

WARRANTY AND TERMS

1. WARRANTY:

This warranty is provided by DIESEL & INDUSTRIAL ENGINE SPARES PTY LTD ABN 29 104 597 695, Address: 110 Mica Street, Carole Park QLD 4300, Ph: 07 3879 4255, Email: sales@dai.com.au.

- (a) All new parts supplied by DIESEL & INDUSTRIAL ENGINE SPARES PTY LTD ABN 29 104 597 695 ('DAI') are warranted to be free from defects in materials and workmanship until:
- the expiry of the manufacturer's warranty; or
 - if there is no manufacturer's warranty, the expiry of twelve (12) months from the date of the invoice issued by DAI to the Customer.
- (b) For all other goods, the following warranties will apply:
- DAI reconditioned items – the earlier of the expiry of six (6) months from the date of invoice;
 - Items manufactured by third parties – until the expiry of the manufacturer's warranty; and
 - Second-hand goods – No warranty is given or implied. All second-hand goods are sold on an "as is, where is" basis.
- (c) The warranty in this clause does not apply to:
- consumables (for example without limitation: lubricants, sealants, filters, glow plugs, thermostats);
 - Towing, Travel, Accommodation and any other allied expense;
 - defects caused by neglect or abuse, including but not limited to defects caused by using the goods with unsuitable or inadequate lubricant or coolant, over or under fueling, over-speed, lack of improper maintenance of the fuel injection, cooling, lubrication, air intake and exhaust systems, improper storage, starting, warm-up, run-in or shut down procedures, the continued operation of the equipment after the first sign of a malfunction, or failure to follow assembly, operation, maintenance and repair procedures contained in the manufacturer's published workshop, operation and maintenance manuals;
 - parts which have their trade mark, trade name or manufacturer's serial number removed; and
 -) any failure of, or damage to, components which are not caused by a warrantable part failure.
- (d) DAI is entitled to send goods related to warranty claims to a destination of its choosing (including destinations outside of Australia) for failure analysis and reporting.
- (e) For each approved warranty claim, DAI will pay for the labour costs associated with the claim at a maximum rate of \$80 plus GST per hour paid at standard industry repair times.
- (f) DAI's liability for goods and services supplied by it, is limited to making good any defects by repairing the defects or, at DAI's option, by replacement, provided that:
- the defects have arisen solely from faulty or defective materials or workmanship;
 - accessories of any kind used by the Customer with the goods are manufactured or approved by DAI;
 - all seals of any kind on the goods remain unbroken;
 - the goods have been used for the purpose for which they were intended and in the way which they are intended to be used and have not received maltreatment, inattention or interference;
 - the initial operation procedure of the manufacturer of the goods has been strictly complied with; and
 - notice of the defective goods or services supplied by DAI has been given by the Customer to DAI in writing together with the goods in question within one (1) month of the relevant defect or defects being identified by the Customer.
- (g) For any goods which are not manufactured by DAI, the Customer accepts the guarantees and/or warranties (if any) of the manufacturer of those goods as being the only guarantee or warranty given to the Customer in respect of those goods. DAI agrees to assign to the Customer, within a reasonable time of the Customer's written request, the benefit of any warranty or entitlement relating to goods supplied to the Customer which the manufacturer has granted to DAI under contract, by implication or by operation of law to the extent that the benefit of any warranty or entitlement is assignable.
- (h) DAI is not liable for and the Customer releases DAI from any claims in respect of faulty or defective design of any goods supplied unless such design has been wholly prepared by DAI and the responsibility for any claim has been accepted by DAI in writing.
- (i) DAI is not liable for any maintenance of or damage to, nor does it provide any guarantee or warranty in respect of, any parts or equipment supplied by the Customer for use by DAI in conjunction with its provision of services to the Customer.
- (j) No guarantee or warranty other than those contained herein, whether written or verbal, is authorised to be made on behalf of DAI in relation goods or services supplied by DAI unless such separate guarantee or warranty is given on DAI's official company letterhead signed by a duly authorised officer of DAI ('Official Warranty'). The terms and conditions of all Official Warranties are to be read in addition the terms herein.
- (k) To the greatest extent permitted by law, except as otherwise provided herein, all express and implied warranties, guarantees and conditions under statute or general law as to merchantability, quality, suitability or fitness of goods for any purpose or as to design, assembly, installation, materials or workmanship or otherwise are expressly excluded. DAI is

not liable for any physical or financial injury, loss or damage or for consequential loss or damage of any kind arising out of the supply, layout, assembly, installation or operation of any goods and/or services supplied by DAI or arising out of DAI's negligence, breach of statutory duty or in any way whatsoever.

- (l) DAI's liability for a breach of a consumer guarantee under sections 53 to 68 of Schedule 2 of the *Competition and Consumer Act 2010* (Cth) ('the Australian Consumer Law') is limited to:
- in the case of goods:
 - the replacement of the goods or the supply of equivalent goods;
 - the repair of the goods; and
 - the payment of the cost of replacing the goods or of acquiring equivalent goods;
 - in the case of services:
 - the supplying of the service again; or
 - the payment of the cost of having the services supplied again.
- (m) DAI's liability under section 274 of the Australian Consumer Law is expressly limited to a liability to pay to the Customer an amount equal to the lowest of:
- the cost of replacing the goods;
 - the cost of obtaining equivalent goods; or
 - the cost of having the goods repaired.

2. WARRANTY RETURN POLICY:

- (a) All warranty claims must be submitted to Diesel & Industrial Engine Spares Pty Ltd within 30 days of the date of the failure. It is the responsibility of the Customer to ensure that all parts & paperwork are submitted within this time frame.

3. RETURN POLICY:

- (a) DAI will accept all returns of goods:
- within thirty (30) days of the date of the invoice issued by DAI with no penalty to the Customer. However, if any goods require re-boxing, DAI will charge the Customer a restocking fee equal to twenty percent (20%) of the price paid by the Customer for the relevant goods; and
 - after thirty (30) days but within sixty (60) days of the date of the invoice issued by DAI – with such returns automatically attracting a restocking fee equal to twenty percent (20%) of the price paid by the Customer for the relevant goods.
- (b) Returns will only be accepted by DAI:
- if the Customer provides a copy of the relevant tax invoice issued by DAI;
 - if the Customer provides all information reasonably requested by DAI;
 - if the goods have not been fitted or used in any way; and
 - provided that DAI considers in its sole discretion that the goods are in an acceptable condition.
- (c) No returns will be accepted after 60 days from the date of the relevant invoice issued by DAI.
- (d) As a condition of DAI accepting a refund of goods, the Customer must:
- notify DAI before undertaking any repairs to a warrantable fault or defect;
 - deliver the relevant goods to DAI or any repair location and bear all of the costs of doing so;
 - bear all loss or damage suffered by the Customer as a result of the faulty or defective goods, or the requirement to return them to DAI.

4. SPECIAL BUY-INS (PROCUREMENTS):

- (a) Unless otherwise agreed to by DAI in writing on its official company letterhead signed by a duly authorised officer of DAI, all goods sourced by DAI at the request of the Customer ('Special Buy-In') from overseas may not be returned by the Customer. Once the Customer places and order for a Special Buy-In for an overseas good, the order may not be cancelled or refunded.
- (b) DAI may accept returns of Special Buy-Ins purchased within Australia in its sole discretion. Any such returns accepted by DAI will attract a handling charge equal to the freight charge associated with the return of the goods back to the supplier.

5. LIMITATION OF LIABILITY:

Unless otherwise provided herein, to the greatest extent permitted by law, DAI will in no way be liable in respect of:

- any goods or services supplied by DAI to the Customer;
- the delivery or non-delivery of any goods or services by DAI to the Customer;
- any goods or services on-sold or offered for on-sale by the Customer to any third party;
- the performance or breach of the terms herein by the Customer;
- any willful act, neglect or omission of the Customer; and
- any other matter whatsoever, whether contemplated by the parties at the date of the invoice to which these terms are attached, or otherwise.

6. PAYMENT

- (a) In the event of the Customer being in default of his obligation to pay and the overdue account is referred to a debt collection agency, and/or law firm for collection the Customer shall be liable for the recovery costs incurred and if the agency charges commission on a contingency basis the Customer shall be liable to pay as a liquidated debt, the commission payable by the Supplier to the agency, fixed at the rate charged by the agency. In the event where the Supplier or the Suppliers agency refers the overdue account to a lawyer the Customer shall also pay as a liquidated debt the charges reasonably made or claimed by the lawyer on the indemnity basis.

Our goods come with guarantees that cannot be excluded under the Australian Consumer Law.