



Part 5

Purchasers Conditions of Contract (‘Purchaser Conditions’) for the

Supply of New Trucks to Australian Local Government through a Register of Pre-Qualified Suppliers

NPN 04-13

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1. **CONSTRUCTION OF CONTRACT**

- 1.1 A reference to a party to the Purchaser Agreement includes:
- (a) in the case of a natural person, that person and his/her personal representatives and assigns (transferees); and
 - (b) in the case of a corporation, the corporation, its successors and assigns (transferees).
- 1.2 Where a party is composed of 2 or more persons, each item of agreement by the party binds:
- (a) all of those persons collectively; and
 - (b) each of them as an individual.
- 1.3 The Purchaser Conditions apply to and as between each of the parties as if each of them had executed the Purchaser Agreement or had executed separate Contracts.
- 1.4 A reference to:
- (a) the singular includes the plural, and vice versa;
 - (b) a gender includes each other gender;
 - (c) a person includes a corporation, a firm, and a voluntary association;
 - (d) an Act includes an Act that amends, consolidates or replaces the Act;
 - (e) a section or other provision of an Act includes a section or provision that amends, consolidates or replaces the section or provision;
 - (f) money is a reference to Australian dollars and cents;
 - (g) a time of day is a reference to Australian Eastern Standard Time;
 - (h) a document includes, but is not limited to, any drawing, specification, material, record or other means by which information can be stored or reproduced; and
 - (i) the words 'include', 'included' or 'including' when those words are used, will be interpreted as if they were preceded by the further words 'but not limited to' or the appropriate grammatical derivative.
- 1.5 No rule of construction or interpretation of the Purchaser Conditions shall apply to either Local Buy's or the Purchaser's disadvantage solely because Local Buy or the Purchaser prepared the Purchaser Conditions or either of them rely on a provision of the Purchaser Conditions.
- 1.6 Condition headings exist for convenience only and are to be disregarded when interpreting the Purchaser Conditions.
- 1.7 All information delivered with the Truck/s supplied under the Purchaser Agreement must be written in English. Where any document is a translation into English, the translation must be accurate.
- 1.8 If a provision of the Purchaser Agreement is void, voidable, illegal or unenforceable, the provision will be deemed deleted from the Purchaser Agreement.
- 1.9 Where a Purchaser is not from Queensland, a reference to a Queensland Act or a Queensland body in the Purchaser Agreement shall be a deemed to be a reference to the equivalent legislation or body of the State in which the Purchaser is based.

2. **DEFINITIONS**

- 2.1 Except where the context otherwise requires, the definitions set out in Clause 2.1 of the General Conditions of Contract to Local Buy Contract Number NPN 04-13 shall apply to these Purchaser Conditions.

3. **TERM**

- 3.1 The Purchaser Agreement shall begin on the Order Commencement Date and expire when the supply of the **Truck/s** has been completed to the Purchaser's satisfaction unless terminated earlier in accordance with the terms of the Purchaser Agreement.
- 3.2 Notwithstanding the termination or expiry of the Local Buy Contract, the terms and conditions of the Local Buy Contract shall continue to apply to a Purchaser Agreement until such time as the parties obligations under that Purchaser Agreement have been completed or the Purchaser Agreement has been terminated.

4. **EVIDENCE OF CONTRACT**

- 4.1 The Purchaser Agreement is constituted by the following documents:
- (a) the Purchaser Conditions;
 - (b) the Order;
 - (c) the Specification;
 - (d) correspondence passing between the Purchaser and the Dealer clarifying any aspect of the RFQ or RFQ response;
 - (e) the RFQ;
 - (f) the Dealers' standard terms and conditions (where the requirements of Condition 6.18 are satisfied);
 - (g) the RFQ response.
- 4.2 Where there arises any inconsistency or ambiguity between provisions in the different documents which constitute the Purchaser Agreement, the order of precedence to resolve the inconsistency or ambiguity shall be from document (a) to (g) in Condition 4.1.
- 4.3 In consideration of payment by a Purchaser, the Dealer agrees to meet its obligations pursuant to and provide the **Truck/s** in accordance with the terms and conditions of the relevant Purchaser Agreement.

5. **QUOTATION & ORDER PROCESS**

- 5.1 In consideration of Local Buy providing the Dealer with an opportunity to quote on Purchaser RFQs, the Dealer accepts and acknowledges that it is bound by the Quotation and Order process set out below whether or not a Purchaser Agreement has been formed.
- 5.2 Local Buy shall be entitled to immediately suspend or terminate the Contractor or Dealer pursuant to the Local Buy Contract where the Dealer fails to comply with the terms of this Condition 5.

Access to Contract

- 5.3 Purchasers wishing to access the Contract must do so by submitting a written request for access to Local Buy's Category Manager prior to submitting an RFQ or Order to a Dealer. Purchasers who agree to comply with the requirements of the Local Buy Contract and Purchaser Conditions and meet any other requirements set by Local Buy shall be added to a list of authorised Purchasers (the 'Authorised Purchaser List').
- 5.4 The Dealer shall not respond to any RFQ issued by a Purchaser who is not on the current Authorised Purchaser List (as provided to the Dealer by the Contractor) at the time the RFQ is issued. Where the Dealer receives an RFQ from an unlisted Purchaser, the Dealer shall bring the anomaly to the Contractor's attention promptly.
- 5.5 Where the Contractor or Dealer is suspended pursuant to the Local Buy Contract, the Dealer's profile may be switched off in Vendor Panel and they must not accept any new Orders for the supply of Truck(s) from any Purchaser without the prior written approval of Local Buy.

- 5.6 Failure by a Purchaser or Dealer to comply with any requirement in this Condition 5 may result in the Purchaser Agreement not constituting a valid exception for the purposes of the Purchaser's tendering legislation.

RFQ Requirements

- 5.7 Except with Local Buy's Category Manager's written approval, a Purchaser must issue an RFQ to one or more suppliers on the relevant Local Buy LGA Arrangement via the relevant State NPN Member's electronic Request for Quotation system "Vendor Panel".
- 5.8 The Dealer shall not respond to an RFQ issued in any manner other than as set out in Condition 5.7 without Local Buy's Category Manager's prior written approval. Any RFQ sent to a Dealer outside of Vendor Panel shall be brought to the Contractor's notice promptly.
- 5.9 Where an exception to the use of Vendor Panel is authorised pursuant to Condition 5.23, the Category Manager may set conditions for RFQs issued or responded to outside of Vendor Panel (such as the use of a Local Buy issued template RFQ) which both the Purchaser and Dealer must comply with.
- 5.10 Where Local Buy varies the RFQ process pursuant to the Local Buy Contract and notifies the Dealer and Purchaser of the variation, the Dealer and Purchaser shall ensure that they comply in all respects with the new RFQ process.

VendorPanel

- 5.11 Following the Contract Commencement Date, the Contractor will receive notification via its nominated email address requiring it to register and create an electronic profile within the VendorPanel system. Once registered, the Contractor will have the right within the VendorPanel system to set up individual Dealer accounts for its registered Dealers to allow them to respond to Request for Quotations issued by Purchasers.
- 5.12 Local Buy reserves the right to review a Dealer's or a Purchaser's VendorPanel profile and to require changes to be made where those profiles do not reflect the terms of the Local Buy Contract. Where required to make changes by Local Buy, the Dealer or relevant Purchaser shall make such changes as required within three (3) Business Days of notification to their nominated email address.
- 5.13 The Dealer acknowledges and agrees that where they fail to register and create an electronic profile within the VendorPanel system or they are Suspended from the Local Buy Contract, they will not be entitled to receive and must not respond to Purchaser RFQs issued either through VendorPanel or otherwise.
- 5.14 All RFQs received via VendorPanel must be responded to via VendorPanel and in accordance with the terms of the Local Buy Contract, the Purchaser Conditions and relevant RFQ.
- 5.15 Local Buy reserves the right to monitor RFQs issued and the responses received for compliance with the terms and conditions of the Local Buy Contract and other general purposes including contract review, forecasting and administration purposes.
- 5.16 If Local Buy finds that an issued RFQ or the response received are substantially in conflict with the terms and conditions of the Local Buy Contract or Purchaser Conditions, Local Buy shall consult the Purchaser and Dealer (and if necessary, Contractor) to resolve the matter.
- 5.17 If the matter cannot be resolved as set out above in Condition 5.16, the Order will be deemed to be cancelled and, with respect to Queensland Local Government, will no longer constitute a valid LGA arrangement exemption for the purposes of the Local Government Regulation 2012.

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- 5.18 The Dealer and Purchaser hold Local Buy and the Contractor harmless from any action, claims, liability and/or loss arising from or in any way related to their use of VendorPanel (including for the avoidance of doubt, a fault in or failure of the VendorPanel system, a failure to correctly register with VendorPanel, RFQs issued or responded to through VendorPanel and/or any Orders arising therefrom).

RFQ Monitoring

- 5.19 Local Buy reserves the right to monitor RFQs issued and the responses received for compliance with the terms and conditions of the Local Buy Contract and other general purposes including contract review, forecasting and administration purposes.
- 5.20 If Local Buy finds that an issued RFQ or the response received are substantially in conflict with the terms and conditions of the Local Buy Contract or Purchaser Conditions, Local Buy shall consult the Purchaser and Dealer (and if necessary the Contractor) to resolve the matter.
- 5.21 If the matter cannot be resolved as set out above in Condition 5.20, Local Buy may Suspend the Dealer pursuant to the Local Buy Contract and advise the relevant Purchaser that any Order placed is, with respect to Queensland Local Government, unlikely to constitute a valid LGA arrangement exemption for the purposes of the Local Government Regulation 2012 [for other States refer Condition 1.9].

Purchaser RFQ Information

- 5.22 A Purchaser may complete the RFQ with further information and specifications of its required **Truck/s** requirements such as:
- (a) required accessories, spare parts, maintenance and training services and the like;
 - (b) if the new **Truck/s** are replacing existing goods, details of their existing goods; and/or
 - (c) details of the anticipated use of the **Truck/s**, the likely location of the **Truck/s** and/or the types of surfaces the **Truck/s** are best suited for.

Dealer RFQ Responses

- 5.23 Where the Dealer wishes to respond to an RFQ, it must comply with any conditions of quotation set out by the Purchaser; respond in writing via VendorPanel only within the timeframe allowed for in the Purchaser's RFQ.
- 5.24 Unless stated as being not required by a Purchaser in the relevant RFQ, the Dealer shall provide the following mandatory information as part of their RFQ response:
- (a) pricing information taken from the current NPN government list price issued by the Contractor or better price if applicable;
 - (b) an expected delivery date (and keep the Purchaser informed of any delays);
 - (c) details of the applicable standard warranties for any **Truck/s** purchased;
 - (d) specific makes and models of **Truck/s** proposed to be supplied (nominations may be varied when models are superseded);
 - (e) if any of the specifications contained in a RFQ issued by a Purchaser cannot be conformed with, these shall be clearly noted in the Dealer's RFQ response.
- 5.25 The Dealer is to ensure that their RFQ responses individually list all requested accessories, details of the cab chassis and available options, body configuration, pre-delivery, vehicle movements, extended warranty options and training being offered and registration, The Quotation is to be fully itemised and each line item individually priced. No grouping of the **Truck/s** and amalgamation of costings is allowed.

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Contractors are required to provide the Purchaser with original or certified true copies of quotations received from body builders or other 3rd party suppliers.

- 5.26 RFQ responses issued which do not conform may be returned by the Purchaser to the issuing Dealer to reformat and resubmit to the Purchaser within 24 hours. Failure to supply a Quotation in the format described above will result in the Quotation being non compliant and may be rejected by the Purchaser at their sole discretion.
- 5.27 The Contractor is required upon request to provide details of their standard warranties for the **Truck/s** purchased under the Contract and any Purchaser Agreement to its Dealer s so this information can be submitted with the RFQ responses provided to the Purchaser.
- 5.28 A Dealer RFQ response must remain open for acceptance for a minimum of thirty (30) days or such other period as is explicitly set out in the relevant Purchaser's RFQ (or otherwise as agreed in writing between the parties).
- 5.29 Any non-compliances or alternatives offered by a Dealer must be set out in full in the Dealer's RFQ response and will only form part of the relevant Purchaser Agreement where explicitly agreed by the Purchaser in writing.

RFQ Acceptance

- 5.30 Dealer's must not issue quotations to Purchasers in hardcopy or otherwise outside the VendorPanel system.
- 5.31 Acceptance of quotations issued by a Dealer after the RFQ closing date nominated by the Purchaser will only be accepted at the Purchaser's discretion.
- 5.32 A Purchaser may request clarifications, presentations, site visits, inspections and/or enter into post-offer negotiations following receipt of a Dealer's RFQ response.
- 5.33 RFQ responses shall be evaluated in line with the relevant Purchaser's legal obligations and any applicable internal procurement policies. Purchasers are not bound to accept the lowest or any quotation supplied by a Dealer.
- 5.34 If the Dealer is selected following the RFQ process, the Purchaser shall issue an Order which will be subject to the Purchaser Conditions and form part of the Purchaser Agreement.

Order Terms

- 5.35 Subject to Conditions 5.36 and 5.37, a Purchaser may include special conditions with any Order which add to the Purchaser Conditions. These special conditions shall only be valid where the Dealer agrees to them in writing. The Dealer's acceptance of an Order in writing shall be deemed to constitute agreement by the Dealer to those special conditions for the purposes of the relevant Purchaser Agreement.
- 5.36 If Local Buy finds that the special conditions of an Order are substantially in conflict with the terms and conditions of the Contract or Purchaser Conditions, Local Buy shall consult the Purchaser and Dealer to resolve the matter.
- 5.37 If the matter cannot be resolved as set out in Condition 5.36 above, the Order will be deemed to be cancelled and, with respect to Queensland Local Government, will no longer constitute a valid LGA arrangement exemption for the purposes of s.234 of the Local Government Regulation 2012.
- 5.38 Notwithstanding Conditions 5.36 and 5.37 above, Local Buy accepts no liability whatsoever arising from special conditions issued by a Purchaser which have the effect of invalidating the Purchaser's right to claim an exception from their procurement obligations. Purchasers must obtain their own legal advice before issuing special conditions pursuant to Condition 5.35.

6. SUPPLY OF MOTOR VEHICLE/S BY ORDER

Supply by Order

- 6.1 Where an Order is placed with the Dealer, the Dealer must supply the Truck/s that comply in all respects with the requirements of the relevant Purchaser Agreement.
- 6.2 The Purchaser may Order:
- (a) any 1 type or item of the Truck/s; and
 - (b) Truck/s in 1 lot or instalments or in such quantities as may be required from time to time.
- 6.3 Where the Dealer receives an Order from a person other than the Authorised Officer the Dealer must:
- (a) refer the Order to the Authorised Officer; and
 - (b) not supply the Truck/s identified in the Order until written confirmation from the Authorised Officer has been received.
- 6.4 The Dealer must supply all valid Orders for Truck/s placed by a Purchaser during the Term.
- 6.5 The Dealer must not supply other categories or brands of goods, services and/or works to Purchasers under the Local Buy Contract other than those tendered and appointed for, without the written approval of Local Buy's Category Manager.

Time for Supply and Delays

- 6.6 The Dealer must supply the Truck/s punctually. However, if a time for supply of the Truck/s is stated in the relevant Purchaser Agreement or the Local Buy Contract, the Truck/s must be supplied within the time stated and in such case, time shall be deemed to be of the essence (subject to Condition 27 (Force Majeure)).
- 6.7 The Dealer must take all reasonable steps to prevent and minimise delays in delivering the Truck/s.
- 6.8 Upon it becoming evident to the Dealer that supply of the Truck/s is likely to be delayed (for whatever reason), the Dealer must promptly notify the relevant Purchaser in writing advising the Purchaser of:
- (a) the reasons for the delay;
 - (b) the likely consequences of the delay;
 - (c) any steps suggested by the Dealer to mitigate such consequences;
 - (d) the revised delivery date; and
 - (e) where the Dealer believes that the delay has been caused by or contributed to by the Purchaser, details of same.
- 6.9 Such notification shall not release the Dealer from its obligation to supply the Truck/s by the agreed delivery date or from any other obligation under the Purchaser Agreement, subject to Condition 27 (Force Majeure), unless the Purchaser advises otherwise in writing.
- 6.10 Where the delay referred to in Condition 6.9 is caused or contributed to by the Dealer or the Dealer's sub-contractors or agents, the Dealer shall not be entitled to any increase in the Order Price or damages, costs or expenses in connection with that delay.
- 6.11 If the Dealer is unable to deliver the ordered Truck/s within twenty-one (21) days after the agreed delivery date and the Dealer has failed to comply with Condition 6.8, and the Purchaser has not caused or

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contributed to the delay in any material way, the Purchaser may immediately terminate the Purchaser Agreement.

- 6.12 If the Dealer is unable to deliver the ordered Truck/s within twenty-one (21) days after the agreed delivery date and the Dealer has met its obligations under Condition 6.8 and the Purchaser has not caused or contributed to the delay in any material way, the Purchaser may give 7 working days' notice of its intention to terminate the Purchaser Agreement. The Dealer has 5 working days to supply the Purchaser with a revised delivery date, which can be accepted or rejected by the Purchaser at their sole discretion.
- 6.13 Where the Purchaser Agreement is terminated pursuant to Condition 6.11 the Dealer must promptly refund any monies paid by the relevant Purchaser (including by way of deposit) in full.

Order Notifications

- 6.14 The Contractor will provide the following notifications to the Purchaser:
- (a) receipt of an Order;
 - (b) expected delivery date;
 - (c) actual delivery date; and
 - (d) any other requests for notification as specified by the Purchaser in the Order

Order Price

- 6.15 Unless otherwise indicated, the Order Price is inclusive of all charges for pre delivery, delivery, handover, registration, stamp duty and all other taxes including GST.
- 6.16 The Dealer must not increase the Order Price without the Purchaser's prior written consent. The Purchaser has the right to refuse to give its consent.
- 6.17 The Purchaser agrees that it will not sell, assign or otherwise transfer or novate any Deliverable to a third party prior to the Deliverable achieving the earlier of nine (9) months in age from the delivery date or 15,000kms unless it has obtained the Dealer's prior written agreement.

Additional Terms & Conditions

- 6.18 A Purchaser will not be bound by any other terms of the Dealer which are not included in the Dealer's RFQ response and explicitly accepted by the relevant Purchaser in writing, even if a Purchaser has signed an invoice or similar document which purports to incorporate additional terms.
- 6.19 Where a Purchaser is bound by any specific procurement rules (including the Queensland State Government Procurement Policy), that Purchaser may request that the Dealer comply with that the requirements of those rules.

Delivery, Inspection and Acceptance

- 6.20 Delivery of the Truck/s shall only be made to the Purchaser's Authorised Officer.
- 6.21 Upon delivery of the Truck/s, the Purchaser's Authorised Officer shall be given a reasonable opportunity to inspect the Truck/s. Acceptance of the Truck/s shall only occur where the Purchaser's Authorised Officer is satisfied with their inspection of the Truck/s and accordingly signs a delivery receipt.
- 6.22 If upon inspection by the Authorised Officer, the Purchaser finds any Truck/s to be Defective Truck/s the Dealer must:
- (a) locate a compliant Deliverable within 10 Business Days; or
 - (b) if the Purchaser is willing to accept the Truck/s notwithstanding the defect, repair any Defective Truck/s or part thereof that the Purchaser brings to the Dealer's attention.

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- 6.23 If the Dealer fails to commence repairs on the Defective Deliverable or part thereof or a compliant Deliverable cannot be provided by the Dealer within 10 Business Days, then the Purchaser may cancel the Order and the Dealer must refund to the Purchaser any payments made by the Purchaser in respect of any Defective **Truck/s** that the Purchaser rejects.
- 6.24 For the purposes of this Purchaser Agreement, "Defective **Truck/s**" means any **Truck/s** that fail to meet the standard required by law, do not meet the specifications of the Purchaser Agreement, are not new or are required to be repaired or replaced in accordance with the terms and conditions of the manufacturer's warranty.
- 6.25 The Purchaser's inspection, testing or acceptance of some or all of the **Truck/s** does not in any way:
- (a) change or affect the Dealer's obligations under the Purchaser Agreement; or
 - (b) affect the Purchaser's rights to claim for any damage or loss the Purchaser may suffer because of the Dealer's breach of warranty or failure to fulfil any of the Dealer's other obligations under this Purchaser Agreement or the Local Buy Contract
- 6.26 Notwithstanding acceptance of any **Truck/s**, the **Truck/s** shall be guaranteed to comply with the Purchaser Agreement in all respects.
- 6.27 The Purchaser may conduct any examination or testing of non OEM Bodies and Trays for utilities and vans. If the testing shows that non OEM Bodies and Trays for utilities and vans does not comply with the Purchaser Agreement or the Local Buy Contract or are otherwise defective, the cost of the testing shall be a debt due and payable by the Dealer to the Purchaser.
- 6.28 If the Purchaser decides to accept some **Truck/s** from the Dealer which do not comply with the terms of the Purchaser Agreement, this decision does not bind the Purchaser to accept future shipments of **Truck/s** which do not comply.
- 6.29 Dealers are to provide Purchasers with Certification Certificates for Tow Bars and other Certifiable Accessories at time of delivery.

Title & Risk

- 6.30 The Dealer warrants that the Dealer has complete ownership of the **Truck/s** free of any liens, charges and encumbrances and will provide the **Truck/s** to the Purchaser on that basis; and the Purchaser will be entitled to clear, complete and quiet possession of the **Truck/s**.
- 6.31 Title in the Goods (free of all encumbrances and interests) will pass to the Purchaser as and from the date that payment in full of the Order Price is received by the Dealer.
- 6.32 Where so requested by a Purchaser, the Dealer will at no cost assist that Purchaser to ensure the Personal Property Securities Register (PPSR) accurately reflects that Purchaser's ownership of the **Truck/s**.
- 6.33 Risk in the Goods will pass to the Purchaser as and from the date that the Authorised Officer accepts delivery pursuant to Condition 6.21.

Modifications

- 6.34 A Purchaser may request a Dealer to arrange delivery of the **Truck/s** to a nominated location nominated by a Purchaser ("Delivery Location") for the purpose of a third party ("Modifier") carrying out modification works to the **Truck/s** ("Modifications") and the Dealer may agree to deliver the **Truck/s** as requested subject to and conditional upon these terms and conditions.
- (a) The Dealer is not the contractor, supplier or provider of the Modifications. The Dealer is not an agent or representative of or a contractor of the Modifier and the Dealer has not in any way induced or influenced a Purchaser in ordering the Modifications from the Modifier. The Purchaser

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has relied solely on its own judgment, skill and experience in ordering the Modifications from the Modifier.

- (b) The Contractor will provide its standard manufacturer's warranty in force at the date of delivery of the **Truck/s** to the Modifier which applies in respect of the **Truck/s** for the standard warranty period.
- (c) The Contractor and Dealer are unable to provide an unconditional warranty on all components of the body where the body is taken to mean the modifications. No representations or warranties in respect of any third party goods or modifications to the body are provided by the Contractor or Dealer.
- (d) The Purchaser acknowledges and agrees that the Contractor and/or Dealer are not the manufacturer or supplier of the body and to the maximum extent permitted by law will not be liable for and assumes no risk in respect of any one or more of:
 - a. any defects in the body of any nature;
 - b. any delay, loss, damage, claim or expense arising in relation to the body; and
 - c. any delay, loss, damage, claim or expense arising in relation to any act, omission or default of, or work,

performed by, the manufacturers, suppliers and providers of the body.

7. QUALITY OF THE TRUCK/S

- 7.1 Unless the Purchaser Agreement states otherwise, all **Truck/s** supplied must be in accordance with Australian Standards or Australian Design Rules where such exist.
- 7.2 If no sample or standard is stated in the Purchaser Agreement, the **Truck/s** must be of the highest standard and supplied promptly with all due skill, care and diligence.
- 7.3 The Dealer must:
 - (a) engage and retain personnel who are able to competently provide the **Truck/s**;
 - (b) ensure that all personnel engaged in the supply of the **Truck/s** have all skills, training, licences and qualifications necessary to supply the **Truck/s**; and
 - (c) consult regularly during the term of the Purchaser Agreement with the Purchaser (through the Authorised Officer and the Dealer's representative).

8. WARRANTIES AND REPAIRS

- 8.1 Unless otherwise required by a Purchaser, the manufacturer's standard warranty terms as approved by Local Buy shall apply to the Purchaser Agreement subject to the requirements of this Condition 8.
- 8.2 Requests for repair under warranty are to be handled by the Dealer with the Dealer notifying the Contractor of such events.
- 8.3 The warranty is not to be conditioned on servicing being carried out by particular servicing agents. The warranty shall remain valid provided services are carried out in accordance with manufacturer's instructions. The Purchaser must provide proof to the satisfaction of the Contractor that such servicing has been carried out in accordance with OEM Specifications.
- 8.4 The Dealer must provide Purchasers with the option to have warranty repairs carried out in the Australian State in which the Purchaser is based.
- 8.5 Subject to Condition 8.6, if the Dealer does not commence repair work within a thirty (30) day period after the Deliverable is made available for repairs, the Purchaser may order the repair work to be carried out by others at the Dealer's expense. The cost of such work may be deducted from any monies due or which may become due to the Dealer.

8.6 Before ordering repair work to be carried out by others, the Purchaser shall notify the Dealer and Contractor in writing of its decision to have such work carried out and afford the Dealer five (5) working days to respond.

8.7 The remedies provided in this Condition 8 do not exclude any other remedies provided by law.

9. REPORTING

9.1 The Dealer agrees to report to the Contractor all sales of **Truck/s** on a monthly basis or as otherwise agreed with the Contractor subject to any agreed reporting periods allowing the Contractor sufficient time and information to meet its requirements under the Local Buy Contract.

9.2 The Dealer shall respond to any requests for additional information from the Contractor promptly.

10. SUSPENSION, ACCELERATION AND VARIATION OF WORK

10.1 The Authorised Officer may instruct the Dealer in writing (a 'Direction Notice') to accelerate, suspend or vary the supply of the **Truck/s** or any part of the **Truck/s** under the Purchaser Agreement.

10.2 The giving of a Direction Notice under Condition 10.1 does not invalidate the Purchaser Agreement.

10.3 If the Authorised Officer gives a Direction Notice requiring the Dealer to suspend or vary (by way of addition) the **Truck/s** or any part of the **Truck/s**, the Dealer shall be entitled to a reasonable extension of time for the supply of the **Truck/s** as determined by the Authorised Officer acting reasonably.

10.4 Subject to Conditions 10.5 and 10.6, if the Authorised Officer gives the Dealer a Direction Notice, the Dealer shall be entitled to reasonable compensation for loss, damage or expense suffered by the Dealer resulting from compliance with the requirements of the Direction as mutually agreed between the Purchaser and the Dealer or, failing agreement, as determined in accordance with Condition 20 and the Order Price shall be varied accordingly.

10.5 The Dealer must take all reasonable steps to minimise any loss, damage or expense suffered by the Dealer as a result of the issuing of a Direction Notice.

10.6 The reasonable compensation provisions of Condition 10.4 shall not apply where the Dealer has requested the acceleration, suspension or variation to the supply of the **Truck/s** or where the Direction Notice to accelerate, suspend or vary the supply of the **Truck/s** is based on the Purchaser's reasonably held belief that the Dealer has breached or is likely to breach any provision of the Local Buy Contract or the Purchaser Agreement.

10.7 The Dealer must not commence work on any variation to the **Truck/s** unless and until the variation has been agreed in writing by both the Purchaser and the Dealer.

11. INSURANCE

11.1 The Dealer must take out and keep current at its own expense insurance policies as required by Item 5 of Schedule A of the Local Buy Contract.

11.2 The Dealer must give the Purchaser upon request, for each of the insurance policies it is required to maintain under Condition 11.1 above a certificate of currency.

11.3 The Purchaser may make a request under Condition 11.2 above only once annually unless it possesses reasonable grounds to believe that a relevant policy has been vitiated or terminated.

11.4 The Dealer must promptly notify the Contractor of any cancellation or lapse of any policy of insurance required by Condition 11.1 above.

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- 11.5 The Dealer will within five (5) Business Days of any claim arising, notify the Contractor and any affected Purchaser and keep them informed of any claims arising from or relevant to the **Truck/s** which fall for consideration under any policy of insurance required by Condition 11.1 above.
- 11.6 Nothing in this Condition 11 limits the obligations, liabilities and responsibilities of the Dealer under the Purchaser Agreement.

12. INVOICING

- 12.1 The Dealer shall submit invoices to the Authorised Officer once the Purchaser has accepted delivery of the **Truck/s** pursuant to Condition 6.25, unless otherwise specified in the Specification or Order or agreed between the parties. The Purchaser will not have any obligation to pay the Dealer for **Truck/s** until the Authorised Officer has been given a correctly rendered invoice.
- 12.2 A correctly rendered invoice must:
- (a) identify the **Truck/s** the subject of the invoice;
 - (b) specify the title of the Local Buy Contract;
 - (c) specify the Contract number allocated to the Local Buy Contract and Order number, as well as any other number as the Purchaser may specify in writing to the Dealer for the purposes of the Local Buy Contract or Purchaser Agreement)(if any);
 - (d) specify details of the Order;
 - (e) specify the Australian Business Number of the Dealer;
 - (f) specify the address for payment of the Dealer;
 - (g) specify the date of supply of the **Truck/s** identified in the invoice;
 - (h) specify the Dealer's invoice number and invoice date;
 - (i) specify the Order Price payable by the Purchaser and particulars of any GST payable in respect of the Order Price; and
 - (j) otherwise comply with the requirements of a tax invoice for the purposes of the GST Act.
- 12.3 Upon receipt of an invoice, the Authorised Officer may require the Dealer to provide additional information to assist the Authorised Officer to determine whether or not an amount is payable.
- 12.4 The Purchaser shall be entitled to require that all invoices (including for work performed by the Dealer's sub-contractors and agents) be raised and issued directly by the Dealer.
- 12.5 Where a Purchaser accepts invoices from the Dealer's sub-contractors or agents, the Dealer shall ensure that those invoices comply with the requirements of this Condition 12.

13. PAYMENT

- 13.1 Subject to the Authorised Officer's certification that:
- (a) the **Truck/s** supplied by the Dealer comply with the relevant Order, the Specification, the Purchaser Agreement and the Local Buy Contract; and
 - (b) the **Truck/s** supplied by the Dealer are complete; and
 - (c) the Dealer's invoice is in accordance with the Purchaser Agreement,

the Purchaser must pay the amount due to the Dealer within thirty (30) days of receipt of an invoice (or such other period as may be mutually agreed in writing between the parties) or, if additional information is required by the Authorised Officer, within 30 days (or such other period as may be mutually agreed in writing between the parties) after receipt of the additional information.

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- 13.2 If the Purchaser pays an invoiced amount to the Dealer, and it is subsequently found not to have been a correctly rendered invoice, the Purchaser may deduct any overpaid amount owed to the Purchaser from the next invoiced payment or, if no other payment is due to the Dealer pursuant to the Local Buy Contract, recover the amount from the Dealer as a debt due and payable to the Purchaser.
- 13.3 Payment of money to the Dealer does not constitute an admission by the Purchaser that **Truck/s** have been supplied in accordance with the Purchaser Agreement.
- 13.4 The Dealer shall not be entitled to any interest or charge for extending credit or allowing time for the payment of the Order Price unless otherwise provided in the Purchaser Agreement.
- 13.5 Unless otherwise agreed with the Dealer, the Purchaser shall be under no obligation to pay the Dealer's sub-contractors or agents individually.

14. FINANCIAL VIABILITY

- 14.1 The Dealer shall advise the Contractor and any affected Purchaser immediately if the Dealer's financial viability is compromised to the extent that the compromise could reasonably be considered to be a risk to the provision of **Truck/s** in accordance with the terms and conditions of any Purchaser Agreement.

15. SUPPLIER TRANSITION

- 15.1 In the event that a Purchaser changes its supplier of **Truck/s**, and this change of suppliers involves the transfer of infrastructure or information to occur between the previous supplier and the new supplier, the Dealer shall do all things reasonably within its power to ensure the transition is efficient, orderly, prompt and timely. This applies whether the transition occurs from another supplier to the Dealer or from the Dealer to another supplier under the Local Buy LGA Arrangement.

16. MARKETING AND PROMOTION

- 16.1 No information relating to an Order or Purchaser Agreement for the provision of any **Truck/s** under the Local Buy Contract may be published in any advertising medium without the prior written approval of the Purchaser. The written approval must clearly indicate the precise material to which the information is to be provided.
- 16.2 The Dealer may only use the Purchaser's logo in the Dealer's marketing strategy upon receipt of the Purchaser's written consent. The Dealer will fully comply with any conditions placed on such consent.
- 16.3 The Dealer must not issue any information, publication, document or article for publication in any media which includes details of the **Truck/s** under the Purchaser Agreement without the prior written consent of the Purchaser. The Dealer will fully comply with any conditions placed on such consent.

17. BEST TERMS TO BE PROVIDED

- 17.1 The price offered to a Purchaser by the Dealer in any RFQ response under the Local Buy Contract shall not in any circumstances exceed the Pricing Schedule (Part 3 Schedule 8 of the RFT documents) price/discount issued by the Contractor under the Local Buy Contract to the Dealer.
- 17.2 The Dealer agrees that a failure to comply with this Condition 17 will entitle Local Buy to Suspend the Dealer in accordance with the terms and conditions of the Local Buy Contract.

18. GOODS AND SERVICES TAX

- 18.1 Words and phrases defined in the GST Act have the same meaning in this Condition 18 unless the context indicates otherwise.
- 18.2 The Order Price includes the liability for GST on the supply of the **Truck/s** unless otherwise indicated. A Purchaser is not obliged to pay any additional amount to a Contractor on account of GST on the supply of the Deliverable Services.

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- 18.3 The Contractor must ensure that all invoices rendered to a Purchaser under a Purchaser Agreement are in a format that identifies any GST paid, and which permits that Purchaser to claim an input tax credit. However, this Condition 18.3 does not apply if the supply of the **Truck/s** is not a taxable supply.
- 18.4 The Contractor indemnifies Local Buy and each Purchaser fully from any claims, damages, costs (including legal costs), losses and the like arising in any way from the Dealer's failure to comply with its obligations under the GST Act.

19. TERMINATION

- 19.1 Without prejudice to its rights at common law, a Purchaser or Dealer may immediately terminate their Purchaser Agreement, by written notice to the other (a Notice of Termination for Cause):
- (a) where a party makes (or has made) any statement, fact, information, representation or provides material which is fraudulent, false, untrue, or incorrect in a way which adversely affects the other party in a material way;
 - (b) where proceedings or investigations are commenced by the Crime and Misconduct Commission, Independent Commission Against Corruption, Australian Competition and Consumer Commission or similar public body against the other party including for corrupt conduct or for collusive pricing;
 - (c) where a party commits a material breach of the Purchaser Agreement that is not capable of remedy;
 - (d) where a party commits a breach of the relevant Purchaser Agreement in a manner that is capable of remedy and does not remedy the breach within seven (7) days of receiving a notice from the other party requiring it to do so (Notice of Breach), or such further time, having regard to the nature of the breach and a reasonable time to remedy it, as that other party may reasonably allow;
 - (e) where a party is removed from the LGA Arrangement or has been Suspended from the Local Buy Contract for more than thirty (30) days;
 - (f) where the Contractor or Dealer does anything to bring the Purchaser into disrepute;
 - (g) on the occurrence of an Insolvency Event; or
 - (h) as otherwise explicitly provided for in the relevant Purchaser Agreement.
- 19.2 Notwithstanding the termination or expiry of the Local Buy Contract, the terms and conditions of the Local Buy Contract shall continue to apply to each Purchaser Agreement until such time as the Purchaser Agreement is terminated or expires.
- 19.3 Where a Purchaser Agreement is terminated pursuant to this Condition 19 and subject to return of the **Truck/s** by the Purchaser in a reasonable condition within fourteen (14) days, the Dealer shall refund in full any monies paid by the relevant Purchaser (whether by way of deposit or otherwise).
- 19.4 Where the Truck is not returned to the Dealer pursuant to Condition 19.3 by the Purchaser, termination under this Condition 19 shall not absolve the Purchaser from its obligation to pay the Dealer the agreed Order Price.
- 19.5 Where there is a dispute between the Dealer and Purchaser related to the condition in which the Truck/s are returned or any modifications which were made specifically for the Purchaser and which the Dealer believes reduce the resale value of the returned Truck, the dispute resolution procedure set out in Condition 20 shall apply.

20. DISPUTE RESOLUTION

- 20.1 The parties agree to attempt in good faith to resolve through negotiation any dispute regarding the Purchaser Agreement.

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- 20.2 If a dispute arises between the parties regarding the Purchaser Agreement, a party may give written notice of the dispute to the other party (a "Dispute Notice"). A Dispute Notice must adequately identify and provide details of the dispute.
- 20.3 A Dispute Notice must be referred to a representative of the Dealer who is authorised to settle the dispute and the Authorised Officer.
- 20.4 Within seven (7) days of the giving of the Dispute Notice (or such other timeframe as the parties may agree), the parties must confer at least once in good faith to attempt to resolve the dispute or to agree on resolving the dispute by other means.
- 20.5 Where the dispute cannot be resolved by the parties pursuant to Condition 20.4, either party may refer the Dispute Notice to Local Buy or the Contractor for resolution.
- 20.6 Where a dispute is referred to Local Buy for resolution, Local Buy shall attempt to resolve the dispute in accordance with the Dispute Resolution provisions of the Local Buy Contract.
- 20.7 If the dispute has not been resolved within twenty eight (28) days of the dispute being referred to Local Buy (or such other longer timeframe as the parties may agree), the dispute may be referred to arbitration by either party.
- 20.8 Arbitration shall be effected by an arbitrator who shall be nominated by the Purchaser and agreed by both parties. Failing agreement, the arbitrator shall be appointed by the Chapter of the Institute of Arbitrators and Mediators Australia in the State where the Purchaser is based. The arbitration shall be conducted in accordance with the provisions of the Commercial Arbitration Act 1990 and all hearings held where the Purchaser is based (unless otherwise agreed between the parties).
- 20.9 Nothing in this Condition 20 shall prejudice the right of a party to institute proceedings to enforce payment due under the Purchaser Agreement or to seek injunctive or urgent declaratory relief in respect of a dispute under this Condition 20 or any matter arising under the Purchaser Agreement.
- 20.10 The parties must continue to perform their obligations under this Purchaser Agreement despite the existence of a dispute.

21. CONDITIONS TO SURVIVE EXPIRATION OR TERMINATION

- 21.1 Conditions 1, 2, 3.2, 4, 8, 11, 15, 18, 19.2 to 19.5, 21 to 23, 25, 29 to 31, 33 and 36 (inclusive) and any provisions relating to warranties provided by the Dealer shall survive the expiry or termination of the Purchaser Agreement.

22. INTELLECTUAL PROPERTY RIGHTS

- 22.1 Unless otherwise agreed explicitly in writing by the Purchaser and Dealer, the Purchaser Agreement does not affect ownership of any Intellectual Property.

23. RELEASE AND INDEMNITY

- 23.1 To the extent permitted by law, the Dealer indemnifies Local Buy, each NPN Member, each Purchaser and their respective employees (collectively referred to as the "Indemnified Parties") against, and must pay the Indemnified Parties on demand, the amount of any damages, losses, claims, expenses (including reasonable legal costs) or liabilities which the Indemnified Parties suffer or incur in respect of the acts or omissions of the Dealer or the Dealer's personnel, agents or sub-contractors resulting in:
- 23.2 loss of, or damage to, or loss of use of, any real or tangible personal property, or the personal injury, disease or illness (including mental illness) to, or death of, any person;
- 23.3 any wilful misconduct and/or fraudulent, unlawful and/or negligent act or omission; and/or

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- 23.4 any infringement or alleged infringement of any Intellectual Property Rights in respect of the provision of the Truck(s) and/or Associated Charging Equipment and Services or anything used or supplied by the Dealer in connection with the Truck(s) and/or Associated Charging Equipment and Services.
- 23.5 The liability of the Dealer to indemnify the Indemnified Parties will be reduced proportionally to the extent that an act or omission of the Indemnified Parties contributed to the damage, expense, loss or liability.
- 23.6 Neither the relevant Purchaser nor the Dealer shall be liable to the other (whether under contract, tort, statute or in equity) arising out of or in connection with a Purchaser Agreement, for any loss of profits, loss of revenue, loss of any contract value, loss of anticipated profit or damages for lost opportunity, or cost of finance.
- 23.7 Any indemnity granted under this Contract is in addition to Local Buy's and/or a Purchaser's rights under the Contract or a Purchaser Agreement and does not in any way restrict Local Buy's, an NPN Member's and/or any Purchaser's right to take legal action.

24. CONFLICT OF INTEREST

- 24.1 The Dealer warrants that, to the best of its knowledge, information and belief, at the Order Commencement Date, no conflict of interest exists or is likely to arise in the performance of its obligations under the Purchaser Agreement. If, during the term of the Purchaser Agreement, a conflict of interest or risk of such conflict arises because of work undertaken for any person other than Purchaser, the Dealer must promptly give written notice to the Authorised Officer of that conflict of interest or risk of it.
- 24.2 The Dealer must take all reasonable measures to ensure that its employees, agents and subcontractors do not, during the term of the Purchaser Agreement, engage in any activity or obtain any interest, which is in conflict with providing the **Truck/s** to the Purchaser. Any such activity must be disclosed in writing to the Authorised Officer immediately.
- 24.3 Where the Purchaser receives notice of a conflict of interest or risk of such conflict pursuant to Condition 24.2, the Purchaser may at its sole discretion, suspend the Order until such time as the conflict has been resolved to the Purchaser's satisfaction or terminate the Purchaser Agreement immediately.

25. CONFIDENTIALITY

- 25.1 The Dealer must, and must ensure that its employees, agents and approved subcontractors, keep confidential any information marked or advised to the Dealer as being confidential by the Purchaser and any information relating to prices paid, Purchaser spend, and other financial information obtained in the course of performing the Purchaser Agreement.
- 25.2 In the event of a breach of the confidentiality requirement set out in Condition 25.1 the Purchaser may terminate the Purchaser Agreement by giving written notice to the Dealer.
- 25.3 However, the Dealer may disclose any information:
- (a) which it is legally required or entitled to disclose (but only to the extent of such required disclosure);
 - (b) with the relevant Purchaser's prior written consent;
 - (c) for the purposes of meeting its obligations under the Purchaser Agreement; or
 - (d) to its professional advisers for the purposes of obtaining advice in relation to the Purchaser Agreement or any matter arising from the Purchaser Agreement.

26. ASSIGNMENT AND SUB CONTRACTING

- 26.1 The Dealer must not assign or subcontract, or allow any subcontractor to subcontract, any of the rights or obligations of the Dealer under the Purchaser Agreement (either for the supply of the **Truck/s** or otherwise) without the Purchaser's prior written agreement.

26.2 The Dealer is liable to the Purchaser for the acts and omissions of its subcontractors and employees and agents of subcontractors as if they were the acts or omissions of the Dealer.

27. FORCE MAJEURE

- 27.1 A party will not be entitled to exercise its rights or remedies upon the default of another party to the Purchaser Agreement (whether at common law or pursuant to the Purchaser Agreement) if that default is caused by a Force Majeure Event.
- 27.2 Where a Purchaser is affected by a Force Majeure Event, it shall be entitled to an additional fourteen (14) days for payment.
- 27.3 Without limitation, where the Force Majeure Event continues for a period of more than thirty (30) days, the Purchaser may terminate the Purchaser Agreement by giving written notice to the Dealer.
- 27.4 Termination pursuant to Condition 27.3 shall not excuse a Purchaser from any obligation to make payment under the relevant Purchaser Agreement where the Purchaser has accepted delivery of a Truck.

28. AUTHORISED OFFICER

- 28.1 The Purchaser shall, by giving written notice to the Dealer, appoint a representative (the "Authorised Officer") who shall be responsible for administering the Purchaser Agreement on behalf of the Purchaser. The Purchaser may change the identity of the Authorised Officer from time to time by written notice to the Dealer. The appointment of an Authorised Officer does not prevent the Purchaser from exercising any of its rights under the Purchaser Agreement.
- 28.2 The Dealer's representatives must have a detailed knowledge of all activities associated with the supply and performance of the **Truck/s** and be authorised by the Dealer to make decisions and act on behalf of the Dealer.
- 28.3 The Dealer's representatives must:
- (a) liaise with and report to the Authorised Officer;
 - (b) be available for discussions with, and attend briefings when reasonably requested by, the Authorised Officer;
 - (c) reply promptly to any correspondence from the Authorised Officer dealing with the Purchaser Agreement; and
 - (d) if required, provide written reports to the Authorised Officer in a form, to a standard, and containing such information as may be required by, the Authorised Officer.

29. SECURITY AND ACCESS

- 29.1 The Dealer must, when using any premises or facilities of the Purchaser, comply with all reasonable directions and procedures as notified by the Purchaser or an Authorised Officer, including those relating to security and occupational health and safety which are in effect at the premises, site or facility.

30. WORKPLACE HEALTH AND SAFETY

- 30.1 The Dealer shall comply in full with all its obligations under workplace health and safety legislation including the *Work Health and Safety Act 2011* (Qld).
- 30.2 The Contractor agrees to immediately notify any affected Purchaser of any incident or accident occurring on or in relation to the site or arising from the undertaking of the Purchaser Agreement including those involving the public.

31. INDUSTRIAL DISPUTES

- 31.1 The Dealer must not involve the Purchaser in any industrial dispute arising between the Dealer and/or any employee, sub-contractor or agent of the Dealer.

32. REPORTING – REQUESTED BY PURCHASER

- 32.1 The Dealer shall at no additional cost provide the Purchaser with such reports relating to the **Truck/s** as may be reasonably requested from time to time by the Purchaser.

33. RIGHT TO INFORMATION AND DISCLOSURE

- 33.1 The Dealer accepts and acknowledges that the Purchaser may be subject to the provisions of the RTI Act and that information relating to the Contract, Purchaser Agreement and/or any Order placed under it may be subject to disclosure to third parties.
- 33.2 The Dealer shall clearly label any information which it believes may cause it harm if disclosed (for instance; trade secrets, confidential information, information with a commercial value) and provide the reasoning supporting its position prior to disclosing such information to Local Buy and/or any Purchaser.
- 33.3 Notwithstanding Clause 33.2 above, the Dealer accepts and acknowledges that Local Buy and/or any Purchaser is unable to guarantee that any information provided by the Dealer will not have to be disclosed under the provisions of the RTI Act or other legislation.
- 33.4 The Dealer acknowledges and accepts that there is no obligation whatsoever on Local Buy or any Purchaser to advise the Dealer of the receipt of an RTI Act request for information, the decision made (or reasoning behind any such decision) or the details surrounding the release of any documents.
- 33.5 The Dealer acknowledges and accepts that Local Buy or a Purchaser may be required to publish certain information about the Contract or a relevant Purchaser Agreement in its public office or on a website (including for the avoidance of doubt the value of any purchases made).
- 33.6 The Dealer acknowledges and accepts that Local Buy discloses information relating to the Contract, Contractor and its Dealer's to Purchasers and prospective Purchasers.
- 33.7 While every care is taken to retain the integrity of the disclosure process, Local Buy accepts no liability whatsoever where any information or documentation supplied by the Dealer is disclosed in error or for the use made of the information or documentation by any Purchaser or prospective Purchaser.

34. NOTICES

- 34.1 Notices under the Contract may be delivered by pre-paid postage or certified mail, by hand or by facsimile transmission. Notices are deemed given five (5) days after deposit in the mail with postage pre-paid or certified, when delivered by hand, or if sent by facsimile transmission, upon completion as evidenced by a facsimile transmission record. Where a notice is given by facsimile the original document must be posted on the same day as the transmission is sent. The addresses for service of notices are the addresses of the relevant Purchaser and Dealer as detailed in the Purchaser Agreement (or otherwise their registered business addresses).
- 34.2 A party may change its address for service of notices by giving seven (7) days prior written notice of the change to the other party to the Purchaser Agreement.
- 34.3 Where a notice relates to an operational or contract management matter only, the notice may validly be delivered to the email address provided by the party for:
- (a) Purchaser – the Authorised Officer;
 - (b) the Dealer – the Dealer's representative.

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- 34.4 Any email notice sent pursuant to Clause 34.3 is deemed to be received on the following Business Day. Where an "out of office" or undeliverable message is received in response to an email notice, the notice will be deemed not to have been delivered unless a reply to the contrary is received from the receiving party.

35. COMPLIANCE WITH ANTI-CORRUPTION LAWS

35.1 Each party represents and warrants that:

- a) it will comply with all Anti-Corruption Laws:
- b) that neither party nor any of its Affiliated Persons has, in connection with transactions under this LGA Arrangement, offered, paid, given or loaned or promised to pay, give or loan, or will offer, pay, give or loan or promise to pay, give or loan, directly or indirectly, money or any other thing of value to or for the benefit of any government official, employee or representative of a business for the purpose of corruptly:
- (i) influencing any act or decision of such person in exercising its function;
 - (ii) inducing such person to do or omit to do any act in violation of the government official's lawful duty;
 - (iii) securing any improper advantage; or
 - (iv) inducing such person to use its influence with a government entity, employee or representative of a business engagement to affect or influence any act or decision of that government entity or business,

in each instance to direct business to the Contractor, the Contractor's authorised resellers, the Contractor's dealers or any Contractors Group Company; and

- c) to inform the other party without undue delay of any conflict of interest that arises, and the measures taken if such a conflict arises.
- d) to the full extent permitted by law, each party will indemnify and hold the other party harmless in relation to any and all claims arising out of or in connection with a claim or breach of any legislation that this clause contemplates.

The following definitions apply to this clause:

"Anti-Corruption Laws" means all Australian anti-corruption legislation.

"Affiliated Persons" means a party's officers, directors, employees, or agents, or any of its stockholders, principals or owners acting on its behalf or in its interests.

"Contractors Group Company" means any entity ultimately owned or held by the Contractor or in which the Contractor has a controlling interest.

36. MISCELLANEOUS

- 36.1 The Dealer must comply with all relevant laws and the requirements of any relevant statutory authority in supplying the **Truck/s**.
- 36.2 The parties to the Purchaser Agreement are independent contractors and nothing in the Purchaser Agreement will appoint the Dealer as an agent or employee of the Purchaser.
- 36.3 The Dealer must not represent itself or allow itself to be represented as being an employee or agent of the Purchaser.
- 36.4 No agreement or understanding that varies or amends the Purchaser Agreement will bind any party unless and until agreed to in writing by the parties.

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- 36.5 None of the conditions of the Purchaser Agreement will be waived or deemed waived, except by notice in writing signed by the party waiving the right.
- 36.6 The Purchaser Agreement is governed by and construed in accordance with the laws of the Australian State in which the Purchaser is based, and the parties submit to the jurisdiction of the Courts of that State and all Courts competent to hear appeals there from.
- 36.7 The Purchaser Agreement constitutes the entire agreement between the parties and supersedes all communications, negotiations, arrangements and agreements either oral or written between the parties with respect to the subject matter referred to in the Purchaser Agreement.