

## EXPRESSIONS OF INTEREST



# FOR EXPRESSION OF INTEREST

## Terms & Conditions of Expressions of Interest

### SUBMISSION OF EXPRESSION OF INTEREST AND NOTIFICATION

1. Form: All offers to purchase (Offers) must be in writing, display the correct Expression of Interest number and the person making the offer (I/Offeror) warrants all information provided is true and correct. The submission of an Offer constitutes acceptance of these Terms and Conditions.

Closing Time:

Lodging: Offers must be lodged at Manheim by one of the following means:

- **Mail:**  
Attention:  
Manheim Pty Ltd

- **Email:** To be sent to

**Seller's Discretion:** The highest or any Offers will not necessarily be accepted. The Seller or Manheim may withdraw any Item from sale or amend the Closing Date at its discretion and without notice.

**Delays:** Neither the Seller nor Manheim will be liable for or take any responsibility for Offers not received by the Expression of Interest Closing Time for any reason, including (but not limited to) industrial disputes, electronic or technical difficulties.

**Notification:** The successful Offeror (I/Buyer), if any, will be notified by email or fax using the contact details provided in the successful Offer within 5 business days of the closing date specified. Unsuccessful Offerors may not be notified.

2. Subject to clauses 22 and 25, if any dispute arises with the Seller, I agree to allow Manheim to attempt to mediate and resolve the matter with the Seller and
  - (i) if Manheim, acting reasonably, determines the most appropriate resolution of the matter is the cancellation of sale and refund of purchase monies paid I will have no further claim or recourse against Manheim or the Seller upon cancellation and refund of the purchase monies; and
  - (ii) I will not institute other action or proceedings unless Manheim advises it is unable to assist further in the resolution of the matter, or has failed to resolve the matter within a reasonable period of time having regard to all relevant circumstances. Nothing in this clause prevents a party from seeking urgent interim relief, such as an interim injunction, subject to the final resolution of any dispute.
3. Each Offer constitutes an irrevocable offer by the Offeror to purchase the Item at the specified price. Once an Offer is made, it cannot be revoked and remains open for acceptance by the Seller or Manheim until the sale is completed.
4. An Offer is taken to be a representation and warranty by the Buyer that the Offer is a genuine offer to purchase the Item at the price specified.
5. All Offer prices are GST inclusive unless the owner of the goods is not registered or required to be registered for GST (in which case no GST is payable on the sale of the Item). Items to be sold on behalf of owners not registered or required to be registered for GST will be separately identified.
6. The Buyer must disclose to Manheim at the time of registration as an Offeror and prior to any Offer, that there is an intention to purchase an Item for export purposes. The ability of a Buyer to purchase in this manner is at the discretion of Manheim and subject to the Seller's consent. In the event this type of purchase is permitted the Buyer is required to comply with all legislated disclosure requirements and Manheim's reasonable directions.
7. 1. All Offers submitted must be bona fide and must not be fixed or adjusted in collusion (or otherwise in accordance with any arrangement or agreement) with any third party (including but not limited to providing information relating to intended Offers or attempting to manipulate the sale process in any way. If Manheim becomes aware of any form of collusive activity by a Offeror, Manheim may terminate the Offeror's right to participate in the Expressions of Interest process (EOI process), or if Manheim has accepted the Offeror's Offer, Manheim may terminate any contracts entered into by the Offeror relating to the Offer.

8. All persons entering Manheim's premises must conduct themselves in a courteous manner and observe all directions in relation health and safety requirements. Manheim reserves the right to require anyone, including the Buyer, to leave the premises prior, during or after an auction for any reason, including for health and safety reasons or if any person engages in disruptive, abusive or intimidating behaviour. If the Buyer engages in any disruptive, abusive or intimidating behaviour on Manheim's premises or towards Manheim or its personnel, without limiting any of its other rights, Manheim may refuse to permit the Buyer to participate in any business and terminate this Agreement with immediate effect. Termination by Manheim does not release the Buyer from, or affect, any accrued obligation of the Buyer under this Agreement.
9. Manheim may refuse to accept any Offer or withdraw any Item from sale.
10. Manheim may hold an Offer and refer such an Offer to the Seller before acceptance. In some circumstances further negotiations may only be held with the highest Offeror.
11. All Buyers shall, if required to do so by Manheim, pay the deposit notified to Offerors.
12. In the case of non-payment of such deposit by a Buyer (Defaulter), the Item/s may, at the option of Manheim, be auctioned or resold and Manheim may in its discretion, refuse to accept any Offer made by the Defaulter.
13. Road Test Reports (excluding Truck & Machinery and Salvage Auctions), may be prepared by Manheim as a result of a brief road test undertaken prior to auction and are a guide only. Road tests are not performed on Items unless expressly stated in writing and if conducted, are done at the absolute discretion of Manheim. No warranty or guarantee concerning known or unknown faults is given or implied by Manheim in relation to the Item/s of the Road Test Report. The Road Test Report covers no items capable of visual inspection. Vehicles sold with a Road Test Report are sold subject to these Terms & Conditions including clause 24, which refers to vehicles being sold with all faults (if any).
14. Risk of damage to, and loss or destruction of, the Item shall pass to the Buyer immediately upon acceptance of an Offer. Subject to clause 22, neither the Seller nor Manheim shall be accountable for any deficiency, damage or loss, which may arise thereafter except to the extent that the loss is caused by the negligence of Manheim.
15. It is the Buyer's responsibility to independently verify any information relevant to any Item important to the Buyer's decision to Offer on the Item.
16. Stamp duty and delivery charges to be paid by the Buyer where and when applicable.
17. Title in the Item or any part thereof shall not be eligible to pass to the Buyer until Manheim receives clear funds on the full payment for the Item from the Buyer. Full payment is due and payable by 4:00pm one business day after acceptance of the Offer. If the Offeror fails to make full payment by 4:00pm one business day after acceptance of the Offer, Manheim may charge, and the Offeror must pay to Manheim, a reasonable late payment fee, that reflects the costs incurred by Manheim as a result of the late payment.
18. The Buyer cannot collect their Items or any portion thereof, until Manheim has clear funds from the Buyer in accordance with clause 18 (Completion). If Completion has occurred, the Buyer must take all Items no later than 4:00pm one business day after Completion. Storage charges (that reflects the costs incurred by Manheim as a result of the late collection) may apply on Items paid for and remaining uncollected after 4:00pm one business day after Completion.
19. Manheim shall not be responsible for any damage to property or injury to persons incurred during the removal of Items after Completion except to the extent caused by the negligence of Manheim. The Buyer must ensure its method of removal (including transport and/or dismantling) of an Item meets all legislative requirements including occupational health and safety laws and meets Manheim or the Seller's requirements for safe removal.
20. Without limiting any other rights of Manheim, if the Buyer commits a material breach of these Terms & Conditions, any money deposited by the Buyer in part payment shall be forfeited, all Items may be resold and the defaulting Buyer must reimburse Manheim for all reasonable costs and charges consequent upon resale.

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21.

1. To the full extent permitted by law, and notwithstanding the contents of any materials issued by Manheim, all conditions, warranties, guarantees, rights, remedies, liabilities and other terms implied or imposed on Manheim by statute, custom or the common law are excluded from these Terms & Conditions. In entering into these Terms and Conditions (unless a supply is a supply of goods or services to a consumer within the meaning of the Consumer Guarantees Act 1993 (CGA)) we both confirm, acknowledge and agree that;

(a) we are each 'in trade';

(b) the Items are supplied to you and acquired by you in trade and for a business purpose; and

(c) the statutory guarantees and implied terms, covenants and conditions contained in the CGA are excluded to the fullest extent permitted at law, and do not apply. If a supply is a supply of goods or services to a consumer within the meaning of the CGA, nothing contained in these Terms & Conditions excludes, restricts or modifies the application of the CGA
22.

The Seller represents and warrants to the Buyer and Manheim that the Item is not subject to a security interest of any kind including without limitation under the Personal Property Securities Act 1999 (PPSA) (other than a security interest in favour of the Seller which will be released at or prior to the time title in the Item is intended to pass to the Buyer).
23.

Subject to clause 22 the Buyer accepts all Items, having been made available for inspection prior to Offer, are offered for sale 'as is, where is' with all faults (if any). The Buyer acknowledges it is also responsible for conducting a search of the PPSR to ascertain whether any security interests and write off notification are recorded in relation to the Item.
24.

The Buyer acknowledges any information provided by Manheim in relation to any Item reflects the information provided to Manheim by the Seller. Manheim has not independently verified its completeness or accuracy. Manheim does not give any warranty as to the completeness or accuracy of any information provided to a Buyer about any Item, including without limitation any information as to the distance travelled or machine or engine hours and Manheim will not be liable for any loss, damage, cost or expense suffered or incurred by a Buyer arising out of incorrect or incomplete information. The Buyer agrees to independently verify any information important to their purchasing decision.
25.

The Buyer acknowledges and agrees that advertisements may be subject to change and update from time to time. Manheim reserves the right to withdraw Items from sale and to clarify any descriptions prior to the commencement of Offers.
26.

Subject to clause 22, the Buyer agrees and acknowledges Manheim accepts no liability or responsibility to the Buyer or any third party arising from any indirect or consequential loss, damage or expense of any kind or nature and the Buyer releases and forever discharges Manheim from any such liabilities and claims, demands or causes of action in respect thereof.
27.

Subject to clause 22, Manheim accepts no responsibility for any interpretation placed upon the information provided to the Buyer.
28.

Subject to clause 22, the Buyer agrees to indemnify Manheim the full amount of any claim, suit or demand and Manheim's costs of such a claim, suit or demand (including without limitation, Manheim's legal costs on a full indemnity basis) made by the Buyer or any other person in relation to a sale except to the extent caused by the negligence or a breach of these Terms and Conditions by Manheim. This clause 29 survives termination of this Agreement for any reason and does not merge upon completion.
29.

Manheim is not responsible or otherwise liable for any delay in, or failure of, performance to the extent of any delay or failure due to circumstances beyond Manheim's reasonable control including without limitation, strikes, lockouts and other industrial disputes, breakdown of systems or network access, flood, fire, hail, explosion or accident.
30.

The Buyer acknowledges and agrees that state legislation may require vehicles to be quarantined where they have been transported from interstate. Unless expressly agreed with the Seller or Manheim, the Buyer bears sole responsibility for compliance and all costs (including regulatory fees charged by quarantine authorities) associated with satisfying State or Federal legislation concerning the quarantine of Items.
31.

Manheim has the right to cancel any purchase transaction due to error even if the purchase price of the Item has been paid. Manheim may exercise this right up until the time the Buyer collects the item(s). If Manheim exercises this right, Manheim will refund to the Buyer any purchase price that the Buyer has paid.
32.

Without limiting any other right of Manheim, Manheim may terminate this Agreement:

(a) for convenience without cause in its absolute discretion by giving reasonable notice to the Buyer;

(b) immediately by giving notice to the Buyer, if Manheim reasonably suspects the Buyer has engaged in improper fraudulent or illegal conduct in relation to the auction;

(c) immediately if the Buyer breaches clause 8;

(i) fails to rectify the breach as directed by Manheim within a reasonable time period specified by Manheim (which need not be more than 2 business days); or

(ii) the breach is incapable of remedy.
33.

The Buyer may cease to remain a Buyer by notice in writing to Manheim, provided the Buyer does not have any active or outstanding Offers or sales. Any purported termination by the Buyer does not release the Buyer from, or affect, any accrued obligation under this Agreement.
34.

On termination of this Agreement for cause, any amounts owed by the Buyer to Manheim, whether under this Agreement or otherwise become immediately due and payable.
35.

All Items are sold as unregistered unless otherwise stated by Manheim.
36.

Any deficiency in the Items sold shall not vitiate the sale, but neither the Seller nor Manheim shall be bound to deliver more than is in their possession.
37.

A Buyer's Administration Fee and other fees may be payable by the Buyer on Items purchased at Manheim. At the time of final payment for the Item, the Purchaser will be required to pay a Buyers Administration Fee:

For Trucks Machinery & Industrial, the following Buyer Fees apply:
- Table

TRUCKS, MACHINERY & INDUSTRIAL BUYER FEES	
Truck, Machinery & Industrial Purchase Price	Fee Per Item
\$0 - \$999	16.5% (min \$75)
\$1,000 - \$39,999	11%
\$40,000 +	9.8%
Administration Fee	Per item
\$1,000+	\$55
38.

Additional Terms & Conditions for truck and machinery auctions, or where vehicles are purchased for business use: Manheim does not warrant any electrical or mechanical appliance, plant and/or equipment (collectively Plant and Equipment) complies with the requirements of any occupational health and safety laws (OHS Laws). Where reasonably practicable and where the Plant and Equipment is likely to be used in a workplace, Manheim has requested the Seller display a statement on the Plant and Equipment to indicate the safety condition of Plant and Equipment and to supply certificates, operation manuals, etc. which may exist for the particular Plant and Equipment. If the Plant and Equipment purchased does not include this information, upon request of a Buyer, Manheim will use its reasonable efforts to obtain this information from the Seller. By law, a

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its reasonable efforts to obtain this information from the Seller. By law, a Buyer of any Plant and Equipment for use in a workplace must ensure the Plant and Equipment complies with applicable OHS Laws before it is used. Heavy penalties apply for non-compliance. A summary of OHS requirements is available from Worksafe NZ (<https://www.business.govt.nz/>).

41. If any provisions of these Terms & Conditions are found to be invalid or unenforceable, the provision will be read down or severed and the invalidity or unenforceability does not affect the validity or enforceability of the other Terms & Conditions.
42. Each indemnity in this document is a continuing obligation, separate and independent from other obligations of the parties and survives termination of this document.
43. These Terms & Conditions read with Manheim's Terms and Conditions for Bidding and Purchasing Items and Manheim (available on the website) represent the entire agreement and understanding between the parties.
44. In these Terms & Conditions, a reference to a statute includes regulations under it and consolidations, amendments, re-enactments or replacements of any of them.

I/We (full name of persons or Company expressing interest):	
of (full address):	
Phone: (    )	Mobile:
Email:	
Signature:	Title (if signing on behalf of a company):

I do hereby agree to the Terms & Conditions of Expression of Interest as listed above and offer the following amount(s) as full payment for the goods.

I acknowledge that if I am successful, I will be charged and agree to pay a Buyers Administration fee on the final agreed purchase price to the Agents.

**Buyers Note:** A buyer's administration fee applies to all lots sold as follows:

Buyer Fee % of the purchase price **16.5%**, min \$75.00

If purchase price is greater or equal to \$1,000, **11%**

If purchase price is greater or equal to \$40,000+, **9.8%**

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