

TERMS & CONDITIONS

1 Acknowledgement and acceptance

- 1.1 Neil's Parts (Australia) Pty Limited ABN 38 072 371 816 will be referred to as "Parts Express Australia", "we", "our" or "us" in these terms and conditions (**Terms and Conditions**).
- 1.2 Customers may access and use the Parts Express Australia website www.parts-exp.com.au (**Website**) subject to these Terms and Conditions.
- 1.3 We may from time to time review and update our Terms and Conditions including to take account of any new laws, regulations, products or technology. By using the Website, you are agreeing to all the Terms and Conditions stated. Your use of the Website will be governed by the most recent Terms and Conditions posted on the Website. We recommend that you check this page regularly and take notice of any changes made.
- 1.4 If, at any time, you do not agree to accept all of the Terms and Conditions then you must cease to use the Website and not order any further products offered for sale on the Website (**Products**). Your continued use of the Website after such changes will automatically constitute your acceptance of those changes.

Parts Express Australia maintains the Website to facilitate the ordering of Products available on the Website in accordance with these Terms and Conditions.

2 Using the Website and your Account

- 2.1 You are responsible for all your activity in connection with accessing and using the Website, including the purchase of any Products.
- 2.2 In order to use certain features of the Website, you may be required to register or create an account (**Account**). Where you create an Account, as a part of the account registration process we may ask you to provide information to verify your identity. You warrant that all information that you provide at the registration stage is true, complete and accurate.
- 2.3 You must ensure your details are up-to-date at all times, and must notify us of any changes.
- 2.4 Parts Express Australia reserves the right to refuse to create an Account, suspend or terminate your Account at any time in our absolute discretion, including if we suspect that any information that you provide is not incorrect, if the delivery address is not correct or your Account has been misused and shall incur no liability for such suspension or termination.
- 2.5 We will only use your details in accordance with clause 10 of these Terms and Conditions.
- 2.6 You must not assign, transfer or otherwise deal with your Account without our consent. Our consent can be withheld at our absolute discretion.
- 2.7 Use or access to your Account may be subject to a logon system. You must keep safe and secure all identification information (including username and password) (**ID**) used to access your Account, and you must not disclose your ID to anyone else or allow anyone else to use your Account. You are responsible for maintaining the confidentiality of any passwords associated with your Account, monitoring all activity under your Account, and assume full responsibility for all activities that occur under your Account. This includes any purchases made through your Account.

- 2.8 As a condition of your use of the Website, you agree to abide by all applicable laws and regulations, and to conduct yourself in accordance with these Terms and Conditions. Specifically, and without limitation, you are prohibited from and agree not to use the Website to:
- (a) violate any laws;
 - (b) defame, abuse, harass, stalk, threaten or otherwise offend others;
 - (c) disseminate (e-mail or otherwise) any material, which is unlawful, abusive, obscene, pornographic, defamatory, discriminatory, harassing, grossly offensive, vulgar, threatening or malicious;
 - (d) use any address harvesting software or automated scripting tool software;
 - (e) use any robot, spider, scraper or other automated means to access the Website and collect content for any purpose without our express written permission;
 - (f) engage in chain letters, scams, pyramid schemes, unsolicited e-mailing or spamming via Parts Express Australia's tools;
 - (g) impersonate any person or entity or act in any way that is false or misleading;
 - (h) use (upload, post, e-mail, transmit) Website content in way that you do not have a right to under any law or contractual obligation;
 - (i) distribute viruses or any other technologies that may harm the Website, the interests or property of Parts Express Australia or other users;
 - (j) interrupt or attempt to interrupt the operation of the Website in any way;
 - (k) impose an unreasonable load on our infrastructure or interferes with the proper working of the Website;
 - (l) copy, modify, or distribute any other person's content without their consent;
 - (m) bypass measures used to prevent or restrict access to the Website; or
 - (n) in any way that makes available using the Website any material that you do not have a right to make available or which contains viruses or other computer codes, files or programmes designed to interrupt, limit or destroy the functionality of other computer software or hardware.
- 2.9 Parts Express Australia may make improvements or changes to the information or Products and other materials displayed on the Website, or terminate the Website, at any time without notice. Subject to Parts Express Australia's rights under clause 7.3 of these Terms and Conditions, termination of the Website does not affect any orders for Products that have been paid for.
- 2.10 You indemnify us against all liability claims or proceedings whatsoever arising from your publishing content by uploading it onto the Website in relation to defamation, breach of copyright, trade mark infringement, unfair competition, trade practices, royalties, violation of rights or privacy.
- 2.11 Use of the Website is restricted to residents of Australia who are currently located in Australia. Parts Express Australia does not warrant that the content of the Website complies with the laws of a jurisdiction outside of Australia.

3 Orders through the Website and purchase of Products

- 3.1 By placing an order via the Website (**Order**), you are making a commitment to purchase Products, in agreement with our Terms and Conditions.
- 3.2 Any information provided on the Website in respect of any Products (including the price of the Products) does not constitute an offer to sell but an invitation to treat only, and is subject to the availability of the Products and your eligibility to purchase the Products.
- 3.3 By placing an Order, you are offering to purchase the Products at the price (plus any delivery charges or other applicable charges) specified in the order form you complete, and on these Terms and Conditions. All other Terms and Conditions proposed by you are rejected and have no effect. The application of the *United Nations Convention on Contracts for the International Sale of Goods* (known as the *Vienna Sales Convention 1980*) are also excluded.
- 3.4 To the maximum extent permitted by law, we may, in our absolute discretion, reject or cancel any Order we receive for any reason at any time before delivery (even if the Order was accepted by the Website), including:
- (a) the unavailability of Products;
 - (b) an error in the price or the description of the Products on the Website; or
 - (c) cancellation or dishonouring of your payment or any error in the Order placed by you.
- In such case, we will refund you for any amounts that you have paid for the cancelled Order.
- 3.5 Once you have placed an Order in accordance with these Terms and Conditions, you will receive an email confirming (**Confirmation Email**) the details of your Order and receipt of payment (where applicable).
- 3.6 If your Order is not accepted by us, you will receive a phone call or email indicating that your Order has not been fulfilled.
- 3.7 If you do not receive a Confirmation Email or phone call, please contact Parts Express Australia to check the status of your Order.
- 3.8 To the maximum extent permitted by law, we exclude all representations, warranties, terms, statutory guarantee, conditions and undertakings in respect of the Product that we supply. However, the Products come with statutory guarantees that cannot be excluded under ACL, and also other conditions, warranties or representations that are implied by law and which cannot be lawfully excluded (**Prescribed Terms**).
- 3.9 To the maximum extent permitted by law, a representation, warranty or Prescribed Term will not apply to any fault or failure of the Product if it has been caused by accidental or deliberate damage, neglect or misuse, whether by you or another person.
- 3.10 Our liability in relation to any representation, warranty or Prescribed Terms or otherwise in connection with the Products is, to the maximum extent permitted by law, and at our discretion, limited to the resupply of Products or equivalent goods, the repair of the Product or the payment to you of the cost of having the Products repaired or supplied again. However, this does not exclude or restrict any rights or remedies that you may have in relation to a "major failure", as that term is defined in the *Competition and Consumer Act 2010* (Cth).

4 Core Charges

- 4.1 Cores must be returned within 60 days of receipt of the original merchandise in order to qualify for a refund, unless prior arrangements have been made.
- 4.2 Core charges will be refunded based on receipt and inspection of a serviceable Core.
- 4.3 All Core returns must be accompanied by the Core tag shipped with the original merchandise and proof of purchase (**Invoice**).
- 4.4 Whenever possible, please reuse the original shipping and packing materials from the Product you received.

5 Changes to Products and pricing

- 5.1 We may modify prices and Products at our discretion, without prior notice, for any reason including, but not limited to:
 - (a) changes in market conditions;
 - (b) Product discontinuation;
 - (c) changes in availability;
 - (d) manufacturer changes;
 - (e) errors in advertising; and
 - (f) other any circumstances.
- 5.2 All updates and modifications to the Website including any changes to the content and all Product pricing and offerings will be subject to these Terms and Conditions. Any information we provide in relation to the availability of Products is a guide only and can be subject to change without notice. We will not be liable for any lack of availability of Products that you may Order through the Website.
- 5.3 All prices are displayed in Australian Dollars.
- 5.4 Product prices shown on the Website exclude GST, shipping and handling fees (unless otherwise specified). You will be advised of any GST, shipping and handling fees on the online order form when completing your Order.

6 Payment

- 6.1 Orders must be paid for in accordance with your existing trading terms with us and will be added to your pre-approved trading account.

7 Delivery

- 7.1 The Website may offer various delivery methods. You may be able to choose which delivery method you prefer in the process of Ordering.
- 7.2 All Orders and delivery charges must be paid for in full and cleared funds before we deliver the Product to you.
- 7.3 Subject to you making payment, we will use reasonable endeavours to deliver the Ordered Products to the deliver address set out in the Order (**Delivery Address**).
- 7.4 We will only deliver Products to Australia. Your Delivery Address must be located in Australia.
- 7.5 Unless a specific delivery carrier is requested, delivery of your Order will be made by the best available delivery carrier as determined by Parts Express Australia.

- 7.6 Customers are liable for all freight costs unless a definite arrangement has been made prior to purchase.
- 7.7 Any delays in delivery are not the responsibility of Parts Express Australia.
- 7.8 Any delay in delivery does not relieve you from your obligation to accept delivery of and pay for the Products.
- 7.9 The Products will be deemed to have been delivered to you, and you will be deemed to have accepted delivery, if the delivery carrier's tracking system states that delivery has occurred. Subject to you making full payment, title and risk in the Products will pass to you upon delivery or deemed delivery of the Products.
- 7.10 To the maximum extent permitted by law, we exclude all representations, warranties, terms, statutory guarantee, conditions and undertakings in respect of the Product that we supply. However, the Products come with statutory guarantees that cannot be excluded under ACL, and also other conditions, warranties or representations that are implied by law and which cannot be lawfully excluded (**Prescribed Terms**).

8 Online returns policy

8.1 Returns and refunds

- (a) Parts Express Australia will gladly offer a no questions asked refund for Products you wish to return on the following conditions:
- (i) the Product is returned within 30 days of receipt of purchase;
 - (ii) the Product has not been used, opened or damaged;
 - (iii) specific Products are in original packaging with all plastic and labels (where applicable) are attached;
- unless otherwise one is entitled to a return under the Australian Consumer Law, being Schedule 2 to the *Competition and Consumer Act 2010* (Cth) (**ACL**) as detailed in clause 8.2; and
- (iv) you can present the Invoice; and
 - (v) you have contacted Parts Express Australia to authorise your return.
- (b) To arrange a return to our warehouse, please contact Parts Express Australia via the Website or via (07) 4637 5914.
- (c) Any Products received by Parts Express Australia that do not comply with the above conditions will incur a restocking fee as follows:
- (i) after 30 days - 15% restocking fee;
 - (ii) after 6 months - 20% restocking fee; and
 - (iii) no returns after 12 months.
- (d) The minimum restocking fee may be revised at our discretion, based on final inspection of the returned merchandise and the circumstances involved.
- (e) In the event that Products are returned to Parts Express Australia and they are not in a condition to be restocked, the Products will be returned to the sender.
- (f) Products sought to be returned via cash on delivery will be refused. We do not offer cash returns.

8.2 Damaged or faulty Products

In agreement with your rights under the ACL:

- (a) If a Product has a major or serious problem, you are entitled to choose a refund, or exchange, or ask for compensation for any drop in the value of the Product, provided you present the Invoice.
- (b) A Product has a major problem when:
 - (i) a reasonable consumer would not have bought the Products if they had known about the problem;
 - (ii) the Products are significantly different from the description, sample or demonstration model shown;
 - (iii) the Product is significantly unfit for its purpose; or
 - (iv) the Product is unsafe.
- (c) If a Product has a minor problem, please contact Parts Express Australia immediately so we can assist to refund or replace the Product. Please keep your Invoice.
- (d) Refunds for faulty or damages Products will be processed via the same payment method as the original payment.

8.3 Return of Products

- (a) If you are returning a Product or Products, please post or freight the Products via a trackable source. Parts Express Australia will not be responsible for lost Products that have not been sent by a trackable source.
- (b) You will need to pay for any postage or freight fees involved in posting or freighting back the Products you wish to return where you have changed your mind or no longer require them.
- (c) Parts Express Australia will refund any postage or freight costs for any Products considered faulty in accordance with clause 8.3(a), provided you authorise the return with us.

9 Access and communication

- 9.1 Subject to the consumer guarantees provided for in the ACL, Parts Express Australia does not warrant that you will have continuous access to our Website. We will not be liable if the Website is unavailable to you due to computer downtime, attributable to malfunctions, upgrades, preventative or remedial maintenance activities, interruption in telecommunications supply or otherwise.
- 9.2 We reserve the right to change or discontinue any feature on the Website, the availability of the Website and the software required to access it.

10 Privacy

- 10.1 Our practices in relation to the collection and management of personal information are set out in our Privacy Policy. A copy of our Privacy Policy is available on the Website.
- 10.2 If you are submitting to the Website, including in the course of making any Order, the personal information of any other person, you warrant that the person is aware of and has consented to the use of their personal information for purposes relating to these Terms and Conditions.

11 Disclaimer

- 11.1 We have used our best endeavours to ensure all information, graphics, videos and Products appearing on this site are correct and true.
- 11.2 We do not warrant that access to the Website will be uninterrupted, or that the services and features offered on the Website will be error-free. We reserve the right to change or discontinue any feature on the Website, the availability of the Website and the software required to access it.
- 11.3 The information on the Website is provided for information purposes, general interest and enquiry only. While we use reasonable efforts to ensure that the information on the Website is complete and up-to-date, to the extent permitted by law, we make no warranty or representation as to the accuracy, currency or completeness of any information on the Website. Before relying on information on the Website, you should verify the accuracy of the information and its relevance. This may mean contacting our personnel before placing Orders or making a purchase.

12 Warranties, consumer guarantees and limitation of liability

- 12.1 Subject to clause 3, any representation, warranty, condition, guarantee or undertaking that would be implied in these Terms and Conditions by legislation, common law, equity, trade, custom or usage is excluded to the maximum extent permitted by law.
- 12.2 Nothing in these Terms and Conditions excludes, restricts or modifies any consumer guarantee, right or remedy conferred on you by the ACL or any other applicable law that cannot be excluded, restricted or modified by agreement.
- 12.3 To the fullest extent permitted by law, the liability of Parts Express Australia for a breach of a non-excludable guarantee referred to in clause 12.2 is limited, at Parts Express Australia's option, to in the case of Products supplied or offered by us, the replacement of the Products or the supply of equivalent Products.
- 12.4 Parts Express Australia offers a 12-month warranty on new Products only.
- 12.5 Parts Express Australia does not offer any warranty on labour or travel.
- 12.6 Parts Express Australia, its directors, employees, agents and contractors will not be liable to you for any unintended, incidental, special or consequential loss or damage, loss of profits or estimated profits, economic loss, loss of business opportunity, loss of data, loss of reputation or loss of revenue (irrespective of whether the loss or damage is caused by or relates to breach of contract, misdemeanour (including negligence), statute or otherwise) arising in connection with the Website, Parts Express Australia content, all links to or from the Website or the Products and services advertised or referred to on the Website.

- 12.7 You agree to indemnify and will keep Parts Express Australia and its affiliated companies and their officers, agents and employees indemnified against any claim, demand, injury, direct or indirect damage, loss or cost, liability, right of action or claim for compensation in contract, under statute or in tort (including in respect of any negligent, reckless or wilful act by you) made against or suffered by any one or more of them in connection with your use of the Website including any website linked to the Website, your failure to use the Website or any website linked to the Website, your breach of these Terms and Conditions or your breach or violation of any rights of third parties.
- 12.8 Parts Express Australia has made reasonable efforts to include Information on the Website which is accurate and timely, the information and content is provided on a "as is", "as available" basis and is subject to change without notice.
- 12.9 To the extent permitted by law, Parts Express Australia makes no representations, guarantees or warranties as to the accuracy or reliability of such information or content and specifically, Parts Express Australia will not be liable or responsible for any errors or omissions in the information or the content on the Website or any loss or damage you may suffer as a result of relying on the information or content on the Website.
- 12.10 Parts Express Australia neither warrants nor represents that your use of the information or the content will not infringe the rights of third parties who are not affiliated with Parts Express Australia and will not be liable for any loss or damages which you may suffer as a result of allegations of infringement as a result of your use of that information or content.
- 12.11 Your access to and use of the Website is at your own risk, and to the extent permitted by law, neither Parts Express Australia nor any party involved in the creation, transmittal, or maintenance of the Website shall be liable to you in contract, tort (including negligence) or otherwise for any direct, indirect, consequential, incidental or punitive damages of any kind allegedly arising directly or indirectly out of or in connection with your access to, use of, or reliance upon any information or content of the Website or the information or content of any website linked to the Website, your use of the Website, your inability to access or use the Website, any virus or other harmful component transmitted, any damage that may occur to any computers, mobile phones, tablets or any other devices used to access the Website, or a failure or omission on the part of Parts Express Australia to comply with its obligations under these Terms and Conditions.
- 12.12 To the extent that these limitation of liability clauses are subject to warranties or consumer guarantees that cannot by law be excluded, Parts Express Australia's liability for any breach of such warranty or guarantee (including, but not limited to, any warranties or guarantees imposed by law in connection with the supply by Parts Express Australia of services referred to on the Website) is limited to, where permitted by law, at Parts Express Australia option to the resupply of the services or payment of the cost of supplying the services again.
- 12.13 In relation to Products that you Order, to the maximum extent permitted by law, our aggregate liability to you will not exceed the price of the Products actually paid by you to us.

- 12.14 You expressly release Parts Express Australia, its affiliated companies and their officers, agents and employees from all claims whatsoever which you may have against any one or more of them arising out of or connected with any conduct of any one or more of them in relation to any transaction conducted on the Website or any use by you of the Website or the information or content contained on it or your use of any website linked to the Website (or information or content contained on a linked website), whether or not the conduct or use is referred to in these Terms and Conditions.
- 12.15 Parts Express Australia assumes no responsibility and shall not be liable for any damages to, or any viruses that may infect a Device resulting from your access to or use of the Website or any website linked to the Website, or the downloading of any information or content from the Website any website linked to the Website.

13 Intellectual Property

- 13.1 All information that you read or see on the Website is protected by copyright or other intellectual property laws. The content is owned by Parts Express Australia, its affiliates, or other third parties from whom Parts Express Australia has received certain legal rights.
- 13.2 You may not report, modify, publish, sell, reproduce, distribute post, display, transmit, upload, communicate to the public, or in any way exploit any content of the Website for commercial purposes unless you have obtained the prior written consent of Parts Express Australia, which Parts Express Australia may grant or withhold in their absolute discretion.
- 13.3 You will not download any information or content from any part of the Website if you are aware, or reasonably ought to be aware (including taking into account the purpose for which you wish to download or use the information or content), that the information or content should not, or was not intended to, be downloaded or distributed by you.
- 13.4 The trademarks, trade names, slogans, logos and icons (**Trademarks**) displayed throughout the Website are the Trademarks Parts Express Australia or of its affiliated companies, or third party licensors. No license, right or permission is granted to you for any use of the Trademarks by you or anyone authorised by you. The use or misuse of the Trademarks or any other content on the Website is strictly prohibited and Parts Express Australia will aggressively enforce its intellectual property rights to the fullest extent of the law.
- 13.5 The pictures and images of people, Products, places or things displayed on the Website are either the property of Parts Express Australia or are used with the permission of third parties. Any use of such pictures or images by you or anyone authorised or affiliated with you is strictly prohibited. Unauthorised uses of pictures and images may violate copyright or trademark laws, privacy laws, communication laws or regulations, and other laws or regulations.

14 User generated content

- 14.1 You are solely responsible for any content that you create, transmit or display on the Website and for the consequences of your actions (including any loss or damage that Part Express Australia or any third party could suffer) by doing so.

14.2 Parts Express Australia has the right to pre-screen, review, flag, filter, modify, refuse or remove any or all content from the Website at its sole discretion. If you find any content that is objectionable please contact Parts Express Australia using the contact details on the Website.

14.3 Except as required by law, any communication or material transmitted to the Website by electronic mail or other means, shall be treated as non-confidential and non-proprietary (this includes ideas, suggestions, comments, questions and any other information or data), and anything submitted to Parts Express Australia can be used, copied, distributed, adapted, displayed, reproduced, transmitted, disclosed or published by Parts Express Australia or its affiliates without restriction or compensation.

15 Third party websites

15.1 Parts Express Australia has not reviewed all of the websites, which are linked to the Website. No inference or assumption should be made and no representation should be implied that Parts Express Australia is connected with, operates, monitors, or controls these websites or that Part Express Australia endorses the views expressed by, or the content of, any linked websites.

16 General

16.1 If any provision of these Terms and Conditions is found to be void, unlawful or unenforceable for any reason, then that portion of the provision which creates the invalidity, unlawfulness or unenforceability will be severable from these Terms and Conditions and will not otherwise affect the validity and enforceability of any remaining provisions.

16.2 Your Order and these Terms and Conditions represent all the terms and conditions between you and us relating to your Order.

16.3 You agree that, by submitting your payment and confirming your Order via the Website, you have read and understand these Terms and Conditions and consent to those requirements.

17 Governing laws and jurisdiction

17.1 These Terms and Conditions shall be governed by the laws of Queensland and the laws of the Commonwealth.

17.2 You agree that the courts exercising jurisdiction in Queensland will have the exclusive jurisdiction to resolve all disputes arising from the Website or these Terms and Conditions, and you agree to submit to the jurisdiction of those courts.

18 Contacting us

If you have questions about the Website or these Terms and Conditions, please contact us by phone (07) 4637 5914 or email us at kcrawford@parts-exp.com.au.