

## Terms and Conditions of Use – Australia and New Zealand

### 1. Acceptance of terms and conditions

- 1.1 These Terms and Conditions constitute a legally binding contract between the user (“you” and “your”) and Bapcor Ltd (ACN 153 199 912) and its related companies in Australia and New Zealand, including Burson Automotive Pty Ltd (ACN 006 613 378) trading as “Burson Auto Parts” (“Bapcor”, “we”, “us”, “our”) and apply to your use of the Burson Electronic Parts Catalogue and Product Ordering Systems.
- 1.2 The Burson Electronic Parts Catalogue and Product Ordering Systems, which may include but are not limited to the “EzyParts” and “EzyFind” branded systems, are designed to provide you with an online Automotive Parts Replacement Catalogue, which may include but are not limited to product information, pricing and availability, enabling ordering any time of the day.
- 1.3 We may amend these terms and conditions and the Electronic Product Ordering Systems from time to time and without notice. Every time you use these Electronic Product Ordering Systems, please check these terms and conditions to ensure you understand and accept any changes.
- 1.4 You will be deemed to have accepted these terms and conditions upon your use of any of the Electronic Product Ordering Systems . If you do not agree with these terms and conditions you must not use, copy or install any of the Electronic Product Ordering Systems , and must immediately delete any copies of the Electronic Product Ordering Systems and return any associated documents to us.
- 1.5 We may withdraw your right to use the Electronic Product Ordering Systems at any time in our sole discretion and without cause.
- 1.6 We do not guarantee that the Electronic Product Ordering Systems , or any content on it, will always be available or be uninterrupted. We may suspend or withdraw or restrict the availability of all or any part of the Electronic Product Ordering Systems for business and operational reasons. We will try to give you reasonable notice of any suspension or withdrawal.
- 1.7 Collection of any information you provide us via use of the Electronic Product Ordering Systems will be held by us in accordance with our Privacy Policy.

### 2. Your account

- 2.1 Access to the Electronic Product Ordering Systems is subject to your satisfaction of certain qualifying criteria, as may be detailed to you from time to time, and outlined in the Electronic Product Ordering Systems Policy and Procedure which may be provided to you upon request.
- 2.2 The Electronic Product Ordering Systems may include functionality that is “pay for use” (“Paid Service”). If you use a Paid Service, you must pay to us the subscription fee in such intervals as detailed when you subscribe for the Paid Services. Use of the Paid Services is governed by any terms and conditions accepted in connection with such Paid Service, and otherwise by these terms and conditions.
- 2.3 If you choose, or you are provided with, a user identification code, password or any other piece of information as part of our security procedures, you must treat such information as confidential. You must not disclose it to any third party.

- 2.4 If you know or suspect that anyone other than you knows your user identification code or password, you must promptly notify us.
- 2.5 You are responsible for:
- (a) supervising and controlling access and use of the Electronic Product Ordering Systems by any of your employees, agents, subcontractors; and
  - (b) ensuring that all persons who access the Electronic Product Ordering Systems through your internet connection are aware of these terms and conditions, and that they comply with them.
- 2.6 In your use of Electronic Product Ordering Systems , you must not:
- (a) act in any manner that could disable, overburden, damage, or impair the Electronic Product Ordering Systems or interfere with any other party's use of the Electronic Product Ordering Systems , including their ability to engage in real time activities;
  - (b) introduce any viruses, trojan horses, worms, logic bombs or other material which is malicious or technologically harmful;
  - (c) attempt to gain unauthorised access to, interfere with, damage or disrupt any parts of the Electronic Product Ordering Systems , the server on which the Electronic Product Ordering Systems is stored, or any server, computer or database connected to the Electronic Product Ordering Systems ;
  - (d) attack the Electronic Product Ordering Systems via a denial-of-service attack or a distributed denial-of-service attack; or
  - (e) otherwise attempt to interfere with the proper working of the Electronic Product Ordering Systems .
- 2.7 We may report any of the activities as detailed in clause 2.6 to the relevant law enforcement authorities and we will cooperate with those authorities by disclosing your identity to them. In the event of such a breach, your right to use our Electronic Product Ordering Systems will cease immediately.

### **3. Intellectual Property**

- 3.1 We are the owner or the licensee of all intellectual property rights in the Electronic Product Ordering Systems, and in the material published on it including any associated documentation or material (“Associated Documents”), and we (or the intellectual property rights owner from whom we licence intellectual property) retain all rights in relation to the Electronic Product Ordering Systems and Associated Documents.
- 3.2 You are granted a non-exclusive, non-transferrable licence to use the Electronic Product Associated Documentation solely for the purposes of parts interpretation and ordering decisions concerning your business, and facilitate the preparation of quotations and ordering or automotive parts for your customers or as otherwise contemplated by these terms and condition.
- 3.3 The licence granted to you under clause 3.2 may not be assigned, transferred, sub-licensed or dealt with any in way without our prior consent, which may be withheld at our discretion.
- 3.4 You must not:
- (a) copy, distribute, reproduce, modify, translate, adapt, vary, reverse engineer, de-compile or disassemble any of the Electronic Product Ordering Systems and Associated Documents or create derivate works based on the Electronic Product Ordering Systems and Associated Documents;

- (b) use any spider, scraper, robot or other automated means to access the Electronic Product Associated Documentation for any purpose whatsoever;
- (c) attempt to interfere with the proper working of the Electronic Product Ordering Systems ; or
- (d) use the Electronic Product Ordering Systems in any way contrary to reasonable directions that we provide from time to time.

#### **4. No Guarantee**

- 4.1 Although we make reasonable efforts to maintain accurate information on the Electronic Product Ordering Systems , we make no guarantees, representations or warranties, whether express or implied, that the content included in the Electronic Product Ordering Systems is accurate, complete or up-to-date.
- 4.2 You acknowledge that any information in the Electronic Product Ordering Systems (including, but not limited to product pricing and availability) is indicative only. You can contact us to obtain current prices and availability prior to placing any order. The product prices charged by us for products you order will be those applicable at the time we accept the order, and will be subject to availability.
- 4.3 Where the Electronic Product Ordering Systems allows you to submit an order to us, your submission and our receipt of an order through Electronic Product Ordering Systems does not constitute acceptance of the order. All orders placed through Electronic Product Ordering Systems (including all details and prices of goods and services), must be confirmed by us to you before an order is considered to be accepted.
- 4.4 The content included in the Electronic Product Ordering Systems is provided for general information only and it is not intended to amount to advice on which you should rely.
- 4.5 We do not guarantee that the Electronic Product Ordering Systems will be secure or free from bugs or viruses, and you are responsible for configuring your technology to access our Electronic Product Ordering Systems .
- 4.6 For the avoidance of doubt, The Electronic Product Ordering Systems will be provided "as is" and do not make any express warranties in relation to the Electronic Product Ordering Systems , including that the Electronic Product Ordering Systems are error-free or that it's use will be uninterrupted, or that it will be fit for any particular purpose.

#### **5. Warranties and Liability**

- 5.1 We, our affiliates or their licensors, service providers, employees, agents, officers or directors:
  - (a) exclude all representations, warranties, terms and conditions, whether express or implied (and including those implied by statute, custom, law or otherwise), except as expressly set out in these terms and conditions; and
  - (b) will not be liable to you for damages of any kind, arising out of or in connection with your use, or inability to use, the Electronic Product Ordering Systems , any services linked to it, or any content on the Electronic Product Ordering Systems , including any direct, indirect, special, incidental, consequential or punitive damages, including but not limited to, personal injury, loss of revenue, loss of profits, loss of business or anticipated savings, loss of use, loss of goodwill, loss of data, and whether caused by tort (including negligence), breach of contract or otherwise, even if foreseeable.

- 5.2 Nothing in the preceding clause affects any liability which cannot be excluded or limited under applicable law. Where our liability cannot be excluded, we limit our liability to the fullest extent permitted by law.
- 5.3 You agree to defend, indemnify and hold us, our affiliates, licensors and service providers, and each of their respective officers, directors, employees, contractors, agents, licensors, suppliers, successors and assigns, harmless from and against any claims, liabilities, damages, judgments, awards, losses, costs, expenses or fees (including reasonable legal fees) arising out of or relating to your violation of these terms or your use of the Electronic Product Ordering Systems , including, but not limited to your use of any information obtained from the Electronic Product Ordering Systems and any use of the Electronic Product Ordering Systems ' content, other than as expressly authorised in these terms.

## **6. Suspension and Termination**

- 6.1 We have the right to suspend or terminate your access, including by way of disabling any user identification code or password, at any time, if in our reasonable opinion:
  - (a) you have failed to comply with any of these terms and conditions;
  - (b) we have a right to terminate any other agreement with you;
  - (c) any amount you owe to us under any other agreement is not paid by its due date
  - (d) you become insolvent or subject to any form of administration or otherwise threaten to become insolvent, you cease to conduct business or your ultimate parent entity changes; or
  - (e) anything happens which might lead to unauthorised disclosure of our Confidential Information (as defined in clause 7).
- 6.2 On expiry or termination of these terms and conditions, you must destroy all copies of the Electronic Product Ordering Systems and all Associated Documents. You grant us the right to enter your premises during business hours to inspect whether the Electronic Product Ordering Systems and Associated Documents are destroyed and/or to show evidence of the destruction.
- 6.3 Termination does not affect any rights or remedies which we may have otherwise under these terms and conditions or at law.
- 6.4 We reserve the right to monitor and track your login information on the Electronic Product Ordering Systems to ensure it is being used in accordance with these terms and conditions. Any usage flagged as being in breach of this agreement and not typical of end user behaviour may result in your access to Electronic Product Ordering Systems being revoked.

## **7. Confidentiality**

- 7.1 Confidential Information means:
  - (a) all information contained in and accessible via use of the Electronic Product Ordering Systems (including the Associated Documents), including but not limited to:
    - (i) part numbers;
    - (ii) part number application by vehicle specific criteria including make and model;

- (iii) pricing, including retail and recommended retail prices (if applicable);
  - (iv) product brand information;
  - (v) pictures, schematics, technical data, specifications and dimensions relating to parts;
  - (vi) Electronic Product Ordering Systems features and training documentation; and
  - (vii) any commercially sensitive information in relation to us, including inventory levels in our stores and distribution centres, and,
    - (b) all source code and object code of the Electronic Product Ordering Systems .
- 7.2 You must not disclose any Confidential Information to any third party except as required by law or where the Confidential Information can be demonstrated to have been in the public domain at the time of the disclosure other than as a result of a breach of these terms and conditions.
- 7.3 You acknowledge that the Electronic Product Ordering Systems , the Associated Documents and the Confidential Information are our unique and valuable proprietary asset, and any unauthorised disclosure may cause irreparable damaged.
- 7.4 You agree that we may seek to enforce the terms regarding confidentiality, including application to the applicable court for appropriate equitable remedies (including seeking injunctive relief) with respect to breaches of these terms and conditions, in addition to such other remedies that we may have under applicable laws.

## **8. General**

- 8.1 Any purchases made via the Electronic Product Ordering Systems are governed by:
- (a) our terms of sale;
  - (b) any credit application between us and you;
  - (c) any other written agreement in place between us and you, (to the extent applicable).
- 8.2 If you are operating in Australia, these terms and conditions are governed by the laws of Victoria, Australia and both parties submit to the non-exclusive jurisdiction of the courts of Australia. If you are operating in New Zealand, these terms and conditions are governed by the laws of New Zealand and you and both parties submit to the non-exclusive jurisdiction of the courts of New Zealand.
- 8.3 These terms and conditions represent the complete agreement concerning the licence of the Electronic Product Ordering Systems between you and us.
- 8.4 Any provision in this agreement which is invalid or unenforceable in any jurisdiction is to be read down for the purpose of that jurisdiction, if possible, so as to be valid and enforceable, and otherwise shall be severed to the extent of the invalidity or unenforceability, without affecting the remaining provisions of this agreement or affecting the validity or enforceability of that provision in any other jurisdiction.
- 8.5 Our failure to enforce any of the terms of these terms and conditions shall not be construed or deemed to be a waiver of our rights under these terms and conditions.