

General Terms and Conditions

Definitions

"**ACL**" means the Australian Consumer Law Schedule of the *Competition and Consumer Act 2010* (Cth) and its associated Regulations as amended.

"**Agreement**" means the contract of cartage between the Carrier and the Customer or resulting from the acceptance by the Carrier, in writing or electronic means, of an application from the Customer to the Carrier for Services and credit (if applicable) or arising from the Carrier otherwise providing the Customer with the Services and inclusive of these Terms which form part of the Agreement.

"**Carrier**" means Lindsay Australia Limited ABN 81 061 642 733 and Lindsay Rural Pty Ltd ACN 090 821 300 (if the Customer opens a rural supply account) and/or Lindsay Transport Pty Ltd ACN 055 792 919 (if the Customer opens a transport account) and/or Lindsay Fresh Logistics ACN 600 103 242 as the case may be (depending on which account/s is opened now or in the future) including any Related Body Corporate.

"**Confidential Information**" means all information which is disclosed by a party to another party or which is otherwise acquired by or comes to the knowledge of a party directly or indirectly in connection with this Agreement including relating to the business of either party, its suppliers, customers, technical data, knowhow, designs, specifications, processes, policies, procedures, contact details, contractor lists, financial records, computer programs, operating manuals and all information contained in such documents, including this agreement and any fee paid or payable.

"**Customer**" means the party (or any agent authorised or purporting to be authorised) to whom the Services have been provided by the Carrier, and or the applicant in an application for Credit and if more than one party means those parties jointly and severally.

"**Goods**" means the Customer's goods and any relevant container, packaging or pallets in respect of which the Carrier provides Services.

"**GST**" means the Goods and Services tax as defined in *A New Tax System (Goods and Services Tax) Act 1999* (Cth) and its associated Regulations as amended.

"**Heavy Vehicle National Law**" means the Heavy Vehicle National Law Act 2012 (Qld) and corresponding State legislation in ACT, NSW, South Australia, Tasmania and Victoria.

"**Product(s)**" means any physical product, packaging, article, stock, goods or merchandise supplied by the Carrier to the Customer

"**Insolvency Event**" means any event where a party:

- (a) disposes of the whole or any part of its assets or business, other than in the ordinary course of business;
- (b) enters into any arrangement with its creditors or makes any assignment for the benefit of creditors;
- (c) appoints or takes steps to appoint a receiver, receiver and manager, trustee in bankruptcy, liquidator or administrator; or
- (d) is unable to pay its debts as and when they fall due.

"**PPSA**" means the *Personal Property Securities Act 2009* (Cth) and its associated Regulations as amended.

"**PPSR**" means the *Personal Property Securities Register*.

"**Related Body Corporate**" has the meaning given to that term in the Corporations Act 2001(Cth) and related Bodies Corporate has a corresponding meaning.

"Services" shall mean all services agreed to be undertaken by the Carrier to the Customer from time to time which may include transport services, storage, warehousing, distribution, loading, unloading or ancillary services in respect of the Goods.

"Terms or Conditions of Carriage" means these terms and conditions and including if applicable the terms in the Customer's application for credit that govern the provision of Services as between the Carrier and the Customer.

1 Terms and Conditions

- 1.1 Any quotation provided by the Carrier to the Customer for the proposed carriage of Goods is:
 - (a) valid for 30 days unless a different timeframe is offered by the Carrier;
 - (b) only valid if in writing; and
 - (c) the Carrier may require a consignment note be completed and issued by the Customer.
- 1.2 The Carrier's quotation may include additional terms provided they are not inconsistent with these Terms.
- 1.3 The granting of credit terms for new or existing accounts is entirely at the discretion of the Carrier and the Carrier may withdraw or vary credit terms at any time with 7 days written notice.
- 1.4 The Carrier may vary or amend these Terms by 7 days written notice to the Customer at any time. Any variations or amendments will apply to carriage orders placed after the notice date. If the Customer does not agree with the amendments, they must notify the Carrier within 14 days and the Agreement, and the credit terms comprised in the application (if applicable) will be immediately cancelled.
- 1.5 Prices quoted for the supply of Services may exclude GST and any other taxes or duties imposed on or in relation to the Services, clause 22 of these Terms will apply if GST is payable for Services or Products supplied under this Agreement.
- 1.6 If the Customer requests any variation to the Agreement, the Carrier may increase the price to account for the variation with 48 hours' written notice to the Customer.
- 1.7 Unless otherwise agreed in writing, the Customer shall be liable to pay the Carrier for its Services as soon as the Goods are loaded and dispatched and will not be subject to refund otherwise than in accordance with these Terms. Payment terms may be revoked or amended by the Carrier upon giving the Customer 48 hours written notice. If the Customer disagrees with the amended payment terms they must notify the Carrier within 48 hours of receiving the notice and this Agreement and the credit terms comprised in the application (if applicable) will be immediately closed.
- 1.8 The Carrier may set off against any amounts due by the Carrier to the Customer against any amounts due by the Customer to the Carrier under this Agreement.
- 1.9 If the Customer is or becomes a trustee for a trust ("the Trust") during the currency of the Agreement then the following covenants shall have effect:
 - (a) the Customer shall be liable for the performance of all covenants and obligations contained in or implied by these Terms and nothing contained in these Terms shall restrict or negative such personal liability;
 - (b) the Customer has full complete and valid authority pursuant to the Trust to enter into this Agreement and to grant security over any Trust property to which these Terms extend;
 - (c) the Customer hereby charges the performance of the obligations of the Customer under this Agreement with all rights of indemnity which the Customer has or will have from time to time against the Trust fund or Trust property and the interest of the Customer as trustee in the Trust fund or Trust property arising from such rights of indemnity and that the Customer will not release or otherwise prejudice such rights of indemnity;
 - (e) the Customer as trustee or trustees of the Trust shall not be altered (save upon the death of a trustee) without the prior written consent of the Carrier;
 - (f) none of the following powers shall be exercised by the Customer as trustee or any other person in relation to the Trust without the prior written consent of the Carrier:
 - (i) any power to alter or vary the trustee or trustees of the Trust whether by resignation removal appointment or otherwise;
 - (ii) any power to advance or distribute capital;
 - (iii) any power to vary the terms of the Trust;
 - (iv) any power to resettle the Trust property to which this Agreement or any

- equitable charge in this Agreement extends;
- (v) any power to add any beneficiaries or class of beneficiaries to the Trust;
 - (g) any breach of Trust by the Customer as trustee shall entitle the Carrier to exercise all such rights and remedies upon default as are contained in this Agreement;
 - (h) all persons of full capacity whose consent or covenants would be necessary to ensure the effectiveness of the covenants of this clause are parties to this Agreement.

2 Carrier Not a Common Carrier

- 2.1 The Carrier is not a common carrier and will not accept liability as such. The Carrier reserves the right to accept or refuse the carriage, transport, storage, custody or services for any goods for any person or entity, at its discretion, without giving any reason for so doing.
- 2.2 The Carrier is an independent carrier that provides Services to Customer pursuant to this Agreement. Nothing in this Agreement is intended to create an employment, agency, joint venture or partnership relationship between Carrier and Customer.

3 Cancellation

- 3.1 The following shall apply in relation to the cancellation of orders for Products or Services:
 - (a) orders placed with any entity in the Carrier group (the 'Supply Entity') by the Customer for Products, including special make-up orders and custom product orders to be supplied by the Supply Entity shall not be cancelled without prior written approval of the Supply Entity;
 - (b) a request for cancellation of Services will not be considered unless made in writing by the Customer to the Carrier, and received by the Carrier within a reasonable time prior to the scheduled time or date for performance of Services (reasonableness will be at the discretion of the Carrier);
 - (c) In the event that the Carrier accepts the cancellation of an order for Products or Services, the Carrier shall be entitled to charge (and may charge) any reasonable fees for the cost of the Products, including associated costs of transport and storage, work and materials and/or any administration costs incurred by the Carrier in preparing the order or preparing to perform the Services.

4 Compliance

- 4.1 All Goods are carried or transported and all Services are performed by the Carrier subject to these Terms.
- 4.2 The Customer warrants that the Customer has complied with all applicable laws (including where necessary the Australian Code for the Transport of Dangerous Goods by Road and Rail, Air Navigation Orders Pt 33 and the International Maritime Dangerous Goods Code), or the Heavy Vehicle National Law including the Chain of Responsibility relating to the notification, description (on the consignment note or separately) consigning and packaging of the Customer's Goods and the expenses and charges of the Carrier in complying with any such law or with any order or requirement thereunder or with the requirement of any harbour, dock, railway, shipping, customs warehouse or other authority or company shall be paid by the Customer. Additional charges shall be paid on such Goods by the Customer if deemed necessary by the Carrier.
- 4.3 The Customer warrants that it has fully, accurately, and adequately described the Goods on the consignment note.
- 4.4 The Carrier is entitled to open any document, wrapping, package or other container in which the Goods are placed or carried to inspect the Goods if authorised or obliged by any law, regulation or regulatory order, or otherwise to reasonably determine either their nature or condition or to determine their ownership or destination where any consignment note or identifying document or mark is lost, damaged, destroyed, defaced or unclear to the Carrier.
- 4.5 Both parties must comply with the *Privacy Act 1988* (Cth), including obligations in relation to collecting, holding, using and disclosing Personal Information within the meaning of that term as defined in section 6 of the *Privacy Act 1988* (Cth).

5 Limitation of Liability

- 5.1 The liability of the Carrier to the Customer or the owner or to any other person shall be limited in accordance with these Terms in respect of the Goods or any part of the Goods or in providing the Services or any part of the Services.
- 5.2 Without restricting the generality of clause 5.1 and subject to clause 5.7, the Carrier accepts no liability under this Agreement including in respect of the Goods. In the case of the Carrier's fraud only the maximum liability of the Carrier shall be limited to the direct resupply of

equivalent Services, or full value of the Carrier's invoice for the Service affected. In no circumstances including in the case of Carrier's fraud, does the Carrier accept liability for indirect or consequential loss, loss of revenue, loss of profit, loss of production, loss of data, loss of contracts, loss of business, damage to reputation or loss of goodwill and any other loss not reasonably considered to arise naturally, in the ordinary course of things, from the relevant breach, act or omission.

- 5.3 The limitation of liability in clause 5.2 shall apply irrespective of the manner in which or the time at which or the place at which or the reason including any claim made (whether in the form of an allegation, demand, suit, action or other proceeding of any kind) under or in connection with an Order, this Agreement or its subject matter, whether arising under contract (including under any warranty or indemnity or any other breach, actual or anticipatory), in equity, in restitution, negligence or any other tort, strict liability or otherwise at all and whereby any such loss, mis-delivery, damage, injury or delay may have occurred notwithstanding that the same may have been due or occasioned by, or may have arisen as a result of or as incidental to any negligence, act or omission by the Carrier, and includes the following circumstances:
- (a) any loss or non-delivery or mis-delivery of the Goods or any part of the Goods; or
 - (b) any damage or injury to or any delay in the delivery of the Goods or part of the Goods; or
 - (c) any damage directly or indirectly caused by or which may arise out of any such loss, non-delivery, mis-delivery, incorrect description, damage, injury or delay; or
 - (d) any damage including deterioration of chilled, frozen, refrigerated or perishable Goods or Goods delivered to the Carrier outside the respective Goods optimal temperature range.
 - (e) any damage, loss or injury arising after transit has ceased.
- 5.4 Where the description, quantity and value of the Goods shown in the consignment note or the quotation relating to the Goods (as the case may be) is or was represented to the Carrier by the Customer, the Carrier does not admit to the accuracy of that information and shall require, in the case of any claim, proof of the information provided in relation to the Goods. The Customer or other party who may claim against the Carrier, shall be responsible to provide that evidence.
- 5.5 The limitation of liability in this clause 5 extends to include not only loss of or damage to itemised Goods but also to loss, damage or injury to any person, property or thing damaged during the carriage of the Goods and to include any loss consequentially or otherwise arising from any loss damage or injury howsoever caused including but not limited to any negligence or breach by the Carrier.
- 5.6 When the Carrier is, without prior arrangement with the Customer, called upon to load or unload Goods requiring special appliances for loading or unloading the Carrier will provide reasonable assistance to the Customer however the Carrier makes no warranty to the Customer, and shall be under no liability whatsoever to the Customer or other owner of the Goods for any damage, however caused, arising out of such loading or unloading and the Customer's indemnity shall apply in relation to all claims and demands whatsoever in connection with such loading and unloading Services.
- 5.7 Carrier does not exclude any rights and remedies in respect of goods or services under the ACL or equivalent State or Territory legislation which cannot be excluded, restricted or modified. Subject to these Terms Carrier otherwise excludes all rights, remedies, guarantees, conditions and warranties in respect of Goods or Services whether based in statute, common law or otherwise to the extent permitted by law. To the fullest extent permitted by law, including the ACL, liability of Carrier, for any breach of a term or condition implied by law is limited at Carrier's discretion, to the supply of any Service again or the payment for the cost of having any Service supplied again.

6 Rights of Indemnity

- 6.1 The Customer shall indemnify the Carrier against all consequences, loss, costs, damage or injury arising out of any fraud, error, act, omission, misstatement, breach, default including of the Agreement or any applicable law or regulation or misrepresentation by the Customer or other owner of the Goods or the consequences of insufficient or improper packaging, labelling or addressing of the Goods and including:
- (a) all claims and demands whatsoever by whoever made in excess of the liability of the Carrier under these Terms.
 - (b) all losses or damage suffered by and claims made against the Carrier caused by or arising out of the carriage by the Carrier of dangerous Goods whether or not declared by the Customer as dangerous Goods.

- (c) all customs and/or excise duties, costs, fines or penalties which the Carrier becomes liable to pay for any reason whatsoever in respect of the Goods and any documentation relating to the Goods pursuant to any applicable laws or regulations.
- 6.2 Subject to clause 5.2 The Carrier shall indemnify the Customer against all losses, claims, of demands whatsoever arising directly from the Carrier's fraud.

7 Authority of Customer

- 7.1 It is agreed that the person delivering any Goods to the Carrier for the Carrier to undertake its Services is authorised to sign the consignment note for the Customer.
- 7.2 The Customer expressly warrants with the Carrier that the Customer is either the owner or the authorised agent of the owner of any Goods or property the subject of the Agreement under these Terms and by entering into this Agreement the Customer accepts these Terms for the consignee as well as for all other persons on whose behalf the Customer is acting.

8 Dangerous or Damaging Goods

- 8.1 The Customer shall not tender for Services any explosive, flammable or otherwise dangerous or damaging freight or Goods whatsoever without presenting a full description of the Goods and in default of so doing shall be liable for all loss and damage caused.

9 Containers

- 9.1 These Terms shall apply to the container, containers or other packaging containing the Goods and to any pallet or pallets delivered with the Goods to the Carrier. The Customer shall be responsible for the conformity of such containers packaging and pallets with any requirements of the consignee and for any expenses incurred by the Carrier arising from any failure to conform.

10 Charges

- 10.1 Where there are special instructions by the Customer to the effect that charges shall be paid by a third party other than the Customer, and that third party does not pay the said charges within seven (7) days of the date set for payment or, if no date is set for payment, within seven (7) days of provision of the Services, then the Customer shall be obliged to pay the said charges in accordance with these Terms.

11 Additional Freight Charge

- 11.1 Subject to these Terms, the Carrier may charge for provision of the Services by weight, measurement or value, and if reasonably required at any time, re-weigh, re-value or re-measure or require the Goods to be re-weighed, re-valued or re-measured and charge proportional additional or less freight charges accordingly. If there is a material increase to the charges arising under this clause, the Carrier will promptly or as soon as practicable (including if possible prior to the completion of the Services), notify the Customer of the reason for the change and the revised charges allowing the Customer to amend its instructions to the Carrier accordingly.

12 Delay in Delivery

- 12.1 Should the Customer or the other party named in the consignment note ("the consignee") not be in attendance during normal trading hours or at the time specified, or if the Carrier arrives to effect delivery at the consignee's premises and is delayed in effecting prompt delivery at the premises for any reason whatsoever outside the Carrier's control, then the Carrier reserves the right to make an additional charge for every call made or for the amount of time of any delay until delivery is effected.

13 Method of Carrying Goods

- 13.1 The Customer agrees and authorises the Carrier to carry or have the Goods carried by any mode, method or methods, and these Terms shall apply equally regardless of the mode or method adopted.

14 Carriage by Independent Contractor or Subcontractor

- 14.1 The Customer authorises the Carrier to arrange with any other person, firm or company (the 'Subcontractor') to undertake the carriage of Goods under these Terms in any such arrangement.
- 14.2 The Carrier shall be liable for the Subcontractor under these Terms which shall apply to the same extent as if the Carrier were performing the Services and had not delegated the

Services to the Subcontractor.

15 Lien

- 15.1 The Goods are accepted for provision of the Services subject to a general lien for all charges now due or which may become due to the Carrier by the Customer on any account.
- 15.2 If the Customer fails to pay charges due to the Carrier in respect of the Services on reasonable demand being made in accordance with these Terms, the Carrier may detain and sell all or any of the Goods of the Customer that are in the Carriers possession and out of the money arising from the sale retain the charges outstanding together with all charges and expenses of the detention and sale (including legal fees if any). The surplus (if any) of the moneys arising from the sale of and those Goods as remain unsold will be made available to the Customer. Any such sale shall not prejudice or affect the right of the Carrier to recover from the Customer any such charges due or payable in respect of the Services or the detention and sale of the Goods.
- 15.3 From the time the Carrier, or its servants or agents, receive the Goods into its custody, the Goods and all of the Customers present and future rights in relation to the Goods and any documents relating to those Goods, are subject to a continuing security interest in favour of the Carrier for the payment of all the amounts owed for freight, demurrage, container detention charges, duty, fines, penalties, salvage and without limitation and for any at all debts, charges, expenses or any other sums due and owing by the Customer to the Carrier. Further, the continuing security interest shall cover all the costs and expenses of exercising the lien, including the costs of a public or private sale or auction and legal and administration costs.

16 Default

- 16.1 Subject to the provisions of clause 15, if the Customer defaults in payment by the due date of any amount payable to the Carrier, then all money owed by the Customer to the Carrier, will at the discretion of the Carrier, become immediately due and payable and the Carrier may:
- (a) reverse the amount of any discounts allowed;
 - (b) charge the Customer interest on any amount due and unpaid at the rate of 10% per annum, payable from the due date until the date of payment in full;
 - (c) charge the Customer for all costs and expenses (including without limitation all legal costs and expenses) incurred by the Carrier resulting from the default or in taking action to enforce compliance with the Agreement (including any mercantile agent fees);
 - (d) cease or suspend supply of any further Services to the Customer and provide Customer with a notice to that effect.
- 16.2 All money which is or may become payable by the Customer to the Carrier on any account, may at the discretion of the Carrier, become immediately due and payable and the Carrier may immediately cancel or suspend the Agreement and the credit terms comprised in the application:
- (a) where the Customer breaches any provision of these Terms other than as applies to clause 16.1;
 - (b) where an Insolvency Event occurs in relation to the Customer including becomes insolvent, convenes a meeting with its creditors or proposes or enters into an arrangement with creditors, or makes an assignment for the benefit of its creditors (other than as specified in the amendments to the *Corporations Act 2001* (Cth) enacted by Part 2 of the *Treasury Law Amendment (2017 Enterprise Incentives No. 2) Act 2017* (Cth)); or
 - (c) a receiver, manager, liquidator (provisional or otherwise) or similar person is appointed in respect of the Customer or any asset of the Customer.
 - (d) where a Customer has an account with the Carrier or a related party (as that term is defined in the *Corporations Act 2001*) of the Customer has an account with the Carrier and the Customer breaches the terms of the Agreement or the related party breaches the terms of its Agreement with the Carrier.

17 Risk and Insurance

- 17.1 Insurance of Goods will not be effected by Carrier for the benefit of the Customer.
- 17.2 Customer will be responsible for insurance cover for the Goods, the Customer's vehicles or equipment used in connection with this Agreement or the Services (if applicable).
- 17.3 Carrier will be responsible for insurance cover for all of Carrier's vehicles or equipment used in provision of the Services

- 17.4 Each party must take out and hold general public liability insurance in an amount not less than \$20million and workers compensation insurance as required by any relevant law

18 Authorisation of Carrier

- 18.1 The Customer authorises the Carrier (if the Carrier should think fit to do so) to contract either in the Carrier's name as principal or as agent for the carriage of the Goods, or for leasing or using any container in which the Goods may be placed or packed and to give any receipt for the Goods or any container whether subject to any terms and conditions or not. Any such contract will be made upon the terms and subject to the conditions of any bill of lading or other forms or terms or contract for carriage whether by sea, rail, road or air or of any lease agreement, equipment hand-over agreement, interchange receipt of any other document as the case may require.

19 Security and Charge

- 19.1 In consideration of the Carrier agreeing to perform the Services, the Customer charges all of its rights, title and interest (whether joint or several) in any land, realty or personal assets capable of being charged, owned by the Customer either now or in the future, to secure the performance by the Customer of its obligations under these Terms including, but not limited to, the payment of any money.
- 19.2 The Customer irrevocably appoints the Carrier and each director of the Carrier as the Customer's true and lawful attorney/s to perform all necessary acts to give effect to the provisions of this clause 19 including, but not limited to, signing any document on the Customer's behalf.

20 Personal Property Securities Act

- 20.1 In this clause financing statement, financing change statement, security agreement, and security interest has the meaning given to it by the PPSA.
- 20.2 Upon assenting to these terms and conditions in writing, the Customer acknowledges and agrees that these terms and conditions constitute a security agreement for the purposes of the PPSA and creates a security interest in all Goods that are the subject of the performance of the Services or will be the subject of the Services in the future.
- 20.3 The Customer undertakes to:
- (a) promptly sign any further documents and/or provide any further information (such information to be complete, accurate and up-to-date in all respects) which the Carrier may reasonably require to;
 - (i) register a financing statement or financing change statement in relation to a security interest on the Personal Property Securities Register;
 - (ii) register any other document required to be registered by the PPSA; or
 - (iii) correct a defect in a statement referred to in clause 20.3(a)(i) or 20.3(a)(ii);
 - (b) indemnify, and upon demand reimburse, the Carrier for all expenses incurred in registering a financing statement or financing change statement on the Personal Property Securities Register established by the PPSA or releasing any Goods charged thereby;
 - (c) not register a financing change statement in respect of a security interest without the prior written consent of the Carrier;
 - (d) not register, or permit to be registered, a financing statement or a financing change statement in relation to the Goods in favour of a third party without the prior written consent of the Carrier;
 - (e) immediately advise the Carrier of any material change in its business practices of selling the Goods which would result in a change in the nature of proceeds derived from such sales.
- 20.4 The Carrier and the Customer agree that sections 96, 115 and 125 of the PPSA do not apply to the security agreement created by these terms and conditions.
- 20.5 The Customer waives their rights to receive notices under sections 95, 118, 121(4), 130, 132(3)(d) and 132(4) of the PPSA.
- 20.6 The Customer waives their rights as a grantor and/or a debtor under sections 142 and 143 of the PPSA.
- 20.7 Unless otherwise agreed to in writing by the Carrier, the Customer waives their right to receive a verification statement in accordance with section 157 of the PPSA.
- 20.8 The Customer must unconditionally ratify any actions taken by the Carrier pursuant to this clause 20.

20.9 Subject to any express provisions to the contrary nothing in these terms and conditions is intended to have the effect of contracting out of any of the provisions the PPSA.

21 Consigned Goods

21.1 The Customer must comply with the following in respect of all consigned Goods:

- (a) all consigned Goods must be packed in appropriate packaging to ensure they arrive at the destination in the same condition they were presented to the Carrier.
- (b) all consigned Goods must be clearly marked with, type of product, sender and receiver's details, the Customer's pallet, batch or carton identification numbers.
- (c) all consigned Goods and pallets must be in sound condition and free from dirt, wood, nails, vermin and any contamination.
- (d) all consigned Goods must be stabilised and appropriately secured and fit for transport.
- (e) consigned Goods that are sensitive to temperature must be presented at the correct transit temperature for that product and clearly labelled with instructions of the temperature to be maintained.
- (f) consigned Goods that are sensitive to temperature and are to be collected and pre-cooled on behalf of the sender, the Carrier must be notified with enough lead time prior to pick-up to enable the correct temperature to be obtained prior to dispatch.
- (g) all consigned Goods must be ready for transport prior to the pick-up cut-off times for the destination.
- (h) all relevant paperwork including the Carrier's consignment note must be completed and ready to travel with the Goods.
- (i) all pallets must be on an exchange basis unless pallets are transferred direct from the Customer's pallet account.
- (j) all charges relating to any consigned Goods must be charged to an approved Carrier customer account.
- (k) all Carrier Customer credit accounts must operate within the Carrier's stated credit terms which may be in addition to these Terms.

21.2 The Carrier reserves the right to refuse to carry any consigned Goods presented outside these Terms and conditions.

22 GST

22.2 If GST is imposed on any supply made under or in accordance with this Agreement, the recipient of the taxable supply must pay to the supplier or Carrier an additional amount equal to the GST payable on or for the taxable supply. Payment of the additional amount will be made at the same time as payment for the taxable supply is required to be made in accordance with this Agreement.

22.3 If this Agreement requires a party to pay for, reimburse or contribute to any expense, loss or outgoing (reimbursable expense), suffered or incurred by another party, the amount required to be paid, reimbursed or contributed by the first party will be the sum of:

- (a) The amount of the reimbursable expense net of input tax credits (if any) to which the other party is entitled in respect of the reimbursable expense (net amount); and
- (b) If the other party's recovery from the first party is a taxable supply, any GST payable in respect of that supply.

If a GST inclusive price is charged, the supplier or Carrier must provide the recipient of the supply with a valid tax invoice at or before the time of payment or such other time as agreed between the parties.

23 Confidentiality

23.1 A party (Receiving Party) receiving Confidential Information from another party (Disclosing Party) under this Agreement must protect the Confidential Information from any unauthorised use and may only use Confidential Information to the extent necessary to enable the Receiving Party to exercise its rights or perform its obligations under this Agreement. The Receiving Party may only disclose confidential Information to its personnel (being employees and subcontractors) and consultants (including legal and financial) having a need to know. The Receiving Party shall promptly notify the Disclosing Party of any unauthorised use or disclosure of the Confidential Information.

23.2 Upon termination or expiry of this Agreement, the Receiving Party must return or destroy (at the Disclosing Party's election) all copies of Confidential Information received on any

- medium and provide the Disclosing Party with documentation attesting to that fact.
- 23.3 Nothing in this Agreement prohibits the use or disclosure of any Confidential Information by the Receiving Party to the extent that:
- (a) The information has been placed in the public domain otherwise than due to a default of the Receiving Party;
 - (b) The disclosure is expressly required by law or the rules of any stock exchange, provided the Receiving Party notifies the Disclosing Party promptly of such requirement or on receiving notice of such requirement, and asserts the confidentiality of the relevant Confidential Information to the body requiring the disclosure;
 - (c) The information has been independently developed by the Receiving Party and without reference to the Confidential Information of the Disclosing Party; or
 - (d) The obligations of the Receiving Party under this clause will terminate 3 years after the termination of this Agreement or when the Confidential Information has been placed in the public domain through no fault of the Receiving Party, whichever occurs the earliest.

24 General

- 24.1 The Carrier is not liable to perform its obligations under this Agreement where it is prevented from doing so by events beyond its reasonable control hereafter referred to as a Force Majeure Event including but not limited to:
- (a) acts of God, natural disaster, fire, flood, storm, earthquake, explosion, accident, breakdown, acts or threats of terrorism, power outage, vandalism, sabotage, riots, civil unrest, war (declared or undeclared), invasion, meteorite, epidemic or pandemic;
 - (b) industrial disputes, strikes, lockouts not specific to the affected party;
 - (c) change of laws or regulations or by order of any government or government authority, nationalisation, confiscation, requisition, prohibition or embargo, import or export restrictions;
 - (d) the loss, destruction or closure of any relevant infrastructure including road, rail, bridge or port;
 - (e) Rationing, limitation or non-supply of fuel, diesel, oil or any other essential vehicle or equipment product or component or parts.
- 24.2 If a Force Majeure Event is ongoing for a period of 60 or more continuous days, either party may terminate the Agreement without liability to the other party arising from such termination, nothing in this clause excludes any accrued liability or rights that have accrued under these Terms, and amounts due and payable for Service rendered up to the date of termination.
- 24.3 The Customer shall give written notice to the Carrier within seven (7) days of any change of ownership or control of the Customer. The Customer hereby agrees to indemnify and keep indemnified the Carrier against any loss, damage, cost or expense incurred by the Carrier as a result of the Customer's failure to notify the Carrier of any such change of ownership and/or control. The Carrier reserves the right to vary any Customer order, hold or discount entitlements upon any change of ownership or control of the Customer.
- 24.4 A notice under this Agreement must be in writing and handed personally or sent by email, facsimile or prepaid mail to the last known address of the addressee. Notices sent by pre-paid post are deemed to be received within 4 business days from the date of the notice. Notices sent by facsimile or email are deemed received on confirmation of successful transmission. This Agreement is governed by the laws in force in the State of Queensland. The parties irrevocably and unconditionally submit to the exclusive jurisdiction of the courts of Queensland.
- 24.5 If any provision of these Terms is held to be invalid, void, illegal or unenforceable the validity, existence, legality and enforceability of the remaining provisions shall not be affected, prejudiced or impaired.
- 24.6 Either party may terminate this Agreement on the occurrence of an Insolvency Event or otherwise in accordance with these Terms. The expiry or termination of the Agreement does not affect the rights which have accrued prior to the expiry or termination or any rights and obligation of the parties which survive the expiry or termination.
- 24.7 This Agreement is personal to the Customer and the Customer may not assign its interest in or obligations under the Agreement without the Carrier's written consent which consent shall

- not be unreasonably withheld.
- 24.8 The Customer and Carrier each warrant that they have the power to enter into this Agreement and have obtained all necessary authorisations to allow it to do so, each warrants that it is not insolvent and that this Agreement creates binding and valid legal obligations on it.
- 24.9 All rights, immunities and limitations of liability in these Terms shall continue to have their full force and effect in all circumstances and notwithstanding any dispute, or breach or purported breach by any party.
- 24.10 The Carrier's Privacy Policy forms part of these Terms and Conditions and is available at www.lindsayaustralia.com.au