

EQC Wear and Tear Package

Terms and Conditions

These Terms and Conditions govern the Mercedes-Benz EQC Wear and Tear Package (the “**Package**”) offered by Mercedes-Benz Australia/Pacific Pty Ltd (ABN 23 004 411 410) of 44 Lexia Place, Mulgrave, Victoria, 3170 (“**MBAuP**”). These terms and conditions are to be read in conjunction with the Schedule attached.

For a current list of Authorised Mercedes-Benz EQ Retailer please visit www.mercedes-benz.com.au

1. Definitions

1.1 In this Agreement, terms shall have the following meanings:

- (a) **Agreement** means the information detailed in the Schedule and these terms and conditions;
- (b) **Authorised Mercedes-Benz EQ Retailer** means a Mercedes-Benz Retailer appointed by MBAuP to sell Mercedes-Benz EQC vehicles, EQC service plans and associated services and which can be found on www.mercedes-benz.com.au;
- (c) **Authorised Mercedes-Benz EQ Service and Parts Centre** means a Mercedes-Benz Retailer appointed to service Mercedes-Benz EQC vehicles and which can be found on www.mercedes-benz.com.au;
- (d) **Contract Start Date** means the contract start date as detailed in the Schedule;
- (e) **Contract Term** means
 - (i) the earlier of the 5th anniversary of the Contract Start Date or when all the items listed in clause 2 are utilised; or
 - (ii) subject to any retraction of the Customer’s offer or withdrawal rights permitted by law or under this Agreement.
- (f) **Eligible Vehicle** means the Mercedes-Benz Electric Vehicle (EQC) purchased by the Customer and detailed in the Schedule to these terms and conditions;
- (g) **Fee** means the amount specified as payable by the Customer to MBAuP as an upfront payment for the Package as detailed in the Schedule to these terms and conditions;
- (h) **GST** means goods and services tax imposed under the GST Act;
- (i) **GST Act** means *A New Tax System (Goods & Services Tax) Act 1999* (Cth) as amended from time to time;
- (j) **MBAuP Administration Costs** means the cost to MBAuP of implementation and withdrawal/ cancellation of the Agreement;
- (k) **MBAuP Expenditure** means the cost to MBAuP of any Package that ought to have been provided that the Customer has (or ought to have) received. For the avoidance of doubt, this definition means that where a Customer fails to utilise any item listed in clause 2 in accordance with the Customer’s obligations under clause 4.1, the cost attributable to the missed item will be deemed to be a cost incurred by MBAuP and not refundable;
- (l) **MBAuP Income** means the Fee received from the Customer for the Package; and
- (m) **Package** means the EQC Wear & Tear package as detailed in clause 2 of these terms and conditions.

2. Inclusions and Exclusions

2.1 The Eligible Vehicle Package includes the replacement of brake pads, discs and wiper blades for the Contract Terms as follows:

Inclusions	
Front brake pads (1 set)	✓
Front brake discs (1 set)	✓
Rear brake pads (1 set)	✓
Rear brake discs (1 set)	✓
Front wiper blades (1 set)	✓
Rear wiper blades (1 set)	✓
Brake wear sensors (1 set)	✓
Brake bolts	✓
Brake grease (as required)	✓

2.2 The Package does not include:

Exclusions	
Workshop mobility	X
Damage repairs resulting from: misuse, improper operation, accidents	X
Modifications to the vehicle not approved by MBAuP	X
Updates to the series model including map upgrades	X
Failures traced to permissible gross vehicle mass or permissible axle mass having been exceeded	X
Glass	X
All toll charges, parking or speeding infringements and insurance	X
Climatic conditions such as hail or flood	X
Damage due to plant or animal substances	X
Industrial pollution damage	X
Damage due to cleaning materials and cleaning methods not recommended by MBAuP	X
Damage due to the use of service products not recommended by MBAuP	X
Damage or injuries to person or property	X
Transportation and travel expenses	X
Hotel expenses	X
Loss of income	X
Vehicle down time	X
Tyres	X
Standard scheduled servicing	X

3. MBAuP's Obligations

- 3.1** The services which form part of the Package will be carried out and performed by an Authorised Mercedes-Benz EQ Service and Parts Centre during the Contract Term, at a date to be agreed and arranged by the Customer and the Authorised Mercedes-Benz EQ Service and Parts Centre.
- 3.2** MBAuP agrees to pay the Authorised Mercedes-Benz EQ Service and Parts Centre for all services that form part of this Package, on behalf of the Customer and for which MBAuP has received the Fee.
- 3.3** Should any additional work be required on the Eligible Vehicle, above and beyond that provided within the Package, the Authorised Mercedes-Benz EQ Service and Parts Centre shall contact the Customer with the details of this and request the Customer's authorisation before any additional work is carried out.
- 3.4** MBAuP's total liability under this Agreement is limited to the total amount of the Fee paid by the Customer in advance for the Package.

4. Customer's Obligations

- 4.1** The Customer agrees:
 - (a)** to make the Eligible Vehicle available at a Mercedes-Benz Retailer by prior appointment in a reasonably clean condition;
 - (b)** that all instructions for use of the Eligible Vehicle contained in the Mercedes-Benz Digital Service Booklet will be carried out accurately and fully;
 - (c)** that if any defect or failure occurs in the Eligible Vehicle that the Authorised Mercedes-Benz EQ Service and Parts Centre will take all reasonable measures to effect repairs without delay and to minimise the occurrence of any consequential damage to the Eligible Vehicle;
 - (d)** that the Authorised Mercedes-Benz EQ Service and Parts Centre may in its absolute discretion procure and fit to the Eligible Vehicle any replacement part or parts that it deems necessary for the efficient, safe and reliable operation of the Eligible Vehicle and the Customer shall pay the necessary cost of this;
 - (e)** that if an insurance company claims a deduction for any reason when reimbursing accident damage repairs within the scope of a fully comprehensive or a third-party insurance policy, the Customer shall make no claim against MBAuP except in the case of MBAuP's proven negligence.

5. Payment

- 5.1** The Customer shall pay MBAuP, in full and in advance, for the Package at the time of purchase of the Eligible Vehicle.
- 5.2** The Customer is responsible for ensuring that, where the Customer seeks to finance the Package with this Agreement, the Customer's financial institution permits this.
- 5.3** In the event that the Package is unable to be financed, the Customer at their option may either:
 - (a)** seek finance from a different financial institution;
 - (b)** pay for their Package outright separately to the finance of their vehicle; or
 - (c)** retract their offer.
- 5.4** For the avoidance of doubt, in the event that the Customer retracts their offer in accordance with clause 5.3, the Customer will, unless otherwise entitled to by law, not be permitted to cancel their vehicle purchase.

6. Commission

- 6.1 Where a commission may be payable to an Authorised Mercedes-Benz EQ Retailer, the Customer consents to MBAuP paying a commission to any third party (which may include the Dealer Principal and/or Service Advisor) at an Authorised Mercedes-Benz EQ Retailer where the Package is purchased by the Customer.
- 6.2 The Customer acknowledges that any third party who sold the Customer the Package, or who conducted any prior negotiations with the Customer, is and was not the Customer's agent for any purpose.

7. Defects and applications outside the Agreement

- 7.1 When, in the reasonable opinion of the Authorised Mercedes-Benz EQ Service and Parts Centre any part or component of the Eligible Vehicle is defective beyond repair or is impairing, or likely to impair, its efficient, safe and reliable operation or likely to cause consequential damage to the Eligible Vehicle and the rectification of such defect is outside the scope of the replacement parts under the Package the Authorised Mercedes-Benz EQ Service Centre may notify the Customer in writing of such opinion and recommend the replacement of the part or component.
- 7.2 If the Customer unreasonably refuses or fails to have the recommended work carried out within thirty (30) days of receiving this notification then MBAuP shall, until the work is undertaken, be absolved from all obligations under this Agreement in relation to the Eligible Vehicle.

8. Vehicles Withdrawn From This Agreement

- 8.1 This Agreement shall be effective from the Contract Start Date and shall continue in force for the Contract Term unless withdrawn earlier by mutual written consent of the parties.
- 8.2 If, in accordance with law, the Customer's finance arrangement is terminated before the end of the Customer's finance period, then the Customer or the Customer's finance company (subject to each satisfying clause 8.7), may recover from MBAuP a proportionate rebate of the consideration paid under this Agreement for the Package.
- 8.3 Subject to clause 8.2 applying, the proportionate rebate of the consideration will be calculated as follows:

$$\text{"Withdrawal Charge"} = \text{MBAuP Income} - (\text{MBAuP Expenditure} + \text{MBAuP Administration Costs})$$

- 8.4 Where a customer wishes to withdraw an Eligible Vehicle for whatever reason, MBAuP may in its sole and unfettered discretion, after the Customer has satisfied certain conditions (particularly clause 8.7), provide the Customer with a proportionate rebate of the consideration that the Customer paid under this Agreement for the Package. Where MBAuP exercises its discretion to provide the Customer with a proportionate rebate, MBAuP will be under no obligation to provide any more than is contemplated by clause 8.3.
- 8.5 Withdrawal of an Eligible Vehicle under this Agreement shall not affect the accrued rights of the parties arising in any way out of this Agreement as at the date of withdrawal.
- 8.6 The Customer agrees that, if the Customer's finance company claims the Fee (or what remains thereof after applying clause 8.3) under the Customer's finance arrangement, MBAuP may pay the finance company the remaining amount that the Customer may otherwise be entitled to where such amount is due and owing to the finance company and that the Customer shall make no claim against MBAuP.

- 8.7** Whenever a Package is eligible to be withdrawn and the Customer, or other party so entitled, seeks a proportionate rebate of the consideration paid under this Agreement for their Package, MBAuP will require the Customer, or such other party so entitled, to complete a declaration that the Customer or the entitled party has not received any financial benefit in return for the sale or otherwise of the Package associated with the Eligible Vehicle. For the avoidance of doubt, this clause 8.7 will operate to prevent a Customer or entitled from deriving a double benefit from the sale of the Pay upfront to a third party and a rebate from MBAuP.

9. Severance

- 9.1** If any provision of this Agreement is held by a court of competent jurisdiction to be void, invalid or unenforceable for any reason, that provision will be deemed deleted from this Agreement and the remainder of this Agreement will continue to have full force and effect.

10. Assignment

- 10.1** Save as expressly set out in this Agreement, and subject to clause 10.2, neither party may assign, sub-contract or transfer this Agreement or any rights or obligations under it in whole or in part without the prior written consent of the other party, such consent not to be unreasonably withheld or delayed.
- 10.2** MBAuP may, upon proving the Customer with written notice, novate or assign its rights and obligations under this Agreement to a Related Body Corporate without the consent of the Customer.

11. Force Majeure

- 11.1** The Customer acknowledges and agrees that MBAuP and/or any Authorised Mercedes-Benz EQ Service and Parts Centre shall be excused from the performance of its obligations under this Agreement if MBAuP and/or the Authorised Mercedes-Benz EQ Service and Parts Centre is prevented from or delayed in the carrying on of its business due to circumstances beyond the reasonable control of MBAuP and/or the Authorised Mercedes-Benz EQ Service and Parts Centre including, without limitation, acts of God, governmental actions, war or national emergency, riot, civil commotion, fire, explosion, flood, epidemic, lock-outs, strikes or other labour disputes (whether or not relating to either party's workforce).
- 11.2** Provided that, if the event in question continues for a continuous period in excess of 30 days, either party shall be entitled to give 7 days' notice in writing to the other to cancel the Agreement.

12. Amendments

- 12.1** This Agreement may only be varied by a document signed by or on behalf of each party.

13. Third Party Rights

- 13.1** Save as expressly provided in this Agreement, no terms of this Agreement shall be enforceable by a third party (being any person other than the parties and their permitted successors and assignees).

14. Governing Law and Jurisdiction

- 14.1** The Agreement must be governed by the laws of the State of Victoria.
- 14.2** The parties submit to the exclusive jurisdiction of the courts of the State of Victoria and any courts which may hear appeals from those courts in respect of any proceedings in connection with the Agreement.

15. GST

- 15.1** Terms in this clause 15 have the same meaning as in the GST Act unless otherwise provided.
- 15.2** If a party ("GST Supplier") makes a supply to another party ("GST Recipient") in connection with this Agreement, the GST Recipient must pay the GST Supplier an amount equal to any GST payable by the GST Supplier in relation to that supply ("GST Amount"), unless the amount payable by the GST Recipient for that supply is already expressed to be inclusive of GST.
- 15.3** The GST Amount must be paid at the same time and in the same manner as making payment of any monetary consideration on which GST is calculated. If the GST Amount is not calculated on monetary consideration, the GST Recipient must pay the GST Amount within 7 days of receipt of a written demand from the GST Supplier.
- 15.4** The GST Recipient's obligation to pay the GST Amount is conditional on the GST Supplier providing the GST Recipient with a tax invoice that complies with the GST Law.
- 15.5** The GST Supplier must do all other things reasonably requested by the GST Recipient to enable the GST Recipient to obtain any input tax credit or other statutory set-off to which it is entitled.
- 15.6** If in relation to a supply made under this Agreement an adjustment event occurs that gives rise to an adjustment, the price of that supply (including any GST Amount) will alter accordingly and the GST Supplier must issue an adjustment note to the GST Recipient.
- 15.7** If a party to this Agreement is required to pay, reimburse or indemnify another party to this Agreement for any cost, expense or other amount that the other party has incurred or will incur in connection with this Agreement, that amount will be reduced by any part thereof for which the other party (or representative member of this other party) can claim an input tax credit, partial input tax credit or other like offset.