

1. Quotation, order and acceptance

1.1 Energy Power Systems Australia Pty Ltd (**EPSA**) has offered to supply and deliver the Used Goods and the Customer has agreed to purchase and accept the Used Goods.

1.2 EPSA will supply Used Goods from time to time, pursuant to:

- (a) EPSA's written quotation or estimate of price submitted to the Customer (**Quotation**); and
- (b) EPSA's subsequent acceptance of a written order (usually in the form of a Customer 'purchase order') referencing EPSA's quotation and the relevant Used Goods set out in the Quotation in accordance with clause 1.4.

EPSA's Quotation is only valid for the 'validity period' stated in the Quotation document and if no date is stated the estimate shall lapse after 30 days following the date issued to the Customer.

1.3 Unless EPSA has executed a separate written agreement with the Customer for the sale of specified Used Goods EPSA's written Quotation and its supply and delivery of Used Goods shall be governed by these sale terms.

1.4 EPSA's Quotation or estimate of price is not an offer to sell or contract, and no 'purchase order' given by the Customer to EPSA following a Quotation will bind EPSA until it is accepted (or deemed accepted) by EPSA by any of the following means (whichever occurs earliest):

- (a) EPSA signing and returning to the Customer a 'Confirmation of order';
- (b) EPSA otherwise notifying the Customer that EPSA accepts the Customer's offer to purchase the specified Used Goods;
- (c) When EPSA commences the assembly or delivery of the Used Goods;
- (d) 2 business days after EPSA has received an order from the Customer consistent with the Quotation and does not dispute that order during those 2 business days;
- (e) When the Customer makes payment (or part payment) to EPSA and EPSA accepts such payment (or part payment) in respect of the Used Goods.

1.5 Once EPSA accepts the Quotation in accordance with clause 1.4, a contract comes into existence (**Contract**) comprising:

- (a) the Quotation and documents attached to or otherwise incorporated into the Quotation by reference;
- (b) these Used Equipment Sale Terms; and
- (c) any other documents exchanged between the parties and relied on both by parties and clearly intended to comprise a Contract document,

which, in the event of inconsistency, will be interpreted in the order of precedence listed above with the first taking priority and so on.

1.6 The Contract cannot be cancelled or deferred by the Customer without the prior written consent of EPSA. If a Contract is cancelled or deferred by the Customer, EPSA reserves the right to charge the Customer for all loss, damage and expense sustained or incurred by EPSA as a result of the cancellation or deferral, including holding costs, freight costs, foreign exchange and treasury costs and expenses incurred by EPSA

in assembling or preparing the Used Goods to the Customer's specification.

1.7 The Contract overrides and operates to the exclusion of the Customer's standard terms and conditions of purchase, service levels and/or equipment requirements to the extent those documents purport to impose higher obligations on EPSA or otherwise diminish EPSA's rights, entitlements and/or remedies in respect of the sale of the Used Goods to the Customer. To avoid doubt, if EPSA and the Customer have negotiated and executed a separate full-form written agreement relating to the specified Used Goods that separate written agreement will govern the supply and delivery of those Used Goods according to its terms.

2. Collection of the Used Goods

2.1 Unless expressly stated otherwise in EPSA's Confirmation of Order Used Goods will be Ex-Works (ref. Incoterms - **EXW**). Unless otherwise agreed, You are responsible for collecting the Used Equipment from Our premises. The costs of preparing, dismantling, loading and transporting the Used Equipment will be at Your expense.

2.2 You must give Us two (2) business days prior written notice before entering Our premises or the Seller's premises to load Used Equipment or to perform dismantling work. We may deny You access to the premises if such notice has not been given.

2.3 Dismantling, removal and transport of the Used Equipment shall be at Your sole liability and risk.

2.4 You must ensure that You dismantle and transport the Used Equipment. You can only remove the Used Equipment from Our Premises on presentation of: (a) the Tax Invoice; (b) proof of payment of the total amount owing as set out in the Tax Invoice (unless You are an EPSA Credit Approved Customer); and (c) a completed and signed confirmation and authority form acceptable to Us.

2.5 If You fail to remove any Used Equipment within the time period notified by Us, We have the option of removing and storing the Used Equipment at Your sole expense and risk or deeming all deposits or partial payments as having been forfeited by You, in which case We may resell (without notice) at public sale or otherwise dispose of such Used Equipment at Your sole risk and expense. You shall remain liable for fees, expense and damages arising from any default by You.

2.6 Unless expressly stated otherwise in EPSA's Quotation and/or Confirmation of Order, EPSA shall not be liable directly or indirectly to You in connection with any delay in delivery, shipping, installation or performance however occasioned. The Customer acknowledges and agrees that it is not entitled to terminate the Contract or cancel all or any part of any order placed with EPSA for Used Goods in respect of a delay in delivery, shipping, installation or performance however occasioned.

3. Title and Risk in the Used Goods

3.1 Risk in all Used Equipment You purchase will pass to You at the time You take possession of the Used Equipment. Title in the Used Equipment passes to you at the time that payment for the Used Equipment is made in full.

4. Warranties and limits on EPSA's liability

4.1 The description of the Used Goods the Customer has been provided is based on the best information available to EPSA or the sales personnel of EPSA. However, to the extent permitted by Law, EPSA makes no warranty, express or implied, as to the description of any of the Used Goods, except as expressly set forth otherwise in this Contract. The Used Goods will be available for inspection at the places and times specified by EPSA.

4.2 Except as expressly provided to the contrary in these Used Equipment Sale Terms, all guarantees, terms, conditions, warranties, undertakings, inducements or representations whether express or implied, statutory or otherwise, relating to the this Contract or its subject matter are excluded to the maximum extent permitted by law.

4.3 Nothing in this Contract excludes, restricts or modifies any right or remedy, or any guarantee, term, condition, warranty, undertaking, inducement or representation, implied or imposed by any legislation which cannot lawfully be excluded or limited. This may include the Competition and Consumer Act 2010, which contains guarantees that protect the purchasers of goods and services in certain circumstances.

4.4 Where any legislation implies or imposes a guarantee, term, condition, warranty, undertaking, inducement or representation in relation to this Contract and EPSA is not able to exclude that guarantee, term, condition, warranty, undertaking, inducement or representation ('Non-Excludable Provision'), and EPSA are able to limit the Customer's remedy for a breach of the Non Excludable Provision, then EPSA's liability for breach of the Non-Excludable Provision is limited to refunding payment made.

4.5 Subject to EPSA's obligations under the Non-Excludable Provisions and to the maximum extent permitted by law, EPSA's maximum aggregate liability for all claims under or relating to this Contract or its subject matter, whether in contract, tort (including without limitation negligence), in equity, under statute, under an indemnity, based on fundamental breach or breach of a fundamental term or on any other basis, is limited to an amount equal to the fees paid by the Customer under this Contract. In calculating EPSA's aggregate liability under this clause, the parties must take into account any amounts already paid by EPSA for a breach of any Non Excludable

5. Inspection, hazardous materials & indemnity by Customer

5.1 The Customer is invited, urged and cautioned to inspect the Used Goods prior to purchase. The Used Equipment will be available for inspection at the places and times specified by EPSA.

5.2 The Customer is warned and acknowledges that the Used Goods purchased may bear or contain hazardous substances, hazardous materials or hazardous waste which may be, or may become by chemical reaction or otherwise, directly or indirectly, hazardous to life, to health, or to property. To the extent permitted by law, the Customer hereby discharge and releases EPSA from any and all liability directly or indirectly resulting from the presence of any hazardous substances, materials or waste including, but not limited to, any and all liability directly or indirectly resulting from EPSA's failure to give more specific warning with respect to individual items of Used Goods or from the inadequacy of any warning.

5.3 The Customer is liable for and indemnifies EPSA against all liability, claims, damage, loss, costs and expenses (including, without limitation, legal fees, costs and disbursements on a full indemnity basis, whether incurred or awarded against EPSA and any environmental loss, cost, damage or expense) in respect of: (a) personal injury;

(a) damage to tangible property; or

(b) a claim by a third party,

in respect of the Customer's purchase or use of the Used Goods or breach of this Contract. The Customer's liability under this indemnity is reduced to the extent that EPSA breach this Contract or EPSA's negligence causes the liability, claims, damage, loss, costs or expenses. Each indemnity in this Contract is a continuing obligation, separate and independent from the other obligations of the parties and survives termination, completion and expiration of this Contract.

6. Price and price adjustments

6.1 The Sale Price for the Used Goods payable by the Customer is the Quotation Price stated in Australian Dollars as set out in EPSA's Confirmation of Order *plus adjustments* calculated in accordance with this Contract. Unless otherwise expressly agreed in writing by EPSA, all costs associated with packaging, transport and delivery of the Goods to the Site are included in EPSA's Quotation Price (ref Incoterms – DDP). The Quotation Price is subject to adjustments to take account of the matters set out in EPSA's Quotation which may include:

(a) Foreign Exchange amounts calculated in accordance with clause 6.2;

(b) Manufacturer modifications referred to in clause 4.1;

(c) Changes in the costs to EPSA of ocean freight rates, marine insurance rates and / or taxes, duties, export charges and similar fees applicable to the Customer's purchase of the Goods.

Price adjustments for the variables set out in (a) to (c) above shall be effective upon EPSA's delivery to the Customer of: (1) a written notice of price adjustment which shall include EPSA's reasonable basis for such price increase; and (2) a revised Confirmation of Order indicating the new sales price. The new sales price shall be considered automatically effective, accepted and binding upon the Customer as from the date of its receipt of EPSA's notice of price adjustment and revised Confirmation of Order. Customer agrees to pay such new sales price without claim or objection in accordance with EPSA's invoice and the payment terms set out in clause 7.

6.2 Unless EPSA has stated otherwise in its Confirmation of Order, the Sales Price will be adjusted up or down for Foreign Exchange movements on imported content of the Goods paid for by EPSA in foreign currency in accordance with this clause 6. The foreign exchange adjustment amount will be calculated by EPSA by reference to the variation in:

(a) the Base Exchange rate (usually USD: AUD) being the rate as quoted in EPSA's confirmation of order; and

(b) the Actual Exchange rate (usually quoted as USD: AUD) being the rate at which EPSA pays its overseas supplier (which shall not exceed the published rate by Reserve Bank of Australia on that date).

- 6.3 In addition to the price adjustments set out in clause 6.2 the Customer must pay any taxes, including a sum equal to the amount of any GST payable by EPSA on any taxable supplies made by EPSA to the Customer under or in connection with the Contract, any duties (including stamp duty), levies, charges, fines or imposts on or in connection with the Contract. The Customer shall have no right to set-off any amounts it may owe EPSA against amounts EPSA may owe Customer under this Contract or any other contract between EPSA and the Customer.
- 7. Payment terms**
- 7.1 The Customer represents that it is and will at all times be solvent and has and will at all times have the financial ability to pay for the Used Goods in accordance with the Contract.
- 7.2 If the Customer does not have a commercial credit account with EPSA, the Customer must pay for Used Goods in advance of delivery in the amounts (which may be in instalments) without set-off or deduction by the dates for payment set out in the Contract.
- 7.3 Where the Customer has a commercial credit account with EPSA, the Customer must pay EPSA without deduction or set-off in accordance with the terms of credit agreed between EPSA and the Customer and the payment terms specified in each of EPSA's applicable Confirmation of Order. The Customer acknowledges and agrees that EPSA may withdraw any credit facilities at any time without any prior notice including in respect of Customer orders that have been accepted via EPSA's Confirmation of Order, goods already sold, supplied or delivered. In that event all amounts outstanding become due and payable immediately such credit facilities are withdrawn. The Customer acknowledges that credit extended to the Customer for Goods sold will only be made in accordance with any written agreement between the Customer and EPSA or, if none, in accordance with the terms of credit as maintained by EPSA at the time the Customer's account was established (as subsequently altered by EPSA). In all other respects these sale terms and conditions will apply.
- 7.4 If the Customer does not have a commercial credit account with EPSA the Customer must pay for the Used Goods or Services in full and in cleared funds in accordance with the payment terms specified in EPSA's applicable Confirmation of Order.
- 7.5 If the Customer fails to pay an invoice in full by the due date, EPSA reserves the right to (in its absolute discretion):
- deduct the amount outstanding from moneys otherwise due or payable by EPSA to the Customer including by way of any claim to money which the Customer may have against EPSA whether for damages or otherwise whether in respect of this sale of Used Goods or otherwise;
 - charge interest on the amount outstanding calculated on a daily basis and compounded monthly at an interest rate which is 7% greater than the Reference Rate published by the Australia and New Zealand Banking Group Limited or its successor as at the due date of payment;
 - resell the Used Goods by giving the Customer written notice that EPSA intends to resell the Used Goods if the Customer does not forthwith pay the invoiced outstanding amount (and interest thereon) within a specified period (such period not being less than seven (7) business days).
- The Customer acknowledges and agrees that if EPSA elects to resell the Used Goods, EPSA is entitled to retake possession of the Used Goods (and for that purpose the Customer shall allow EPSA to enter upon any premises where the Used Goods may be situated for the purposes of removing the Used Goods) and the Customer shall pay EPSA: (1) charges for and incidental to the storage and handling until their delivery under the resale; (2) interest on the Sale Price from the date when due until payment upon their resale at the rate stated above; (3) the amount (if any) by which the purchase price on resale is less than the Sale Price which would have been otherwise payable by the Customer; (4) the balance of any expenses incurred by EPSA in making delivery under resale over and above normal delivery expenses which would have otherwise been payable by the Customer; and (5) EPSA's gross profit on the sale to the Customer on account of the resale depriving EPSA of a probable customer for other like goods. EPSA's rights under this clause are in addition to any other legal remedy EPSA may have.
- 8. Trade in**
- 8.1 If EPSA has agreed to purchase any trade-in goods from the Customer (as shown in the Quotation and EPSA's Confirmation of Order), the Customer warrants that it has or will have at the time of delivery unencumbered title (including security interests) to those trade-in goods. Risk in trade-in goods remains with the Customer until inspection and acceptance by the EPSA at EPSA's nominated point of delivery (which will be at the Customer's expense).
- 8.2 If on inspection EPSA reasonably considers that the value of the trade-in goods is significantly less than the value previously attributed to those goods by the Company (as shown in the Quotation and EPSA's Confirmation of Order), EPSA reserves the right reduce the value attributed to those goods accordingly and the difference becomes a debt owing from the Customer to EPSA.
- 9. Personal Property Securities Act 2009 (Cwlth) (PPSA)**
- 9.1 For the purposes of the PPSA, the Customer acknowledges that the Contract may be a security agreement in respect of which the Goods are collateral. The Customer:
- grants to EPSA a first ranking security interest and purchase money security interest in all Used Goods delivered by EPSA and the proceeds from any resale of Used Goods by EPSA, as security for all indebtedness owed whatsoever to EPSA; and
 - consents to EPSA effecting and maintaining registrations on the Personal Property Securities Register (PPSR) in respect of security interests created or contemplated by the Contract and any proceeds from dealing in the Goods.
- 9.2 EPSA may register a financing statement or financing change statement in respect of a security interest at any time. The Customer agrees to sign any documents, provide information or do anything else EPSA requires to effect and maintain its registration on the PPSR, perfect its security interests, register financing statement or financing change statements or otherwise preserve EPSA's priority position as contemplated by the Contract. EPSA may recover from the Customer its costs incurred by EPSA registering, maintaining and enforcing security interests created or contemplated by the Contract, in the Goods and any proceeds from dealing in the Goods.

- 9.3 The Customer waives its rights under section 157 of the PPSA to receive a verification statement in relation to any registration on the PPSR of a security interest in respect of the Used Goods.
- 9.4 The Customer must not without EPSA's prior written consent: (a) register a financing change statement in respect of a security interest created or contemplated by this Contract or any other agreement between the Customer and EPSA; or (b) register, or allow to be registered, in a third party's favour a financing statement of financing charge statement in respect of the Goods. The Customer and EPSA agree to the extent the PPSA permits not to disclose information of the kind described in section 275(1) of the PPSA to an interested person, unless specifically agreed otherwise. However, if EPSA wants or needs to disclose any particular information the Customer authorises EPSA to do so under section 275(7)(c) of the PPSA.
- 9.5 To the extent permitted to do so, the Customer and EPSA agree to contract out of:
- (a) the following enforcement provisions referred to in section 115(1) of the PPSA: section 95 to the extent it requires EPSA to give notices to the Customer; section 121(4); section 125; section 130; section 132(3)(d); section 132(4); section 135; section 142 and section 143; and
- (b) Part 4.3 of the PPSA, other than section 123(1), 126, 128, 129(1), 133, 134(1), 136(1) and 136(2).
- 9.6 EPSA has absolute discretion as to the manner in which it applies money it receives under the Contract.
- 9.7 Except to the extent that the Customer is an individual purchasing goods or services wholly or predominantly for personal domestic or household purposes, in order to secure the Customer's due and punctual performance of all its obligations to EPSA (including the payment of all monies owing) under the Contract or otherwise, the Customer charges all of its legal and beneficial interest (present and future) in any and all real property and all present and after acquired property. On EPSA's request, the Customer must at its cost execute any documents and do all things required by EPSA to more fully document or better secure a charge arising under this clause 9.7 on such terms as it sees fit or to register a charge or security interest in respect of any of the Customer's real and personal property including, effect and maintaining registrations on the PPSR. The Customer also consents to EPSA lodging caveats in respect of any of the Customer's property. The Customer appoints EPSA or an authorised office of EPSA to be its attorney for the purpose of executing and registering such documents.
- 10. Privacy and information**
- 10.1 EPSA will comply with the Australian Privacy Principles in all dealing with the Customer. The Customer agrees and acknowledges that EPSA will collect personal information about the Customer and may use and / or disclose that information to: (a) provide and market goods and services to the Customer; (b) assess the Customer's credit worthiness; and (c) assist EPSA in the collection of overdue payments. If the Customer does not provide the personal information requested then EPSA may refuse to enter into the Contract. EPSA may disclose the personal information to other related entities and to Caterpillar Inc. and its related entities in Australia, Singapore and the United States of America. That disclosure may include to overseas recipients located in the United States of America.
- 10.2 EPSA's privacy policy contains information about how the Customer may access the personal information about the individual that is held by EPSA and seek correction of such information as required. The Customer may obtain a copy of EPSA's privacy policy by request or via EPSA's website at www.energypower.com.au.
- 10.3 The Customer acknowledges that the Used Goods may be fitted with Caterpillar's equipment remote monitoring and information collection system known as Product Link® and if this is the case: (a) data and information concerning the Used Goods, their condition and operation may be transmitted to EPSA, Caterpillar, Sitech and / or other Caterpillar dealers; and (b) the Customer will be responsible for any periodic subscription fees payable to activate and utilise Product Link unless those fees are included in the sale price of the relevant Goods; and (c) the Customer grants to EPSA an irrevocable royalty free licence to sell, sub-licence, grant access to or in any other way use all data and information created by provided to EPSA in connection with any servicing, maintenance, repair or other dealings with the Used Goods.
- 10.4 The copyright, patent rights, design rights and all other intellectual property rights in respect to or contained within the Used Goods or in any drawing, plan, prototype or specification in relation to the Used Goods or their manufacture which have been developed by or on behalf of EPSA or the manufacturer shall remain the property of EPSA or the manufacturer as the case may be and no transfer to the Customer of any such rights is included in the price paid or agreed to be paid whether or not such price includes an amount for designing or producing the Used Goods. All such items and all documents, information, systems and know-how provided to or disclosed to the Customer by EPSA and marked or described as "Confidential" or "Commercial in Confidence" shall be treated as confidential by the Customer. The Customer shall not loan, copy, use, dispose of or sell such items, documents, information, systems, or know-how without the prior written consent / authorisation of EPSA.
- 11. Changes to the Order, Cancellation and Termination**
- 11.1 Despite anything to the contrary stated in the Contract, the Customer is not entitled to cancel or change an order without EPSA's prior written consent and upon terms indemnifying EPSA from all resulting losses and damages.
- 11.2 Without limiting clause 11.1, if the Customer cancels an order for Used Goods, then:
- (a) all amounts then owing by the Customer to EPSA in respect of that order and all amounts incurred by EPSA until the date of cancellation in relation to the supply of the Goods and performance of the Services (including foreign exchange costs, shipping costs and holding costs) will become immediately payable and recoverable as a debt due; and
- (b) in addition EPSA will be entitled to recover from the Customer all costs incurred by EPSA as a result of the cancellation including, without limitation costs in the categories listed in clause 7.5 above.
- 11.3 EPSA may terminate all or any part of an order for Used Goods which remains unperformed or the Contract as a whole immediately on written notice to the Customer if:

- (a) The Customer breaches the Contract and fails to remedy the breach within 7 days of receiving notice to do so;
- (b) An Insolvency Event occurs;
- (c) In EPSPA's opinion any other event occurs which is likely to materially adversely affect the Customer's ability to meet its obligations to EPSPA under the Contract.
- 11.4 EPSPA's termination rights are in addition to any other rights or remedies EPSPA has under the Contract or at law or in equity.
- 11.5 Following termination of an order or the Contract as a whole by EPSPA, EPSPA may take all necessary steps to repossess the goods in respect of which ownership has not passed to the Customer under clause **Error! Reference source not found.** The Customer authorises EPSPA (including where required as agent of the Customer) to enter the premises where the Goods are situated to enable EPSPA to repossess the Goods. The Customer indemnifies EPSPA from and against all costs, claims, actions and liabilities EPSPA may suffer or incur as a consequence of terminating an order of the Contractor or repossessing the goods including legal costs on an indemnity basis.
- 12. Goods and Services Tax**
- 12.1 Unless specifically described in EPSPA's Quotation and Confirmation of Order as 'GST inclusive', the sale price for the Goods does not include any amount on account of GST.
- 12.2 Where any supply to be made by EPSPA under the Contract is subject to GST:
- (a) the consideration payable for that supply but for the application of this clause 12 (**GST Exclusive Consideration**) shall be increased by, and the Customer shall pay to EPSPA, an amount equal to the GST payable in respect of that supply (**GST Amount**); and
- (b) the Customer must pay the GST Amount to EPSPA at the same time and in the same manner as the GST Exclusive Consideration is payable or to be provided for that supply.
- 12.3 Unless the contrary intention appears, a word or expression used in this clause 12 which is defined in the GST Law has the same meaning in this clause 12.
- 13. General**
- 13.1 The Customer may not assign or subcontract the rights and/or obligations under the Contract without EPSPA's prior written consent (which may be provided or withheld at EPSPA's discretion).
- 13.2 The relationship between the parties is as independent contractors, and does not involve any relationship of agency, fiduciary, employment, partnership, joint venture or association. If the Customer is more than one person, each person shall be jointly and severally liable to EPSPA.
- 13.3 EPSPA may amend, vary or replace the Sale Terms at any time on 14 days written notice. If EPSPA varies these Sale Terms, the varied version will be published on EPSPA's website at www.energypower.com.au. Any subsequent Quotations and sales of Used Goods will be on the varied or replaced terms. No other amendment to the Contract can be made without the written agreement of EPSPA and the Customer.
- 13.4 Each party must do or cause to be done all things necessary or desirable to give effect to, and must refrain from doing anything that would hinder performance of the Contract.
- 13.5 A term or part of a term of the Contract that is illegal or unenforceable may be severed from the Contract and the remaining terms or parts of the terms of the Contract continue in force.
- 13.6 A party does not waive a right, power or remedy if it fails to exercise or delays in exercising the right, power or remedy. A single or partial exercise of a right, power or remedy does not prevent another or further exercise of that or another right, power or remedy. A waiver of a right, power or remedy must be in writing and signed by the party giving the waiver.
- 13.7 The Contract is governed by the law applicable in Victoria, Australia, and each party submits to the jurisdiction of the courts of Victoria.
- 13.8 The Contract documents may be executed in any number of counterparts and all counterparts when exchanged will be taken to constitute one document. The Contract constitutes the entire Contract between the parties as to its subject matter and supersedes all other representations and Contracts in connection with the subject matter of the Contract. The United Nations Conventions on Contracts for the International Sale of Goods (1980) shall not apply.
- 14. Interpretation**
- 14.1 In these sale terms unless the contrary intention appears:
- Deliverables** means any document, software, work product or other deliverable provided or required to be provided as part of the Services or in connection with the Goods under the Contract.
- GST Law** has the same meaning as in the *A New Tax System (Goods and Services Tax) Act 1999* (Cth)
- Insolvency Event** means any insolvency-related event that is suffered by the Customer, including without limitation where:
- (a) the Customer ceases to carry on business;
- (b) the Customer ceases to be able to pay its debts as they become due;
- (c) the Customer disposes of the whole or any substantial part of its assets, operations or business (other than in the case of a solvent reconstruction or reorganisation);
- (d) any step is taken by a mortgagee to take possession or dispose of the whole or part of the party's assets, operations or business;
- (e) any step is taken to enter into any arrangement between the party and its creditors (other than in the case of a solvent reconstruction or reorganisation); or
- (f) any step is taken to appoint a receiver, a receiver and manager, a trustee in bankruptcy, a provisional liquidator, a liquidator, an administrator, or other like person of the whole or part of the party's assets, operation or business.
- Sale Price** means the amount specified in EPSPA's Quotation and Confirmation of Order for the sale of Used Goods and/or provision of Services plus adjustments to the price applied and calculated pursuant to this Contract.
- Services** mean the services to be provided by EPSPA as described in EPSPA's Confirmation of Order.
- Site** means the location(s) specified in the Quotation, where the Goods are to be delivered and/or the Services performed.

Used Goods or Used Equipment means the goods to be supplied by EPSPA as described in EPSPA's Confirmation of Order.

14.2 In these sale terms, unless the contrary intention appears:

- (a) the singular includes the plural and vice versa, and a gender includes other genders;
- (b) another grammatical form of a defined word or expression has a corresponding meaning;
- (c) a reference to A\$, \$A, dollar or \$ is to Australian currency;
- (d) a reference to time is to Victoria, Australia time;
- (e) a reference to a party includes the party's executors, administrators, successors and permitted assigns and substitutes;
- (f) a reference to a person includes a natural person, partnership, body corporate, association, governmental or local authority or agency or other entity;
- (g) a reference to a statute, ordinance, code or other law includes regulations and other instruments under it and consolidations, amendments, re-enactments or replacements of any of them;
- (h) the meaning of general words is not limited by specific examples introduced by including, for example or similar expressions;
- (i) a rule of construction does not apply to the disadvantage of a party because the party was responsible for the preparation of the Contract or any part of it;
- (j) if a day on or by which an obligation must be performed or an event must occur is not a business day, the obligation must be performed or the event must occur on or by the next business day; and
- (k) headings are for ease of reference only and do not affect interpretation