

Terms and conditions

1. GENERAL

1.1 The following terms and conditions govern your use of this Application (as defined below). Your installation or use of any aspect of the Application indicates (1) your understanding of and agreement to these terms and conditions ("the Agreement") and (2) you warrant that you have provided accurate information. If you do not agree, you are not authorized to use the Application. Please email us at 1300cummins@cummins.com if you have any questions about the Application or about these Terms of Service.

2. DEFINITIONS

2.1. The "Application" means the software and services provided by Cummins South Pacific Pty Ltd, its subsidiaries, divisions, related companies, successors and assignees ("Cummins") to you as set out in the Agreement, and downloaded or used by you to offer you information, services and products, along with any updates and upgrades provided to you from time to time, and any other software or documentation from Cummins that enables installation or use of any of the foregoing within Australia and New Zealand. The latter are also subject to the Agreement unless they are accompanied by a separate license agreement, in which case the terms of that separate license agreement will govern.

3. DATA COLLECTION AND PRIVACY

3.1. You represent and warrant to Cummins that you have the legal right and authorisation to provide all Data to Cummins for the purposes and Cummins' use as set out in the Agreement. You agree to defend, indemnify, and hold Cummins harmless from and against all third party claims, damages, and expenses (including reasonable solicitors' fees) against or incurred by Cummins arising out of (a) your breach of any terms and conditions of this Section 3, and (b) any Data you provide to Cummins or otherwise collect or process using the Application.

3.2. You acknowledge and agree that Cummins may, from time to time, collect, use and maintain on its servers certain technical, diagnostic, GPS location and other information about or from your use of the Application. The data collected by Cummins through the Application includes but is not limited to equipment and parts data; fault codes; performance data; your full name, email and phone number; your GPS location; engine serial numbers; and equipment identification numbers ("Data").

3.3. Cummins may use the Data before and after the term of the Agreement to facilitate the provision of software updates, product support, and other products and services related to the Application to you and other customers. Cummins may also use the Data before and after the term of the Agreement for any other commercial purpose as permitted by applicable law. You further agree and acknowledge that Cummins may, without restriction, transmit Data to Cummins third party designees and you authorise release of information for Cummins third party designees to contact you to discuss additional product offers. Cummins reserves the right to modify the Data and such modified, data shall be owned by Cummins.

3.4. Cummins will comply with provisions of the *Privacy Act 1988* (Cth). We may collect personal information that can be used to identify you, such as your full name, phone number, email address and GPS location. We may also store your data on a server based in the United States of America. Cummins is likely to disclose your personal information to overseas recipients using overseas services. If you would like to disable the Application's ability to collect GPS location, you can disable your location for the App under the "Settings" function on your mobile phone or handheld device.

3.5 You warrant that you are providing Cummins with a licence to use the information you upload to the Application. Cummins may share your personal information with Cummins' subsidiaries, joint ventures, affiliates, authorised distributors and other business partners, to the extent they are assisting Cummins in fulfilling your enquiries, providing information, or for other marketing purposes on behalf of Cummins. Cummins do not sell or share personal information provided by you to third parties for their own separate use.

3.6 Cummins take reasonable steps to ensure that your personal information is accurate and up-to-date. Therefore, Cummins invite you to contact us to update your information if you believe it is incorrect or if it changes. Cummins also has processes in place to fulfill its obligations relating to the individual rights of access, correction and objection. Individuals who would like to exercise those rights should contact Cummins by emailing legalasiapacific@cummins.com.

3.7 The Application may contain links to other websites that are not owned or operated by Cummins. You should carefully review the privacy policies and practices of other websites, as Cummins cannot control and are not responsible for privacy policies or practices of third-party websites that are not ours.

3.8 If you have any questions about Cummins' privacy practices, or believe that your information has been mismanaged, you can contact Cummins by emailing legalasiapacific@cummins.com. Cummins has put in place a dispute resolution process for any privacy or security-related disputes, and does not retaliate against individuals who contact us with a dispute that they believe to be legitimate. Individuals who believe that their dispute has not been resolved to their satisfaction by Cummins also have the right to file claims with the relevant oversight agencies for data protection.

4. PROPRIETARY RIGHTS AND LICENSE; CONDITIONS

4.1. All trademarks, copyright, database rights, and other intellectual property rights of any nature in the Application that are now existing or that hereafter come into existence, together with those of the underlying software code and information provided or generated by the Application are owned either directly by Cummins or its licensors.

4.2. Subject to the conditions set forth below, Cummins hereby grants you a non-exclusive, royalty-free, non-transferable, non-sublicenseable, personal license to download and use, on a compatible Apple iOS or Android OS personal device that you own or control, the Application and information provided for your personal use in accordance with the Agreement. All other rights are reserved by Cummins and its licensors. No other express or implied licenses or ownership rights are granted to you.

4.3. You will not, nor allow third parties on your behalf, nor are you granted any right to, (i) make or distribute copies of the Application, rent, lease, sell, or otherwise transfer the Application; (ii) attempt to copy, reproduce, alter, modify, reverse engineer, disassemble, decompile, transfer, or translate the Application (except to the extent that any of the foregoing restrictions is expressly

prohibited by law); or (iii) create derivative works of the Application. If you sell your mobile phone or handheld device to a third party, you must remove the Application from it before doing so.

5. CHANGES; MOBILE PROVIDERS; AVAILABILITY

5.1. Cummins reserves the right to change or withdraw the Application, the form and content of the information provided, and/or the Agreement at any time and for any reason without prior notice except to the extent directly prohibited by the applicable app store through which you purchase or download the Application, including, without limitation, Google Play and iTunes (the "App Store").

5.2. You acknowledge that the terms of your contract with your respective mobile network provider ('Mobile Provider') will continue to apply when using the Application. As a result, you may be charged by the Mobile Provider for access to network connection services for the duration of the connection while accessing the Application or any such third party charges as may arise. You accept responsibility for any such charges that arise. Moreover, additional terms, conditions and policies of the App Store may also apply. It is your responsibility to read and comply with them.

5.3. If you are not the bill payer for the mobile phone or handheld device being used to access the Application, you represent and warrant that you have received permission from the bill payer for using the Application.

5.4. The Application is provided over the internet and mobile networks and so the quality and availability of the Application may be affected by factors beyond Cummins' control. Moreover, neither Cummins nor any of its subsidiaries and affiliates has any responsibility for the availability or unavailability of the Application or information therefrom due to interruption of service, difficulty or inability to download or access content, any bug or virus, or any communication system failure or any factors beyond Cummins' control.

6. LAWFUL AND PROPER USE; INDEMNIFICATION

6.1 You represent and warrant that you will only use the Application for lawful purposes in accordance with all applicable Federal, State, international, and local laws and regulations.

6.2 The Application may interact with your network or other wired or wireless connection devices. You acknowledge and agree that it is possible for third parties to bypass the security for such network or devices. Accordingly, you acknowledge and agree that you will use any such device responsibly, and you are solely responsible for the security of your network and other devices while in your possession custody or control.

6.3 You agree to indemnify and hold harmless Cummins and its affiliates and its and their officers, directors, employees and agents from any and all claims and losses imposed on, incurred by or asserted as a result of or related to your noncompliance with the Agreement or the inaccuracy of any of your representations and warranties in the Agreement.

7. SYSTEM REQUIREMENTS

7.1. In order to use the Application, you are required to have, maintain and update at your sole expense a mobile phone containing the minimum build of iOS 11.0 or Android Lollipop 5.0, or

handheld device, internet access, and the necessary ports, adapters, dongles, or other equipment, all of which must meet the minimum specifications prescribed by Cummins from time to time.

7.2. The version of the Application software may be updated or upgraded from time to time to add or change support for new functions and services. Your failure to use an updated or upgraded version could result in a lower quality experience or loss of functionality or access to data.

8. TERMINATION

8.1. Cummins may terminate, modify, or suspend all or part of the Application and related services or your access at any time for any reason on 30 days' notice and without any liability to you.

8.2. Upon any termination, the rights and licenses granted to you herein shall terminate; and you must cease all use of the Application immediately.

8.3. Notwithstanding Section 8.3, in the event of termination Cummins may continue to use Data acquired through the Agreement indefinitely, and Data will not be returned to you. Personal information collected pursuant to Section 3.4 may be destroyed or returned to you upon written request or as required by law.

9. EXCLUSION OF DAMAGES; LIMITATION OF LIABILITY

9.1. To the full extent permitted by law, and notwithstanding any other provision of the Agreement, Cummins shall not be liable to you in respect of any claim for any consequential, special, economic, incidental or indirect losses or for any loss of production or production stoppage, loss of profit or anticipated profit, loss of revenue or other form of consideration, loss of income or anticipated savings, loss of use, loss of contract or repudiation of contract, loss of data, loss of goodwill or reputation, loss of opportunity, business interruption, holding over or overhead loss, loss of future business or for any punitive or exemplary damages whatsoever.

9.2. Except as provided in Section 10.1 below, Cummins is not liable for any damage or alteration to equipment including but not limited to handheld devices or mobile phones as a result of the installation or use or update of the Application.

9.3. To the full extent permitted by law, and notwithstanding any other provision of the Agreement, the Cummins' total and cumulative liability for all loss, damage, cost or expenses (including legal costs) for all claims made by you shall be limited to AUD\$1,000.

9.4 You acknowledge that you use the Application at your own risk. Cummins is not responsible for any outcome of using the Application.

9.5 You must be responsible in keeping your details, such as your password, confidential. Cummins will not be liable if you provide your account details to other parties and for any subsequent misuse of the Application.

10. WARRANTY DISCLAIMER

10.1 The Application and the information provided, generated or transmitted through it are made available "as is" and with all faults and defects. Cummins does not warrant the accuracy of the

information provided or that your use will be uninterrupted or error-free or that all errors will be corrected. Cummins and its subsidiaries and affiliates disclaim all other warranties, express and implied, with regard thereto, including any warranties against infringement or of title, merchantability or fitness for a particular purpose because some jurisdictions do not allow the exclusion of implied warranties, the above exclusion of implied warranties may not apply to you.

11. GOVERNING LAW; VENUE

11.1 Except to the extent otherwise required by the agreements and policies of the App Store from which you download the Application, the laws of Australia and New Zealand, excluding its conflicts of law rules, govern the Agreement. Your use of the Application may also be subject to other local, national, or international laws.

11.2 Except to the extent otherwise required by the agreements and policies of the App Store from which you download the Application or to the extent prohibited by law, any legal action arising out of or relating to the Agreement may be filed only in the courts of Australia and New Zealand. You irrevocably consent and submit to the exclusive personal jurisdiction of those courts for the purpose of litigating any such action, and you waive any jurisdictional, venue, or inconvenient forum objections to such court.

12. RELATIONSHIP

12.1 The Agreement does not create any agency, distributorship, employee-employer, partnership, joint venture, or similar business relationship between you and Cummins.

13. SEVERABILITY

13.1 The provisions of the Agreement shall be severable and independent of each other. In the event that any provision shall be determined to be unenforceable in a particular jurisdiction by a court of competent jurisdiction, such determination shall not be deemed to affect the enforceability of any other provision, and any court making such a determination is hereby requested and empowered to modify such provision and to substitute such limitation or provision of a maximum scope as it then deems reasonable and judicially enforceable, and the parties agree that such substitute provision shall be as enforceable in such jurisdiction.

14. ENTIRE AGREEMENT; CHANGES

The Agreement contains the entire agreement between the parties with respect to its subject matter, other than any additional terms and conditions required by the applicable App Store, and it supersedes all prior writings or agreements thereto. Cummins reserves the right at any time to modify the Agreement and to impose new or additional terms or conditions on your use of the Application. Such modifications and additional terms and conditions will be effective immediately and incorporated into the Agreement. Your continued use of the Application will be deemed acceptance thereof.