

Daimler Truck Vehicle Loan and Security Terms of Use

1. **Daimler Truck and Bus Australia Pacific Pty Ltd** ABN 86 618 413 282 (DAIMLER), agrees to allow the loan and demonstration of the vehicle/s as described in the Rental Truck Handover and Inspection Form ('Vehicle/s') to the Customer from the Demonstration Commencement Date until the Demonstration Return Date subject to the terms and conditions of these Terms of Use (**Terms**).
2. The Customer acknowledges that DAIMLER has appointed **Adaptalift Truck Rentals Pty Ltd** ABN 98 634 096 183 ("ATR") as its authorised agent to do all acts and things necessary to (a) arrange and facilitate the entering into this agreement on behalf of DAIMLER and the Customer; (b) sign all such things and issue all such notices or demands as may be required from time to time in connection with these Terms; and (c) to enforce all rights and obligations accrued to DAIMLER under these Terms (including, without limitation, in respect of any payment obligations of the Customer). Any action commenced or taken by ATR under these Terms is commenced and taken as agent for and on behalf of DAIMLER and the Customer acknowledges and agrees that it must comply with all notices or demands made by ATR under these Terms as though such notices/demands were made by DAIMLER. Any reference in these Terms to DAIMLER is taken to also be a reference to ATR as agent for DAIMLER (unless otherwise stated).
3. Upon completion by the Customer of the Account Form, a reservation confirmation will be raised by DAIMLER and/or ATR which will set out the key commercial terms upon which the Vehicle is to be supplied to and used by the Customer ("Reservation"). If – prior to taking delivery of the Vehicle or otherwise commencing use of the Vehicle – the Customer does not notify DAIMLER and/or ATR that anything stated in the Reservation is incorrect, it expressly agrees and accepts the Vehicle on the terms set out in the Reservation and these Terms.
4. The Customer must return the Vehicle to DAIMLER at the point at which it was made available to the Customer on or before the Demonstration Return Date specified in the Reservation, or any extension of that date agreed by both parties in writing. DAIMLER may terminate this demonstration at any time by written request to the Customer and the Customer must immediately return the Vehicle to DAIMLER no later than the time nominated for return by DAIMLER. The Vehicle must be returned to DAIMLER in the same condition it was made available to the Customer, fair wear and tear consistent with the period of the demonstration excepted. The Customer is responsible for any loss of or damage occurring to the Vehicle while the Vehicle is in the possession or control of the Customer or any Nominee, howsoever such loss or damage occurs and whether or not the such loss or damage was the Customer's or its Nominee's fault.
5. The Vehicle must only be driven by either the Customer or the Customer's employees ("Nominees") (whichever applies) who are expressly authorised by the Customer to drive the Vehicle ("the Nominee"), and the Customer will be entirely responsible for any acts or omissions of, or breach of these Terms by, the Nominees, or any other person to whom the Customer yields possession of the Vehicle. The Customer warrants that it will indemnify DAIMLER against any loss or damage suffered as a result of the Nominee's acts, omissions or use. The Customer warrants that it is, and each of the Nominees are, duly authorised under all relevant laws, by-laws and regulations to operate and drive the Vehicle in the State or Territory in which, and for the purpose for which, it is being operated or driven. The Customer warrants that it will, and will ensure each

of the Nominees will, operate the Vehicle in accordance with recognised methods and standards of operation and in accordance with instructions and/or recommendations that may be given by DAIMLER from time to time.

6. The Customer must give DAIMLER immediate notice of any accident, damage or incident involving the Vehicle while in the possession of the Customer or any Nominee and follow any instructions as may be given by DAIMLER relating to the Vehicle, including any incident that involves damage to persons or property. The Customer agrees to assist DAIMLER with all reasonable requests, including assisting DAIMLER to respond to any requests or enquiries it receives from a government, regulatory or statutory authority or insurer or law enforcement agency.
7. The Vehicle is covered by compulsory third party insurance and by comprehensive insurance for at least the market value of the Vehicle (or, if the Vehicle is less than 12 months' old, for the full new replacement cost of the Vehicle). The Customer acknowledges and agrees that there is an Excess which applies to each claim in relation to the Vehicle, as set out in the Reservation. If any event giving rise to a claim occurs at any time when the Vehicle is in the custody or control of the Customer or any Nominee, the Customer will be liable to and will pay to DAIMLER the Excess applicable to the Customer, the Vehicle and/or the Nominee driving the Vehicle at the time of the claim. DAIMLER may, by written notice, increase the Excess. The Customer must also reimburse DAIMLER on demand any loss, damage, cost or expense incurred by DAIMLER as a result of the loss of or damage to the Vehicle (whether or not caused by the fault of the Customer or their Nominee) which is either below the applicable Excess and/or which is unable to be recovered under DAIMLER's policies of insurance. The Customer is responsible for insuring any goods or other property carried by the Vehicle and DAIMLER will have no liability in respect of any such property. DAIMLER may require the Customer to provide a credit card imprint. In the event of any loss of or damage to the Vehicle, the Customer authorises DAIMLER to charge the credit card with an amount up to the total of the applicable Excess or up to the total amount of the loss or damage which is either below the applicable Excess and/or which is unable to be recovered under DAIMLER's policies of insurance and/or any other amount the Customer is liable for under these Terms.
8. The Customer must ensure, and must require its Nominees to ensure, that the Vehicle is never operated or driven or in the charge of any person whose blood alcohol level exceeds any relevant level prescribed by any Act or Regulation in any State or Territory in which the Vehicle is being operated or driven, or who is under the influence of any other drug. If the Customer (or Nominee) fails to comply with this clause, the Customer will be liable to DAIMLER for all loss, damage, costs and expenses in relation to the Vehicle that is in excess of the Excess as well as the Excess. The Customer must ensure that no person smokes or transports any animals within the Vehicle. The Customer must not use or permit the Vehicle to be used off road, for any illegal purpose, race, speed test, or contest. The Customer must maintain and return the Vehicle in a clean condition. When not being driven, the Vehicle must be locked and parked in a secure location.
9. The Customer must pay all fees, toll charges, fines, infringements and penalties against the owner or operator of the Vehicle which arise from the use or operation of the Vehicle during the period of the demonstration, and consents to DAIMLER providing their details to any person claiming any such amount from DAIMLER, and warrants that any Nominee consents to DAIMLER providing the Nominee's details to any person claiming any such amount from DAIMLER. All fuel, tolls, oil,

AdBlue and other consumables used in the Vehicle during the period of the demonstration are the responsibility of the Customer.

10. The Customer must pay to DAIMLER on demand for any excess kilometre charges (if an allowable kilometre limit is included in the Reservation). Further, if the Customer continues in possession of, and using, the Vehicle for a period longer than the agreed Demonstration Return Date as set out in the Reservation ("Overholding"), the Customer must pay to DAIMLER on demand for any such period of Overholding at the standard rental rates as prescribed by DAIMLER from time to time.
11. If any routine service is required during the period of the demonstration then the Customer shall arrange for this to be carried out at an authorised Mercedes-Benz Truck Dealership. The Customer must not fail or refuse to deliver the Vehicle to an authorised Mercedes-Benz Truck Dealership where requested to do so by DAIMLER.
12. The Customer must only use, and must ensure that its Nominees only use, the Vehicle for the purpose for which it was designed and in accordance with the instructions in the Owner's Manual, and in no circumstances shall the Customer or any Nominee load the Vehicle beyond its specified carrying capacity specified in the Owner's Manual or tamper with or interfere with the Vehicle in any way or operate the Vehicle so as to cause any of the specified limitations on its operation or use to be exceeded.
13. If the Vehicle becomes defective in any way, regardless of whether the defect renders the Vehicle inoperable, the Customer must notify DAIMLER and ATR as soon as reasonably practicable (and in any event within 24 hours of becoming aware of the defect) and shall arrange for the Vehicle to be taken to the nearest authorised Mercedes-Benz Truck Dealership for rectification.
14. The Customer hereby agrees to return any Vehicle with the same amount of fuel and AdBlue the Vehicle had at the demonstration commencement time (as set out in the Reservation) failing which the Customer will owe DAIMLER a debt due and payable on demand for the cost DAIMLER incurs in filling the Vehicle to the required level.
15. The Customer agrees to pay the costs of any repairs and replacement parts including any tyres and windscreen for the Vehicle during the demonstration period which are in DAIMLER's reasonable opinion attributed to the conduct of the Customer and or its Nominee's usage of the Vehicle. Notwithstanding any other clause in these Terms, at the Demonstration Return Date and prior to the redelivery of the Vehicle to DAIMLER, the Customer agrees to at its cost replace the windscreen (if the windscreen had been in any way damaged during the demonstration period) with an DAIMLER approved windscreen and replace any tyres on the Vehicle which DAIMLER determines in its reasonable discretion are more than 40% worn with new tyres the same as (or if DAIMLER agrees, with equivalent tyres to) those on the Vehicle at the Demonstration Commencement Date. If the Customer fails to do so, DAIMLER may replace the windscreen and tyres and recover the costs of doing so as a debt due and immediately payable by the Customer to DAIMLER.
16. The Customer acknowledges and agrees that:

- (a) at all times whilst it is in the possession and/or use of the Customer and until such time as it is returned to DAIMLER and/or ATR, it is the **operator** of the Vehicle as that term is defined in the National Heavy Vehicle Law and it (the Customer) has sole possession of, and is solely responsible for, the use and safety of the Equipment; and
 - (b) it is responsible under – and will ensure that the Vehicle is at all times during its possession and/or use – operated in accordance with the Heavy Vehicle National Law and the duties imposed on the Customer as operator of the Vehicle in accordance with that Law; and
 - (c) for the purpose of this clause 16, **Heavy Vehicle National Law** means the Heavy Vehicle National Law Act 2012 as enacted by each participating State and Territory in Australia, including the *Heavy Vehicle National Law Act 2013 (ACT)*, the *Heavy Vehicle (Adoption of National Law) Act 2013 (NSW)*, the *Heavy Vehicle National Law Act 2012 (QLD)*, the *Heavy Vehicle National Law (South Australia) Act 2013 (SA)*, the *Heavy Vehicle National Law (Tasmania) Act 2013 (TAS)*, the *Heavy Vehicle National Law Application Act 2013 (VIC)* and includes any associated Acts or Regulations that apply or are proscribed in respect of any such laws.
17. The Customer will indemnify each of DAIMLER, its agents, officers and employees against any and all claims, fines, infringements, tolls, penalties, liabilities, costs, compensation, expenses, losses, damages and settlement expenses, including legal costs on an indemnity basis, suffered or incurred by any of them, whether directly or indirectly, resulting from, in connection with or arising out of any act, omission or default of the Customer or Nominee or other person to whom the Customer yields possession of the Vehicle, including without limitation any loss or damage caused to any property, or arising out of any personal injury or death, or the Vehicle while it is in the possession or control of a Nominee. To the full extent permitted by law, the Customer agrees that DAIMLER is not liable to the Customer or to any Nominee for any loss or damage (including personal injury and death) arising from the Customer's (or the Nominee's) use of the Vehicle, and the Customer releases DAIMLER from any claim whatsoever for such loss, damage, injury or death. Where at law DAIMLER's liability cannot be excluded, but may be limited, it is limited at DAIMLER's option to the supply of the Vehicle demonstration again or the payment of the cost of having the Vehicle demonstration supplied again.
18. Nothing in these Terms is intended to, or shall be read to, exclude, restrict, modify or limit the application of, or a right or a guarantee provided for by, or liability to a consumer under one or both of the Competition and Consumer Act 2010 (Cth) or the Fair Trading Act 1999 (Vic) or corresponding legislation in any other State or Territory, except to the extent permitted to be limited under such legislation and is so limited in accordance with such legislation.
19. Where any clause of these terms and conditions is void, unenforceable, or illegal, that provision is to be read down to the extent necessary to ensure that it is not void, unenforceable or illegal. To the extent that it cannot be read down, then it is severed and the rest of the terms and conditions remain in force.
20. The parties acknowledge and agree that these Terms constitute a security agreement for the purposes of the Personal Property Securities Act 2009 (Cth) ("PPSA") and creates a security interest in favour of and to the benefit of DAIMLER. The Customer acknowledges and agrees that nothing in these Terms confers any rights of ownership or title in the Vehicle and confers no right

of possession/use other than in accordance with the terms of these Terms. If the terms of this demonstration are for a period greater than 12 months, for the purposes of the PPSA, this security agreement is a PPS Lease and is deemed a Purchase Money Security Interest and may be registered as such by DAIMLER. The security interest that DAIMLER has attaches to the Vehicle on the earlier of the signing or acceptance of these Terms or the Customer taking possession of the Vehicle. DAIMLER may register a security interest in the Vehicle on the Personal Property Securities Register, and the Customer must do any act or sign any document necessary for DAIMLER to register and perfect and give effect to the security interest created under these Terms. The Customer understands that the Vehicle is for its exclusive use only during the demonstration period and that it has no authority whatsoever to sell, lease, pledge, lend or in any way encumber, transfer or otherwise dispose of or part with possession of the Vehicle or any interest therein to any other person.

21. These Terms are governed in accordance with the laws of Victoria.