

# ***Summary File ONLY***

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FOR YOUR INFORMATION TO DECIDE WHETHER TO  
BECOME A PROSPECTIVE TENDERER ONLY**

Note: This file may contain a brief scope statement, or an extract from the RFT documents, or a full exhibited copy – depending on the specific circumstances.

To participate in this tender process you **MUST** first download or order a full copy of the Request for Tender (RFT) documents, including the responsible components, and any addenda issued to date.

To do this return to the RFT web page on this web site and copy the RFT documents to your own computer or network – the blue “**DOWNLOAD A SOFT COPY**” link at the bottom provides access to the page from which you can do this.

**STATE PROCUREMENT**  
**NOTICE TO ALL TENDERERS**

**IMPORTANT INFORMATION REGARDING CONTRACT MANAGEMENT FEES**

The requirements in respect of Contract Management Fees for NSW Government Period Contracts managed by State Procurement, NSW department of Commerce, on behalf of the State Contracts Control Board (SCCB) have been revised.

Some amendments have been introduced in some Tenders and Contracts released after the 21 August 2006.

*Please refer to the appropriate clauses in each RFT's documents.*

In particular your attention is drawn to: -

- the requirement for periodic sales returns
- the requirement for sales returns to identify the top 10 customers
- the removal of the provision for Contractors to supply Independent Audit reports on request
- the provision for State Procurement to appoint Independent Auditors to examine Contractor's sales records
- the provision for Contractors to pay for the cost of Independent Audits of their sales records on a sliding basis, in accordance with the outcomes of the audit
- the provision for Contractors to pay State Procurement's costs to manage the accounts of those contractors who are overdue and/or understated in provision of their sales reports and/or management fees

AND/OR

- the provision for Contractors to pay a Late Payment Fee for Management Fee arrears
- the provision for State Procurement to amend the terms of trade and/or terminate the agreement for Contractors who do not meet their Management Fee obligations

Please approach the Contract Officer identified for each RFT if you require additional information.



State Procurement is a Business Unit of the NSW Department of Commerce

**State Procurement invites this tender for and on behalf of the  
NSW Government State Contracts Control Board**

**Request for Tender 0501759  
SUPPLY AND DELIVERY OF CLASS 3 URBAN  
PUMPER VEHICLES  
  
FOR  
  
NSW FIRE BRIGADES  
  
PERIOD: THREE (3) YEARS FROM DATE OF  
ACCEPTANCE PLUS 2 X 1 YEAR EXTENSION  
OPTIONS**

Tender Issue Date: Wednesday, 12 October 2005

Closing Date: Wednesday, 7 December 2005

*Closing Time: 9:30 am Sydney Time*

**Tenderers should note that a Pre-Tender Briefing shall be held at 10.00 am Tuesday, 25 October 2005 - Refer Part A, Clause 5.6 for further details.**

Note: If a tender is not submitted electronically, the tenderer must submit the original tender, plus three (3) copies of the tender. Tenders are to be marked "Original", "Copy 1", "Copy 2" and "Copy 3" accordingly.

Non-Refundable Hard Copy Document Fee \$110.00 (includes GST). Note: There is no charge for downloading an electronic copy from <https://tenders.nsw.gov.au/commerce>.

Payment for a **hard** copy of this RFT is to be made by either cheque drawn in favour of the NSW Department of Commerce, or by credit card (MasterCard, Visa and Bankcard). **Cash will not be accepted.**

## COPYRIGHT

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## **PART A DESCRIPTION OF THE REQUIREMENT AND OTHER INFORMATION FOR TENDERERS**

### **1. DEFINITIONS OF TERMS USED IN PARTS A-C**

- 1.1 Unless the context indicates otherwise, the following terms, where used in Parts A-C of this RFT, shall have the meanings set out below. Note that not all defined terms will appear in all RFTs.

**“Addendum”** means an addendum or addition to this RFT made by the Board before the Closing Date and Time under cl. 4.3.

**“Alternative Tender”** means a Non-Conforming Tender that is intended to offer a different method of meeting the object and intent of the Requirement.

**“Board”** means the State Contracts Control Board established under the *Public Sector Employment and Management Act 2002* and includes the duly authorised delegates of the Board, including officers of State Procurement.

**“Closing Date and Time”** means the Closing Date and Time for receipt of tenders, specified on the cover sheet to this RFT.

**“Code”** means the NSW Government Code of Practice for Procurement, NSW Government Procurement Policy, as amended from time to time, together with any other codes of practice relating to procurement, including any amendments to such codes, that may be applicable to the particular RFT. The aforementioned codes can be viewed and downloaded from:

- 1) NSW Government Procurement Policy: <http://www.treasury.nsw.gov.au/pubs/tpp2004/tpp04-1.pdf>  
and
- 2) Code of Practice for Procurement:  
[http://www.treasury.nsw.gov.au/procurement/pdf/code\\_of\\_prac-curr.pdf](http://www.treasury.nsw.gov.au/procurement/pdf/code_of_prac-curr.pdf)

**“Conforming Tender”** means a Tender that:

- (a) conforms to the Requirement;
- (b) is in the prescribed form;
- (c) conforms to the terms and conditions contained in Part B; and
- (d) conforms to all of the other stated requirements of this RFT.

**“Contractor”** means the organisation or individual who by this Contract undertakes to supply the Deliverables required by the Contract and, where the Contractor is an individual or partnership, the expression shall include the personal representatives of that individual or of the partners as the case may be and the expression shall also include any person to whom the benefit may be assigned by the Contractor with the consent of the Principal.

**“Deliverables”** means the goods and/or services to be supplied by the Contractor in accordance with this Contract and itemised in the Price Schedule.

**“GST”** is a goods and services tax and has the same meaning as in the GST Law.

**“GST Free Supplies”** and **“Input Taxed Supplies”** have the same meaning as in the GST Law.

**“GST Law”** means any law imposing a GST and includes *A New Tax System (Goods & Services Tax) Act 1999* (C'th) or if that Act does not exist, means any Act imposing, or relating, to a GST and any regulation made under those Acts.

**“Late Tender”** means a Tender received after the Closing Date and Time for tenders and includes a Tender, which is only partly received by the Closing Date and Time.

**“Non-Conforming Tender”** means a Tender that:

- (a) does not conform to the Requirement;
- (b) is not in the prescribed form;
- (c) does not conform to any one or more of the terms and conditions of Part C, including a Tender which seeks to qualify or amend these conditions, or
- (d) does not conform to any of the other stated requirements of this RFT.

**“NSW Government Procurement Policy”** means the policy package outlined in cl.6.1 of this RFT.

**“OHS&R”** means occupational health, safety and rehabilitation.

**“Price Schedule”** means the list of Deliverables offered by the tenderer, together with the corresponding pricing information.

**“Principal”** means the NSW Fire Brigades for and on behalf of the Crown in right of the State of New South Wales who will be a party to the Contract.

**“Principal’s Delegate”** shall mean the person for the time being holding or performing the duties of the Director, Logistics Support, NSW Fire Brigades and includes an officer of that Division who is authorised by the said person to perform the functions of the Delegate.

**“Requirement”** means the requirement for goods and/or services to be met by the Tender and detailed in the Specification.

**“RFT”** means the Request for Tender.

**“Specification”** means the detailed description of the required goods and/or services contained in Part C3.

**“State Procurement”** means a business unit of the NSW Department of Commerce representing the Board and authorised to arrange and administer contracts on behalf of the Board.

**“Tender”** means the offer to supply the Deliverables submitted in response to the RFT.

**“Tenderer”** means the party lodging a written response to this Request For Tender.

**“Tender Price”** means, in respect of each Deliverable offered, the Price nominated in the Price Schedule for that Deliverable.

Unless the context otherwise requires it the terms **“Contract”** and **“Principal”** include the plural and vice-versa where used in Parts A-C of this RFT.

## 2. OUTLINE DESCRIPTION OF THE REQUIREMENT

### 2.1 Scope

- 2.1.1 This tender document covers the NSW Fire Brigades’ (The Principal’s) requirement for the Supply and Delivery of Class 3 Urban Pumper Vehicles in accordance with the terms and conditions detailed herein.
- 2.1.2 Although not bound to order any vehicles, it is envisaged that the NSWFB will require the supply and delivery of around forty two (42) vehicles over the three year supply period.
- 2.1.3 The Class 3 Urban Pumper Vehicle, (referred to as “the vehicle”), is an emergency response vehicle designed to provide fire fighting protection and to carry equipment for hazardous material and rescue incidents and natural hazard operations.
- 2.1.4 The vehicle will be one of two separate configurations and will carry inventory commensurate with the vehicle’s role as being either a standard pumper or primary rescue pumper.

- 2.1.5 The Contractor shall take at its own expense whatever reasonable steps are necessary for the the Vehicle as a whole to be made ready to be commissioned for operational service in accordance with the NSWFB Fire Fighting Specification No. ENG/00220 – 04062 Version A (Rev 1) 2005 contained in Part C3 of this tender document.
- 2.1.6 The equipment characteristics specified generally describe the nature and extent of the NSWFB requirement. However, the NSWFB shall consider and reserves the right to select alternative equipment to that specified, where such alternatives are deemed to provide more satisfactory solutions to NSWFB needs.
- 2.1.7 The full requirements of NSW Fire Brigades are set out in the Specification at Part C3 to this RFT.
- 2.1.8 NSW Fire Brigades has retained the services of State Procurement to conduct The Tender Process.

## 2.2 Compliance With Specification

- 2.2.1 Tenderers are advised that the specification provided are based on the NSWFB's current configuration of equipment. The NSWFB's objective is to have a standard layout of its vehicles allowing ease of use for end users.
- 2.2.2 The method of construction of the Unit as illustrated in the specification is not mandatory. Other construction methods, which can provide the target function, will be considered.
- 2.2.3 The drawings provided show the concept and preferred layout of the vehicle. Tenderers are at liberty to provide their own structural design to meet the NSWFB's requirements i.e. the internal arrangement in the vehicle. In doing so tenderers are required to demonstrate how their design meets the operational requirements of the NSWFB. Detail design changes to the preferred layout will be considered should the tenderer's construction methods require it.
- 2.2.4 All cab chassis offered/supplied must be registered with an Australian agent with a proven support base for the vehicles.

## 3 SUMMARY INFORMATION FOR TENDERERS

### 3.1 Contact Officer

- 3.1.1 Refer requests for information or advice regarding this RFT to:

For All Enquiries

Name: Angela Burrell/Steve Diekman  
 Phone: (02) 9372 7632/9372 7524  
 Fax: (02) 9372 7799  
 E-mail: [angela.burrell@commerce.nsw.gov.au](mailto:angela.burrell@commerce.nsw.gov.au) or [steve.diekman@commerce.nsw.gov.au](mailto:steve.diekman@commerce.nsw.gov.au)

- 3.1.2 Any information given to a tenderer to clarify any aspect of this RFT will also be given to all other tenderers if in the Board's opinion the information would unfairly favour the inquiring tenderer over other tenderers.

### 3.2 Nature of Contract

- 3.2.1 The Requirement is to be met by a Contract between the Principal and the successful tenderer on the terms and conditions of Part B. ***Note: if you nominate at Part C that you comply with the Conditions of Contract (Part B), then the stated Conditions of Contract at Part B will not be subject to any negotiation should your tender be successful.***
- 3.2.2 Tenderers note: This Contract may be a two stage contract (See Part B of the Request for Tender for details).
- 3.2.3 If a two stage contract, Stage 1 will comprise the manufacture, supply and delivery of a development vehicle by the Contractor.



- 3.2.3 Stage 2 of the Contract is subject to the acceptance of the development vehicle by the NSWFB and upon written approval to proceed being granted by the NSWFB Contract Administrator.
- 3.2.4 Stage 2 commences on the date of acceptance of the first production vehicle by the Principal and expires three (3) years from date of acceptance, unless sooner determined in accordance with this Contract. The Principal may at its sole discretion extend the term of the contract by two (2) further terms, each of one (1) year in duration. Any such extension shall be solely at the discretion of the Principal, and in accordance with the terms and conditions contained herein.
- 3.2.5 During the Term of the Contract, some changes to the build and technology improvements of the vehicle may be experienced. Where the NSWFB decides to retrofit or undertake upgrades, these changes and technologies to the vehicles, these will be subject to separate quotation and will be included as a provision of this Contract.

### **3.5 Value of Contract**

- 3.5.1 Tenderers should note that although the NSWFB expects to order around forty two (42) vehicles over the three (3) year Contract Term, the NSWFB gives no guarantee that all forty two (42) vehicles will be ordered and no guarantee is expressed or implied that any order will be issued.
- 3.5.2 The tender is for a standing offer to supply the specified item or service, when ordered, at the agreed price. No Contract comes into existence until that offer is accepted by the placing of the order, each order being an individual act which creates a separate Contract governed by the terms and conditions provided for in the original tender.

### **3.6 Eligibility to Tender**

- 3.6.1 Tenders must be submitted by a legal entity or, if a joint Tender, by legal entities, with the capacity to contract. The Principal will only contract with the relevant legal entity or entities.
- 3.6.2 The Board may ask a tenderer to provide evidence of its legal status or capacity to contract. If Tenders from trustees are permitted this may include a copy of the relevant trust deed. Any evidence requested is to be provided within 3 working days of the request.
- 3.6.3 The Board may submit any financial information provided by the Tenderer for independent financial assessment of the Tenderer's business. If the Board judges the tenderer's financial position to be marginal, it reserves the right to make acceptance of any Tender conditional upon the tenderer entering into a bank or parent company guarantee, or an unconditional performance bond.
- 3.6.4 The Board reserves the right to reject any tender if it judges the tenderer not to have appropriate financial assets.
- 3.6.5 The Board will not enter into a contract with an organisation that does not have an Australian Business Number and is not registered for GST. Normally, tenderers must be registered for GST and state their ABN in their Tender.
- 3.6.6 Tenders from tenderers that do not have an ABN and/or are not registered for GST, such as tenderers commencing business in Australia, may be considered at the Board's discretion if the tenderer demonstrates that it will obtain an ABN and GST registration before entering into a Contract with the Principal. Such tenderers must state how and when they intend to obtain an ABN and register for GST in their Tender.

### **3.7 NON-DISCLOSURE OF INFORMATION**

- 3.7.1 The information provided in this tender is the intellectual property of the NSW Government and is provided to tenderers in good faith, for their use in preparing a response to the Request for Tender.
- 3.7.2 **TENDERERS MUST NOT, WITHOUT THE PRIOR CONSENT OF THE CHAIRPERSON, STATE CONTRACTS CONTROL BOARD, DISCLOSE ANY INFORMATION CONTAINED IN THE TENDER TO ANY OTHER PARTY OTHER THAN AS NECESSARY TO PREPARE AND SUBMIT A TENDER.**

#### **4. PREPARATION OF TENDER - GENERAL**

##### **4.1 Conformity of Tenders**

- 4.1.1 The Board seeks Conforming Tenders.
- 4.1.2 Tenders that do not include a fully completed Part C, in particular those Tenders which do not contain sufficient information to permit a proper evaluation to be conducted, may be excluded from the tender process without further consideration, at the Board's discretion.
- 4.1.3 The Board will consider Alternative Tenders, provided the Alternative Tender meets the scope and functional intent expressed in the RFT. Where such Alternative Tender is proposed, a detailed description of the alternative must be submitted, stating clearly the manner in which it does not conform to the requirements of the RFT.
- 4.1.4 The Board may assess an Alternative Tender against the selection criteria.
- 4.1.5 An Alternative Tender must be clearly marked "Alternative Tender".
- 4.1.6 The Board expressly reserves the right to accept, in its discretion, either or both of the following:
  - (a) Any Alternative Tender or part of an Alternative Tender, which meets the scope and functional intent expressed in the RFT, and
  - (b) Any other Non-Conforming Tender or part of a Non-Conforming Tender that, in the Board's opinion, is substantially a Conforming Tender.

##### **4.2 General Instructions for Completion of Tenders**

- 4.2.1 Prices, responses and other information provided in the Tender are to be in writing and in English.
- 4.2.2 Tenderers must initial and date any alterations to, and deletions from, a hard copy Tender.
- 4.2.3 Tenderers must complete ALL of Part C of this RFT, as directed.
- 4.2.4 Tenderers should notify the Contact Officer in writing on or before the Closing Date and Time if they find any discrepancy, error or omission in this RFT.
- 4.2.5 A Tenderer must satisfy itself that the Tender, including the Tender Price is correct and that it is financially and practically viable for it to enter into and perform the proposed Contract.

##### **4.3 Addenda to this RFT Before Close of Tenders**

- 4.3.1 A tenderer may ask the Contact Officer for clarification of anything in the RFT before the Closing Date and Time. The Board may issue any instruction resulting from such request in writing to all tenderers in the form of an Addendum.
- 4.3.2 If for any other reason the Board requires the RFT to be amended an Addendum will be issued.
- 4.3.3 In each case, an Addendum becomes part of the RFT.
- 4.3.4 **IT IS THE OBLIGATION OF THE TENDERER TO VERIFY IF ANY ADDENDA WERE ISSUED PRIOR TO CLOSING DATE, EVEN IF A TENDER HAS ALREADY BEEN SUBMITTED. THEY MUST OBTAIN A COPY OF ALL ADDENDA AND CONFIRM IN PART C THAT ALL ADDENDA HAVE BEEN OBTAINED AND TAKEN INTO CONSIDERATION.**

#### **5. PREPARATION OF TENDER - PRICE SCHEDULE AND PROJECT PLAN**

##### **5.1 Price Schedule**

- 5.1.1 Tenderers must complete the Price Schedule at Part C1.

## **5.2 Calculating the Tender Price**

### **5.2.1 General**

#### **5.2.1.1 The Tender Price must:**

- (a) be in Australian dollars;
- (b) cover all costs of performing the Agreement;
- (c) include Goods and Services Tax if it is payable and all other applicable taxes, duties and charges at the rates applicable at the Closing Date and Time for Tenders; and
- (d) include all costs associated with the preparation and submission of the Tender.

#### **5.2.1.2 All tendered prices for the Deliverables must be inclusive of all costs of producing the Deliverables including all materials, proofs and delivery to any nominated location in NSW.**

## **5.3 Price Basis**

### **5.3.1 The tenderer may determine the Tender Price on the basis of one of the options detailed in Part C.**

## **5.4 GST Free or Input Taxed Supplies**

### **5.4.1 Tenderers must identify and state the value of any GST Free or Input Taxed Supplies to be made under the Contract.**

## **5.5 Minimum Tender Validity Period**

### **5.5.1 Tenders must remain open for acceptance for a period of at least six (6) months from the Closing Date and Time for Tenders. Tenderers must state in Part C if their Tenders will remain open for any longer period.**

## **5.6 Pre Tender Briefing**

### **5.6.1 A briefing will be held commencing at 10 am on Tuesday, 25 October 2005 at:**

The Training Room  
NSW Fire Brigades  
Logistics Support Centre  
Amarina Avenue  
Greenacre NSW 2190

to discuss all aspects of this tender. It is highly recommended that all prospective tenderers attend the briefing in order that they fully acquaint themselves of the tender requirements. It is also expected that all tenderers will have thoroughly read this document prior to the briefing. Tenderers should notify Angela Burrell by 4.00 pm on Friday 21 October 2005 of their intention to attend. Telephone: 9372-7632, Facsimile: 9372-7799 and Email: [angela.burrell@commerce.nsw.gov.au](mailto:angela.burrell@commerce.nsw.gov.au)

## **5.7 Progress Payments**

### **5.7.1 The Contract may reflect a schedule of progress payments if agreed between the Contractor and the NSWFB.**

### **5.7.2 The tenderer should state in the space provided in Part C1 whether it requires progress payments to be made, together with a schedule of milestones against which the progress payments shall be made.**

### **5.7.3 Should the NSWFB agree to the tenderer's proposal, it will be subject to the conditions detailed in Part C, Clause 27.**

### **5.7.4 Tenderers should note that progress payments which, in the opinion of the NSWFB, present high risk, will require the lodging by the Contractor of additional Bank Guarantees up to the full value of the progress payment.**

## **5.8 Access to Government Contracts**

- 5.8.1 Tenderers are advised that the NSWFB has agreed to arrange access to NSW Government State Contracts through Nominee Purchaser Arrangements (see Clause 5.9 below) should tenderers wish to take advantage of Government pricing for the purchase of the cab/chassis and other equipment to be used in the completed vehicles. Full details of relevant items available under NSW State Government contracts can be obtained by contacting Mr Ted Mlynarz, telephone 02 9742-7441, email [ted.mlynarz@fire.nsw.gov.au](mailto:ted.mlynarz@fire.nsw.gov.au).

## **5.9 Nominated Purchaser Agreement**

- 5.9.1 The guidelines in Appendix 1 to this Part A have been developed to assist with the contracting-out of activities by registered users of the purchasing facilities provided by the State Contracts Control Board of New South Wales. The intention is to provide for the use of the Board's period contracts by the registered nominee purchasers in conjunction with and relevant to contractual arrangements with the Government as provided for in Section 18 of the Public Sector Goods and Services Regulation 2000 (NSW).

## **6. PREPARATION OF TENDER – POLICY REQUIREMENTS**

### **6.1 Procurement Policy – introduction**

- 6.1.1 Tenderers should read the main policy documents listed below. Other relevant policies and particular policy objectives to be implemented through this procurement are drawn to tenderers' attention in this cl.6. Their requirements are reflected in the selection criteria listed in cl.8.2 and in the responses required from tenderers in Part C.

- (a) Government Procurement Policy  
<http://www.treasury.nsw.gov.au/pubs/tpp2004/tpp04-1.pdf>
- (b) Government Code of Practice for Procurement:  
[http://www.treasury.nsw.gov.au/procurement/pdf/code\\_of\\_prac-curr.pdf](http://www.treasury.nsw.gov.au/procurement/pdf/code_of_prac-curr.pdf)

### **6.2 Code of Practice for Procurement**

- 6.2.1 Tenderers must comply with the Code of Practice for Procurement. The ability of a tenderer to comply with the Code is an essential condition of all Tenders.
- 6.2.2 Lodgement of a tender will itself be an acknowledgement and representation by the tenderer that it is aware of the requirements of the Code, that the tenderer will comply with the Code and that the tenderer agrees to provide periodic evidence of compliance with the Code and access to all relevant information to demonstrate compliance for the duration of any contract that may be awarded.
- 6.2.3 If a tenderer has failed to comply with the Code, this failure will be taken into account by the Board when considering its tender or any subsequent tender and may result in this or any subsequent tender being passed over without prejudice to any other rights or action or remedies available to the Board.

### **6.3 Occupational Health Safety & Rehabilitation**

- 6.3.1 Tenderers must comply with the following OHS&R requirements in the performance of any contract awarded:
- (a) The *Occupational Health and Safety Act 2000* (NSW) and any regulation made under this Act, including the OHS Regulation 2001, and
  - (b) Codes of Practice, approved and issued pursuant to the above Act and or regulations made under the Act
- 6.3.2 Tenderers must ensure that the tenderer's Sub-Contractors will comply with the OHS&R requirements listed in clause 6.3.1 in the performance of any contract awarded.

6.3.3 Tenderers must indicate compliance with OHS&R requirements in Part C.

#### **6.4 Environmental Management**

6.4.1 The NSW Government seeks to promote ecologically sustainable development through procurement. The Tenderer is required in Part C to highlight how the supply of the Deliverables would promote this object if its Tender is accepted.

#### **6.5 E-Commerce**

6.5.1 The NSW Government is dedicated to maximising opportunities for the electronic and on-line delivery of goods and services including monitoring of and reporting on the supply of contracted goods and services. The use of electronic commerce in government procurement is therefore actively encouraged. It is the intention of the NSW Government to move purchasing progressively on-line to benefit NSW Government and its suppliers of goods and services.

6.5.2 Tenderers are required in Part C to outline their present capabilities and services (if any) or future strategies in relation to electronic commerce. Tenderers should also indicate their willingness to work together with the Board towards electronic commerce in the administration and operation of the contract.

6.5.3 Tenderers who require more information can view policy documents on the above at <http://www.oit.nsw.gov.au> and <https://tenders.nsw.gov.au/commerce>.

6.5.4 The Board reserves the right to inspect a tenderer's e-commerce capabilities to verify any claims made and to examine the format and flexibility of the offered system.

#### **6.6 NSW Government Purchasing Preference Scheme**

6.6.1 The NSW Government has directed its departments and declared agencies to give preference to goods (and related services) of Australian and New Zealand origin. The NSW Purchasing Preference Scheme supports Australian manufactured products and services in preference to imports. Certain eligible country based suppliers are given additional preference above all other suppliers. Preferences are only used for the purposes of tender evaluation and no actual costs are incurred by Contractors or client agencies.

6.6.2 The Preference Scheme is implemented by evaluating Tender Prices in accordance with the clauses below.

##### **Preference – Australian and New Zealand Content**

6.6.3 Preference is applied in the form of a 20% loading on the declared imported/overseas content (excluding New Zealand) of the tendered goods (and related services). For example:

Tender Price:	\$10.00
Imported Content:	80%
Preference margin	20% x 80% x \$10.00= \$1.60
Price used for evaluation:	\$10.00 + \$1.60 = \$11.60

6.6.4 No preference margin is applied when assessing Tenders for the provision of services alone.

6.6.5 Tenderers are required to provide details of the imported (non-Australian and New Zealand) content in the Price Schedule and to make available records (as and when required) to substantiate imported or local content claims. Tenderers must also include detailed statements from their sub-contractors on the imported content of the goods and related services they are offering.

6.6.6 The imported content of goods and related services is the estimated duty paid value, inclusive of the value of any services, for example overseas freight and insurance, consultancy or engineering effort, or any charges of overseas origin, together with customs clearing charges.

## NSW Country Industries Preference Scheme

- 6.6.7 A further preference loading of up to 5% is applied if the tenderer is not based in a NSW country area in accordance with the Country Industries Preference Scheme (CIPS). The preference loading is not applied against New Zealand or other overseas Tenders or Tenders from other states or territories.
- 6.6.8 For preference to be applied to a Tender under the CIPS:
- (a) the tenderer must be registered with the Department of State and Regional Development as a country manufacturer under the Country Industry Preference Scheme (Tel 02 9338 6717) before the Closing Date and Time for Tenders;
  - (b) The tenderer must quote its Preference Registration Number allocated by the Department of State and Regional Development and the applicable preference margin in the space provided in Part C of this RFT;
  - (c) The goods being sought are those for which the tenderer is registered; and
  - (d) The tenderer is tendering as the prime contractor.
- 6.6.9 The Country Industries Preference Scheme is intended primarily to benefit manufacturers located outside the metropolitan areas of the State which, in comparison with their city-based competitors, suffer definable economic disadvantages which can be directly attributed to their country location. The preference applies on the following basis to approved manufacturing industries located outside the county of Cumberland, the Cities of Newcastle, Wollongong, Penrith and Liverpool and the Municipality of Camden:
- (a) In the Cities of Maitland, Greater Cessnock and Blue Mountains, the Municipalities of Kiama and Shell harbour and the Shires of Port Stephens, Lake Macquarie, Gosford, Wyong, Wollondilly, Wingecaribee and that part of the Shire of Hornsby which was previously part of the Shire of Colo: maximum preference of 2.5%.
  - (b) Elsewhere in New South Wales: maximum preference of 5%.
- 6.6.10 Further details of the NSW Purchasing Preference Scheme, and an application for registration under the Country Industry Preference Scheme, can be obtained from:

Department of State and Regional Development  
 Regional Development Division  
 225 George Street  
 Level 43  
 Grosvenor Place  
 SYDNEY 1200  
 Telephone: (02) 9338 6717  
 Facsimile: (02) 9338 6726  
 Website address: <http://www.business.nsw.gov.au/index.asp>

## 7. SUBMISSION OF TENDERS

### 7.1 General Instructions for Submission of Tenders

- 7.1.1 A Tender must be received by the Closing Date and Time.
- 7.1.2 A Tender may be submitted by any of the following methods:
- (a) by delivery into the Tender Box:
    - (1) It must be marked:

Tender Box  
 NSW Department of Commerce  
 Level 3, McKell Building (Ground Floor)  
 2-24 Rawson Place  
 Sydney, NSW 2000

- (2) If delivery personnel require a signature as evidence of delivery the Tender must be delivered between 8:30 am and 4:30 pm, Mondays to Fridays (except public holidays);

- (b) by post, addressed to

Tender Box  
NSW Department of Commerce  
Level 3, McKell Building (Ground Floor)  
2-24 Rawson Place  
Sydney, NSW 2000;

- (c) by facsimile to (02) 9372 8974;

- (d) by electronic lodgement through the NSW Department of Commerce, eTendering website at <https://tenders.nsw.gov.au/commerce>.

7.1.3 A tenderer must not change pre-existing text in the RFT other than to insert the required information.

7.1.4 If a tenderer intends to submit electronically through the NSW Department of Commerce eTendering website, the tenderer must follow the instructions contained in the "Tenderer's Guide to Using eTenders" and "How to lodge a Response" found in the downloadable version of the RFT at <https://tenders.nsw.gov.au/commerce/>.

7.1.5 If a tenderer intends to submit electronically through the NSW Department of Commerce *eTendering website* or by facsimile, the following must be considered:

- (a) The facsimile machine and NSW Department of Commerce *eTendering website* are at peak use on the morning when Tenders close.
- 1) Due to the limitations of these means of communication it may take longer to lodge a Tender near Closing Date and Time than at other times.
  - 2) When lodging by facsimile or through the NSW Department of Commerce *eTendering website*, it is recommended that a Tender be lodged well in advance of the Closing Date and Time.
  - 3) A tenderer must determine whether lodgement of a Tender by facsimile or through the NSW Department of Commerce *eTendering website* is appropriate.
- (b) The facsimile machine and the NSW Department of Commerce *eTendering website* may experience difficulties in accepting a large Tender. A tender lodged via the NSW Department of Commerce *eTendering website* should ideally be below 7 megabytes (MB) in total file size. Responses totalling more than 7MB may experience difficulties in lodgement. A tenderer is referred to the instructions contained in "How to lodge a Response" found in the downloadable version of the RFT at <https://tenders.nsw.gov.au/commerce/>, as to compressing electronically submitted Tenders.
- 1) In order to comply with the above paragraph, an electronic Tender may be supported by documents in hard copy or on CD-ROM.
  - 2) Supporting documents, to be submitted in hard copy or on CD-ROM, may be specified as requirement throughout the RFT. Supporting documents may include, but are not limited to, statutory declarations, certificates, and company brochures.
  - 3) If submitting an electronic tender with supporting documents:
    - (a) The complete Tender, including the supporting documents, must be submitted by Closing Date and Time, and
    - (b) Supporting documents should be clearly designated as "Supporting Documents to RFT...[0501759](#)"

- 7.1.6 A tenderer is strongly encouraged, although not required, to lodge its Tender electronically through the Department of Commerce *eTendering website*. A tender submitted electronically will be treated in accordance with the *Electronic Transactions Act 2000 (NSW)*, and given no lesser level of confidentiality, probity and attention than Tenders lodged by other means.
- 7.1.7 A tenderer, by electronically lodging a Tender, is taken to have accepted conditions shown on the Department of Commerce *eTendering website*.
- 7.1.8 An electronically lodged tender must be lodged in a file format which can be read, formatted, displayed and printed by Microsoft Word 97, or any format required by the RFT. Any CAD files submitted with an electronically lodged Tender must be in DWF, DWG or DXF format. A tenderer must ensure that any CAD files submitted will correctly display and print in Microstation Version 4.
- 7.1.9. Signatures are not required for a Tender submitted to the Department of Commerce *eTendering website*. A tenderer, however, must ensure that an electronically lodged Tender is authorised by the person or persons who may do so on behalf of the Tenderer and appropriately identify the person and indicate the person's approval of the information communicated.
- 7.1.10 If a tenderer experiences any persistent difficulty with the Department of Commerce *eTendering website* in submitting a Tender or otherwise, it is encouraged to advise the Contact Officer, and to note there are usually alternative Tender lodgement methods described in the RFT.

## **7.2 Late Tenders**

- 7.2.1 Late Tenders will not be considered except when the Board is satisfied that the integrity and competitiveness of the tendering process will not be compromised.

## **7.3 Extension of the Closing Date and Time**

- 7.3.1 The Board may, in its discretion, extend the Closing Date and Time.

# **8. EVALUATION OF TENDERS**

## **8.1 General**

- 8.1.1 Tenders will be assessed against the selection criteria listed below, which are not necessarily exhaustive, in order of significance or to be given equal weight.
- 8.1.2 Information supplied by the tenderer in Part C will contribute to the assessment against each criterion. Tenderers are advised to respond clearly to all the selection criteria listed in this RFT.
- 8.1.3 If a particular requirement is stated to be "mandatory" a failure by the Tender to fully comply with that requirement will result in automatic exclusion of the Tender without further consideration.
- 8.1.4 As part of the evaluation process, tenderers may be called upon at their own expense to make a presentation of their proposal to the evaluation committee.
- 8.1.5 Tenderers shall note that their premises and facilities may be inspected during the tender evaluation phase. Reasonable notice will be provided to tenderers of any proposed inspection. Inspections will be carried out between the hours of 9:00 am to 5:00 pm Monday to Friday.
- 8.1.6 At the Board's discretion any omitted detail or variation and/or qualification of any requirement may be either evaluated and/or scored in accordance with the tenderers statement (or lack thereof) or clarified by the Board as to the intention of the tenderer.
- A. Degree of compliance with the Specification at Part C3 and its functional requirements;
- B. Tenderer's ability and capacity to meet the requirements including:-
- Demonstrated contract management/project management capability;
  - Tenderer's previous performance and demonstrated ability to fulfil all aspects and requirements of the proposed Contract demonstrated, for example by recent and successful supply of identical or similar equipment;



- Tenderer's profile, infrastructure, facilities, engineering capacity and personnel;
  - Tenderer's Quality control procedures and System; Tenderers should preferably have AS/NZS ISO 9001.
- C. Life of vehicle considerations including:-
- Warranty, equipment reliability and on-going support;
  - Demonstrated ability to meet the special needs of the NSWFB by reference to: effective vehicle design, reliable performance, high in-service availability, easy workshop maintenance and maximum safety protection to the firefighters carried in the vehicle;
- D. Proposed lead time and delivery of the unit and demonstrated ability to meet tendered delivery times;
- E. Degree of compliance with the Part B – Conditions of Contract;
- F. Pricing considerations and value for money, including the NSWFB Contract Administration Costs;
- G. Financial capacity and stability of tenderer;
- H. Quality of Referee reports;
- I. Compliance with NSW Government procurement policy and other applicable NSW Government policies, including OH&S, and benefits offered under the proposal in relation to NSW Government policies.

### 8.3 Variation of Tenders

8.3.1 At any time before the Board accepts any Tender received in response to this RFT, a tenderer may vary its Tender:

- (a) by providing the Board with further information by way of explanation or clarification ("provide an explanation");
- (b) by correcting a mistake or anomaly ("correct a mistake"), or
- (c) by documenting agreed changes to the Tender negotiated under this Part A.

8.3.2 Such a variation may be made either:

- (a) at the request of the Board, or
- (b) with the consent of the Board at the request of the tenderer

but only if,

- (c) in the case of variation requested by the tenderer to provide an explanation or correct a mistake, it appears to the Board reasonable in the circumstances to allow the tenderer to provide the explanation or correct the mistake or anomaly, or
- (d) in the case of variation to document agreed changes, the Board has confirmed that the draft documented changes reflect what has been agreed.

8.3.3 If a Tender is varied to provide an explanation or correct a mistake, the Board will provide all other tenderers whose Tenders have similar characteristics with the opportunity of varying their Tenders in a similar way.

8.3.4 A variation of a Tender will not be permitted if in the Board's view:

- (a) it would substantially alter the original Tender; or

- (b) in the case of variation to provide an explanation or correct a mistake, it would result in the revising or expanding of a Tender in a way which would give a tenderer an unfair advantage over other tenderers.

#### **8.4 Exchange of Information Between Government Agencies**

- 8.4.1. By tendering for this Contract, the tenderer authorises the Board to collect, or exchange with other public bodies, information and opinions about the tenderer's performance or financial position (that may identify the tenderer by name) for any purpose related to the performance by the tenderer of NSW public sector contracts. In particular, any such information and opinions about the tenderer may be used in considering whether to offer the tenderer opportunities for NSW public sector work.
- 8.4.2 The tenderer agrees that it will make no claim against the State, the Board, the Principal, or any other NSW public body in respect of information or opinions about the tenderer collected, exchanged and used for the above-stated purposes. The tenderer may have rights under the *Freedom of Information Act 1989* to access, and to require the correction of, information held by certain agencies.
- 8.4.3 The tenderer agrees that information which may be collected, exchanged and used in accordance with this provision includes "personal information" about the tenderer for the purposes of the Privacy and Personal Information Protection Act 1998. Lodgement of a Tender will be an authorisation by the tenderer to the Board to collect such information from third parties in accordance with this clause.

#### **8.5 Corrupt or Unethical Conduct**

- 8.5.1 If a tenderer, or any of its officers, employees, agents or sub-contractors is found to have:
  - (a) offered any inducement or reward to any public servant or employee, agent or sub-contractor of the Board, the Client Agency, or the NSW Government in connection with this RFT or the submitted Tender;
  - (b) engaged in corrupt conduct within the meaning of the *Independent Commission Against Corruption Act 1988*, or
  - (c) a record (including through an agency report) of unethical behaviour,
 this may result in the Tender not receiving further consideration.
- 8.5.2 The Board is under no obligation to do so, but may in its discretion invite a relevant tenderer to provide written comments within a specified time before the Board excludes the tenderer on this basis.

### **9. OUTCOMES**

#### **9.1 Negotiations Before Determination of Outcome**

- 9.1.1 Before making any determination as to acceptance or rejection of Tenders the Board may, at its discretion, elect to conduct limited negotiation with preferred tenderers or a preferred tenderer, including those who have submitted Alternative Tenders or who have submitted substantially Conforming Tenders, to mutually improve outcomes.

#### **9.2 Acceptance or Rejection of Tenders**

- 9.2.1 The Board may accept all or any part or parts of any Tender or Tenders, including, in accordance with this Part A, any Alternative Tender or other Non-Conforming Tender.
- 9.2.2 The Board is not bound to accept the lowest or any Tender.
- 9.2.3 If the Board rejects all the Tenders received it may:
  - (a) invite fresh Tenders based on the same or different criteria (specifications and details contained in Alternative Tenders will not be used as the basis for the calling of new Tenders), or

(b) conduct post tender negotiations in accordance with this Part A.

9.2.4 The Board will accept a Tender by letter of acceptance or by execution of a formal contract, at the Board's discretion. No Tender may be verbally accepted.

### **9.3 Discontinuance of the Tender Process**

9.3.1 The Board reserves the right to discontinue the tender process at any point, without making a determination regarding acceptance or rejection of Tenders.

9.3.2 The Board will not be liable for any losses suffered by a tenderer as a result of discontinuance of the tender process, including costs of tendering.

### **9.4 Post Tender Negotiations in the Event all Tenders Are Rejected**

9.4.1 If there are no acceptable Tenders the Board may negotiate with the tenderers which are closest to conforming with the tender requirements and provide best value for money.

### **9.5 Complaints**

9.5.1 It is the NSW Government's objective to ensure that industry is given every opportunity to win Government contracts. Should any entity feel that it has been unfairly excluded from tendering or unfairly disadvantaged by the conditions in Part B or the Requirement, it is invited to write to:

State Contracts Control Board  
Level 22, McKell Building  
2-24 Rawson Place  
SYDNEY NSW 2000

### **9.6 Disclosure of Information Concerning Successful and Unsuccessful Tenders**

9.6.1 In accordance with NSW Government Policy, the Board may publish information relating to the contract awarded under the RFT, including the identity of the successful tenderer, the price payable by the agency and the significant selection criteria used in Tender assessment plus their weightings.

9.6.2 Unless the successful tenderer agrees or release is legally required, the Board will not disclose the successful tenderer's financing arrangements, cost structure or profit margins, significant intellectual property or any other information that in the Board's view would put the successful tenderer at a substantial commercial disadvantage.

9.6.3 A tenderer may request that the Board not disclose particular information included in its Tender, giving reasons. The Board will consider any such request before disclosure of information under this clause, but the Board's decision is final and at its absolute discretion.

9.6.4 The Board may publish the identities of all tenderers, but will not disclose other information included in an unsuccessful Tender unless the tenderer agrees, or release is determined under the *Freedom of Information Act 1989* or is otherwise legally required.

9.6.5 For contracts valued over \$150,000, the Board will normally publish the names of tenderers when Tenders close, and the other public information about the contract on the internet, within 90 days after award of the contract. For other contracts the Board will disclose the public information on request.

### **9.7 Ownership of Tenders**

9.7.1 All Tenders become the property of the Board on submission.

9.7.2 The Board may make copies of the Tenders for any purpose related to this RFT.

## **APPENDIX 1 TO PART A**



**State Procurement is a Business Unit of the NSW Department of Commerce**

**State Procurement invites this tender for and on behalf of the  
NSW Government State Contracts Control Board**

### **NOMINEE PURCHASER GUIDELINES**

#### **INTRODUCTION**

The Nominee Purchaser Agreement was created under section 18 of the *Public Sector (Goods and Services) Regulation 2000* (NSW). The Regulation allows the State Contracts Control Board ("SCCB") to provide access to contractors of public sector agencies to standing offer agreements in the provision of goods and services. These contractors are known as Nominee Purchasers.

#### **WHAT IS A NOMINEE PURCHASER?**

Nominee Purchaser means a contractor to a public sector agency, nominated by the public sector agency as being authorised to place Orders under Standing Offer agreements.

#### **HOW DOES A CONTRACTOR BECOME A NOMINEE PURCHASER?**

An authorised representative of a nominating public sector agency ("nominating agency") can make an application on behalf of a contractor ("primary contractor") to obtain Nominee Purchaser status. Further, the primary contractor's subcontractors or agents may also be nominated by the nominating agency to become a Nominee Purchaser ("secondary contractor");

- The nominating agency must fill out a Nominee Purchaser Application Form and submit it to the Contracts Information Unit, NSW Supply;
- Nominee Purchasers can view (Standing Offer Contracts) the contract conditions by visiting the NSW Supply web site <http://www.supply.dpws.nsw.gov.au/NSW+Supply>
- If the application is approved, the Nominee Purchaser will be notified and given a NSW Supply Registration Number for placing orders.
- If the application is approved, it is recommended that the nominating agency monitors the Nominee Purchaser's purchases and confirms that the purchases are properly used for the provision of goods and services to the nominating agency.

## **WHAT TERMS AND CONDITIONS APPLY TO THE NOMINEE PURCHASER ARRANGEMENT?**

Should a Nominee Purchaser elect to purchase from SCCB Standing Offer agreements, then the following conditions apply:

### **Scope of Access**

- Access to SCCB Standing Offer Agreements is limited to those nominated by the agency and duly approved by NSW Supply;
- Access to SCCB Standing Offer Agreements may extend to primary and secondary contractors listed in the Nominee Purchaser Application Form and approved by NSW Supply;
- The Nominee Purchaser must only purchase goods or services that are related to its obligations under an agreement with the nominating public sector agency;
- The Nominee Purchaser must use these goods or services during the term of its agreement with the nominating agency or integrate them as part of the goods or services provided to the nominating agency;
- When placing an order, the Nominee Purchaser must provide its NSW Supply Registration Number and the Australian Business Number (ABN) of the nominating agency;

### **General Conditions**

- Nominee Purchasers who place an order under an SCCB Standing Offer Agreement are subject to the terms and conditions of the Standing Offer Agreement's Customer Agreement. Any orders placed under SCCB Standing Offer Agreement are also subject to *The Code of Practice for NSW Government Procurement and Implementation Guidelines for NSW Government Procurement*. These Guidelines may be viewed at <http://www.dpws.nsw.gov.au/DPWS/Policy/Publications/>.
- Conditions for the Nominee Purchaser Arrangement may change from time to time. SCCB, through NSW Supply, will inform current Nominee Purchasers and their Nominating Agencies of these amendments by way of an addendum.
- If the nominating agency or Nominee Purchaser encounters any difficulties in the purchase of goods or services under SCCB Standing Offer Agreements, it should contact the relevant Contact Officer under the agreement.

### **Period**

- The Nominee Purchaser may only access SCCB Standing Offer Agreements within the period nominated by the nominating agency and duly approved by NSW Supply. The nominated period must fall within the term of the contract between the Nominee Purchaser and the nominating agency, unless the nominating agency requests for an extension and is approved by NSW Supply.

### **Verification**

- The SCCB, through NSW Supply, may require the Nominee Purchaser and/or the nominating agency to verify purchases under the Nominee Purchaser Arrangement by way of an on-request or periodic purchase report.



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## **PART B**

### **CONDITIONS OF CONTRACT**

**Contract 0501759  
SUPPLY AND DELIVERY OF CLASS 3 URBAN  
PUMPER VEHICLES FOR  
NSW FIRE BRIGADES**

**PERIOD: THREE (3) YEARS FROM DATE OF  
ACCEPTANCE PLUS 2 X 1 YEAR EXTENSION  
OPTIONS**

## Part B – Conditions of Contract

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## **PART B CONDITIONS OF CONTRACT**

### **1. INTERPRETATION**

#### **1.1 Definitions**

In the Contract, unless the context otherwise requires:

**“AAD”** means Actual Acceptance Date.

**“Acceptance Testing”** means the tests detailed at Clause 19 of this Contract.

**“Circumstances Beyond the Control of the Contractor”** include:

- (a) acts of God;
- (b) fire, flood, or earthquake;
- (c) national emergency or war; or
- (d) a serious industrial dispute

**“Completed Vehicle”** means a vehicle which has been manufactured to completion and is to the satisfaction of the NSWFB, immediately prior to formal acceptance.

**“Confidential Information”** means Information supplied by the Principal to the Contractor or created by the Contractor for the purposes of this Contract that:

- (a) is by its nature confidential;
- (b) is designated by the Principal as confidential; or
- (c) the Contractor knows or ought to know is confidential,

and includes but is in no way limited to:

- (a) the Contract Material;
- (b) The Principal’s Material including the financial information, the corporate information and the commercial information of the Principal;
- (c) any material which relates to the affairs of a third party;
- (d) information relating to the policies, strategies, practices and procedures of the NSW Government and any information in the Contractor’s possession relating to the NSW Public Service.

but excludes Information that:

- (a) is or becomes public knowledge other than by breach of this Contract;
- (b) is in the lawful possession of the Contractor without restriction in relation to disclosure before the date of its receipt from the Principal; or
- (c) has been developed or acquired by the Contractor independently of carrying out this Contract.

**“Conflict of interest”** means engaging in any activity, or obtaining any interest, likely to conflict with the performance by the Contractor of, or to restrict the Contractor in performing its obligations under, this Contract.

**“Contract”** means this Contract concluded between the Principal and the Contractor, including all special conditions, specifications, schedules and other documents incorporating and forming part of the Contract.

**“Contract Material”** means:

- (a) any material brought into existence as part of, or for the purpose of providing the Deliverables including records, documents and Information stored by any means (“New Contract Material”);
- (b) any material which is existing at the date of this Contract and which is incorporated with the New Contract Material (“Existing Contract Material”).

**“Contract Authority”** means the State Contracts Control Board.

**“Contract Price”** means the total amount payable by the Principal to the Contractor for the Deliverables as detailed in the Pricing Schedule at Part C.

**“Contractor”** means the organisation or individual who by this Contract undertakes to provide the Deliverables required by the Contract and, where the Contractor is an individual or partnership, the expression shall include the personal representatives of that individual or of the partners as the case may be and the expression shall also include any person to whom the benefit may be assigned by the Contractor with the consent of the Principal.

**“Contractor Information”** means Information about the Contractor supplied in the required format.

**“Contract Price”** means in respect of each Deliverable, the price nominated in the Price Schedule for that Deliverable and any subsequent variation agreed by the Parties.

**“Contractor’s Delegate”** means the individual or the position title nominated by the Contractor in its Tender.

**“Contractor’s Insolvency”** means any of the following:

- (a) insolvency;
- (b) the Contractor indicates that it does not have the resources to perform the Contract or any Contract;
- (c) an application for winding up is made and not stayed within 14 days;
- (d) a winding up order is made;
- (e) a controller, administrator, receiver and manager, provisional liquidator or liquidator is appointed;
- (f) a mortgagee enters the possession of any property of the Contractor;
- (g) notice is given of a meeting of creditors for the purposes of a deed of arrangement; or
- (h) any actions of a similar effect are taken.

**“Deliverables”** means the goods and/or services to be supplied by the Contractor in accordance with this Contract and itemised in the Price Schedule.

**“Existing Contract Material”** means any material which exists at the date of this Contract and which is incorporated with the New Contract Material.

**“Expected Service Life of Vehicle”** means a period of fifteen (15) years from the Actual Acceptance Date of the last vehicle supplied under the Contract.

**“Free Issue”** means Goods or Services provided free of charge to the Contractor by the NSWFB for the purpose of enabling the Contractor to fulfil its obligations under the Contract.

**“Fully Laden”** means the vehicle having all equipment stowed and operating fluids (eg water, fuel, oils) full, but no crew.

**“Government”** means the Government of the State of New South Wales and includes any Government Department of the State of New South Wales.

**“GST”** means any tax on goods and/or services, including any value-added tax, broad-based consumption tax or other similar tax introduced in Australia.

**“GST law”** includes any Act, order, ruling or regulation, which imposes or otherwise deals with the administration or imposition of a GST in Australia.

**“Information”** includes information in the form of data, text or images.

**“Imported Component”** means a Component that is imported into Australia.

**“Intellectual Property”** includes copyright, patent, trademark, design, semi-conductor or circuit layout rights, trade, business or company names, or other proprietary rights, or any rights to registration of such rights existing in Australia, whether created before or after the date of this Contract.

**“Manufacturer”** means the company having the responsibility of manufacturing the complete vehicle (ie; the Contractor).

**“Normal Working Day”** means all days other than Saturdays, Sundays and days declared as Public Holidays for Government Employees.

**“NSWFB”** means the New South Wales Fire Brigades, State Logistics Support Division, Amarina Ave, Greenacre, NSW.

**“Month”** means calendar month;

**“Moral Rights”** means a person’s moral rights as defined in the Copyright Act 1968 (Cth).

**“New Contract Material”** means any material brought into existence as part of, or for the purpose of, providing the Deliverables including records, documents and Information stored by any means.

**“Original Equipment Manufacturer” (OEM)** means the recognised manufacturer of individual equipment (at component level).

**“Order”** means a written request by the Principal to the Contractor for the supply of the Deliverables.

**“Parties”** means the Principal and the Contractor.

**“Price”** means the price payable for each Deliverable as set out in the Price Schedule.

**“Price Schedule”** means the Price Schedule attached to the Tender in Part C.

**“Principal”** means the NSW Fire Brigades for and on behalf of the Crown in right of the State of New South Wales who will be a party to the Contract.

**“Principal’s Delegate”** means the person for the time being holding or performing the duties of Director, Logistics Support, NSW Fire Brigades and includes an officer of that Division who is authorised by the said person to perform the functions of the Delegate.

**“Principal’s Material”** means any material, document, or Information supplied by the Principal, or any Department or agency of the Crown, to the Contractor by whatever means.

**“Public Service”** has the same meaning as that given to it in the *Public Sector Employment and Management Act 2002* (NSW).

**“Request for Tender (RFT)”** means the document issued by State Procurement containing details of a requirement for Deliverables together with the conditions under which those Deliverables are to be supplied. When completed by the Tenderer and lodged in accordance with the directions therein, the RFT becomes the Tender.

**“Shall”** States a mandatory requirement.

**“Should”** States a desirable requirement.

**“Substantial Breach”** means a substantial breach of a term of this Contract by the Contractor and includes, but not limited to, any breach of the following clauses (which will be taken in each case to be a substantial breach of this Contract):

- (a) breach of a warranty;
- (b) failure to take out and/or maintain required insurance;
- (c) failure to obtain a required Financial Security or Performance Guarantee;
- (d) failure to provide replacement personnel in accordance with the Agreement, which prevents the Contractor from performing fundamental obligations under the Agreement;
- (e) delay in supply of a Deliverable beyond an agreed extension of time;
- (f) the existence of a Conflict of Interest which in the Principal's reasonable opinion prevents the full and proper performance of the Agreement by the Contractor;
- (g) infringement of third party Intellectual Property rights or Moral Rights in performing this Agreement.
- (h) General Indemnity
- (i) Licences and Approvals,
- (j) No assignment or novation

**“Sub-Contractor”** means a person who furnishes Equipment or Services to the Contractor either directly or through another Sub-Contractor for use under the Contract.

**“Services”** means, without limiting the generality of the expression, advisings (other than legal advisings), consultancies, installations and the performance of professional or trade operations of any kind.

**“Specification”** means the detailed description of the Deliverables to be provided under this Contract that is at Part C3. In the event of any inconsistency between the Specification and any part of this Contract, this Contract will prevail to the extent of the inconsistency.

**“State” or “State of New South Wales”** means the Crown in right of the State of New South Wales.

**“State Procurement”** means a business unit of the NSW Department of Commerce, representing the Board and authorised to arrange and, if applicable, administer contracts on behalf of the Board.

**“Statutory Requirements”** means the laws relating to the performance of this Contract or the lawful requirements of any authority with respect to the performance of this Contract.

**“Tender”** means the tender lodged by a Contractor in respect of a Tender Request.

**“Term”** means the period of this Contract, set out in clause 3.

**“Time of Manufacture”** means the date when the vehicle or equipment was manufactured to completion (eg. for the cab/chassis, the date when the assembly concluded and it rolled off the production line)

**“Class 3 Urban Pumper Vehicle”** and **“Vehicle”** means the complete item of equipment described in the NSW Fire Brigades Specification, Part C3 hereof.

**“Warranty Period”** means the period of warranty offered by the Contractor in Part C.

Unless the context otherwise requires, the singular in all cases includes the plural and vice versa.

The headings to the Clauses of the Conditions shall not in any way affect their construction.

## **1.2 Rules for interpreting this Contract**

- 1.2.1 Headings are for convenience only, and do not affect interpretation. The following rules also apply in interpreting this document, except where the context makes it clear that a rule is not intended to apply.
- 1.2.2 A reference to:
- (a) legislation (including subordinate legislation) is a reference to that legislation as amended, re-enacted or replaced, and includes any subordinate legislation issued under it;
  - (b) a document or Contract, or a provision of a document or Contract, is a reference to that document, Contract or provision as amended, supplemented, replaced or novated;
  - (c) a person includes any type of entity or body of persons whether or not it is incorporated or has a separate legal entity;
  - (d) anything (including a right, obligation or concept) includes each part of it.
- 1.2.3 If this Contract expressly or impliedly binds more than one person then it shall bind each such person separately and all such persons jointly.
- 1.2.4 A singular word includes the plural, and vice versa.
- 1.2.5 A word which suggests one gender includes the other genders.
- 1.2.6 If a word is defined, another part of speech of that word has a corresponding meaning.
- 1.2.7 The Parties may undertake business by the electronic exchange of information and the provisions of this Contract will be interpreted to give effect to undertaking business in this manner.

## **2. NATURE OF THE CONTRACT BETWEEN THE PRINCIPAL AND THE CONTRACTOR**

- 2.1 This Contract covers the Supply and Delivery of Class 3 Urban Pumper Vehicles to the NSW Fire Brigades (The Principal), in accordance with the Contract Specification.
- 2.2 This Contract constitutes the entire Contract between the Parties. Any prior arrangements, Contracts, representations or undertakings are superseded. No notification or alteration of any clause of this Contract will be valid except in writing signed by both Parties.

## **3. TWO STAGED CONTRACT**

### **3.1 Term**

- 3.1.2 This Contract may be a two stage contract. If a two stage contract, Stage 1 will comprise the manufacture, supply and delivery of a development vehicle by the Contractor and shall commence upon written notification of acceptance of offer.
- 3.1.2 Stage 2 of the Contract is subject to the acceptance of the development vehicle by the NSWFB and upon written approval to proceed being granted by the NSWFB Contract Administrator.

- 3.1.3 Stage 2 commences on the date of acceptance of the first production vehicle by the Principal and expires three (3) years from date of acceptance, unless sooner determined in accordance with this Contract.
- 3.1.4 The Principal may, in its sole discretion, extend this Contract for two (2) further periods, each of one (1) year duration.
- 3.1.5 During the Term of the Contract, some changes to the build and technology improvements of the vehicle may be experienced. Where the NSWFB decides to retrofit or undertake upgrades, these changes and technologies to the vehicles, these will be subject to separate quotation and will be included as a provision of this Contract.

### **3.2 Development Vehicle (Stage 1) of the Contract**

- 3.2.1 Stage 1 of the contract will be for the manufacture, supply and delivery of one (1) wholly complete vehicle of the agreed design to prove it is suitable for the NSWFB, and will be known as the 'development' vehicle.
- 3.2.2 NSWFB, may at its discretion, waive the requirement for a development vehicle where any offered vehicle is a modified version of an existing vehicle design having proven service with any recognised Australasian fire agency.
- 3.2.3 The NSWFB will determine if the development vehicle can be waived based on testimony from fire agencies currently using the offered vehicle design, and on the level of modifications necessary to meet NSWFB requirements.
- 3.2.4 While there is no specific time period for the manufacture of the development vehicle and consideration will be given to the complexity and component Original Equipment Manufacturer (OEM) delivery schedules, NSWFB requires the vehicle to be manufactured within 12 months of contract execution.
- 3.2.5 The development vehicle will be subjected to full acceptance testing to ensure that the completed vehicle satisfies all technical requirements and performance expectations (refer to Clause 19 Condition of Contract).
- 3.2.6 The development vehicle, by its very nature, is most likely to be subjected to changes during the build following an inspection or acceptance test, to ensure the vehicle satisfies the expectations of NSWFB.

**Note: Variations to the build will be in the form of modifications or improvements and will require approval of change variations (refer to clause 46 Contract Conditions).**

- 3.2.7 When the development vehicle passes the initial acceptance test and is delivered to the NSWFB, it may be tested in operational service for a period of not less than six (6) weeks, or as otherwise determined by the NSWFB.
- 3.2.8 If the development vehicle meets the specified technical and performance criteria and is approved by the NSWFB, the next stage (stage 2) of the contract, the manufacture of production vehicles, will commence.

**Note: The NSWFB has no responsibility for any costs or expenses incurred by the tenderer for production build vehicles prior to the commencement of stage 2 of the Contract.**

- 3.2.9 If the development vehicle clearly fails to meet the specified technical and performance criteria, the NSWFB reserves the right to cancel stage 2 of the Contract.

- 3.2.10 If stage 2 of the Contract has been cancelled due to the development vehicle being rejected, the Contractor will be entitled to payment of the stage 1 Contract price if in the opinion of the NSWFB, the Contractor has made a reasonable attempt to meet the requirements of the specification.
- 3.2.11 If the parties enter into a two (2) stage Contract, the Contract will include relevant clauses from this Clause 3.2.

### **3.3 Production Vehicles (stage 2) of the Contract**

- 3.3.1 Stage 2 of the Contract, the manufacture, supply and delivery of a specified number of production vehicles, will only proceed after approval has been granted in writing by the NSWFB Contract Administrator.

## **4. QUANTITIES TO BE SUPPLIED**

- 4.1 The Contractor acknowledges that the Contract constitutes a standing offer for the supply of only Deliverables as may be ordered from time to time during the currency of the Contract by the NSWFB and neither the Government nor the NSWFB shall be bound expressly or implied to order from the Contractor any quantity of Deliverables during the period of the Contract.

## **5. RESPONSIBILITY OF THE CONTRACTOR**

- 5.1 The Contractor shall establish immediately, at no additional cost to the Principal, all necessary facilities for the effective conduct and management of all aspects of the Contract.

## **6. RIGHT TO OBTAIN SERVICES ELSEWHERE**

- 6.1 If, in the Principal's opinion, any Deliverables required cannot be promptly or conveniently obtained under the Contract, it shall be lawful for the Principal to make, or authorise the making of, special arrangements for the supply of such Deliverables and the Contract shall not be considered as infringed or vitiated thereby.
- 6.2 If Deliverables of the kind contracted to be supplied under the Contract is provided in any Government Establishment or Institution, they may be obtained from that Establishment or Institution instead of under the Contract and the Contract shall not be considered as infringed or vitiated thereby.

## **7. UNFULFILLED ORDERS**

- 7.1 All Orders placed during the currency of the Contract shall be fulfilled.

## **8. PRE-PRODUCTION MEETING**

- 8.1 Within seven (7) working days of placement of this Contract the parties agree to hold a Pre-Production Meeting to be Chaired by the Principal either at the NSWFB Logistics Support Centre, Greenacre or at the Contractor's premises.
- 8.2 The purpose of this meeting is to:
- (a) Outline the lines and means of communication between the Contractor and the Principal;
  - (b) Ensure all parties have a common understanding of the Contract Conditions;
  - (c) Ensure all parties have a common understanding of the Contract Specification;
  - (d) Confirm the requirements of the Delegate in regard to Construction Programme, Inspection, Delivery and other matters and



(e) Develop a Project Management Plan for the whole Contract.

8.3 The meeting must be attended by all members of the project team and may also be attended by other nominated personnel as agreed to by both parties.

8.4 The pre-production meeting must formalise all forms required by the contract and also formalise the reporting processes for all correspondence and in-build decision making.

8.5 The Contractor shall provide a set of build/engineering drawings prior to the actual build, enabling the NSWFB representatives and the Contractor to rectify any discrepancies before commencing work.

## 9. PROJECT TEAM

9.1 During the Pre-Production meeting the parties shall nominate a project team for the contract, which should comprise the following positions:

(a) **Contractor Contract Administrator** - is the person nominated by the Contractor who is responsible for resolving commercial/financial matters relating to the contract.

(b) **NSWFB Contract Administrator** - is the person nominated by the NSWFB who is responsible for resolving commercial/financial matters relating to the contract.

(c) **Contractor Technical Officer** - is the person nominated by the Contractor who is responsible for resolving technical matters relating to the technical specification.

(d) **NSWFB Project Officer** - is the person nominated by the NSWFB who is responsible for resolving technical matters relating to the technical specification.

9.2 Both the Contractor and the NSWFB may choose to utilise additional nominated staff to provide advice and recommendations to the project team, however the project team will remain the sole point of contact.

9.3 When a nominated person of the project team becomes absent for any period greater than five (5) days (e.g. cessation of employment, holiday leave, unspecified illness), the remaining project team members should be notified by correspondence of the replacement person as soon as practicable.

## 10. DRAWINGS

10.1 All drawings associated with the Class 3 Urban Pumper Vehicle, including design and schematics, shall, upon completion, become the property of the Principal and shall be delivered to the NSWFB. These shall be completed using an electronic origin and shall be available in magnetic medium in DXF and or IGES file structure and be compatible with *Autocad* Version 13. Two (2) disk copies of these drawings shall also be provided by the Contractor.

## 11. CORRESPONDENCE

11.1 The following will be accepted means of correspondence between the members of the project team:

(a) Paper form - typed correspondence sent via mail or facsimile;

(b) Electronic form - e-mails where recipients are clearly identified.

- 11.2 All correspondence, whether electronic or paper form, should include a unique identification number or filename and the date of issue.
- 11.3 Copies of correspondence must always be addressed to members of the project team, even when the intended recipient is not a project team member.
- 11.4 Decisions made and changes approved must be recorded and distributed by approved means of correspondence only.

**Note: Verbal approvals are not binding and must be ratified by appropriate correspondence.**

## **12. RESPONSIBILITY OF THE CONTRACTOR**

- 12.1 The Contractor shall establish immediately, at **no** additional cost to the Principal, all necessary facilities for the effective conduct and management of all aspects of the Contract.

## **13. ITEMS SUPPLIED FREE-IN-AID**

- 13.1 The Contractor shall ascertain in advance the nature and extent of any free-issue items provided by the NSWFB.
- 13.2 When reading the NSWFB Additional Requirements in PART C3 reference shall be to Clause 3.1, which states the NSWFB supplied equipment (on a free-issue basis).
- 13.3 Deficiencies, if any, between the specification of the free-issue items as supplied and those referred to in 13.2 above shall be made good by the Contractor, at the Contractor's expense.

## **14. CONTRACTOR'S OBLIGATIONS**

- 14.1 Unless stating to the contrary, all clauses in the technical specification which require equipment or fittings to be provided, supplied, fitted or installed onto the vehicle shall be done so by the contractor or approved sub-contractor, at the Contractor's expense.

## **15. ADDITIONAL ITEMS**

- 15.1 If during the term of this Contract, the Contractor is capable of providing:
  - (a) modified versions, or upgrades of the components or Deliverable
  - (b) new components or Deliverables released in Australia by the Contractor or by a manufacturer

the Contractor shall provide the Delegate with information on (a) and (b) above and shall offer to include those components or Deliverables at the same time as it is first informing its other customers of the commercial availability of those items.

- 15.2 The new components or Deliverables referred to in sub-clause (b) shall be deemed to form part of Part C3 at prices indicated at Part C from the date the Principal despatches notification in writing to the Contractor that such components or Deliverables shall form part of Part C3.

## **16. PROGRESS REPORTING**

- 16.1 The Contractor shall supply to the Principal a Gantt chart in both paper and electronic forms (fully compatible with Microsoft Project 98) by a date agreed at the Pre Production meeting showing key tasks and amount of time to complete each.

**Note: A timeline should also be provided showing target milestones on a time scale with estimated starting and finishing dates.**

- 16.1 Commencing when requested in writing by the Delegate, the Contractor shall supply a production report in an agreed spreadsheet format each month (or as agreed) detailing the following information:- position in production run, weeks to completion and other information as requested. The report shall also detail any matters that could interfere with the timely achievement of any aspect of the Contract or the timetable agreed with the Delegate and the steps proposed to remedy such matters. Each report must be submitted no later than three (3) Normal Working Days after the last day of the period it covers.
- 16.2 Formal progress meetings as required by the Delegate will be held between representatives of the Principal and the Contractor. The Contractor shall prepare and submit such progress or other reports as are requested by the Delegate for the purpose of the meeting at least two (2) Normal Working Days prior to the date of the meeting. Details and format of the progress meetings will be agreed during the pre-production meeting.
- 16.3 All reports and meetings pursuant to this Clause shall be at no additional cost to the Principal.

**Note: The monthly reports should include a build program outline in table form, with stages of construction for each vehicle build.**

## **17. ACCESS TO CONTRACTOR'S PREMISES**

- 17.1 The Contractor shall at all reasonable times permit or arrange for all officers authorised by the Principal to enter upon the premises of the Contractor and its Sub-Contractors for the purposes of liaison, training, inspection of workmanship and materials and checking on progress and to be given access to all documents or information necessary for the same purposes.

## **18. INSPECTIONS**

- 18.1 Having given reasonable notice of intention to enter upon the premises of the contractor, the NSWFB's approved representatives should have access to the plant concerned with the manufacture of any materials, components or the vehicle itself.
- 18.2 The vehicle will be inspected during construction at designated target milestones as nominated by the NSWFB's Project Officer.
- 18.3 If applicable, drawings relevant to the stage of construction should be provided to the NSWFB prior the inspection.
- 18.4 Any tests required by the Principal to be carried out during an inspection, should be conducted by the Contractor and all the facilities and materials necessary for conducting such tests should be furnished by the Contractor at their expense.
- 18.5 The NSWFB contract administrator shall be notified in writing of a request for final inspection (acceptance testing) at least five (5) working days prior to the inspection.
- 18.6 The notice of final inspection should be accompanied by all current working engineering drawings of the finished vehicle (refer to Part 6, Clause 6.2 of the Specification).

## **19. ACCEPTANCE TESTS**

- 19.1 The development vehicle and other vehicles nominated by the Principal shall be subject to full acceptance testing by the NSWFB at the manufacturer's premises, and should cover:
- (a) construction requirements;
  - (b) final body/equipment layout;
  - (c) requirements of the technical specification;
  - (d) contractual requirements not necessarily covered by certification, including full

operational testing (functionality tests).

- 19.2 All tests should determine whether or not the vehicle conforms to this specification.
- 19.3 All materials necessary for conducting acceptance tests should be furnished by the contractor at their expense.

## **20. FAILURE TO PASS ACCEPTANCE TESTS**

- 20.1 Where the Vehicle is found to incomplete or fails to pass the Acceptance Tests, the Delegate may without prejudice to any other right or action the Principal may have, notify the Contractor in writing that the Vehicle is unacceptable and require its rectification or replacement by the Contractor who shall thereupon rectify the Vehicle or supply a replacement Vehicle or component as appropriate which complies with the Contract. The Contractor shall meet all costs associated with such rectification or replacement together with all reasonable costs incurred by the Principal in Acceptance Testing the unacceptable Vehicle.
- 20.2 All materials necessary for conducting the acceptance tests should be furnished by the Contractor at their expense.

## **21. DELIVERY REQUIREMENTS**

### **21.1 Registration and Insurance**

- 21.1.1 The Contractor should provide written notification to the NSWFB Contract Administrator of the intended delivery of completed vehicles.
- 21.1.2 Registration should be arranged by the Contractor to comply with the agreement between the NSWFB and the NSW RTA, pre-registration inspection as required by the Heavy Vehicle Inspection Scheme.

**Note: A letter of authority will be given to the Contractor for the vehicles to be registered on the behalf of the NSWFB by the Contractor.**

- 21.1.3 The RTA agreement has a registration fee and an inspection fee for which the Contractor should make allowance.
- 21.1.4 The NSWFB will provide Third Party green slip insurance on a free issue basis upon written notification of delivery (refer to clause 21.1.1).

### **21.2 Number Plates**

- 21.2.1 The NSWFB will supply FBY series number plates (as per agreement with the NSW RTA) for each vehicle on a free issue basis, upon written notification of delivery (refer to clause 21.1.1).
- 21.2.2 The number plates should be personally collected and signed for by the Contractor (or Contractor appointed agent) from the NSWFB Project Officer (or other nominated NSWFB officer), located at the NSWFB Logistics Support Centre, Greenacre.
- 21.2.3 The number plate should be affixed by the Contractor in accordance with the requirements of the NSW RTA.

### **21.3 Running In Trials and Pre-delivery Service**

- 21.3.1 All completed vehicles should be trialled for a minimum of 1000km of road travel, and the fire pump tested for a minimum of eight (8) hours for the development vehicle and four (4) hours

for the production vehicle, according to engine, chassis and other appropriate manufacturer guidelines.

**Note The Contractor is responsible for providing both the driver/operator and the fuel required to carry out these trials.**

21.3.2 All completed vehicles should be given a pre-delivery service by the cab/chassis OEM (or OEM nominated agent) at a Sydney metropolitan location or within close proximity, immediately prior to delivery and handover to the NSWFB.

21.3.3 The pre-delivery service should include a minor service equivalent to the first scheduled service as recommended by the cab/chassis manufacturer.

**Note The pre-delivery service should ensure the vehicle is finely tuned ready to commence operational service after completing running in trials.**

21.3.4 A steering system check and wheel alignment should be conducted as part of the pre-delivery service (refer to Part 6, clause 6.4 of the Specification).

## **21.4 Vehicle Delivery and Handover**

21.4.1 The vehicle should be delivered to the Assistant Director Contracts and Supply (or other nominated NSWFB officer), located at the NSWFB Logistics Support Centre, Greenacre.

21.4.2 All vehicles should be delivered complete with the following:

- (a) all test reports and other documentation (refer to clause 18.4);
- (b) fuel tank 3/4 full (minimum).

21.4.3 The whole of the vehicle including the interior cabin, body and stowage areas should be fully detailed for presentation to the NSWFB.

21.4.5 Acceptance of the vehicle should be dependant upon the results of the tests set down in this specification, and the requirements of this section.

**Note The inspection certificate provided by the Contractor (refer to Part 6, clause 6.4 of the Specification) is deemed a measure of Quality Control only. The NSWFB reserves the right to not accept a vehicle containing faults.**

21.4.6 Vehicles deemed not acceptable when delivered should be removed from the NSWFB Logistics Support Centre as soon as possible by the Contractor, and all identified faults rectified at the Contractor's expense.

21.4.7 At the determination of the NSWFB, some repair work on minor faults may be undertaken on site by the Contractor (or appointed agent).

21.4.8 Vehicles that are re-delivered after having repair work undertaken should be delivered complying with the above-mentioned requirements, as with any other delivered vehicle (e.g. written notification, with documentation, fuel tank 3/4 full, vehicle cleaned and detailed).

## **22. ACTUAL ACCEPTANCE DATE (AAD)**

22.1 Upon delivery and acceptance of the Vehicle in accordance with the contract conditions, the Delegate shall issue a signed and dated Certificate of Acceptance for the Vehicle. The AAD in respect of the Vehicle shall be the date shown on the Certificate of Acceptance.

## **23. TITLE AND RISK**

23.1 The Class 3 Urban Pumper Vehicle becomes the property of the Principal on the date of the Certificate of Acceptance and risk of loss or damage in respect of that Class 3 Urban Pumper Vehicle passes to the Principal at that time.

23.2 The Contractor shall be responsible for any loss or damage in respect of any equipment supplied to the Contractor by NSWFB for the construction of the Class 3 Urban Pumper Vehicle.

## 24. GOVERNMENT TAXES, DUTIES AND CHARGES

24.1 All taxes, duties and charges imposed or levied in Australia or overseas in connection with the performance of the Contract shall be borne by the Contractor.

## 25. GOODS AND SERVICES TAX

25.1 In this clause and Contract:

25.1.1 “**Consideration**”, “**Tax Invoice**”, “**Taxable Supply**” and “**Supply**” have the same meaning as provided for in the GST Law.

25.1.2 “**GST**” is a goods and services tax and has the same meaning as in the GST Law.

25.1.3 “**GST Law**” means any law imposing a GST and includes *A New Tax System (Goods & Services Tax) Act 1999* (Cth) or if that Act does not exist, means any Act imposing, or relating, to a GST and any regulation based on those Acts.

25.1.4 Every invoice issued by a person making a Supply must be in the form of, or be accompanied by, a valid Tax Invoice. No amount is payable until a valid Tax Invoice for the Contract Price, or any instalment of the Contract Price, is received.

25.1.5 If there is any abolition or reduction of any tax, duty, excise or statutory charge associated with the GST, or any change in the GST, the Consideration payable for the Supply must be varied so that the Contractor’s net dollar margin for the Supply remains the same.

25.1.6 Any contract entered into by a Party to this Contract with a third party which involves a Supply being made, the cost of which will affect the cost of any Supply made under or in connection with this Contract, must include a clause in equivalent terms to clause 25.1.5.

## 26. PRICE BASIS

26.1 Contract prices basis shall be as provided in the tender at Part C Clause 2.

### 26.2 Price Adjustment process for Increases in Prices

26.2.1 The Contractor must apply in writing to the Principal to increase Prices in the Price Schedule.

26.2.2 The price applicable to each order placed under the contract shall be the contract price rate as published by the Principal at the date the order is placed.

26.2.3 When claiming payment for variations above, the Contractor shall provide the NSWFB evidence of:

- (i) the level of the relevant Australian Bureau of Statistics (Industry) index applying at the date of completion of manufacture of the vehicle;
- (ii) the level of the relevant country-of-origin (Industry) index/indices applying at the **date of export** of the imported content and
- (iii) the exchange rate(s) relevant at the **date of payment** by the Contractor for the imported content.

26.2.4 Subject to the Contractor having provided the Principal with sufficient documentation, the Principal will, in writing, approve or reject a price variation within six (6) weeks of lodgement of the application.

26.2.5 The provision of Deliverables under the Contract shall not be withheld or disrupted by formalities or disputes associated with the variation of a Price.

## **27. PROGRESS PAYMENTS**

27.1 The Contract may reflect a schedule of progress payments if agreed between the Contractor and the Principal.

27.2 The Contractor should state at Part C1, Clause 3 whether it requires progress payments to be made together with a schedule of milestones against which the progress payments shall be made.

27.3 Should the Principal agree to the proposal it will be subject to the following provisions.

27.3.1 The Contractor shall lodge a Bank Guarantee as stipulated in Clause 30 of this Contract to be held by the Principal as security against due and proper performance by the Contractor.

27.3.2 Progress payments, which, in the opinion of the Principal, represent high risk, will require the lodging by the contractor of additional Bank Guarantees up to the value of the progress payment.

27.3.3 Each claim shall be accompanied by relevant documents and shall be certified by an authorised representative of the Principal;

(a) That the amount claimed has been correctly calculated in accordance with the conditions of Contract; and

(b) That the work was carried out efficiently in accordance with the terms and conditions of the Contract and that the amount claimed is commensurate with progress made towards completion of the Contract.

27.4 Upon the Principal making a payment in accordance with this clause 27, the property in the components, Deliverables and/or Vehicle in respect of which the payment is made shall vest in the Principal (unless they are already so vested), but without prejudice to the right of the Principal under the Contract to reject those supplies.

27.5 The Principal may require the Contractor to mark as the property of the NSWFB any component, Deliverable or vehicle which are vested in the Principal pursuant to this clause and may in such requirement specify the manner of such marking. The Contractor shall as soon as possible and at his own expense comply with such requirement in all respects.

27.6 The Contractor shall not have any lien whatsoever on any component, Deliverable or Vehicle which are vested in the Principal pursuant to this clause.

27.7 If any component, Deliverable or Vehicle in respect of which moneys have been paid pursuant to this clause are not delivered within the time and in the manner specified in the Contract or are rejected by the Principal, the Principal may demand repayment of those moneys. Upon such demand the Contractor shall forthwith make repayment and upon the making of such repayment the components, Deliverables or Vehicles shall re-vest in the Contractor.

27.7.1 For the purpose of the preceding sub-clauses moneys paid in respect of more than one article shall if necessary be apportioned according to the respective values of the articles in respect of which the moneys are paid.

27.7.2 Notwithstanding that any of the supplies may have vested in the Principal pursuant to this clause, the components, Deliverables or Vehicles shall remain at the risk of the Contractor in all respects, until delivery of them has been accepted by the Principal.

27.7.3 The Contractor shall keep such books of account, costing records and documents as are required or approved by the Principal for the certification and satisfaction by the Principal of any progress payments claims.

## **28. PROGRESS PAYMENT INVOICES**

28.1 Progress Payments invoices should be linked to major components (eg cab/chassis, pump, foam system, electrical system and/or stages of manufacture (eg. Painting, body construction) and should be accompanied by the relevant serial numbers. The NSWFB will endeavour to pay all progress payment invoices within a 21day period (term of payment).

28.2 Progress Payment invoices should be sent to the NSWFB Project Officer for endorsement, who will then forward to the NSWFB Contract Administrator for approval and payment

## **29. TITLE AND RISK OF EQUIPMENT IN CASE OF PROGRESS PAYMENTS**

29.1 Notwithstanding the provisions of Clause 27, if progress payments are made any component, Deliverables or Vehicle paid for by the Principal shall become the property of the Principal from the date of payment and if left in the care and control of the Contractor shall be so left with the Contractor as Bailee of that Equipment.

## **30. SECURITY FOR DUE PERFORMANCE**

30.1 The Contractor shall lodge a Bank Guarantee in the amount equal to 5% of the total individual Order price as security for due performance.

30.2 Such guarantee is to be from a Bank and in a form approved by the NSWFB and shall be lodged with the NSWFB within fourteen (14) days from acceptance of an Order.

30.3 All charges incurred in obtaining, confirming and maintaining the guarantee shall be met by the Contractor.

30.4 The NSWFB shall be entitled to recover and require part or full payment from such Bank Guarantee and apply same toward the satisfaction of any amount that may be payable to the NSWFB as a result of any breach by the Contractor of any of the terms, covenants or conditions of the Contract.

30.5 Application for discharge of the Bank Guarantee will not take place until the expiry of the agreed prime contractor nominated warranty period as applied to the final vehicle delivered against each order raised during the term of the contract.

30.6 The Department (NSWFB) reserves the right to withhold all or part of the Bank Guarantee equivalent to any amounts subject to unresolved warranty matters.

30.7 Any amounts subject to resolution regarding warranty matters will not be released until an agreement between the Contractor and the NSWFB is reached, or, twelve months from the expiry of the warranty period, whichever occurs first. After that time, the NSWFB will be entitled to draw any amounts related to unresolved warranty claims. (Refer to Clause 40.5)

## **31. PAYMENT**

31.1 The Contractor shall be entitled to invoice the NSWFB following final acceptance of each Vehicle and associated documentation at the nominated delivery point. The address for claims for payment is:

New South Wales Fire Brigades  
Logistics Support Division



Amarina Avenue  
GREENACRE NSW 2190

- 31.2 The Contractor shall itemise each item delivered by the Contractor in accordance with the Contract prices.
- 31.3 The NSWFB reserves the right to defer or withhold payment of any sum claimed by the Contractor until the work performed by the Contractor in consideration of the claimed payment complies with the requirements of the Contract and is to the entire satisfaction of the NSWFB.

## **32. KEEPING OF RECORDS AND ACCESS TO RECORDS**

- 32.1 The Contractor must keep proper accounts, records and time sheets in accordance with the accounting principles generally applied in commercial practice.
- 32.2 During the Term, the Contractor must, within a reasonable time of a request from the Principal, give the Principal access to, and copies of, any material relevant to the performance of the Contractor's obligations under this Contract, and any financial information, that the Principal reasonably requires

## **33. TRAINING**

- 33.1 Comprehensive competency based training should be provided to selected NSWFB staff by means of seminars and workshops at the NSWFB Logistics Support Centre, Greenacre and/or the State Training College, Alexandria.

The areas of training should include:

- (a) vehicle safety;
- (b) operation of the vehicle;
- (c) maintenance and fault finding of the vehicle;
- (d) warranty provisions and claim processing.

- 33.2 The training should be delivered in modules, which correlate with the content of the Operations and Maintenance Manual (refer to the Specification), and shall be delivered to a level appropriate to the audience.
- 33.3 Training given to maintenance and technical personnel should identify the maintenance and fault-finding requirements of the vehicle, and training given to vehicle instructors (e.g. train-the-trainer) should identify safe operation of the whole vehicle.

**Note: The NSWFB prefers trainers to hold a current national certificate in Assessment and Workplace Training.**

- 33.4 Each training module should be delivered twice, once each for two separate classes.
- 33.5 The training sessions should be held at a time mutually agreed upon between the NSWFB and the manufacturer.
- 33.6 A copy of the proposed training sessions including course content and any training materials/documents should be submitted to the NSWFB for approval at least three (3) weeks prior to the training sessions being conducted.
- 33.7 The Contractor should nominate the hourly rate to provide training as a fully costed option (refer to PART C1 clause 2), the expected duration to complete the training, and whether training will include instruction from any OEM personnel (e.g. cab/chassis).
- 33.8 Lunch and refreshments for trainers and trainees will be provided by the NSWFB for all

training sessions.

#### **34. REPLACEMENT SPARE PARTS**

- 34.1 The NSWFB should be supplied with a detailed list of recommended replacement parts for all components and the list should include availability and pricing in Australian currency at the time of tendering.
- 34.2 The spare parts list should be split into sections, which correlate with the content of the Operation and Maintenance Manual (refer to Part 6, clause 6.1.8 of the Specification).
- 34.3 Where components and assemblies are manufactured to European or US Standards and equivalent Australian Standards exist, then the NSWFB after consultation with the manufacturer reserves the right to utilise equivalent spare parts without voiding warranty.
- 34.4 The Contractor should nominate from the list of spare parts components, which should be held in stock by the NSWFB as replacement items.

#### **35. PURCHASE IN DEFAULT**

- 35.1 Should the Contractor fail to provide acceptable Deliverables within the specified time, the Principal may obtain the Deliverables from another source at the Contractor's risk and expense and should the Deliverables be of higher cost than stipulated in the Contract, the Principal shall have the power to recover from the Contractor all additional costs incurred by failure of the Contractor to provide acceptable Deliverables.
- 35.2 The right of the Principal to exercise the powers herein shall be in addition to any other rights or remedies accruing to the Principal under the Contract.

#### **36. SUB-CONTRACTORS**

- 36.1 For the purposes of this and other relevant conditions "Sub-Contractor" is defined as any person whose services are utilised by the Contractor for the purposes of this Contract and who is not an employee of the Contractor.
- 36.2 The Contractor will be responsible for ensuring the suitability of any sub-contractor and that the sub-contractor meets the requirements of a Contract.
- 36.3 All sub-contracts shall include all relevant conditions of the Contract between the Principal and the Contractor.
- 36.4 The Contractor will be liable for any acts or omissions of any sub-contractor or any employee or agent of the sub-contractor as fully as if they were the acts or omissions of the Contractor and will indemnify and release the Principal from any liability or loss resulting from the acts or omissions of any sub-contractor.
- 36.5 Nothing contained in the Contract shall in any way be construed as relieving the Contractor of his responsibility for the performance of the Sub-Contractor according to its tenor.
- 36.6 This clause will not merge on the completion or earlier termination of the Contract.

#### **37. STANDARD OF WORK**

- 37.1 All work performed and Deliverables supplied by the Contractor pursuant to the Contract shall be to the satisfaction of the Principal.
- 37.2 The Principal shall notify the Contractor of its acceptance or rejection of the Vehicles by the Contractor pursuant to the Contract, in writing, within fourteen (14) days of delivery to the nominated delivery point.

**38. WARRANTY AS TO TITLE**

- 38.1 The Contractor shall warrant that at the time property in any component, Deliverable and/or Vehicle passes to the Principal (ie after satisfactory commissioning of the entire Vehicle), the Principal will take good title to the Vehicle and that the Vehicle is free from any charge or encumbrance.

**39. WARRANTY PERIOD**

- 39.1 The warranty period shall be as nominated by the tenderer in Part B.

**40. WARRANTY OVER VEHICLE**

- 40.1 The Contractor shall warrant:
- (a) that during the Warranty Period the Equipment shall be free from defects or omission in design, performance, workmanship and materials and shall comply with the manufacturer's specifications in relation to that Equipment.
  - (b) that the Contractor shall make available and supply to the Government, replacement parts for the Equipment for a support period of ten (10) years from the AAD of the Vehicle accepted under the Contract.
- 40.2 The Contractor must, upon being notified by the Department during the Warranty Period, remedy without delay and in a proper and skilful manner any defects or omission in design, performance, workmanship and materials in the Equipment which becomes apparent during the Warranty Period, if such defect arises from faulty materials, workmanship or design, and not arising from improper use, improper installation or improper maintenance by the Department.
- 40.3 The remedial work required under this Clause includes replacement or repair and any re-design or modification to remove any fault in design for which design the Contractor is responsible under the Contract.
- 40.4 The Contractor must meet all costs of and incidental to the discharge of the remedial work (including any packing, freighting, disassembly and reassembly costs and the cost of transporting appliances).
- 40.5 The Contractor must respond and action any warranty rectification request made by the NSWFB in respect of commissioned vehicles within 4 hours from notification. Where possible, rectification should occur without removing the vehicle from service. Contractors can make arrangements to utilise established NSWFB Fleet Maintenance contractors or the NSWFB Fleet maintenance services by prior arrangement with the NSWFB Assistant Director Fleet.
- 40.6 If any remedial work is of such a character as in the opinion of the Department may affect the ability of the equipment to fulfil the Contract requirements, the Department may after completion of such remedial work, by notice to the Contractor require that such tests as are provided for in the Contract of the Equipment are relevant to the remedial work, are to be carried out at the Contractor's expense.
- 40.7 Where the Contractor fails to rectify a defect notified under this clause the NSWFB may perform or have performed the necessary remedial work, and all costs and outgoings incurred must be reimbursed to the NSWFB by the Contractor.
- 40.8 Any Equipment remedied by the Contractor is subject to the full Warranty Period from the date of its acceptance in the same manner as Equipment initially accepted by the Department.
- 40.9 The rights and remedies provided in this warranty clause are in addition to and do not limit any other rights of the NSWFB under the Contract or otherwise.

- 40.10 The warranty shall include a full service for the Vehicle, which shall be carried out by the Contractor at the Contractor's expense at an agreed location in the Sydney Metropolitan area immediately before delivery to the Department. Further servicing will be undertaken by the Department or its agent or Contractor, which shall not waive or in any manner invalidate the warranty given by the Contractor.
- 40.11 The warranty period should commence for each vehicle when it has been accepted by the NSWFB (refer to Clause 21.4).
- 40.12 Defects found on any vehicle within the warranty period of that vehicle, should be claimed as warranty repair from the Contractor using a NSWFB approved 'warranty claim' form.

#### **41. NOTIFICATION OF DEFECTS**

- 41.1 If, at any time during the period of fifteen (15) years commencing on the Actual Acceptance Date, for the final vehicle the Contractor becomes aware of any defect in the Deliverables which adversely affects, or is likely to adversely affect, the operation of the Deliverables or the safety of personnel, the Contractor shall give notice of the defect to the Delegate.
- 41.2 Where the adverse effect or likely adverse effect is critical to the operation of the Deliverables or the safety of personnel, the Contractor shall give notice to the NSW Fire Brigades immediately on becoming aware of the defect and shall provide a fully-documented confirmation of the notice within five (5) Working Days after so becoming aware.
- 41.3 In any other case the Contractor shall give fully-documented notice of the defect to the NSW Fire Brigades within twenty (20) days after becoming aware of the defect.
- 41.4 In fully-documented notices given under this Clause, the Contractor shall include a statement of the cause and effect of the defect and the remedial action it proposes.

#### **42. LATENT DEFECTS**

- 42.1 The Contractor shall rectify latent defects in the Deliverables, other than Deliverables that have been modified by the NSW Fire Brigades without the agreement of the Contractor, where those latent defects are discovered during the period of five (5) years commencing at the expiration of the Warranty Period for the final production Vehicle, and have been referred to the Contractor by the Delegate.
- 42.2 The Contractor shall rectify latent defects in the Deliverables within 28 days or such other period as may be agreed by the Parties, at no cost to the NSW Fire Brigades.
- 42.3 If the Contractor fails to rectify latent defects in the Deliverables within the specified time, the NSW Fire Brigades may perform or have performed the work of rectification and all costs and outgoings incurred by the NSW Fire Brigades shall be reimbursed to it by the Contractor.

#### **43. CONTRACTOR PROVISION OF DATA/SERVICES TO FACILITATE REPAIR PARTS ASSESSMENT**

- 43.1 As from the date of Contract Acceptance the Contractor shall supply upon request, publications, drawings and technical data as may be necessary to enable the Principal to assess requirements for spare parts and shall make available qualified personnel to explain or elaborate the data provided, as may be reasonably required.
- 43.2 The Contractor shall assist in the repair parts assessment task by making available office accommodation at the Contractor's plant, ancillary office equipment, telephone and facsimile transmission facilities at no additional cost for an on-site repair parts assessment team which shall not exceed five (5) persons. The accommodation provided by the Contractor shall be of a standard not less than that provided by the Contractor to its own staff of equivalent status.

#### **44. RESPONSIBILITY FOR LOSS OF, OR DAMAGE TO, GOVERNMENT PROPERTY ASSUMED BY THE CONTRACTOR**

44.1 For the purposes of this clause:

- (a) the expression 'Government Property' shall mean any Government property which for the time being is in the possession, care, custody or control of the Contractor or any of the Contractor's Sub-Contractors for any purposes of or connected with the Contract; and
- (b) the expression shall also include or be deemed to include:
  - (i) any vehicle, plant, equipment, tooling, materials, components and other things provided by or on behalf of the Government for any purpose of or connected with the Contract, and whether owned by the Government or not; and
  - (ii) any property which vests in the Government or becomes Government property pursuant to the Contract.

44.2 If, in the performance of the Contractor's obligations hereunder, the Contractor or any servant or agent of the Contractor by any act or omission damages or causes to be damaged any property of the Government or of any authority, person, body, corporation, association or organisation to whom Deliverables are to be delivered then the Contractor shall pay the costs of repairing and making good such damage and the amount of any consequential losses, costs or expenses which may be suffered or incurred by reason of such property having been so damaged, whether by negligence or otherwise.

#### **45. ENTRY TO OFFICIAL ESTABLISHMENTS**

45.1 All persons entering official establishments are required to be approved and to conform with regulations regarding security and discipline within the area as may be laid down by the Principal.

#### **46. CONTRACT VARIATION PROCEDURES**

46.1 No agreement or understanding to vary this Contract is to be legally binding upon either party unless in writing and signed by both parties.

46.2 Any change to the contract, whether financial and/or technical, may be raised by either party of the contract using a NSWFB approved 'contract change request sheet'.

46.3 Contract variations relating to technical matters should be endorsed by the NSWFB Project Officer and the Contractor Technical Officer, while those relating to commercial/financial matters should be endorsed by the NSWFB Contract Administrator and the Contractor Contract Administrator.

46.4 The requested contract variation, as raised by a party using the 'contract change request sheet', must be immediately forwarded to the other party to the contract for either approval or rejection.

46.5 Each contract variation must be signed and returned to the initiating party irrespective of whether the variation has been approved or rejected.

46.6 The technical changes outlined by each contract variation should not commence until the 'contract change request sheet' has been signed by all nominated signatories (refer to Clause 9).

**Note: The NSWFB has no responsibility for any costs or expenses incurred for technical changes undertaken without approval of the contract variation.**

## **47. CONFIGURATION MANAGEMENT IN THE NSWFB**

### **47.1 Introduction**

- 47.1.1 The NSWFB has undertaken the adoption of the engineering discipline known as Configuration Management (CM). The NSWFB anticipates that CM will provide for greater design control of its fleet of fire Vehicles which will lead to greater interchangeability of components between vehicles and greater life expectancy of its fleet.
- 47.1.2 CM provides a store for the critical information of a development system or product, and protects the integrity of that information throughout the product's life-cycle. As such, CM provides the foundation for other management and engineering disciplines that require reliable product information as a prerequisite.
- 47.1.3 A configuration managed under CM may be any aggregation of equipment, or any of its discrete components, identified as satisfying a function of the NSWFB. Those equipment or components managed under CM are termed Configuration Items (CIs)
- 47.1.4 CM aims to ensure that the system design, development and manufacture meet the original specification by the establishment of baselines to punctuate the development cycle. A baseline is a reference point in the development effort and is applied to the specification, design documentation and the first as-built product to ensure that the Configuration Management is formally defined as the methodical application of the following:
- \* Identification - The identification and documentation of the functional, physical and support characteristics of those items which represent the system configuration as CIs to be controlled by the CM system.
  - \* Change Control - The processes which ensure that the configuration maintains its integrity as changes are made to individual, or collections of CIs, by review of the impact of each proposed change to the CI's form, fit and function, and the management/technical approval of the change prior to its implementation.
  - \* Status Accounting - The maintenance of records of all information required to "account for" and report the status of the system configuration, or individual CIs, at any given time and provide audit trails of each management/technical approval.
  - \* Reviews and Audits - The conduct of documented reviews and audits to periodically compare the actual configuration with the approved configuration as maintained by CM in order to highlight any departures from the approved configuration.
- 47.1.5 CM is simply the formal application of traditional engineering processes. Without the formalisation of these processes, there is little likelihood that there will be the necessary communication to ensure only approved modifications make their way into configuration baselines. CM is a well recognised discipline in the Military (reference Mil-Std-973) as well as in specific fields of engineering such as Software Engineering (refer AS 4043-1992).

### **47.2 Application of CM**

- 47.2.1 Upon execution of the Contract, the Contractor shall provide a list of components and deliverables to achieve the objectives of this Contract, with identification of the Contractor personnel responsible for the quality of each component and deliverable, and Configuration Identification number assigned for each.
- 47.2.2 The Contractor shall provide CM controls for the design, manufacture and supply of the vehicles. The CM controls shall be in accordance with the NSWFB CM guidelines and standards, or, the Contractors own procedures which provide an equivalent level of control. The Contractor's CM procedures shall be subject to review and audit by NSWFB representatives.

- 47.2.3 The Contractor shall be required to maintain all Contract components or Deliverables under the Contractor's NSWFB approved CM System. Once a Deliverable has been formally provided to the NSWFB, its change status should be maintained by the CM system and be subject to NSWFB inspection. Subsequent versions of the Deliverable should be approved by the Contractor's management and provide the change history, so that modifications to the Deliverables can be easily identified. An audit trail of all design modification to each component or Deliverable, describing the reason, impact assessment and approval authority, should form a part of the change records.
- 47.2.4 Technical reviews, which form a part of the progress reviews, are to be conducted against the appropriate baselined Deliverables. The objective of these reviews are to ensure the required system capabilities are traceable from the baselined specification through to the design and manufacturing information.
- 47.2.5 Written records of technical reviews and audits should be provided of all Contractor decisions which effect the vehicle's design, as presented to the NSWFB in previous Contract deliverables. Proposed modifications which are in conflict with the technical specification, shall be submitted to the NSWFB for review and approval on the ECP forms provided by NSWFB.
- 47.2.6 Elements of the specification provided are in operation as "assemblies" in existing NSWFB vehicles. These assemblies, as manufactured by the Contractor, shall be required to be interchangeable with the existing assemblies. Any proposed modification to the specification to these assemblies shall undergo a full approval cycle to gauge the impact of the proposal both to existing and future. Only CM approved modifications, signed of by the appropriate authorities within the NSWFB, shall be considered acceptable.
- 47.2.7 Prior to final acceptance of the first delivery, the Contractor shall provide a complete set of CM controlled drawings, specification and documents which define the vehicle's "build standard" or "as built" configuration. These records shall be reviewed with NSWFB representatives as part of a combined functional and Physical Audit to ascertain the vehicle's acceptability, in accordance with the specification.

#### **48. INTELLECTUAL PROPERTY RIGHTS ISSUES**

- 48.1 Subject to the provision of this and the following clauses, the property in an invention or design first evolved or reduced to practice in work under this Contract shall vest in the Principal.
- 48.2 All original material, including inventions, designs, ideas, drawings, circuit layouts and other, whether readable by persons or machines or created by or specifically for the Principal, is subject to Crown Copyright and remains the sole and exclusive property of the State Government of NSW.
- 48.3 Where such documentation, etc. is acknowledged as being the intellectual property of others, the Contractor or originating party shall acknowledge the rights of the Principal to incorporate such information (in whatever format necessary) within training and/or Service Manuals and subsequent specifications, Codes of Practice and/or Recommended Practices without further restriction or charge. Where such ownership is used, the ownership will be credited to the owner, as is customary within the subsequent document/s.
- 48.4 The Contractor warrants that acts done by the Delegate, the Principal or the Government under this Contract in relation to the Deliverables shall not infringe the Intellectual Property Rights of any person.
- 48.5 The Contractor must not at any time breach or infringe any Intellectual Property rights of the Principal or of any other person whether in the course of providing the Deliverables or otherwise.
- 48.6 The Contractor agrees to indemnify and keep indemnified the Government (which term includes in this clause, any Department or Agency, and their officers, employees and agents) from and against any actions, claims, proceedings, demands, costs, expenses, losses and

damages, arising from or in connection with any infringement or alleged infringement of any Intellectual Property rights.

- 48.7 The Government may take legal proceedings including injunctive proceedings against the Contractor if there is any actual, threatened or suspected breach of clause 48.3 despite the provisions of clause 67.
- 48.8 The Contractor acknowledges that, in the event of a breach of clause 48.3 the Principal may terminate this Contract in accordance with clause 59 without prejudice to any accrued rights or remedies of the Principal.
- 48.9 In the event of any claim being made or brought against the Government in respect of any breach or alleged breach by the Contractor of any Intellectual Property rights, the Principal will notify the Contractor. The Contractor will, with the reasonable assistance, if required, of the Principal, but at the Contractor's sole expense, conduct all negotiations for the settlement of such claims or any litigation that may arise in connection with the claim. If the Contractor fails to conduct such negotiations or settlement the Principal may direct Principals to suspend payment of any money due to the Contractor under the Contract until such claim has been satisfied, settled, or withdrawn.

#### **49. DELIVERY OF CONTRACT MATERIAL AND INFORMATION**

- 49.1 On or as soon as practicable after the end of this Contract, the Contractor must deliver to the Principal all materials and information relating to the contract.
- 49.2 The Contractor may in good faith keep a copy of the Contract material and information for its records.

#### **50. COMPLIANCE WITH STATUTORY OBLIGATIONS**

- 50.1 The Contractor warrants, in relation to any Deliverables that may be supplied in pursuance of the Contract, that the Contractor, and any person associated with the Contractor and involved in the supply of the Deliverables, shall have complied with any requirement imposed upon the Contractor or that person or both, as the case may be, by or under any Act of New South Wales or of any other part of the Commonwealth in relation to the supply of Deliverables of that kind.
- 50.2 Without limiting the generality of paragraph 50.1 of this Clause, the warranty described in that paragraph shall extend to compliance with the provisions of the Occupational Health and Safety Act 2000, as amended, of New South Wales, relating to the manufacture or supply of plant or substances for use at work, or to the erection or installation of plant for use at work.
- 50.3 In paragraph 50.1 of this Clause, reference to a person associated with the Contractor is a reference to -
- (i) any person who was, at the time of involvement in the supply of the Deliverables, a partner of the Contractor;
  - (ii) a company that was, at that time, one in respect of which the Contractor controlled the composition of the Board of Directors, or was in a position to cast, or control the casting of, more than one-half of the maximum number of votes that might be cast at a general meeting of the company, or held more than one-half of the issued share capital of the company (excluding any part of that issued share capital that carried no right to participate beyond a specified amount in a distribution of either profits or capital); or
  - (iii) a company that, at that time, was (where the Contractor is a corporation) a subsidiary or the holding company of the Contractor within the meaning of the Corporations Law 1989.
- 50.4 In paragraph 50.2 expressions that are defined in the Occupational Health and Safety Act for the purposes of the provisions referred to in that paragraph shall have that defined meaning.



**51. INDUSTRIAL PROVISIONS**

- 51.1 The Contractor shall observe all applicable industrial laws and awards in each sphere of its activities in connection with the Contract and carry out the Contract in accordance with the highest professional standards.

**52. CONFLICT OF INTEREST**

- 52.1 The Contractor warrants that, to the best of its knowledge, no conflict of interest of the Contractor, its employees, agents or sub-contractors exists or is likely to arise in the performance of its obligations under the Contract.
- 52.2 The Contractor must:
- (a) notify in writing, and consult with, the Principal immediately upon becoming aware of the existence, or possibility, of a conflict of interest; and
  - (b) comply with any direction given by the Principal in relation to those circumstances designed to manage that conflict of interest.
- 52.3 For the purposes of this clause, a “conflict of interest” includes engaging in any activity, or obtaining any interest, likely to conflict with the performance by the Contractor of, or to restrict the Contractor in performing, its obligations under the Contract.
- 52.4 The Principal may terminate the Contract in accordance with clause 59.1 if in its view a conflict of interest exists which prevents the proper performance of the Contract.

**53. NO AGENCY/NO EMPLOYMENT/NO PARTNERSHIP**

- 53.1 The Contractor agrees that the Contractor will not be taken to be, nor will it represent that it is, the employee, partner and/or agent of the Principal.
- 53.2 Contractor personnel allocated for the purposes of the Contract shall operate under the following specific terms and conditions:

"The Contractor agrees that it will at all times hereafter indemnify and keep indemnified the Principal against all actions, proceedings, claims and demands, costs, damages and expenses which may be levied, brought or made against the Principal or which it may pay sustain or incur by reason of statute or otherwise in the event that the personnel supplied by the Contractor are deemed to be or alleged to be deemed to be employees of the Principal ".

**54. PAYMENT OF WAGES AND ALLOWANCES**

- 54.1 The Contractor shall ensure that all persons employed by it in or in connection with the Contract are paid wages and allowances of every kind required to be paid by or under any relevant award, determination or order of the State or Territory in which the services are being provided or by or under any industrial agreement that is in force in the State or Territory of the Commonwealth in which the services are being provided and that all such persons are employed under the conditions contained in any such award, judgement, order or industrial agreement.
- 54.2 It shall be a precondition, notwithstanding any other provision of this Contract, to the obligation to pay any monies due to the Contractor that wherever requested by the Principal, the Contractor shall give the Principal a statutory declaration to the effect that no wages are due and owing by the Contractor in respect of work undertaken pursuant to this Contract.

**55. THE CONTRACTOR'S ON-COSTS**

- 55.1 The Principal will not be liable for any of the Contractor's employee “on-costs”, including wages, salaries, holiday pay or allowances, sick pay, Workers' Compensation, or any tax or levy voluntarily undertaken by or imposed (either by statute or otherwise) on the Contractor.

**56. LICENCES AND APPROVALS**

- 56.1 The Contractor must obtain at its own cost all licences, approvals and consents necessary to perform this Contract.

**57. MINIMUM INSURANCE REQUIREMENTS**

- 57.1 The Contractor must hold and maintain the following insurances for the Term, or for such other period as may be specifically required by this Contract for the particular policy:
- (a) a broad form liability policy of insurance which includes:
    - (i) public liability insurance to the value of the amount of \$10 million in respect of each claim; and
    - (ii) products liability insurance to the value of the amount \$20 million for the total aggregate liability for all claims arising out of the Contractor's products for the period of cover.
  - (b) workers' compensation insurance in accordance with applicable legislation for all the Contractor's employees; and
- 57.2 The Contractor must obtain the approval of the Principal for all insurers and policies.
- 57.3 The Contractor must ensure that each policy is in effect for the Term of this Contract or such other period as required by the Principal.
- 57.4 All policies must:
- (a) include the Principal and any sub-contractor as a joint insured under the policy for the purposes of this Contract. Exceptions to this requirement are Worker's Compensation Insurance and Professional Indemnity Insurance policies. A reference to the Principal in the policy must be taken to include a reference to any Customer;
  - (b) require the insurer to notify the Principal at the same time as the insurer gives any notice concerning the policy, and at least 7 days before any proposed cancellation of a policy;
  - (c) provide that a notice of claim given to the insurer by the Principal, the Contractor or the sub-contractor will be accepted by the insurer as a notice of claim given by all of the insured; and
  - (d) contain a cross-liability clause in which the insurer agrees to waive all rights of subrogation or action that it may have or acquire against all or any of the persons comprising the insured.
- 57.5 The Contractor must, when requested in writing by the Principal, supply proof that all insurance policies required by this Contract are current.
- 57.6 The Contractor must, when requested in writing by the Principal, arrange for its insurer to complete a "Confirmation of Insurances Obtained" form, and on-send this to the Principal within 30 days of this request.
- 57.7 If the Contractor fails to comply with clauses 57.1, 57.5 and 57.6, the Principal:
- (a) may effect and maintain that insurance and pay the necessary premiums; and
  - (b) may recover from the Contractor the cost of the premiums and the Principal's reasonable costs of effecting and maintaining the insurance.
- 57.8 The effecting of insurance shall not limit the liabilities or obligations of the Contractor under other provisions of this Contract.

**58. GENERAL INDEMNITY**

58.1 The Contractor will be liable in respect of, and indemnifies, and shall keep indemnified, the Principal and its officers, employees and agents against any claim, loss or expense (including a claim, loss or expense arising out of personal injury or death or damage to property) which any of them pays, suffers, incurs or is liable for (including legal costs on a solicitor and client basis) (together “the loss”) as a result of:

- (a) any unlawful, negligent, reckless or deliberately wrongful act or omission of the Contractor (or its employees, agents or subcontractors or their employees) in the performance of this Contract; or
- (b) any breach of this Contract or the confidentiality deeds required by this Contract.

58.2 The Contractor’s liability in respect of, and indemnity given in, clause 58.1 shall be reduced proportionally to the extent that any unlawful, negligent, or deliberately wrongful act or omission of the Principal, its officers, employees or agents caused or contributed to the loss.

**59. TERMINATION FOR CAUSE**

59.1 Without prejudice to its rights at common law, the Principal may immediately terminate this Contract, in whole or in part, by written notice to the Contractor (“Notice of Termination for Cause”):

- (a) where the Contractor makes any statement, fact, information, representation or provides material in the Tender which is false, untrue, or incorrect in a way which materially affects the Contract;
- (b) where proceedings or investigations are commenced or threatened by the Independent Commission Against Corruption or similar public body against the Contractor including for corrupt conduct or for collusive pricing;
- (c) where the Contractor commits a Substantial Breach of the Contract that is not capable of remedy;
- (d) where the Contractor commits a Substantial Breach of the Contract in a manner that is capable of remedy and does not remedy the breach within 7 days of receiving a notice from the Principal 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 the Principal may reasonably allow;
- (e) where the Contractor assigns its rights and/or obligations, or novates this Contract or subcontracts the Contract except in accordance with this Contract; or
- (f) in the case of the Contractor’s Insolvency.

59.2 Effect of Termination for cause

59.2.1 If the Principal terminates this Contract for cause the Principal may:

- (a) contract with any other person to complete the provision of the Deliverables including but not limited to any Order remaining to be filled;
- (b) deduct loss or damages arising from or in connection with the termination, including any loss or damages incurred by a Principal under any Contract (which may be ascertained and certified by the Principal), from any money due, or which may become due to the Contractor (whether under this Contract or any Contract) and/or from the Security (if any); and
- (c) recover from the Contractor in an appropriate court the balance of any monies remaining unpaid as a debt due and payable by the Contractor to the Principal.

**60. TERMINATION FOR THE PRINCIPAL'S CONVENIENCE**

- 60.1 The Principal may terminate this Contract in whole or in part for its convenience by giving written notice ("Notice of Termination for Convenience") with effect from the date stated in the notice and without the need to give reasons.
- 60.2 Effect of Termination for convenience
- 60.2.1 The Principal shall reimburse the Contractor its unavoidable costs directly incurred as a result of termination provided that any claim by the Contractor:
- (a) must be supported by written evidence of the costs claimed;
  - (b) will be in total satisfaction of the liability of the Principal to the Contractor in respect of this Contract and its termination.
- 60.2.2 The Principal shall not in any circumstances be liable for any consequential loss or loss of profits suffered by the Contractor as a result of the termination of this Contract by the Principal.
- 60.2.3 The Contractor must, wherever possible, include in all sub-contracts and supply Contracts an equivalent provision to this clause.

**61. SET-OFF/MONEY RECOVERABLE BY PRINCIPAL**

- 61.1 The Principal may deduct from amounts which may be payable or which may become payable to the Contractor, any amount due from the Contractor to the Principal in connection with the supply of the Deliverables.
- 61.2 Without limiting clause 61.1, any damages, costs and expenses recoverable by the Principal from the Contractor in consequence of the Contractor's breach of the Contract may be deducted from money then due to the Contractor under the Contract. If that money is insufficient for that purpose, the balance remaining unpaid will be a debt due by the Contractor to the Principal and may be:
- (a) set off against any other money due to the Contractor by the Principal under this or any other Contract between the Principal and the Contractor; or
  - (b) recovered from the Contractor by the Principal in an appropriate court.
- 61.3 Nothing in this clause will affect the right of any Principal to recover from the Contractor the whole of the debt or any balance that remains owing after deduction.

**62. SUSPENSION OF PAYMENTS**

- 62.1 Should the Contractor refuse or neglect to carry out the instructions or requirements of the Principal in regard to any matter connected with this Contract, the Principal, may suspend all payments to the Contractor without penalty until such instructions or requirements have been complied with by the Contractor.

**63. NO ASSIGNMENT OR NOVATION**

- 63.1 The Contractor must not assign or novate this Contract without first obtaining the prior written consent of the Principal.
- 63.2 The Contractor acknowledges that the Principal may make financial checks on the entity proposing to take over this Contract before determining whether or not to give consent to the assignment or novation.

**64. DISCLOSURE OF INFORMATION**

- 64.1 The Contractor, its servants, agents, representatives, advisers or Sub-Contractors shall treat all technical and other information provided to it by the Principal in connection with the Contract as copyright and Commercial-In-Confidence or as otherwise classified and shall not disclose such information without the prior consent of the Principal to anyone other than such persons having a need to know who will be required to take appropriate measures to safeguard such information.
- 64.2 The Contractor shall not furnish any information, make any statement or issue any document or other written or printed material concerning the Contract for publication in any of the media without the prior written approval of the Principal.
- 64.3 The Principal shall have the unlimited right to use and disclose, for the purposes of the testing and/or on-going maintenance of the Vehicle to be supplied under the Contract, the written documentation and the information contained therein which is delivered or is required to be delivered under the terms of the Contract. The Government shall also have the unlimited right, for the above-mentioned purposes, to duplicate the said written documentation provided, however, that if any of the said documentation is subject to the Contractor's copyright, the Contractor agrees and does hereby grant to the Government the unlimited right to make copies of such copyrighted material without payment of compensation to the Contractor.

**65. EXCUSABLE DELAY AND DEFAULT**

- 65.1 The Contractor shall not be liable for delays which arise out of causes beyond the control and without the fault or negligence of the Contractor. Such causes may include, but are not restricted to, acts of God or the public enemy, acts of any government in its sovereign capacity, fires, floods, epidemics, quarantine restrictions, strikes, freight embargoes, and unusually severe weather; but in every case the delay must be beyond the control and without the fault or negligence of the Contractor. If the delay is caused by the default of a Sub-Contractor and arises out of causes beyond the control of both the Contractor and Sub-Contractor and without the fault or negligence of either of them, the Contractor shall not be liable for damages for the delay unless the supplies or services to be furnished by the Sub-Contractor were obtainable from other sources in sufficient time to permit the Contractor to meet the required delivery.
- 65.2 Neither party to the Contract shall be entitled to exercise its rights and remedies upon default by the other party if such default is caused by acts of God, acts of any government in its sovereign capacity, acts of the public enemy, fires, floods, epidemics, quarantine restrictions, strikes, freight embargoes, or unusually severe weather or is due to any other cause or circumstance that is beyond the control and without the fault or negligence of the said other party and, in the case of the Contractor, is beyond the control and without the fault or negligence of a Sub-Contractor.

**66. MISTAKES IN INFORMATION**

- 66.1 The Contractor must pay for the extra costs (if any) occasioned by errors or omissions in material or other Information supplied by it, even though that material or Information may have been approved by the Principal.
- 66.2 The Principal shall be responsible for and shall pay any extra cost directly occasioned by any inaccurate drawings or information supplied in writing to the Contractor by the Principal.

**67. ISSUE RESOLUTION****67.1 General**

67.1.1 In order to resolve any conflicts or issues between the Parties promptly and to the satisfaction of the Parties, the issue resolution process stated below will be followed in this order until an issue is resolved:

- (a) Amicable Resolution (cl.67.2);
- (b) Expert Determination (cl.67.3)

## **67.2 Amicable Resolution**

67.2.1 Either Party may give notice to the other Party of an issue, including a dispute or difference, ("the Issue Notice") about the meaning or effect of the Contract or about any matter arising under or out of the Contract. The Issue Notice must be given within a reasonable time of the Party becoming aware of the issue.

67.2.2 If the Party giving the Issue Notice is the Contractor, and this issue has arisen under the Contract, it must give the Issue Notice to the Principal.

67.2.3 If the Party giving the Issue Notice is the Principal, it must give the Issue Notice to the Contractor.

67.2.4 The Parties must follow the issue resolution process in this clause before either commences proceedings or takes similar action except to seek an urgent injunction or declaration.

67.2.5 If a Party gives an Issue Notice under this clause, each Party will nominate in writing a senior executive who will promptly confer to resolve the issue.

67.2.6 A Party is not entitled to refer an issue to Expert Determination until 21 days after the giving of the Issue Notice.

67.2.7 A Party may only refer an issue to Expert Determination by giving notice in writing specifying the issue to be decided ("the Referral Notice").

67.2.8 If the Party giving the Referral Notice is the Contractor it must give the Referral Notice to the Principal.

67.2.9 If the Party giving the Referral Notice is the Principal, it must give the Referral Notice to the Contractor.

67.2.10 If a Referral Notice has not been given within 28 days of becoming entitled under clause 67.2.6 then the issue is barred from Expert Determination or any other action or proceedings (including court proceedings).

## **67.3 Expert Determination**

67.3.1 If a Referral Notice is given under clause 67.2, the expert is to be agreed between the Principal and the Contractor. If they cannot agree within 28 days of the Referral Notice, the expert is to be nominated by the Chief Executive Officer, Australian Commercial Disputes Centre, Sydney.

67.3.2 The expert nominated must be a lawyer unless otherwise agreed. The expert must not be:

- (a) an employee of the Parties;
- (b) a person who has been connected with the Contract or the Contract as the case may be; or
- (c) a person who the Parties have not been able to agree on.

67.3.3 When the person to be the expert has been agreed or nominated, the Principal, on behalf of both Parties, must engage the expert by letter of engagement (and provide a copy to the Contractor) setting out:

- (a) the issue referred to the expert for determination
- (b) the expert's fees
- (c) the procedure for the determination set out in Schedule 1.

(d) any other matter which is relevant to the engagement.

67.3.4 The Parties must share equally the fees and out-of-pocket expenses of the expert for the determination, and bear their own expenses.

67.3.5 The procedure for expert determination is set out in Annexure 1.

67.3.6 In answer to any issue referred to the expert by a Party, the other Party can raise any defence, set-off, or counter-claim.

67.3.7 If the expert determines that one Party must pay the other an amount exceeding \$100,000.00 (calculating the amount without including interest on it, and after allowing for set-offs), then either Party may commence litigation, but only within 56 days after receiving the determination.

67.3.8 Unless a Party has a right to commence litigation under clause 67.3.7

(a) the Parties must treat each determination of the expert as final and binding and give effect to it; and

(b) if the expert determines that one Party owes the other money, that Party must pay the money within 28 days.

## **68. PERFORMANCE OF CONTRACT DURING ISSUE RESOLUTION**

68.1 The Parties agree to continue performing their obligations under this Contract while the issue is being dealt with in accordance with this clause 68.

## **69. WAIVER**

69.1 A waiver in respect of a breach of a term of this Contract by the other Party shall not be taken to be a waiver in respect of any other breach. The failure of either Party to enforce a term of this Contract will not be interpreted as a waiver of that term.

## **70. SEVERABILITY**

70.1 If any part of this Contract is void or voidable, then that part is severed from this Contract but without affecting the continued operation of the remainder of the Contract.

## **71. NOTICES**

71.1 Notices must be sent to the other Party at the nominated address, or the address last notified to the other Party in writing, or in the case of the Contractor, at the Contractor's registered office.

71.2 All notices must be in writing and signed by the relevant Party and must be given either by hand delivery, post or facsimile transmission.

71.3 If delivery or receipt of a notice is not made on a business day, then it will be taken to be made on the next business day.

## **72. EXCHANGE OF INFORMATION BETWEEN GOVERNMENT AGENCIES**

72.1 The Contractor authorises the Principal and its employees and agents to make available to NSW Government Principals or agencies Information concerning the Contractor, including any Information provided by the Contractor to the Principal and any Information relating to the Contractor's performance under the Contract, or the Contractor's financial position.

72.2 The Contractor acknowledges that Information about the Contractor from any source including any substantiated reports of unsatisfactory performance, may be taken into account



by NSW Government agencies in considering whether or not to offer the Contractor future opportunities for NSW Government work.

72.3 The Principal regards that the provision of Information about the Contractor to any New South Wales Government Principal or agency as privileged within section 22 of the Defamation Act 1974 (NSW).

72.4 The Contractor releases and indemnifies the Principal and the State of New South Wales from any claim in respect of any matter arising out of the provision of Information. Without limiting the above, the Contractor releases the Principal and the State of New South Wales from any claim it may have for any loss to the Contractor arising out of the provision of Information relating to the use of such Information by the recipient of the Information.

### **73. COUNTERPARTS**

73.1 If there are a number of counterparts of this Contract, the counterparts taken together constitute one and the same instrument.

### **74. APPLICABLE LAW**

74.1 This Contract is governed by the laws of the State of New South Wales and the Parties submit to the non-exclusive jurisdiction of the courts of the State of New South Wales and the Commonwealth of Australia.

### **75. RIGHTS CUMULATIVE**

75.1 The rights and remedies provided under this Contract are cumulative and not exclusive of any rights or remedies provided by law or any other right or remedy.

### **76. NON-MERGER**

76.1 The obligations of the parties under the contract, do not conclude at the cessation of the contract, whether such cessation be through termination, short-closure, suspension or expiry of the contract.

### **77. VARIATION OF CONTRACT CONDITIONS**

77.1 None of the Conditions of the Contract shall be varied, waived, discharged or released either at law or in equity, unless by the express consent of the Principal in writing.

### **78. GOVERNMENT TAXES, DUTIES AND CHARGES**

78.1 All taxes, duties and charges imposed or levied in Australia or overseas in connection with the performance of the Contract shall be borne by the Contractor.

## **SCHEDULE 1      EXPERT DETERMINATION PROCEDURE**

### **1.      QUESTIONS TO BE DETERMINED BY THE EXPERT**

- 1.1      The expert must determine for each issue the following questions (to the extent that they are applicable to the issue):
- 1.1.1    Is there an event, act or omission which gives the claimant a right to compensation under the Contract:
- (a)      for damages for breach of the Contract, or
- (b)      otherwise in law.
- 1.1.2    If so:
- (a) what is the event, act or omission?
- (b)      on what date did the event, act or omission occur?
- (c)      what is the legal right which gives rise to the liability to compensation?
- (d)      is that right extinguished, barred or reduced by any provision of the Contract, estoppel, waiver, accord and satisfaction, set-off, cross-claim, or other legal right?
- 1.1.3    In the light of the answers to clauses 1.1.1 and 1.1.2 of this Expert Determination Procedure:
- (a)      What compensation, if any, is due from one party to the other and when did it fall due?
- (b)      What interest, if any, is due when the expert determines that compensation?
- 1.2      The expert must determine for each issue any other questions required by the parties, having regard to the nature of the issue.

### **2.      SUBMISSIONS**

- 2.1      The procedure for submissions to the expert is as follows:
- 2.1.1    The Party to the Contract which has referred the issue to Expert Determination must make a submission in respect of the issue, within 15 business days after the date of the letter of engagement referred to in clause 67.3.2 of the Contract.
- 2.1.2    The other party must respond within 15 business days after receiving a copy of that submission. That response may include cross-claims.
- 2.1.3    The Party referred to in clause 2.1 may reply to the response, but must do so within 10 business days after receiving the response, and must not raise new matters.
- 2.1.4    The other party may comment on the reply, but must do so within 10 business days after receiving the reply, and must not raise new matters.
- 2.1.5    The expert must ignore any submission, response, reply, or comment not made within the time given in **clauses 2.1.1 to 2.1.4** of this Expert Determination Procedure, unless the Principal and the Contractor agree otherwise.

- 2.1.6 The expert may request further information from either Party. The request must be in writing, with a time limit for the response. The expert must send a copy of the response to the other Party, and give the other Party a reasonable opportunity to comment on the response.
- 2.1.7 All submissions, responses, replies, requests and comments must be in writing. If a Party to the Contract gives information to the expert, it must at the same time give a copy to the other Party.

### **3. CONFERENCE**

- 3.1 The expert may request a conference with both parties to the Contract. The request must be in writing, setting out the matters to be discussed.
- 3.2 The Parties agree that such a conference is considered not to be a hearing which would give anything under this Expert Determination Procedure the character of an arbitration.

### **4. ROLE OF EXPERT**

- 4.1 The Expert:
  - 4.1.1 acts as an expert and not as an arbitrator
  - 4.1.2 must make its determination on the basis of the submissions of the parties, including documents and witness statements, and the Expert's own expertise; and
  - 4.1.3 must issue a certificate in a form the expert considers appropriate, stating the expert's determination and giving reasons, within 12 weeks after the date of the letter of engagement referred to in clause 2.1.1 of the Contract.
  - 4.1.4 If a certificate issued by the expert contains a clerical mistake, an error arising from an accidental slip or omission, a material miscalculation of figures, a mistake in the description of any person, matter or thing, or a defect of form, then the expert must correct the certificate.

## SCHEDULE 2      FORM OF UNDERTAKING

**THIS DEED** is made the ..... day of .....20...

**BETWEEN**

.....[Name,  
ACN and address of financial institution] ) ("**Provider**")

**AND**..... [The State Contracts Control Board.]  
("**Beneficiary**")

**IT IS AGREED**

At the request of [Guide Note: Insert name of the Contractor] ("**Customer**") and in consideration of, among other things, the Beneficiary accepting this undertaking in connection with Contract Number 0501759 Supply of Class 3 Urban Pumper Vehicles to the NSW Fire Brigades the Provider unconditionally undertakes to pay to the Beneficiary on demand in writing any sum or sums from time to time up to a maximum aggregate sum of [Guide Note: amount in words] (\$[    ]) ("**Sum**"). The Provider unconditionally and irrevocably agrees to pay such moneys to the Beneficiary immediately.

This undertaking is to continue until a notification has been received from the Beneficiary that the Sum is no longer required by the Beneficiary or until this undertaking is returned to the Provider or until payment to the Beneficiary by the Provider of the whole of the Sum or such part as the Beneficiary may require.

The Provider may at any time without being required to do so pay to the Beneficiary the Sum less any amount or amounts it may previously have paid under this undertaking or such lesser sum as may be required by the Beneficiary and thereupon the Provider shall cease to be liable.

This deed is governed by and must be construed in accordance with the laws of New South Wales.

Executed as a deed this ..... day of .....20....

**SIGNED, SEALED AND DELIVERED**

for and on behalf of .....

[Insert name of the beneficiary]

by .....  
[insert name of beneficiary's authorised officer]

In the presence of:

[insert name of Witness]

.....  
(signature of authorised officer of  
beneficiary)

.....  
(signature of Witness)

**THE COMMON SEAL of**

.....  
[insert name of Provider]

**ABN:**.....  
[insert Provider ABN]

was duly affixed hereto at.....

.....in the State of  
[insert name of City / Town]

.....[insert name of State  
or Territory]

in the presence of .....  
[insert name of Secretary or other permanent  
officer]

.....  
(Corporate seal)

.....  
(signature of Director)

.....  
(signature of Secretary or other  
permanent officer)

**- End of Schedule 2 -**

### SCHEDULE 3      CONFIRMATION OF INSURANCES

Insurance Body:

Insured:

**Re:      Agreement for the Supply of Class 3 Urban Pumper Vehicles for the  
NSW Fire Brigades**

It is confirmed that:

**1. The Insured has obtained the following policies (the Insurance Policies)**

- (a) Broad Form Liability Expiry \_\_/\_\_/20\_\_
- (b) The public liability component of the Broad Form Liability policy is to the value of \$AUD\_\_\_\_(the Limit of Indemnity) in respect of each claim; and
- (c) Professional Indemnity Insurance to the value of \$AUD\_\_\_\_\_, Expiry \_\_/\_\_/20\_\_
- (d) Other insurances, if required:

Type of insurance	Value
_____	_____
_____	_____

**2. The Principal and the State are noted on each of the policies as persons to whom the cover provided by the policy extends.**

**3. None of the policies excludes liability assumed by the Insured under the above contract.**

Attach a Certificate of Currency for the policy/ies above.

Specify below any exclusions beyond the standard exclusions for the Insurance Policies.

**Authorised Representative of Insurer**

**Position:**

**Dated:**

**Signed:**



State Procurement is a Business Unit of the NSW Department of Commerce

State Procurement invites this tender for and on behalf of the  
NSW Government State Contracts Control Board

## PART C

### TENDER RESPONSE

**Contract 0501759**  
**SUPPLY AND DELIVERY OF CLASS 3 URBAN**  
**PUMPER VEHICLES VEHICLES FOR**  
**NSW FIRE BRIGADES**

**PERIOD: THREE (3) YEARS FROM DATE OF**  
**ACCEPTANCE PLUS 2 X 1 YEAR EXTENSION**  
**OPTIONS**

**Closing Date: Wednesday, 7 December 2005**

*Closing Time: 9:30 am Sydney Time*

Your Trading Name: \_\_\_\_\_

Contact Name: \_\_\_\_\_

Contact Phone: \_\_\_\_\_

**Note: Tenderers submitting tenders in hard copy only are required to be submitted in quadruplicate. The original is to be marked "ORIGINAL", with copies to be marked "COPY 1", "COPY 2" and "COPY 3".**

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## PART C THE TENDER

### **PART C1 INFORMATION SUPPLIED IN RESPONSE TO PART A**

#### **1. INTRODUCTION**

- 1.1 The information provided throughout this Part will be used in the assessment of Tenders. Questions have been framed to ensure responses that are relevant to the selection criteria. Please provide attachments where necessary, clearly labelled and cross-referenced.
- 1.2 References to “you” in this Part means the tenderer and all responses given will be taken to be responses of the tenderer.

## 2. PRICING AND RELATED FACTORS

### 2.1 Price Schedule

- 2.1.1 The tenderer may elect to submit more than one offer, however, the NSWFB prefers to see one primary offer with optional variations included as fully costed options (eg; alternative cab/chassis, engine, transmission and other appropriate equipment).

**Note: This provides the NSWFB with a means of alternative options via contract variations during the term of the contract.**

Description	Details	All-inclusive Tendered Price (excluding GST)	GST Applicable	Total Price (including GST)	Imported Content (%) (Of Total Price (including GST) - refer Part A, Clause 6.6)
1. Supply of Class 3 Urban Pumper Vehicle development vehicle in accordance with NSWFB Specification ENG/00220 – 04062 Version A (Rev 1) 2005		\$ _____ total cost per vehicle, duty-paid	\$ _____	\$ _____ total cost per vehicle, duty-paid	_____ %
2. Supply of Class 3 Urban Pumper production vehicle in accordance with NSWFB Specification ENG/00220 – 04062 Version A (Rev 1) 2005	42 vehicles in total - estimated over 3 year period	\$ _____ total cost per vehicle, duty-paid	\$ _____	\$ _____ total cost per vehicle, duty-paid	_____ %

**Price for the Class 3 Urban Pumper Vehicle shall include:**

- (1) inspection and pre-delivery trial and delivery of vehicles, in accordance with Part C1, Clauses 21.3 and 21.4.
- (2) acceptance testing of vehicles, in accordance with Part C1, Clause 19.
- (3) contractor supplied documentation and test reports detailed in Part C2, Part 6, Clause 6.4

Description	Details	All-inclusive Tendered Price (excluding GST)	GST Applicable	Total Price (including GST)	Imported Content (%) (Of Total Price (including GST) - refer Part A, Clause 6.6)
3. Complete set of manuals, in accordance with Part C2, Part 5, Clause 5.1 -five (5) hard copies plus one (1) electronic copy of each Operation and Maintenance manual -five (5) hard copies of each Workshop and Parts Manual –Chassis/Cabin and Body	The lot	\$_____ total cost, duty paid	\$_____	\$_____ total cost, duty-paid	_____%
4. Engineering drawings and schematic diagrams, in accordance with Part C2, Part 5, Clause 5.2	5 Sets	\$_____ total cost for 3 sets, duty paid	\$_____	\$_____ total cost for 3 sets, duty-paid	_____%
5. Registration and inspection fee, in accordance with Part C1, Clause 21.1	Per vehicle	\$_____ per vehicle	\$_____	\$_____ per vehicle	N/A

<b>Description</b> <b><u>OPTIONS – Refer Part C3 Clause 2.1</u></b>	<b>Details</b>	<b>All-inclusive Tendered Price (excluding GST)</b>	<b>GST Applicable</b>	<b>Total Price (including GST)</b>	<b>Imported Content (%) (Of Total Price (including GST) - refer Part A, Clause 6.6)</b>
1. Alternative cab/chassis.	Per vehicle	\$_____ per vehicle, duty paid	\$_____	\$_____ per vehicle, duty paid	_____%
2. Alternative transmission	Per vehicle	\$_____ per vehicle, duty paid	\$_____	\$_____ per vehicle, duty paid	_____%
3. Alternative retardation system	Per vehicle	\$_____ per vehicle, duty paid	\$_____	\$_____ per vehicle, duty paid	_____%
4. Front air bag suspension	Per vehicle	\$_____ per vehicle, duty paid	\$_____	\$_____ per vehicle, duty paid	_____%
5. Alternative Pump drive	Per vehicle	\$_____ per vehicle, duty paid	\$_____	\$_____ per vehicle, duty paid	_____%
6. Hill start assist	Per vehicle	\$_____ per vehicle, duty paid	\$_____	\$_____ per vehicle, duty paid	_____%
7. Cabin Floor lining	Per vehicle	\$_____ per vehicle, duty paid	\$_____	\$_____ per vehicle, duty paid	_____%
8. Central locking system with three (3) remote controls	Per vehicle	\$_____ per vehicle, duty paid	\$_____	\$_____ per vehicle, duty paid	_____%
9. SCBA seats	Per vehicle	\$_____ per vehicle, duty paid	\$_____	\$_____ per vehicle, duty paid	_____%
10. Lockable (instead of latchable) six (6) radio container with three (3) keys provided for the lock	Per vehicle	\$_____ per vehicle, duty paid	\$_____	\$_____ per vehicle, duty paid	_____%
11. Alternative fire pumps	Per vehicle	\$_____ per vehicle, duty paid	\$_____	\$_____ per vehicle, duty paid	_____%
12. Hose reels	Per vehicle	\$_____ per vehicle, duty paid	\$_____	\$_____ per vehicle, duty paid	_____%
13. Foam system	Per vehicle	\$_____ per vehicle, duty paid	\$_____	\$_____ per vehicle, duty paid	_____%

Description <b><u>OPTIONS – Refer Part C3 Clause 2.1</u></b>	Details	All-inclusive Tendered Price (excluding GST)	GST Applicable	Total Price (including GST)	Imported Content (%) (Of Total Price (including GST) - refer Part A, Clause 6.4)
14. Roller shutters	Per vehicle	\$_____ per vehicle, duty paid	\$_____	\$_____ per vehicle, duty paid	_____%
15. Equipment slides	Per vehicle	\$_____ per vehicle, duty paid	\$_____	\$_____ per vehicle, duty paid	_____%
16. Additional brackets and/or modifications to accommodate primary rescue inventory equipment	Per vehicle	\$_____ per vehicle, duty paid	\$_____	\$_____ per vehicle, duty paid	_____%
17. 24V/240V inverter	Per vehicle	\$_____ per vehicle, duty paid	\$_____	\$_____ per vehicle, duty paid	_____%
18. Mobile Phone Installation	Per vehicle	\$_____ per vehicle, duty paid	\$_____	\$_____ per vehicle, duty paid	_____%
19. Satelite phone installation	Per vehicle	\$_____ per vehicle, duty paid	\$_____	\$_____ per vehicle, duty paid	_____%
20. CB radio installation	Per vehicle	\$_____ per vehicle, duty paid	\$_____	\$_____ per vehicle, duty paid	_____%
21. Global Positioning system installation	Per vehicle	\$_____ per vehicle, duty paid	\$_____	\$_____ per vehicle, duty paid	_____%
22. Message Display	Per vehicle	\$_____ per vehicle, duty paid	\$_____	\$_____ per vehicle, duty paid	_____%
23. Vehicle Operators handbook compilation	Per vehicle	\$_____ per vehicle, duty paid	\$_____	\$_____ per vehicle, duty paid	_____%
24. Vehicle operators handbook production	Per vehicle	\$_____ per vehicle, duty paid	\$_____	\$_____ per vehicle, duty paid	_____%
25. Operation and maintenance handbook	Per vehicle	\$_____ per vehicle, duty paid	\$_____	\$_____ per vehicle, duty paid	_____%
26. Delivery of training modules (costed on per hourly basis)	Per hour	\$_____ per Hour	\$_____	\$_____ per vehicle, duty paid	_____%

If a full price option as listed above is not offered, details shall be provided below of any technical reasons which preclude the option from being offered by the Tenderer.

Full pricing for an option shall include all costs associated with the provision and installation of each item including subsequent modification work to the vehicle required to be conducted as a result of the option being accepted by the NSWFB.

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## 2.2 Price Basis

2.2.1 The Tenderer must indicate below the price basis of the tender (delete those inapplicable).

2.2.2 The tendered prices are:

- (i) Firm for the duration of the contract
- (ii) Variable in accordance with the formula at clause 2.2.3 below.

2.2.3 The price variation formula set out below is intended to cover offers whose content is sourced from Australia and up to three different overseas countries of origin.

Tenderers whose offer(s) contain **no imported content** (all-Australian content) need not concern themselves with any of the formula right of “AB<sub>1</sub>”.

Tenderers whose offer(s) contain **imported content from only one overseas country** need not concern themselves with any of the formula right of “EA<sub>0</sub>”.

Tenderers whose offer(s) contain **imported content from only two overseas countries** need not concern themselves with any of the formula right of “EB<sub>0</sub>”.

Tenderers whose offer(s) contain **imported content from three overseas countries** will have to use the whole formula.

$$PP = TP \times \left[ \frac{LC \times AB_1}{AB_0} + \frac{IA \times \frac{YZ_1}{YZ_0} \times EA_0}{EA} + \frac{IB \times \frac{WX_1}{WX_0} \times EB_0}{EB} + \frac{IC \times \frac{UV_1}{UV_0} \times EC_0}{EC} \right]$$

Where:

PP = **Price payable** at the time of delivery of the vehicle

TP = **Tendered price**

LC = Percentage of tender price representing local (Australian) content **expressed as a decimal. Local Content** includes:

- All Australian-sourced materials

- Costs directly associated with Australian sub-contracts
- Tenderer's costs including local labour, local freight and insurance, and administration
- Tenderer's profit

**Tenderer to Nominate Local Content expressed as a decimal:** \_\_\_\_\_

AB = Appropriate Australian Bureau of Statistics (Industry) Index used by the tenderer to calculate price movement of Local Content:

$AB_0$  = ABS index at time of tendering

**Tenderer to nominate: ABS Index Used:** \_\_\_\_\_  
**Index at time of tendering:** \_\_\_\_\_

$AB_1$  = ABS index at time of delivery of the vehicle

IA = Percentage of tender price representing imported content from the first (if more than one) country of origin, expressed as a decimal

**Tenderer to nominate: Country of Origin:** \_\_\_\_\_  
**Imported Content expressed as a decimal:** \_\_\_\_\_

YZ = ABS-equivalent Index in the first country of origin, used to determine price movement in the cost of the imported content:

$YZ_0$  = Country of origin's index at time of tendering

**Tenderer to nominate: ABS Index Used:** \_\_\_\_\_  
**Index at time of tendering:** \_\_\_\_\_

$YZ_1$  = Country of origin's index at date of export

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$EA_0$  = The exchange rate relevant to the imported content from the first country of origin, published in the Sydney Morning Herald at the base date (ie. seven days prior to close of tenders), expressed as "selling price \$A1.00 ="

**Tenderer to nominate : the exchange rate used:** \_\_\_\_\_  
**the base date:** \_\_\_\_\_

EA = The exchange rate relevant at the date of payment by the Contractor for the imported content from the first country of origin, published in the Sydney Morning Herald, expressed as "selling price \$A1.00 ="

IB = Percentage of tender price representing imported content from the second (if more than one) country of origin, expressed as a decimal

**Tenderer to nominate: Country of Origin:** \_\_\_\_\_  
**Imported Content expressed as a decimal:** \_\_\_\_\_

WX = ABS-equivalent Index in the second country of origin, used to determine price movement in the cost of the imported content:

$WX_0$  = Country of origin's index at time of tendering

**Tenderer to nominate: ABS Index Used:** \_\_\_\_\_  
**Index at time of tendering:** \_\_\_\_\_

$WX_1$  = Country of origin's index at date of export

$EB_0$  = The exchange rate relevant to the imported content from the second country of origin, published in the Sydney Morning Herald at the base date, expressed as "selling price \$A1.00 ="

**Tenderer to nominate : the exchange rate used:** \_\_\_\_\_  
**the base date:** \_\_\_\_\_

EB = The **exchange rate** relevant at the date of payment by the Contractor of the imported content from the second country of origin, published in the Sydney Morning Herald, expressed as “selling price \$A1.00 =”

IC = Percentage of tender price representing imported content from the third country of origin, \* expressed as a decimal

**Tenderer to nominate: Country of Origin:** \_\_\_\_\_  
**Imported Content expressed as a decimal:** \_\_\_\_\_

UV = ABS-equivalent Index in the third country of origin, used to determine price movement in the cost of the imported content:

UV<sub>0</sub> = Country of origin's index at time of tendering

**Tenderer to nominate: ABS Index Used:** \_\_\_\_\_  
**Index at time of tendering:** \_\_\_\_\_

UV<sub>1</sub> = Country of origin's index at date of export

EC<sub>0</sub> = The exchange rate relevant to the imported content from the third country of origin, published in the Sydney Morning Herald at the base date, expressed as “selling price \$A1.00 =”

**Tenderer to nominate: the exchange rate used:** \_\_\_\_\_  
**the base date:** \_\_\_\_\_

EC = The **exchange rate** relevant at the date of payment by the Contractor for the imported content from the third country of origin, published in the Sydney Morning Herald, expressed as “selling price \$A1.00 =”

**Notes: LC + IA + IB + IC must equal 1.0**  
**Tenderers are to provide documentation with their tenders verifying relevant indices and exchange rates used at time of tendering.**

2.2.4 The price applicable to each order placed under the contract shall be the contract price rate as published by the Principal at the date the order is placed.

2.2.5 When claiming payment for variations in accordance with clause 2.2.2(ii) above, the Contractor shall provide the NSWFB evidence of:

- (i) the level of the relevant Australian Bureau of Statistics (Industry) index applying at the date of completion of manufacture of the vehicle;
- (ii) the level of the relevant country-of-origin (Industry) index/indices applying at the **date of export** of the imported content and
- (iii) the exchange rate(s) relevant at the **date of payment** by the Contractor for the imported content.

## 2.3 Settlement Discount

2.3.1 The tendered prices are subject to a settlement discount of:-

(a) \_\_\_\_\_ % for payment within 14 days from the date of receipt of claim or acceptance, whichever date is the later.

(b) \_\_\_\_\_ % for payment made during the month following that in which the supplies have been received or the account rendered, whichever date is the later.

(c) \_\_\_\_\_ % for payment within \_\_\_\_\_ days from the date of receipt of claim or acceptance of supplies, whichever date is later.

(N.B.: If this condition is not completed, the prices tendered will be deemed to be NETT.



### 3. PROGRESS PAYMENTS

Progress Payments will be required during the course of the Contract:

#### YES/NO

(Tenderers are to delete whichever is not applicable)

If 'YES' tenderers are to specify hereunder a proposed progress payment schedule, based on the achievement of readily identifiable milestones:

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### 4. TENDER VALIDITY PERIOD

4.1 The Tender will remain valid for acceptance within \_\_\_\_\_ months from the deadline for lodgement of tenders, in accordance with Part A.

**N.B.** The minimum validity period of six (6) months is required.

### 5. DETAILS OF TENDERER IDENTITY AND STATUS

#### 5.1 Details of identity

Type or write your identification details as required below.

1) If a company, Company Name	
2) If a partnership, Partnership Name	
3) If an individual, individual's name	
4) Trading Name	
5) Australian Business Number (ABN)	
6) Australian Company Number (ACN)	
7) Registered Office (if a company)	
8) Site Address (principal place of business)	
9) Postal Address (principal place of business)	

10) Alternative Address	
11) Agreement Administration Contact Name	
12) Agreement Administration Contact Telephone and Fax No. and Email Address	Tel: _____ Fax _____ Email Address _____
13) Chief Executive Officer's Name (CEO)	
14) Switchboard Telephone No:	
15) Company email address	
16) Website address:	
17) Tenderer's Reference No:	

## 5.2 Details of ownership

If you are a company, please provide details of your ownership, that is, Australian, Overseas, name of each shareholder holding 20% or more of your issued share capital, paid-up capital and other relevant details.

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If you are a partnership, please provide a list of partners and details of the partnership financial arrangements.

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## 5.3 Contracting as agent/trustee

If awarded an agreement, do you intend to enter the agreement in your own right or as agent or trustee for some other entity or entities? If the latter, provide full details. (In the case of an agent, identify your principal who will be bound by the Agreement and any authority given by that principal to you to execute any such agreement as its agent). In the case of a trustee, provide a copy of the trust deed and provide full details below of your capacity to enter any agreement as a result of this RFT.

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Are you or any of your directors or close associates currently, or have you, or have your directors or close associates been at any time within the last five years, the subject of any or any pending:

- Yes/No**

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Do the tendered deliverables fully comply with the requirements of the specification and its functional requirements at Part C2?

This image shows a blank sheet of white paper with horizontal ruling lines. The lines are evenly spaced and run across the width of the page. There are no margins, text, or other markings on the paper.

**B. TENDERER'S ABILITY AND CAPACITY TO MEET THE REQUIREMENTS INCLUDING:-**

- **Demonstrated contract management/project management capability;**

Provide detailed information about the project planning procedures, project management structure, nominated project manager and contract administration team proposed for vehicle construction. Demonstrate capabilities of proposed team.

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**Tenderers previous performance and Demonstrated ability to fulfil all aspects and requirements of the proposed Contract demonstrated, for example by recent and successful supply of identical or similar equipment which were successfully completed, particularly with on-time deliveries.**

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**NOTE: ATTACH EXTRA SHEETS AS NECESSARY**

**NOTE: ATTACH EXTRA SHEETS AS NECESSARY**

**Production/technical capacity**

Demonstrate the suitability of your resources/facilities/procedures for the purposes of fulfilling the Requirement. Include details of:

- (a) size of premises;
- (b) back up facilities and any significant equipment if available to ensure the completion of work;
- (c) maintenance schedules for any significant equipment nominated in (b).

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- **Tenderer's Quality control procedures and System;**

**Quality Certification**

Indicate below whether you have attached at Part C4 any certification from approved testing authorities that confirm that the items tendered meet the relevant Australian, overseas or International Standards.

**Yes/No**


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**Quality Assurance**

Indicate whether your company has attained certification under AS/NZS ISO 9001:2000 (including if you are in the process of transition from AS/NZS ISO 9001:1994 or AS/NZS ISO 9002:1994 to AS/NZS ISO 9001:2000) or is proceeding towards getting certification.

**Yes/No**


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**If certification is being sought**

If you are in the process of attaining certification, provide evidence and a projected timetable and schedule for certification.

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**C. LIFE OF VEHICLE CONSIDERATIONS INCLUDING:-**

- **Warranty, Service life of vehicle, equipment reliability, whole of life costings, availability of spare parts, and on-going support;**

**Warranty**

Provide details regarding the period (not just manufacturer's standard warranty) and the extent of warranties offered in relation to each component and the vehicle as a whole. Tenderers are advised that the warranty offered is to be from date of acceptance of the vehicle.

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**Service life of Vehicle**

The vehicles shall be designed to ensure an effective service life in excess of 15 years, tenderers shall provide details of the service life of the vehicle and how they will achieve this.

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**Equipment Reliability**

Provide details of down-time record of previously supplied vehicles, currently in use, and any other details which support the reliability of vehicles offered, this shall include if applicable details of the chassis and the complete vehicle.

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**On-going Support**

For each component and for the vehicle as a whole provide:-

- details of current support providers and their structure and capacity including those of the OEM.
- contacts, addresses and telephone nos. of each service outlet available
- details as to availability of the service providers during the warranty period
- details of charges applicable after expiration of the warranty period.

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Tenderers are to provide a copy of the agreements it has in place with On-going support providers with its tendered response.

**Whole-of-Life Costings**

Tenderers are to provide hereunder a summary of expected whole-of-life costs for requirements, which may include, but not be limited to, preventive maintenance schedules (as recommended by the manufacturer), remedial maintenance outside the specified warranty period:

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**Recommended Maintenance Schedules**

Tenderers are to detail hereunder the manufacturer's recommended maintenance schedules for the Class 3 Urban Pumper Vehicle, including specific references to sub-assemblies.

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**Future Spares/Parts Requirements**

There will be guaranteed availability of spares/replacement parts to NSWFB for a period of fifteen (15) years after the Actual Acceptance Date for the last Class 3 Urban Pumper Vehicle:

**YES/NO**

(Tenderers are to delete whichever is not applicable)

Spares/replacement parts will be supplied at cost plus \_\_\_\_% for the fifteen (15) year guaranteed availability period.

Tenderers shall provide details of what spare parts it will hold in stock and the delivery lead time for all spare parts.

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**TENDERERS MUST PROVIDE A COMPREHENSIVE LIST OF ALL RECOMMENDED REPLACEMENT PARTS FOR ALL COMPONENTS AND THE LIST SHALL INCLUDE AVAILABILITY AND PRICING IN AUSTRALIA CURRENCY AS AT THE TIME OF TENDERING**

- **Demonstrated ability to meet the special needs and operational requirements of the NSWFB by reference to effective vehicle design, reliable performance, high in-service availability easy workshop maintenance, any special or enhanced operational features and maximum safety protection to the firefighters carried in the vehicle;**

Tenderers shall ensure that they respond to all aspects of this criteria and *provide details of previous dealings with NSWFB or other Fire Services, where designs have proven to be successful.*

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**D. Proposed lead-time and delivery of the unit and demonstrated ability to meet tendered delivery times;**

- (i) Delivery offered: Initial vehicle: \_\_\_\_\_ weeks from receipt of order
- (ii) Subsequent vehicles: \_\_\_\_\_ vehicles per \_\_\_\_\_ month

Provide details of previous projects where tendered delivery times were met.

*Note: Where sufficient details are provided at Criteria B to address this criteria, cross-reference to Criteria B is an acceptable response to this Criteria.*

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**NOTE: ATTACH EXTRA SHEETS AS NECESSARY**

Does the tenderer fully comply with all the Conditions of Contract?

YES/NO (delete whichever is inapplicable)

If NO, please list clause numbers not complied with and provide full Details of deviations below.

[illegible]

*No response is required by tenderers, information provided elsewhere in the tender will be used to assess this criteria.*

*Note: The Tender Evaluation Committee may seek independent financial assessment of the tenderer, without reference to the tenderer.*

Give the annual Australian turnover for the past three (3) years in \$.

1. \$A \quad 2. \\$A \quad 3. \\$A

If a company, please attach to this page a copy of each of your annual financial reports for the last three financial years with your Tender.

**H. REFEREE REPORTS**

*Tenderers are to provide details required below for persons willing to act as referees to the tenderer's standard of performance in relation to their ability as a provider of the required equipment. Nominated referees should be in the position to confirm claims made in relation to other criteria, eg. Previous performance, ability to meet tendered delivery times, etc. If necessary, nominate additional referees, as required.*

**Referee No 1.**

Name: \_\_\_\_\_  
 Position: \_\_\_\_\_  
 Company: \_\_\_\_\_  
 No. of Years tenderer has provided service to Referee: \_\_\_\_\_ years  
 Telephone No: \_\_\_\_\_  
 Fax No: \_\_\_\_\_  
 Email Address: \_\_\_\_\_

**Referee No 2.**

Name: \_\_\_\_\_  
 Position: \_\_\_\_\_  
 Company: \_\_\_\_\_  
 No. of Years tenderer has provided service to Referee: \_\_\_\_\_ years  
 Telephone No: \_\_\_\_\_  
 Fax No: \_\_\_\_\_  
 Email Address: \_\_\_\_\_

**Referee No 3.**

Name: \_\_\_\_\_  
 Position: \_\_\_\_\_  
 Company: \_\_\_\_\_  
 No. of Years tenderer has provided service to Referee: \_\_\_\_\_ years  
 Telephone No: \_\_\_\_\_  
 Fax No: \_\_\_\_\_  
 Email Address: \_\_\_\_\_

**I. COMPLIANCE WITH NSW GOVERNMENT PROCUREMENT POLICY AND OTHER APPLICABLE NSW GOVERNMENT POLICIES AND BENEFITS OFFERED UNDER THE PROPOSAL IN RELATION TO NSW GOVERNMENT POLICIES.****Code of Practice and Code of Tendering**

Have you have read the Code of Practice and Code of Tendering and taken them into consideration in preparing and submitting your Tender?

**Yes/No**

Will you maintain compliance with the Codes for the purposes of the Contract, advise the Board of any breaches of the Codes for the duration of the Contract and provide evidence of compliance when requested by the Principal during the course of the Contract?

**Yes/No**

Provide any other relevant information below

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**NSW Government Procurement Policy**

Provide details of any initiatives/strategies/policies you have or propose to implement under any resultant contract in relation to the following areas of the NSW Government's Procurement Policy :- training and skills formation, affirmative action, occupational health and safety, workplace and industrial relations practices, improving workplace diversity, employment opportunities for aboriginal people and environmental management and performance.

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**Small to Medium Enterprise (SME)**

Provide details of the likely percentage of the value of the Deliverables to be provided under the Contract that will be sourced from SMEs and of the activities that will be carried out by SMEs under the Contract.

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**NSW Country Industries Preference Scheme**

You must complete the following details if you are eligible under the Country Industries Preference Scheme and wish to make use of the CIPS margin:

(a) Have you registered with the Country Industry Preference Scheme?

**Yes/No**

If “**Yes**”, supply Preference Registration Number

(b) Supply details of the location(s) (town(s)) of your manufacturing or other facilities

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Will the Deliverables be wholly or substantially manufactured or produced at the above location(s)?

**Yes/No**

If “**No**” explain below

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**Regional development activity**

Provide details of the positive impact that the work flowing to the local region will generate, and any adverse effect should the same work be awarded to a capital city based organisation.

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### Occupational Health Safety & Rehabilitation

Do you currently comply with your OHS&R statutory obligations and will you continue to do so for the duration of any Contract awarded?

**Yes/No**

If “**No**”, provide Details below

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### Environmental Management

Describe in what way or ways your organisation promotes the development of Ecologically Sustainable Development.

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### Conflict of Interest

Tenderers are to state whether the awarding of a contract as a result of this tender is likely to give rise to any relationships, direct or indirect, or potential conflicts of interest which require disclosure:

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## 7. SUB-CONTRACTORS

Is any part of the Deliverables to be offered through a sub-contractor? In this context, suppliers of raw materials and/or minor components to be incorporated into the Deliverables supplied by the Contractor are not regarded as sub-contractors for the purpose of this question.

**Yes/No**

If “**Yes**”, in respect of each nominated sub-contractor, please provide the following information, so far as applicable. Copy this table and insert details if there is more than one nominated sub-contractor.

<b>Sub-contractor</b>	
<b>1) If a company, Company Name</b>	
<b>2) If a partnership, Partnership Name</b>	
<b>3) If an individual, individual's name</b>	
<b>4) Trading Name</b>	
<b>5) Australian Business Number (ABN)</b>	
<b>6) Australian Company Number (ACN)</b>	
<b>7) Registered Office (if a company)</b>	
<b>8) Site Address (principal place of business)</b>	
<b>9) Postal Address (principal place of business)</b>	
<b>10) Alternative Address</b>	
<b>11) Contract Administration Contact Name</b>	
<b>12) Contract Administration Contact Telephone No.</b>	
<b>13) Contract Administration Contact E-mail Address</b>	
<b>14) Contract Administration Contact Fax No.</b>	
<b>15) Sales Order Contact Name</b>	
<b>16) Sales Order Phone No.</b>	
<b>17) Sales Order E-mail Address</b>	
<b>18) Sales Order Fax No.</b>	
<b>19) Chief Executive Officer's (CEO) name</b>	
<b>20) Switchboard Telephone No.</b>	
<b>21) Company E-mail Address</b>	
<b>22) Website address</b>	
<b>23) Items able to be supplied</b>	

For each nominated sub-contractor, provide details of their legal status (company, partnership, individual etc) and experience and qualifications in the provision of similar Deliverables.

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Sub-contractors are required to provide a letter of commitment to the Board that:

- (a) they are aware of the terms and conditions of the agreement between the Contractor and the Board, and
- (b) they will offer to supply under the terms and conditions of the agreement and otherwise on terms that enable Contractors to comply with the agreement.

Do you agree to attach to the completed Part C (or, if tendering electronically, to submit as a pre-condition of acceptance of your Tender) a letter of commitment from sub-contractors, and provide a letter of commitment from any sub-contractor approved during the term of the agreement?

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## **8. FURTHER INFORMATION AND COMMENTS ON CAPACITY OR ABILITY TO PERFORM THE CONTRACT**

- 8.1 State here any other Details you may wish to add. Please also address your capacity to perform the Contract in the context of the current commitments of your organisation.

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## **9. ADDENDA TO THIS RFT AFTER ISSUE**

- 9.1 If there have been any Addenda by the Board to this RFT after the issue of this RFT, indicate below whether you have read and allowed for the Addenda in your Tender.

### **YES/NO/THERE HAVE BEEN NO ADDENDA BY THE BOARD**

If **NO**, provide reasons below

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**10. SCHEDULE OF INSURANCE****10.1 Worker's Compensation Insurance**

Insurance Company: \_\_\_\_\_

Address: \_\_\_\_\_

Phone number: \_\_\_\_\_

Policy number: \_\_\_\_\_

Expiry Date: \_\_\_\_\_

**10.2 Public Liability Insurance**

Insurance Company: \_\_\_\_\_

Address: \_\_\_\_\_

Phone number: \_\_\_\_\_

Policy number: \_\_\_\_\_

Expiry Date: \_\_\_\_\_

Limit of Liability: \_\_\_\_\_

**10.3 Product Liability Insurance**

Insurance Company: \_\_\_\_\_

Address: \_\_\_\_\_

Phone number: \_\_\_\_\_

Policy number: \_\_\_\_\_

Expiry Date: \_\_\_\_\_

Limit of Liability: \_\_\_\_\_

**PART C2                      STATEMENT OF COMPLIANCE WITH PART C3 –**  
**SPECIFICATION AND PART C4 – NSWFB ADDITIONAL**  
**REQUIREMENTS**

The Deliverables are to be in accordance with the Specification Detailed below.

Tenderers must state hereunder whether the Deliverables offered conform to the Specification.

The following terms are appropriate in providing a statement of compliance:

**COMPLIES** means:

- (a) in the case of a clause which is of an informative nature only, that the clause has been read and understood;
- (b) in the case of a clause which specifies a characteristic or performance standard to be met by the goods or services to be provided, that the offer is to provide the characteristics or standard.

Where appropriate, tenderers should state or describe how the requirement is or is to be met.

**PARTIALLY COMPLIES** means, in the case of a clause, which specifies a characteristic or performance standard, it can only be met subject to certain conditions. Where this is the case and the tenderer is prepared to make good on the condition, characteristic or performance standard the tenderer must explain and cost the required change, modification or custom development.

**DOES NOT COMPLY** means that the characteristic or performance standard of the clause is not met by the offer. Full Details of non-compliance must be stated.

**ALTERNATIVE** means that the tenderer's system or process either does not require the feature due to inherent design or capability in the operation of the system or the tenderer's system or process fully complies in a manner different to that described. In both cases a description must be provided.

**SIGNIFICANTLY EXCEEDS REQUIREMENTS** means, in some cases, the goods or services offered may significantly exceed the specified requirements. As this may have a bearing on the evaluation process, full Details must be stated.

The Specification is indicative of the needs of the Principal, and any deliverable offered must be of at least the same standard and potential. Consideration may be given, however, to Deliverables of a higher standard if they are available and better suited to the Principals requirements.

Any failure by the tenderer to make clear the extent of compliance or non-compliance with any clause or paragraph of the Specification may be interpreted as failure to comply with the requirement concerned when assessing the relative merits of tenders.

When completing the Statement of Compliance, where explanation or further Detail is needed with regard to compliance, part-compliance, non-compliance, etc., tenderers should provide an attachment at the end of the Statement of Compliance quoting clause no. and giving detailed explanation. Note: For any offerings additional to the primary offer (whether variations to the primary offer or alternate offers) only note the clauses of the specification with which you cannot comply or with which you can only partially comply).

Tenderers are advised that the specification provided are based on the NSW FB's current configuration of equipment. The NSWFB's objective is to have a standard layout of its vehicles allowing ease of use for end users.

The method of construction of the Unit as illustrated in the specification is not mandatory. Alternative construction methods, which can provide the target function, will be considered.

The drawings provided show the concept and preferred layout of the vehicle. Tenderers are at liberty to provide their own structural design to meet the NSWFB's requirements i.e. the internal arrangement in the vehicle. In doing so tenderers are required to demonstrate how their design meets the operational requirements of the NSWFB. Detail design changes to the preferred layout will be considered should the tenderer's construction methods require it.

CLAUSE IDENTIFICATION		TENDERER'S RESPONSE
<b>PART 1 GENERAL REQUIREMENTS</b>		
1.1	Scope .....	-----
1.2	Function .....	-----
1.3	Overall Requirements .....	-----
1.4	Rust and Corrosion Protection .....	-----
1.5	Vehicle Maintenance .....	-----
1.6	Electro- Magnetic Compatibility .....	-----
1.7	Occupational Health and Safety (OHS) .....	-----
1.8	Regulations, Standards and Reference Documents.....	-----
<b>PART 2 CHASSIS &amp; CABIN</b>		
2.1	Chassis .....	-----
2.2	Engine .....	-----
2.3	Drive Line .....	-----
2.4	Suspension .....	-----
2.5	Steering .....	-----

CLAUSE IDENTIFICATION		TENDERER'S RESPONSE
2.6	Wheels and Tyres .....	-----
2.7	Brake System.....	-----
2.8	Vehicle Compressed Air System.....	-----
2.9	Intake and Exhaust .....	-----
2.10	Fuel System .....	-----
2.11	Crew Cabin .....	-----
2.12	Cabin Internal Fixtures .....	-----
2.13	Cabin External Fittings .....	-----
<b>PART 3 CHASSIS &amp; CABIN</b>		
3.1	Fire Pump.....	-----
3.2	Pump Engagement Controls .....	-----
3.3	Pump Panel.....	-----
3.4	Noise Levels.....	-----
3.5	Pump Plumbing.....	-----
3.6	Inlets and Outlets .....	-----
3.7	Hose Reel .....	-----
3.8	High Pressure Hose .....	-----
3.9	Foam Systems .....	-----
3.10	Water and Foam Tanks.....	-----
3.11	Auxiliary Portable Pump.....	-----
3.12	Pump Testing .....	-----
<b>PART 4 BODY WORK</b>		
4.1	General .....	-----
4.2	Construction Materials .....	-----
4.3	Body Construction.....	-----
4.4	Equipment Layout .....	-----
4.7	Finishes.....	-----
4.8	Vehicle Conspicuity .....	-----
4.9	Name Plate .....	-----

CLAUSE IDENTIFICATION		TENDERER'S RESPONSE
<b>PART 5 ELECTRICAL SYSTEM</b>		
5.1	General .....	-----
5.2	On-board Battery Charging System (Alternator).....	-----
5.3	Auxiliary Battery Charging System .....	-----
5.4	Auxiliary Control System (ACS) .....	-----
5.5	24v/240V Inverter (Priced Option) .....	-----
5.6	Body Electrical .....	-----
5.7	Vehicle Radios .....	-----
5.8	Mobile Phone .....	-----
5.9	Satelite Phone .....	-----
5.10	Citizen Band (CB) Radio .....	-----
5.11	Global Positioning System (GPS) .....	-----
5.12	Message Display (Priced Option) .....	-----
<b>PART 5 MANUALS, DRAWINGS AND DOCUMENTATION</b>		
5.1	Manuals.....	-----
5.2	Drawings .....	-----
5.3	NSWFB Supplied Drawings .....	-----
5.4	Contractor Supplied Documentation .....	-----
<b>ANNEX A</b>	Glossary of Terms	-----
<b>ANNEX B</b>	NSWFB Concept Drawings	-----
<b>ANNEX C</b>	Signs, Labels and Markings	-----
<b>ANNEX D</b>	List of NSWFB Approved Products and Spare Parts	-----
<b>ANNEX E</b>	Class 3 Urban Pumper Vehicle Inventory	-----
<b>ANNEX F</b>	Code of Practice – Automotive Electrical Systems Extra Low Voltage (10-32 Volt)	-----
<b>ANNEX G</b>	Code of Practice – Automotive Mobile Radio Installation	-----
<b>ANNEX H</b>	Vehicle Information Data Sheets	-----
<b>ANNEX I</b>	Delivery Handover Sheet	-----
<b>ANNEX J</b>	Pump Test Report Sheet	-----

# PART C3 SPECIFICATION FOR CLASS 3 URBAN PUMPER VEHICLES

## PART C4 NSWFB ADDITIONAL REQUIREMENTS

## 1. NSWFB Requested Information

- 1.1 Notwithstanding any obligations to demonstrate compliance to the specification, the NSWFB also requires the following information to be supplied with the tender reply for evaluation of each proposal. References refer to Clauses in the Specification in Part C2 of this document. Tenderer's are required to indicate their compliance or otherwise to the following Table in the Statement of Compliance in Part B2B of this document.

NO	Requested Information	Specification Reference
	Preliminary drawings of the proposed vehicle (fully laden) including: 1) overall dimensions including any equipment overhang; 2) estimated front and rear axle loads and front and rear axle ratings; 3) entry, departure and ramp angles; 4) expected centre of gravity in all planes; 5) wheelbase and ground clearance; 6) general arrangement of locker layout.	1.3.1;1.3.4; 4.3.2
	Details of corrosion protection plan including paint and corrosion protection methods, standards applied and compliance tests. Warranty details for water and foam tanks, body, pump and foam systems, cab/chassis and general components	1.4
	Details of regular preventative maintenance service schedules for all major components and estimated whole of life costs.	1.5
	Details of the CAB/Chassis offered including any optional variants from the OEM available including alternative dimensions, wheelbases, GVMs, engine/transmissions, suspensions and brake systems.	2.1.1.1
	Details of engine/s offered including torque and power curves.	2.2
	Written confirmation from the engine manufacturer that the engine will operate for 8 hours in an ambient air temperature of 45°C without overheating.	2.2.2
	Details of the transmission offered.	2.3.1
	Written confirmation from the transmission manufacturer that the retarder will reduce vehicle speed from 60km/h to 40km/h within 6 seconds.	2.3.2.4
	Expected road performance (e.g. performance scan).	2.3.5.2
	Details of the vehicle suspension.	2.4
	Details of the tyre brands offered.	2.6.3
	Details of the braking system offered.	2.7
	Details of the air intake design which minimises ingestion of water and embers.	2.9.2
	Details of the fuel tank capacity.	2.10.1
	Provide a complete fuel curve with calculations of the engine fuel consumption rate for the worst case scenario.	2.10.1
	Details of cabin internal dimensions and proposed layout including position of SCBA seats and firefighters PPE stowage	2.11.1; 2.11.5; 2.12.8
	Details of cabin access steps	2.11.2
	Details of SCBA seats offered	2.11.5.9
	Provide a list of all cab/chassis optional fixtures including OEM and non-OEM equipment.	2.12; 2.13
	Details of fire pump offered including flow pressure performance and expected noise level output.	3.1



NO	Requested Information	Specification Reference
	Details of the pump drive system (include components, gear ratios, pump output control, pump engagement controls and safety interlocks).	3.1
	Details of the proposed Pump module including the inlets/outlets offered and the proposed plumbing configuration.	3.1.7;3.5;3.6
	Details of the engine/pump governing system	3.3.4
	Details of hose reel offered.	3.7
	Details of the foam system offered	3.9
	Details of the expected water and foam tank capacities	3.10.1.1
	Details of pump testing facilities and equipment to be used (Contractor and/or sub-contractors)	3.12
	Specifications and/or details of all construction materials used on the body.	4.1
	Details of body mounting. (if different from the NSWFB Engineering drawings)	4.3.1
	Details of the roller shutters.	4.3.3
	Details of any equipment slides offered (include brand and model, number offered and locations, load rating and expected load).	4.4.3
	Details on the SCBA mounting assembly.	4.4.9
	Preliminary calculations of electrical loads including output curves of the alternator/s as per the requirements of the 12-24V COP.	5.1.8
	Details of on-board charging system.	5.136
	Details of Electrical (ACS) system.	5.4
	Acknowledge the Rights to reproduce	6.1.2

## 2. Fully Priced Options

- 2.1 The NSWFB requests that the following fully priced options be included in the tender reply (listed separately) and include full details such as position, design, materials, installation and equipment required for each option. Reference numbers refer to numbered clauses in the NSWFB Class 3 Urban Pumper Specification. The tenderer must indicate their compliance (or otherwise) to the following fully price options in the Statement of Compliance. The tenderer shall also provide pricing details for each option in the Pricing Schedule.

Ref. No	Requested Information	Specification Document Reference
1.	Alternative cab/chassis.	2.1
2.	Alternative transmission	2.3.1
3.	Alternative retardation system	2.3.2
4.	Front air bag suspension	2.4.3
5.	Alternative Pump drive	2.3.3
6.	Hill start assist	2.7.3
7.	Cabin Floor lining	2.11.3.3
8.	Central locking system with three (3) remote controls	2.11.4.5
9.	SCBA seats	2.11.5.9
10.	Lockable (instead of latchable) six (6) radio container with three (3) keys provided for the lock	2.12.7.6

Ref. No	Requested Information	Specification Document Reference
11.	Alternative fire pumps	3.1
12.	Hose reels	3.7
13.	Foam system	3.9
14.	Roller shutters	4.3.3
15.	Equipment slides	4.4.3
16.	Additional brackets and/or modifications to accommodate primary rescue inventory equipment	4.4.7
17.	24V/240V inverter	5.5
18.	Mobile Phone Installation	5.8.1
19.	Satellite phone installation	5.9.1
20.	CB radio installation	5.10.1
21.	Global Positioning system installation	5.11.1
22.	Message Display	5.12
23.	Vehicle Operators handbook compilation	6.1.4
24.	Vehicle operators handbook production	6.1.5
25.	Operation and maintenance handbook	6.1.6
26.	Delivery of training modules (costed on per hourly basis)	Per hour

2.2 If a full price option as listed above is not offered, details should be provided to the NSWFB of any technical reasons which preclude the option from being offered by the tenderer.

2.3 Full pricing for an option should include all costs associated with the provision and installation of each item including subsequent modification work to the vehicle required to be conducted as a result of the option being accepted by the NSWFB.

### 3. NSWFB SUPPLIED EQUIPMENT

3.1 The following equipment will be provided by the NSWFB on a free issue basis for each vehicle, and should be fitted as per the referenced clause in the NSWFB Class 3 Urban Pumper Specification.

3.2 References refer to numbered clauses in the Class 3 Urban Pumper Specification.

3.3 The Tenderer must indicate their understanding of the equipment in the following table in the Statement of Compliance.

Ref	Description
4.3.8.2	NSWFB insignia mud flaps.
4.6.1.4	NSWFB insignia (crests).
4.6.5.4	NSWFB 000 decals..
5.7	<b>GRN Radio</b>
5.8	Mobile phone (if fitted)
5.9	Satellite phone (if fitted)
5.10	CB Radio (if fitted)
5.11	GPS (if fitted)

3.4 A full inventory, including additional examples of specific equipment, will be provided by the NSWFB on a free issue basis for the production vehicle only.

- 3.5 The inventory should be used to design and fabricate appropriate stowage arrangements for all vehicle configurations (refer to section 4.4.1 of the Specification).
- 3.6 Upon receipt of any free-issue items, the items should be checked and verified, and the Goods Shipped Report shall be signed and acknowledging receipt of the goods and returned to the NSWFB.
- 3.7 All inventory supplied by the NSWFB is the responsibility of the Contractor until delivered back to the NSWFB and signed off.
- 3.8 Discrepancies between the supplied inventory and returned inventory will be reported to the Contractor within five (5) working days or within a reasonable amount of time from the time at which the NSWFB becomes aware of the discrepancy.
- 3.9 All inventory equipment should be returned to the NSWFB either stowed in-situ in a production vehicle when it is delivered or transported separately.
- 3.10 All expenses incurred in returning the inventory to the NSWFB should be borne by the Contractor.
- 3.11 A vehicle battery charger and charging cable (for the vehicle) will be provided by the NSWFB on a free issue basis for period of the contract.
- 3.12 The battery charger and cable should be used to ensure that the battery charging wiring fitted on each vehicle functions fully when connected to a NSWFB standard battery charger (refer to clause 5.3.2 of the Specification).
- 3.13 The battery charger and cable should be returned to the NSWFB when the last vehicle is delivered.

## **PART C5      TENDERER IDENTIFICATION DETAILS AND CONFIRMATION OF TENDER**

### **1.      TENDERER IDENTIFICATION DETAILS**

#### **1.1      Name of tenderer**

**Individual:**      *[Print name]*

Trading Name (if applicable):

*or*

**Company:** *[Full name]*

Trading Name (if applicable):

Name and official position of authorised  
officer completing tender:

*or*

**Partnership:**      *[Trading Name of  
partnership]*

Name of partner completing tender:

#### **1.2      ABN:**

#### **1.3      Address of tenderer      *[in the case of a company, state registered office and, if different, principal place of business]***

#### **1.4      Business Postal Address:**

STD Area Code:

Telephone No.:

(   )

Facsimile No:

(   )

Email:

Website:

Contact Name for general enquiries:

Telephone No.:

Tenderer's reference number

## 2. ACKNOWLEDGEMENT AND CONFIRMATION OF TENDER

Note to tenderers: If submitting a hard copy Tender, execute cl. 2.2. If submitting an electronic Tender, only complete cl. 2.3.

2.1 Lodgement of a Tender will itself be an acknowledgment and representation by you that you are aware of the requirements of the Codes; that you will comply with the Codes; and that you agree to report to the Board any breaches of the Codes for the duration of the Contract.

2.2 I affirm that this is my Tender to supply the Service sought in the RFT at the prices tendered, and in accordance with the conditions of the RFT except as expressly amended in my Tender, and that the information given in my Tender is correct:

\_\_\_\_\_  
Print Name and Title

\_\_\_\_\_  
Signature of tenderer (if an individual, as identified in cl. 1 Part C5)

OR

\_\_\_\_\_  
Signature of authorised officer of tenderer (as identified in cl. 1 Part C5)

OR

\_\_\_\_\_  
Signature of partner completing tender on behalf of partnership (as identified in cl. 1 Part C5)

2.3 If submitting an electronic Tender, do you acknowledge and accept that electronic submission in accordance with the requirements of the RFT and any conditions of the NSW Department of Commerce tenders website is sufficient to verify and affirm that this is your Tender to supply the Service at the prices tendered on the conditions contained in Part A, except as expressly amended in your Tender and that the information contained in your Tender is correct?

Note that such acknowledgment and acceptance, by stating "Yes", is a necessary prerequisite to consideration of your Tender.

Yes/No

\_\_\_\_\_  
Print Name and Title