

# TERMS AND CONDITIONS

## **Rights and Responsibilities**

This statement of Rights and Responsibilities governs the relationship between Torque Power Diesel (Australia) Pty Ltd (trading as “Torquepower”) and anyone who chooses to interact with the Torquepower website. By using or accessing the Torquepower website, you agree with these Rights and Responsibilities (“Terms”).

### **1. Privacy**

Your privacy is very important to us at Torquepower. We have designed our Privacy Policy to make important disclosures to you about how we collect and use the information you post or otherwise provide on the Torquepower website or through other means of communication. We encourage you to read our Privacy Policy, and to use the information it contains to help you make informed decisions.

### **2. Ownership and Purpose**

The purpose of the Torquepower website is to provide you with easy access to a broad range of competitively priced Cummins and other outstanding products. It also provides you with an avenue to contact us in relation to those products that we offer for sale. Aspects of the Torquepower website allow for customers, clients or other visitors to upload images and comments to the site. If at any time Torquepower believes that the reputation of the company is at risk or in any way being negatively affected by the operation of any part of the Torquepower website, we reserve the right to shut down that part without notice. You acknowledge that in providing your details, or posting content on the Torquepower website, you gain no ownership or rights (Intellectual Property rights or otherwise) in respect of the Torquepower website, or any content contained therein. We reserve the right to remove content at any time without notice and at our absolute discretion, if that content is in any way defamatory, libellous or otherwise detrimental to Torquepower and

its commercial operations.

### **3. Sharing Your Content and Information**

Torquepower acknowledge that you own all of the content and information that you post on Torquepower website. However, in posting to the Torquepower website you make that content available to Torquepower and to the World at Large. In posting content, you agree to the following:

- For content that is covered by intellectual property rights, like photos and videos ("IP content"), you specifically grant us a non-exclusive, transferable, sub-licensee, royalty-free, worldwide license to use any IP content that you post on or in connection with Torquepower website ("IP License"). This IP License ends only when we receive a written request from you for the IP License to end.
- We will not be in breach of these Terms or any of your rights if it is unreasonable or impossible for us to delete or withdraw IP content (whether used online, in print, or otherwise) on the date at which we receive your request to end the IP License.
- IP content once removed may persist in backup copies for a reasonable period of time (but will not be available to others).
- We appreciate your feedback or other suggestions. You understand that we may act in any way in response to your feedback or suggestions without any obligation to compensate you for them (just as you have no obligation to offer them).

### **4. Safety**

We do our best to keep our website safe, but cannot guarantee it. We rely on you, the user, to pursue the safe operation of our website. In using the Torquepower website, you agree to the following commitments:

- You will not send or otherwise post unauthorized commercial communications to users (such as spam).
- You will not collect users' information, or otherwise access the Torquepower website, using automated means (such as harvesting bots, robots, spiders, or scrapers) without our permission.
- You will not upload viruses or other malicious code.
- You will not solicit login information or access an account belonging to someone else.
- You will not bully, intimidate, or harass any user.
- You will not post content that is hateful, threatening, pornographic, or that contains nudity or graphic or gratuitous violence.
- You will not use the Torquepower website to do anything unlawful, misleading, malicious, or discriminatory.
- You will not facilitate or encourage any violations of these Terms.

## **5. Protecting Other People's Rights**

We respect other people's rights, and expect users of the Torquepower website to do the same. In using the Torquepower website you agree that:

- You will not post content or take any action on the Torquepower website that infringes someone else's rights or otherwise violates the law.
- We can remove any content you post on the Torquepower websites if it is in violation of these Terms, the law or in any way opposed to the values of Torquepower.

- If we remove your content for infringing someone else's copyright, and you believe we removed it by mistake, you may contact us and clearly state your reasons to appeal our action. We will give due consideration to all reasonable appeals, however we have no obligation to act in any way to address those appeals.
- If you repeatedly infringe other people's intellectual property rights, we reserve the right to disable your account without restriction.
- You will not use Torquepower' copyrights or trademarks (including the Torquepower website, the Torquepower name, Logos, sub-brands or any other Intellectual Property).
- You may not at any time, collect information from other users of the Torquepower website.
- You will not post anyone's identification documents or sensitive financial information on the Torquepower website.

## **6. Special Provisions Applicable to Links**

If you include a link button or any other form of hyperlink to the Torquepower website on your website, the following additional terms apply to you:

- We give you permission to use the Torquepower website link only to direct users of your own website through to the Torquepower website.
- You will not place a Link button on any page containing content that would; violate these Terms if posted on the Torquepower website; violate any laws in regard to Intellectual Property; be considered pornographic or offensive; or would otherwise be detrimental, or cause harm, to Torquepower.

## **7. Amendments**

We can change these Terms at any time in our absolute discretion. You agree that it is your responsibility to check the Terms for amendments and that posting a change to the Terms on the Torquepower website constitutes adequate notice of that change.

## **8. Termination**

If you violate the letter or spirit of these Terms, or otherwise create possible legal exposure for us, we can stop providing you access to all or part of the Torquepower Website.

## **9. Disputes**

You will resolve any claim, cause of action or dispute ("claim") you have with us arising out of or relating to these Terms or the Torquepower Website in a state or federal court located in Queensland, Australia. The laws of the State of Queensland will govern this Statement, as well as any claim that might arise between a user and Torquepower, without regard to conflict of law provisions. You agree to submit to the personal jurisdiction of the courts located in Queensland, Australia for the purpose of litigating all such claims. If anyone brings a claim against Torquepower relating to your actions or your content on the Torquepower website, you will indemnify and hold us harmless from and against all damages, losses, and expenses of any kind (including reasonable legal fees and costs) related to such claim.

We try to keep the Torquepower websites up, bug-free, and safe, but you use it at your own risk. We are providing the Torquepower websites "as is" without any express or implied warranties including, but not limited to, implied warranties of merchant-ability, fitness for a particular purpose, and non-infringement. We do not guarantee that the Torquepower website will be safe or secure. We are not responsible for the actions or content of third parties, and you release us, our directors, officers, employees, and agents from any claims and damages, known and unknown, arising out of or in any

way connected with any claim you have against any such third parties. We will not be liable to you for any lost profits or other consequential, special, indirect, or incidental damages arising out of or in connection with these Terms or the Torquepower website, even if we have been advised of the possibility of such damages. Our aggregate liability arising out of this statement or the Torquepower website will not exceed one hundred dollars (\$100). Applicable law may not allow the limitation or exclusion of liability or incidental or consequential damages. In such cases, our liability will be limited to extent permitted by applicable law.

## 10. Definitions

**The Torquepower website** means the features and services that Torquepower makes available, including through (a) the website at [www.torquepower.com](http://www.torquepower.com) and any other Torquepower branded or co-branded websites (including sub-domains, international versions, and mobile versions); (b) the Platform; and (c) other media, devices or networks now existing or later developed.

**Torquepower** means Torque Power Diesel (Australia) Pty Ltd (ACN 010 078 083) ( and/or its affiliates, assigns, licensees)

**Platform** means a set of APIs and services that enable applications, developers, operators or services to retrieve data from the Torquepower Website and provide data to Torquepower relating to use of the Torquepower website.

**Content** means the content and information you post on the Torquepower website, including information about you and the actions you take.

**Post** means to digitally upload, send or otherwise make available on the Torquepower website.

**Use** means use, copy, publicly perform or display, distribute, modify, translate, and create derivative works of.

## 11. Other

These Terms makes up the entire agreement between the parties regarding the Torquepower website and supersedes any prior agreements. If any portion of the Terms is found to be unenforceable, the remaining portion will remain in full force and effect. If we fail to enforce any of the Terms, it will not be considered

a waiver. You will not transfer any of your rights or obligations under the Terms to anyone else without Torquepower's consent. All of Torquepower's rights and obligations under the Terms are freely assignable by Torquepower in connection with a merger, acquisition, corporate restructure, or sale of assets, or by operation of law or otherwise. Nothing in this Agreement shall prevent Torquepower from complying with the law. This Statement does not confer any third party beneficiary rights.