

Terms of trade

1. SERVICE AGREEMENT

- 1.1 These Terms of Trade apply to all goods or services which we provide you with.
- 1.2 If you desire to use our services from us you must complete a Consignment Note and, where we require, a Credit Application and Guarantees.
- 1.3 The Service Agreement provides the Terms of Trade and/or provision of services between you and us. Each Consignment Note is not a separate document but forms part of the Service Agreement.
- 1.4 We may in our absolute discretion refuse to higher our goods and/or provide our services to you.

2. SUPERSEDE

- 2.1 These Terms of Trade supersede any earlier negotiations and representations whether verbal or written, agreement for the same goods and/or services, and Terms of Trade.

3. CHANGING THESE TERMS OF TRADE

- 3.1 We may change these Terms of Trade at any time and you will be bound by any change on the date that we give you notice of such change. You are deemed to have received notice (whether or not you actually receive it) when we send you the changed Terms of Trade to any address you have advised me of (including an email address);
- 3.2 You cannot vary these Terms of Trade without our written approval nor will any other conditions that you propose form part of these Terms of Trade unless both you and we agree in writing.

4. DEFINITIONS

- 4.1 **Consignment Note** is the document that we provide to you to sign that includes relevant details including goods to be delivered, notifications regarding the goods, amounts payable by you, delivery destination and such other information as we require or such other form of instruction including without limitation email, phone or text.
- 4.2 **Credit Application** means an application for credit from you to us.
- 4.3 **Guarantees** where we so require, those guarantees to be given by your directors (where you are a company) and/or such other people as we deem necessary.
- 4.4 **Our** product is the applicable goods or service that we provide you with.
- 4.5 **Service Agreement** the following documents:
(a) these Terms of Trade;
(b) the Credit Application (where applicable); and
(c) the Guarantees (where applicable).
- 4.6 **Subcontractor** means and include:
(a) all companies which at any time become subsidiaries of us;
(b) railways or airlines operated by the Commonwealth of Australia or any State of Australia;
(c) any other person, firm or company with whom we may arrange for the carriage of any goods the subject of this contract; and
(d) any person who is now or hereafter a servant, agent, employee or sub-contractor of any of the persons referred to in (a), (b) and (c). **Us**. All references to **We**, **Us**, **Our** etc, refer to Project Haulage Pty Ltd and its agents.
- 4.7 **We**, us and **our** means us, our servants and agents.
- 4.8 **You**. All references to **you**, **your**, etc refer to the customer placing the order and its representatives and if more than one, each of them jointly and severally.

5. OUR INFORMATION

- 5.1 **Contact details.** Our contact details are as follows unless I notify you in writing of any changes:
Name: Project Haulage Pty Ltd;
Business address: 56 Prairie Rd, Ormeau, Qld, 4208;
Telephone number: 0417 076 159;
Facsimile: 07 5577 3907;
Email address: admin@projecthaulage.com.au; and
Postal address: PO Box 222, Biggera Waters, Qld, 4216

6. GENERAL CONDITIONS FOR CARRIAGE OF GOODS

- 6.1 **Not common carrier.** We are not a common carrier and will accept no liability as such. All articles are carried or transported and all storage and other services are performed by us subject only to these Terms of Trade.
- 6.2 **Right to refuse.** We reserve the right to refuse the carriage or transport of articles for any person, corporation or company and the carriage or transport of any class of articles at our discretion.
- 6.3 **Subcontractors.** You hereby authorise us (if we should think fit to do so) to arrange with a Subcontractor for the carriage of any goods the subject of this contract. Any such arrangement will be deemed to be ratified by you upon delivery of the said goods to such Subcontractor who shall thereupon be entitled to the full benefit of these terms and conditions to the same extent as us. In so far as it may be necessary to ensure that such Subcontractor shall be so entitled, you acknowledge and agree that these Terms of Trade apply both for our benefit and for that of the Subcontractor.
- 6.4 **Method of carriage.** If you instruct us to use a particular method of carriage whether by road, rail, sea or air, we will endeavour to give priority to the method designated but if we cannot conveniently adopt that method of carriage, you hereby authorise us to carry or have the goods carried by another method or methods.
- 6.5 **You remain responsible:** Without detracting from any other clause of these Terms of Trade, unless otherwise expressly agreed in writing, to the extent permitted by law, no responsibility in tort or contract or otherwise will be accepted by us for any loss of or damage to or deterioration of

goods or misdelivery or failure to deliver or delay in delivery of goods including chilled, frozen, refrigerated or perishable goods either in transit or in storage for any reason whatsoever.

- 6.6 **Delivery address.** You hereby authorise us to deliver the goods at the address that you gave us for that purpose and you agree and acknowledge that we will be taken to have delivered the goods in accordance with these Terms of Trade if we obtain from any person at that address a receipt or signed delivery docket for the goods.
- 6.7 **Insurance.** We will effect insurance of goods as your agents and at your expense if you so instruct us in writing to do so. Where you do not specify the class of insurance to taken out, we may take out that class of insurance which we consider to be the most appropriate for the goods.
- 6.8 **Insurance exclusions.** Where we take out insurance in accordance with clause 6.7, the following exclusions will apply or exclusions otherwise advised to us at the time the insurance is taken out:
(a) all claims resultant from wear, tear, moths, vermin, damp, mildew or loss of market loss, damage or expense proximately caused by delay inherent vice or nature, war and strikes, riots, civil commotions or malicious damage of the subject matter insured; and
(b) gradual deterioration, rust and/or oxidation unless due to or consequent upon fire, collision, overturning or other accident of the conveyance.
- 6.9 **Fees and charges.** You agree and acknowledge that we are entitled to our fees and charges for the carriage of the goods when we take possession of the goods for carriage and, to the extent permitted by law, under no circumstances shall any fees or charges be refunded, discounted or abated notwithstanding that the goods may not be delivered or that they are delivered in a damaged condition.
- 6.10 **Where consignee to pay.** Every special instruction to the effect that a consignee will pay any fees and charges will be deemed to include a stipulation that if the consignee does not pay the said charges within 14 days of the date set for payment (and if no date is set for payment, within 14 days of delivery or attempted delivery of the goods) then you will pay the said fees and charges including any additional charge for each call made in an attempt to effect delivery.
- 6.11 **Charge for freight.** We may charge freight by weight, measurement or value. We may at any time reweigh, revalue or remeasure or require the goods to be reweighed, revalued or remeasured. In the event of any increase in the weight, value or measurement of any of the said goods, then you must pay the amount of any additional fees and charges.
- 6.12 **Uncrated machinery.** All uncrated machinery will be deemed to have a height of 2.8 metres and will be measured and charged as follows:
(a) where freight is charged by weight there shall be a minimum weight for each shipment of goods unless otherwise stated in writing:
(i) the minimum weight of each pallet of goods shall be calculated at the rate of 1000 kilograms per 2 cubic metres or any part thereof; and
(ii) the minimum weight of goods shipped other than by pallet shall be calculated at the rate of 333 kilograms per cubic metre or any part thereof,
and the minimum weight shall be used for the calculation of the charge unless the actual weight of the shipment exceeds the minimum weight so calculated.
(b) where freight is charged by measurement there shall be a minimum measurement for each shipment of goods which shall be calculated at the rate of 1 cubic metre for each 333 kilograms or part thereof unless otherwise stated in writing. The minimum measurement shall be used for the calculation of the charge unless the actual measurement of the shipment exceeds the minimum measurement so calculated.
- 6.13 **No set off:** To the extent permitted by law and without detracting from any other clause of these Terms of Trade, you must not bring any action or raise any counterclaim or set off against us in respect of any error or omission in any invoice or Consignment Note for the carriage of goods unless you give us notice in writing of such error or omission within 7 days of the issue of such invoice or Consignment Note and we may plead this condition in bar to any such action claim or set off in any court of law within the Commonwealth of Australia.
- 6.14 **Charges.** You will be and remain responsible to us for all our proper charges incurred for any reason. A charge may be made by us in respect of any delay in excess of 30 minutes in loading or unloading occurring other than as a direct result of our default. Such permissible delay period shall commence upon us reporting for loading or unloading. You are responsible and liable for expenses in relation to the provision of labour to load or unload the vehicle.
- 6.15 **Where you fail to pay monies.** If any person fails to pay monies due and/or owing to us in respect of any service that we render, we may:
(a) we may detain and sell all or any of the goods of the person which are in our possession;
(b) out of moneys arising from the sale, retain charges so payable and all charges and expenses of the detention and sale; and
(c) render the surplus (if any) of the moneys arising from the sale of and such of the goods as remain unsold to the person entitled thereto.
Any such sale shall not prejudice or affect charges due or payable in respect of such service of the said detention and sale.
- Dangerous goods.** You or your authorised agent will not tender for carriage any explosive and or inflammable and or otherwise dangerous or damaging goods, without supplying a full declaration of those goods as required by law. Where you do not do so, you and/or your authorised agent will be liable for all loss and or damage caused thereby. Furthermore, in the event of an accident and or loss, you and/or your authorised agent will be responsible for all costs involved in the removal and or disposal of the abovementioned goods.
- 6.16 **Packaging and dangerous goods.** You are responsible for the proper packaging, labelling, unitising, class labelling, scheduling and identifying

to us of goods of a dangerous and hazardous nature in accordance with Federal and State law. You will be liable for all loss and damage caused by any default of yours in this regard.

- 6.17 **Acceptance of Terms of Trade.** You expressly warrant with us that you are either the owner or the authorised agent of the owner of any goods or property the subject matter of this contract of carriage and by entering into entering in to these Terms of Trade, you accept these Terms of Trade on your own behalf as well as for all other persons on whose behalf you are acting.
- 6.18 **No liability for loss.** Without derogating from clause 6.5 and any other clause in these Terms of Trade, subject to the full extent permitted by law, we will not be liable for any market loss or use, consequential loss, concealed damage or damage caused by inherent vice or nature of the goods or merchandise carried (including chilled, frozen, refrigerated or perishable goods) either in transit or in storage whether caused by the negligence, wrongful act or default of ours or by any other cause whatsoever.
- 6.19 **Continuation of our rights.** You agree and acknowledge that, to the full extent permitted by law, all the rights, immunities and limitations of liability granted to us by these Terms of Trade will continue to have their full force and effect in the circumstances and notwithstanding any breach of the contract or of any conditions hereof by us.
- 6.20 **Route deviation.** You are deemed to authorise any deviation from the usual route or manner of carriage of goods which may in our absolute discretion be deemed reasonable or necessary in the circumstances.
- 6.21 **Sea.** Where goods are carried on any sea going vessel the carriage is subject to terms and conditions of such shipowner's bill of lading in use at the time of shipment and in no circumstances will we be liable for loss or damage howsoever occasioned whilst the goods are in the care, custody or control of such shipowner.
- 6.22 **Authority to sign.** It is agreed that the person delivering any goods to us for carriage or forwarding is authorised to any relevant document that we require in relation to that carriage or forwarding.
- 6.23 **Transit insurance.** We will only organise transit insurance rates and conditions on a case by case basis in our discretion where you specifically ask us to do so in writing.

7. WARRANTY

7.1 If you are a **consumer** under the *Competition and Consumer Act 2010 (CC Act)* then:

- (a) **Warranty.** All services will be free of defects at the time that we provide the service and any goods provided will be free of defects and subject to the original goods manufacturer's warranty.
- (b) **Warranty exclusion.** This Warranty will not apply to:
- any good, component or accessory which has been subjected to misuse, negligence, accidental damage, or improper or inadequate maintenance or inadequate storage conditions (original equipment manufacturer recommendations);
 - deterioration of any item due to normal use and exposure, unless due to a defect in workmanship or material; or
 - services provided where you provided false or incorrect instructions and/or hindered us from carrying out our services.
- (c) **Product care.** You must comply, at your cost, with any recommendations we make for the packaging, transport and storage and maintenance of goods. You are solely responsible for any defect in or damage to goods caused or contributed to by your failure to fully comply with all of those product care recommendations.
- (d) **Inspection on delivery/completion.** You must inspect the goods that we delivered or completed service (as the case may be) as soon as they are received/delivered or completed and if you do not, you will be deemed to accept those goods or the service (as the case may be).
- (e) **Claim.** If you believe that goods delivered or our services provided do not comply with our warranty, you must make a claim to us either by post or email to the addresses in clause 5 within:
- 48 hours after receipt of the goods, if for shortages; or
 - 7 days after receipt of the goods/completion of the service, if for defects.
- (f) **Our action.** Subject to clauses 7.1(g) and (h), we will, in our sole discretion:
- repair or replace the goods or part of them;
 - provide again or rectify the services or part of them; or
 - wholly or partly recompense you by providing credit or reimbursing you.
- (g) **Conditions precedent.** Clause 7.1(f) is conditional on you having:
- notified us of your claim under clause 7.1(e);
 - allowed us access to inspect the goods delivered or services and investigate your claim; and
 - having or another third party not having used the goods and you have not further damaged those goods or our completed services.
- (h) **Deemed compliance.** Where you did not comply with any of the conditions in clause 7.1(g), services will be deemed to comply with Consignment Note and you will be bound to pay for our services in accordance with these Terms of Trade.
- (i) **CC Act Consumer:**
- the benefits to you given by the warranty in clause 7.1 are in addition to other rights and remedies of yours under a law in relation to the goods or services to which the warranty relates;
 - our goods come with guarantees that cannot be excluded under the Australian Consumer Law;
 - you are entitled to a replacement or refund for a major failure and compensation for any other reasonably foreseeable loss or damage;
 - you are also entitled to have the goods repaired or replaced if the goods fail to be of acceptable quality and the failure does not amount to a major failure; and
 - expenses incurred in making, and verifying, the claim will be borne by:

A. us, up to a maximum of \$100.00, in the event we decide (acting reasonably) that the claim was validly made; or

B. you in all other circumstances.

- (j) **Third Party Manufactured Goods.** We will not warrant goods that are supplied by us but are not manufactured by us or a related entity of ours, and anything deemed by us not to be manufactured by us (**Third Party Manufactured Goods**). In the event Third Party Manufactured Goods are defective or damaged goods, the claim will be passed onto the original equipment manufacturer or supplier and will be subject to their warranty terms and conditions.

8. LIABILITY

- 8.1 **Exclusion of legislation.** Where clause 7 is not applicable, the provisions of all legislation, including the CC Act and the *Fair Trading Act 1989 (Old)*, do not apply to these Terms of Trade except to the extent that they are unable to be excluded by legislation.
- 8.2 **Limitation of liability.** Subject to clause 8.1 and other product warranties set out in these Terms of Trade but without derogating from any other clause in these Terms of Trade:
- we give no guarantee, warranty, undertaking or representation in relation to the goods sold or services provided to you, their quality, fitness for any purpose, their compliance with any description or sample, or otherwise;
 - we will not be liable to you for any default due to any act of God, war, terrorism, strike, lock-out, industrial action, fire, spontaneous combustion, fermentation, asbestos claims, flood, drought, storm, pollution, radioactive contamination or other event beyond our reasonable control;
 - our liability to you arising in any way in relation to our goods (including product contamination) will be limited to the extent of our warranty contained in clause 7;
 - in no case will our liability extend to any direct, incidental or consequential damage to property, personal injury or loss of profit;
 - all information contained in any of our publications (including any catalogues, brochures, photographs, illustrations, website or any advertising material) represent generally the subject matter and price of our goods but will not be taken as necessarily representing our goods the subject of any order or the correct price and will not form part of any contract or agreement for supply; and
 - except as otherwise expressly provided in these Terms of Trade, you release us from all actions, claims, demands, losses, liabilities, damages and expenses arising from or in relation to the supply of our product including but not limited to any crop loss or loss of livestock of any kind,
- and you acknowledge that we would not have entered into any contract with you if any of the above were not true.
- 8.3 **Reliance.** You acknowledge that you have not relied on and have not been induced to use any service based on any representation by us other than as expressly recorded in these Terms of Trade.
- 8.4 **Maximum liability.** Notwithstanding clause 8.1, if we are found liable by operation of law, our total liability (including death or personal injury occurring as a consequence of any negligent act, omission or default on our part, under or in connection with this agreement), whether in contract, tort or otherwise must not exceed \$20,000,000.

9. DEFAULT

- 9.1 **Our rights where you are in default.** If you are in default under these Terms of Trade or commit an act pursuant to which bankruptcy or insolvency proceedings may be commenced against you, then:
- we may, without notice to you, immediately recover possession of the goods from wherever they are stored and you waive the right to receive any statutory or *Personal Property Securities Act 2009 (PPSA)* notice;
 - we may cancel deliveries to you;
 - we may stop carrying out the service (even if partially processed goods will be spoiled);
 - payment of all monies which you owe to us will immediately become due and payable on demand;
 - we may vary the terms of payment or suspend or terminate any contract for the supply of our product to you;
 - in addition to any other lien to which we may be entitled, we will be entitled to a general lien on all money and property belonging to you in our possession to the extent of the unpaid price of our product;
 - we may sell any property of yours in our possession and use the proceeds to pay towards our costs of your default; and
 - we may destroy or discard of any part of your property in our possession if the likely proceeds of sale will not exceed the costs of selling those items.
- 9.2 **No compensation.** You are not entitled to any compensation in relation to any action which we take under clause 9.1.
- 9.3 **Indemnity.** You will indemnify us against the costs of any action in respect of recovery, handling and sale or re-sale, including without limitation any debt collection agency fees and solicitors' fees (on an solicitor-client basis), and the balance of any amount owing following sale or re-sale will be immediately due to us. A certificate produced by us will be conclusive evidence of the balance of the amount which you owe us.
- 9.4 **Right to proceeds.** Where you dispose of the goods before payment to us, the sale proceeds of such disposal are our property and you hold the proceeds on trust for us. Further, you, in disposing of the goods before payment to us, do so as our fiduciary agent.
- 9.5 **Further assurance.** You appoint us and our directors jointly and singularly as your attorney for the purpose of doing all acts, matters or things we think are necessary to give full effect to this clause 9.

10. SECURITY

- 10.1 **Charge.** As security for payment to us of all funds payable by you and for your obligations and liabilities pursuant to these Terms of Trade, you

- charge in favour of us for the due and punctual payment and performance of those obligations and liabilities, all of your legal and equitable interest of whatsoever nature held in any and all real property both present and future.
- 10.2 **Security.** On our request, and without limiting the general nature of the charge in this clause 10.1, you will execute any documents and do all things necessary as required by us to create and register a mortgage security or other instrument of security over any real property on terms satisfactory to us. Where you do not do so within a reasonable time of our request, you irrevocably appoint each officer or solicitor appointed by us to be your true and lawful attorney to execute and register those security instruments.
- 10.3 **Costs.** You indemnify us on an indemnity basis against all of our costs and expenses incurred in relation to the preparation and registration of any such charge and mortgage documents.
- 10.4 **Consent.** You consent unconditionally to us lodging a caveat or caveats noting our interest in any of your real property.
- 11. PPSA**
- 11.1 **PPSA defined terms.** Terms referred to in this clause 11 will, unless the context otherwise requires, have the same meaning given to those terms in the PPSA.
- 11.2 **PPSA Security Interest.** You acknowledge and agree that:
- these Terms of Trade are a Security Agreement for the purposes of the PPSA;
 - we may register our Security Interest in the goods and their Proceeds on the Register via a Financing Statement or Financing Change Statement as a Purchase Monies Security Interest or any other Security Interest we deem appropriate;
 - for the purposes of paragraph 11.2(b), goods is described as all goods that we transport for you or a consignee and including any property described in a Consignment Note;
 - you will sign any documents and provide all assistance and information required in order for us to attend to the registration and maintenance of any Security Interest;
 - you will ensure that our security position, rights and obligations, are not adversely affected by the PPSA;
 - unless we have consented in writing or otherwise specifically permitted under these Terms of Trade:
 - you will not register a Financing Change Statement in respect of a Security Interest relating to these Terms of Trade; and
 - you will not allow a third party to register, a Financing Statement or a Financing Change Statement in relation to the goods and their Proceeds;
 - in order to satisfy obligations secured by a Security Interest contemplated or constituted by these Terms of Trade, we may, in our absolute discretion, utilise amounts received in relation to these Terms of Trade in whatever way we decide; and
 - you will give us at least 14 days written notice of any proposed change in any of your details, either in the Consignment Note or those registered, or required for registration, on the Register.
- 11.3 **On-Sale Defaults.** Where a Purchaser defaults on their payment obligations to you, you must immediately take all steps permitted under the PPSA to enforce your Security Interest (including under the Purchase Monies Security Interest) in priority to any other party having a Security Interest in the goods given by the Purchaser as Grantor including, but not limited to, seizing, disposing or retaining the goods.
- 11.4 **Subordination.** You acknowledge and agree that, pursuant to section 61 of the PPSA, your Security Interest in the goods is subordinate to our Security Interest and our Security Interest will at all times take priority over your Security Interest.
- 11.5 **PPSA Exclusions [s115(1)].** To the extent allowable under section 115(1) of the PPSA, sections 95, 96, 121(4), 125, 130, 132(3)(d), 132(4), 135, 142, and 143 of the PPSA are contracted out of and your rights pursuant to them cease.
- 11.6 **PPSA Exclusions [s115(7)].** To the extent allowable under section 115(7) of the PPSA, sections 127, 129(2) and (3), 130(1), 132, 134(2), 135, 136(3), (4) and (5), and 137 of the PPSA are contracted out of and your rights pursuant to them cease.
- 11.7 **Waiver.** You waive your rights pursuant to section 157 of the PPSA to receive notice of Verification Statement.
- 11.8 **Non-Disclosure.** You and we agree not to disclose information in connection with these Terms of Trade (including the existence of any terms or the exercise of any rights under these Terms of Trade) that is not publicly available except if the information is:
- disclosed with the prior consent of the other party to these Terms of Trade (which must not be unreasonably withheld);
 - disclosed to your or our officers, employees, auditors, legal or other advisers; or
 - is information which the disclosing party reasonably believes is required by any law or stock exchange to be disclosed (except that this clause 11.8 does not permit us to disclose any information of the kind referred to in section 275(1) PPSA unless section 275(7) of the PPSA applies).
- 11.9 For the purposes of the PPSA:
- goods and/or services supplied by instalment made under these Terms of Trade are not a separate security agreement but form part of these Terms of Trade together with any Consignment Note, guarantee or indemnity or other contractual documents;
 - an instalment contract is and is deemed to be a single security agreement for the purposes of the PPSA; and
 - notwithstanding clauses 2 and 3, these Terms of Trade form a continuous security agreement with any prior terms and do not constitute a separate security agreement.
- 11.10 **Application of clause 11.9.** Clause 11.9 applies regardless of any term to the contrary in these Terms of Trade, any invoice or any other document.
- 12. GUARANTEE**
- 12.1 **Guarantors.** In consideration of us selling, supplying and/or delivering our product to you at the request of the guarantors specified in the Consignment Note, Credit Application or any other agreement we nominate as a customer agreement (**Guarantors**), the Guarantors hereby guarantee and indemnify us in respect of all monies which you owe us.
- 12.2 **Principal Obligation.** The Guarantors' guarantee is a principal obligation and a continuing guarantee and will not be affected by any act or omission by either of us and will be binding on the Guarantors despite any irregularity in this guarantee or its execution.
- 12.3 **Payment of Monies.** The Guarantors will pay us on demand all monies which you owe to us.
- 12.4 **Security.** As a further security, you and the Guarantors hereby charge all present and future interest in any real or personal property (that is not personal property for the purposes of the PPSA) which you or they may own for the payment of monies which you owe us.
- 12.5 **Security.** Clauses 10 and 11 of these Terms of Trade apply to the guarantors to the same extent that they apply to you.
- 12.6 **Attorney.** You and the Guarantors hereby appoint us and our directors as your joint and several attorneys to do anything necessary to give effect to this clause and acknowledge that we may sell the property charged on default under these Terms of Trade.
- 13. CONSIGNMENT NOTE AND CREDIT APPLICATION DETAILS**
- 13.1 **True and Correct.** You certify that all information provided to us in accordance with any Consignment Note, credit application or to induce us to supply our services is true and correct.
- 13.2 **Information and Credit Reports.** We may:
- refuse your application for credit facilities;
 - withdraw, vary or otherwise deal with credit facilities at our absolute discretion without prior notice;
 - withhold supply or take any other action irrespective of whether an order has been accepted or not if for any reason we determine in our absolute discretion that no further credit is to be extended to you.
- 13.3 **Warrant, authorise and consent.** You, your business partners, directors and Guarantors all:
- warrant that none of your members and/or directors are undischarged bankrupts, have ever been bankrupt, convicted of any criminal offence or have any pending criminal offence court proceedings;
 - authorise us to collect, update and use information (whether personal or otherwise) about you or that is collected from third parties permitted under the *Privacy Act 1988(Cth)* (including disclosing that information to persons in the manner permitted by the *Privacy Act 1988 (Cth)* including without limitation our related entities and any business units) (**Credit Information**);
 - consent to us obtaining from any of your credit providers information which they are allowed to give us under the *Privacy Act 1988 (Cth)* about the creditworthiness of either or all of you;
 - consent to us providing information to credit reporting agencies in connection with us providing credit or recovering from you amounts owing from time to time including without limitation disclosing the following types of Credit Information:
 - the fact that you have applied for credit and the amount;
 - the fact that we are a credit provider to you;
 - payments which are more than 60 days overdue;
 - payments that are no longer overdue;
 - the fact that a cheque drawn by you for more than \$100.00 has been dishonoured more than once;
 - whether any credit provided by us to you has been discharged;
 - consent to us providing information to other credit providers, mortgage insurers and debt collectors including without limitation disclosing the Credit Information for the following purposes:
 - assessing any application by you for credit;
 - assisting you to avoid defaulting on your credit obligations;
 - notifying other credit providers of a default by you;
 - assessing your credit worthiness, credit standing, credit history or credit capacity;
 - where we suspect that an unlawful activity has been or may be engaged in and the Credit Information is a necessary part of the Company investigating or reporting on the matter;
 - where we are required to disclose the information about you to comply with my legal obligations; and
 - acknowledge and agree that the information set out in any Consignment Note or provided to us to induce us to supply our product or provide our services may be disclosed to a credit reporting agency or to another credit provider; and
 - this clause 13.3 will continue to remain in full force and effect until all credit facilities cease to be made available to you.
- 14. WARRANTY AND FURTHER ASSURANCES**
- 14.1 **Warranties.** You warrant that:
- you have provided us with all information required under these Terms of Trade including but not limited to clauses 11 and 13;
 - you have disclosed to us in writing all of your details including any trusts and related trust ABNs; and
 - nothing of relevance that should have been disclosed has been omitted.
- 14.2 **Further information.** You must provide us with any further information that we require immediately upon our request.
- 15. GENERAL**
- 15.1 **Force Majeure.** We will not be liable for any delays or loss or damage you suffer arising from any cause beyond our control including but not limited to delays in transportation, handling or supply, accidents, fire, strikes and other labour disputes, terrorist acts, acts of God, the requirements of any law or Government agency or other circumstance

whether or not of a similar nature beyond our control, until that cause has ceased to have effect.

- 15.2 **Time.** With the exception of the time for delivery, time shall be of the essence.
- 15.3 **Relevant Law.** These Terms of Trade will be construed in accordance with the laws of Queensland and the parties submit to the jurisdiction of the Queensland courts.
- 15.4 **Waiver.** The failure of either of party to exercise any rights under these Terms of Trade will not waive that right, nor will any practice developed between us waive or lessen our respective rights under these Terms of Trade.
- 15.5 **Severance.** Any provision of these Terms of Trade which is found by a court of competent jurisdiction or any competent government authority to be invalid, illegal or unenforceable, will be severed from these Terms of Trade and will be deemed never to have been part of them.
- 15.6 **No Restraint.** No provision expressed or implied in these Terms of Trade restricts our right to sell, hire or lease the goods or provide services to third parties, whether or not you have sold, hired or leased the goods or provided the services (as the case may be) to those third parties at any time.
- 15.7 **Confidentiality.** You must treat all information which we give you as private and confidential, and must not disclose that information to any person nor use it in any way which may cause us injury or loss unless that information is public knowledge or was known by you before we gave it to you.
- 15.8 **Clerical Errors.** We reserve the right to correct clerical errors without notification.