

# KOMATSU FORKLIFT AUSTRALIA PTY LTD

(ABN 71 080 792 730)

## INVOICES

These conditions of sale shall apply to all sales of spare parts and service work performed by Komatsu Forklift Australia Pty Ltd (ABN 71 080 792 730 ("the Company")) and shall apply to and be deemed to be incorporated in any contract for sale of Goods and/or services entered into by the Company.

### ENTIRE AGREEMENT:

- (a) The entire agreement between the parties is contained in this Agreement and there are no understandings, agreements, representations or warranties, expressed or implied which are not expressly stated in this Agreement.
- (b) Any purported terms and conditions in any order or other document issued by the Customer relating to this Agreement or the Units shall not bind the Company and shall not affect this agreement.
- (c) In the event of inconsistency between these terms and conditions and any special conditions appearing on the front hereof, the special conditions shall prevail.

### TERMS:

Payment in full, without deduction or set off, is required within 14 days from date of invoice.

The Customer is liable for all reasonable expenses (including contingent expenses such as debt collection commission) and any other out of pocket expenses.

### RETURN OF GOODS:

- a) Original invoice or packing slip must accompany returned goods.
- b) Goods must be returned to the location where purchased with freight prepaid.
- c) No claim will be recognised if not received within 7 days from date of delivery.
- d) Goods returned for credit will be subject to handling charges as follows-  
Returned after 7 days of date of delivery but within 30 days - 10%  
Returned after 30 days from date of delivery - No credit

### GOODS NOT ACCEPTABLE FOR RETURN OR CREDIT:

- a) Goods procured on Buyer's instructions.
- b) Goods damaged or lost in transit.
- c) Modules, printed circuit boards, thyristors, diodes, potentiometers, oil seals, O-rings, bearings, batteries, merchandise cut to size, goods altered or damaged by the Buyer.

### GOVERNMENT TAXES

Where applicable Goods & Services Tax or any other Government Tax will be chargeable and is payable in addition to the price. Where any exemption is available to the Buyer under applicable legislation, upon presentation to the Company of appropriate documentation and any necessary declaration, the Company if satisfied will provide the goods excluding the tax.

### WARRANTY

- a) All goods supplied are covered by such warranty as is specified by the manufacturer and the Company makes no warranty express or implied in respect of parts components or materials supplied by outside contractors. The Buyer shall have the benefit of any warranty given by such outside contractor.
- b) The Buyer shall not carry out any remedial work to alleged defective goods without the prior written consent of the Company.
- c) The Buyer expressly acknowledges and agrees that the Company is not liable for any advice given by its agents or employees in relation to the suitability for any purpose of goods or materials supplied by the Company. The Buyer relies only

on its skill and judgement and all assistance provided by the Company's agents or employees is relied upon at the Buyer's risk.

All prices quoted are subject to escalation by reason of any increase in prices, wages, hours, transport costs, customs duties or other duties or taxes or any other factor, including effects of fluctuations in exchange rates, beyond the control of the Company. It is acknowledged and agreed that title of the goods shall not pass to the Buyer until receipt of full payment by the Company.

### DELIVERY OF GOODS:

The Buyer has the right to nominate the means of delivery of the goods.

Unless agreed to the contrary in writing, all delivery charges shall be to the Buyer's account.

The risk in the goods purchased shall unless otherwise agreed in writing pass to the Buyer upon delivery to the Buyer or his agent or to a carrier commissioned by the Buyer or by the Company.

Any date quoted for delivery is an estimate only and unless a guarantee shall have been given by the Company in writing providing for liquidated damages for failure to deliver by the quoted date, the Company shall not be liable to the Buyer for any loss or damage howsoever arising for failure to deliver on or before the quoted date.

### LIABILITY OF THE COMPANY:

Any liability incurred by the Company to the Buyer is limited to the replacement of the goods or (at the option of the Company) refund of the price paid by the Buyer and in no circumstances extends to consequential loss or damage. Any claim must be received by the Company in writing within 7 days of delivery.

### CUSTOMER'S PROPERTY:

All customer's property at any time in the possession of the Company or contractors nominated by the Company shall be entirely at the Buyer's risk in all respects and the Company accepts no responsibility for any loss or damage occurring thereto while the same is in its possession.

It is agreed that any person who delivers the goods or services from the Company is authorised to do so subject to these terms and conditions and accepts personal responsibility for payment in the event of any dispute.

### TRADE REFERENCES:

The Buyer hereby gives the Company the authority to make enquiries from any source as to the credit and financial standing of the Buyer or its partners or directors as required by the Company from time to time.

### BUYER'S STATUTORY RIGHTS:

To the extent to which any statutory conditions or warranties may be excluded, they are hereby excluded, however this agreement always remains subject to the Trade Practices Act 1974.

### FORCE MAJEURE:

Every effort will be made to deliver the goods in accordance with accepted orders, but the due performance of the Company is subject to variation or cancellation owing to an act of God, War, Strikes, Lock-outs, Fire, Flood, Drought or any other causes beyond the reasonable control of the Company.

### REPAIRS AT CUSTOMER'S SITE:

The customer hereby warrants that the servants or agents of the Company will be given adequate facilities at the customer's site to perform the service work specified within the required guidelines of the Environmental Protection Authority (EPA). Where the customer states that the site fulfills this requirement, the customer hereby indemnifies the Company against any action by the EPA pursuant to the Company's reliance on the customer's statement.