the unacceptable core (as determined by Seller), such value will be offset against the invoiced amount charged to the Buyer; or (2) core will be returned to the Buyer at Buyer's sole cost and expense.
- (iii) Incomplete Cores - If any cores require additional work and/or materials to become a "complete core" (i.e. acceptable, in-kind) Seller reserves the right to treat such core as a Repair and Return. Seller may determine the price for such work and invoice Buyer accordingly. Buyer shall issue a new Order or amend an existing Order to account for such additional price.
- (iv) Cores Not Re-manufacturable - If a core cannot be remanufactured, an inspection/diagnostic fee may be charged to Buyer, and Buyer agrees to pay such inspection/diagnostic fee. In addition, Seller will advise Buyer and provide Buyer five (5) days to provide instructions to Seller to dispose of the core or return the core to Buyer, at Buyer's sole cost and expense. If Buyer fails to provide instructions within such period, Buyer will be deemed to have abandoned the core, and Buyer shall be deemed to have transferred title and possession of such core to Seller for Seller's disposal or otherwise. A core remains due from the Buyer if available, and if not available, Buyer will pay Seller an applicable penalty charge. Buyer is responsible for shipment of any replacement cores and the return shipment of cores that are not re-manufacturable.
- (v) No Available Core to Return - If Buyer does not have a core to return, Buyer must contact Seller's Sales Manager and Buyer Service Representative to initiate necessary steps pursuant to Seller's procedures. If an item appears on Buyer's core return report but such item has already been returned, Buyer must provide proof of delivery, including a bill of lading, packing slip and copy of Seller's return tag.

(c) Core Return Instructions

- (i) When returning a core, Buyer must refer to the instructions.
- (ii) Buyer must use the packaging Seller provides when returning the core. Using other packaging not provided by Seller may result in physical injury to persons handling the product(s) as well as irreparable damage to the product. As Seller deems appropriate, Seller reserves the right to invoice

Progress Rail

A Caterpillar Company

Buyer for if Buyer opts not to use Seller's approved, fully recyclable packaging materials as it deems necessary.

- (iii) Cores must be returned to Seller in accordance with Section (c)(i). Buyer is solely liable for any costs associated with Buyer's shipment of the core to an incorrect address.

(d) UTEX / Repair and Return Warranty

UTEX / Repair and Return parts are covered under Seller's standard warranty policy (applicable to UTEX parts) in **ANNEXURE A**.

Progress Rail

A Caterpillar Company

MATERIAL RETURN ADDRESS

Unless otherwise agreed in a Seller order confirmation, all cores will be required to be sent to the addresses below:

NSW / QLD / VIC	WA / SA
STANDARD CORE RETURN LOCATION (Less Exceptions)	STANDARD CORE RETURN LOCATION (Less Exceptions)
Progress Rail Australia Pty Ltd 13 Weedman Street Redbank, QLD, 4301	Progress Rail Australia Pty Ltd 857B Abernathy Road Forrestfield, WA, 6058

EXCEPTION LIST

ENGINES	
NSW / QLD / VIC	WA / SA
Progress Rail Australia Pty Ltd 13 Weedman Street Redbank, QLD, 4301	Progress Rail Australia Pty Ltd 10 Irvine Drive Malaga, WA, 6090
MAIN GENERATORS/ALTERNATORS	
NSW / QLD / VIC	WA / SA
Progress Rail Australia Pty Ltd 94 Glendale Drive Glendale, NSW, 2285	Progress Rail Australia Pty Ltd 857B Abernathy Road Forrestfield, WA, 6058
SMALL ELECTRICAL ROTATING (BLOWERS/COOLING FANS & GRID BLOWERS)	
NSW / QLD / VIC	WA / SA
Progress Rail Australia Pty Ltd 857B Abernathy Road Forrestfield, WA, 6058	Progress Rail Australia Pty Ltd 857B Abernathy Road Forrestfield, WA, 6058

Progress Rail

A Caterpillar Company

FREIGHT WHEEL SETS - WAGONS			
NSW / QLD / VIC		WA / SA	
NARROW GAUGE	STANDARD GAUGE	STANDARD GAUGE	NARROW GAUGE
Progress Rail Australia Pty Ltd 13 Weedman Street Redbank, QLD, 4301	Contact your customer service representative	Progress Rail Australia Pty Ltd Carlton Parade Port Augusta, SA, 5700	Contact your customer service representative
TRACTION MOTORS, COMBOS AND BOGIES			
NSW / QLD / VIC		WA / SA	
NARROW GAUGE	STANDARD GAUGE	STANDARD GAUGE	NARROW GAUGE
Progress Rail Australia Pty Ltd 13 Weedman Street Redbank, QLD, 4301	Contact your customer service representative	Progress Rail Australia Pty Ltd 857B Abernathy Road Forrestfield, WA, 6058	Progress Rail Australia Pty Ltd 857B Abernathy Road Forrestfield, WA, 6058

EXPANDED MINING: CAT AND KOMATSU MINING MOTORS			
QLD	NSW	WA / SA / VIC	
Progress Rail Australia Pty Ltd 13 Weedman Street Redbank, QLD, 4301	Progress Rail Australia Pty Ltd 94 Glendale Road, Glendale, NSW 2285	Progress Rail Australia Pty Ltd 857B Abernathy Road Forrestfield, WA, 6058	Progress Rail Australia Pty Ltd 857B Abernathy Road Forrestfield, WA, 6058

The following information is to accompany all core items:

- Customer name
- Purchase Order Number
- Part #
- Quantity Returned
- Customer contact, name and number
- Description of material
- Serial number (required for Engines, Alternators, Traction Motors only)

Packaging Requirements

All parts should be returned in the rebuilt packaging provided by the Seller.

Questions

In event Buyer has any questions, please contact your designated customer service representative.