

SCHEDULE 4 STANDARD TERMS AND CONDITIONS OF CONTRACT

1. DEFINITIONS

In these Conditions:

"Business Day" means a day on which trading banks are open for business in Brisbane, Queensland, Australia excluding Saturdays, Sundays and public holidays.

"Charges" means the charges payable to TGI for the Services (including the charges comprising the Contract Price) calculated and set out in the Contract of Carriage and (as the context requires) all other costs and charges incurred by TGI under or in respect of the Contract.

"Conditions" means these standard terms and conditions of Contract.

"Contract" means these Conditions and the other documents and terms and conditions constituting the agreement to provide the Services as set out in the Contract of Carriage.

"Contract of Carriage" means the document entitled "Contract of Carriage" which incorporates these Conditions (among other provisions) and which is signed by TGI and a Customer.

"Contract Price" means the contract price stated in the Contract of Carriage.

"Customer" means a person for whom or on whose behalf, TGI provides Services under the Contract and includes every consignor, consignee, sender or receiver of the Goods as the context requires.

"Dangerous Goods" means any noxious, dangerous, hazardous, inflammable or explosive goods or any goods likely to cause damage including goods likely to harbor or encourage vermin or other pests and all goods which fall within the definition of hazardous and dangerous goods in the legislation governing cartage or freight by road, rail, ship or air in Australia.

"Goods" means any cargo or goods of any kind in relation to which the Services have been, or are to be, performed and any container, package, packaging, receptacle, pallet or thing in or on which such cargo or goods are contained or with which such cargo or goods are stored or handled.

"GST" means the goods and services tax imposed by or under a GST Law.

"GST Law" means the same as in a *New Tax System (Goods and Services Tax) Act 1999*.

"GST Rate" means the rate of GST under the GST Law.

"Invoice" means the tax invoice under the GST Law.

"Notices" means a notice, demand, consent, approval, certificate, request or other communication given or to be given under the Contract.

"Services" means any operation or service (or any part of them), including any carriage, cartage, transport, loading, unloading, holding, handling, storage, packing, distribution, forwarding, installation, assembly, erection, removal, discharge, cleaning, preparation, maintenance, or conduct in respect of any Goods or thing referred to or required in the Contract.

"Subcontractor" includes any person who pursuant to a contract or arrangement with TGI provides or agrees to provide the Services or any part of the Services.

"Supply" means the same as in the GST Law.

"Taxable Supply" means any Supply under these Conditions in respect of which TGI is or may become liable to pay GST.

"TGI" means Townley Group International Pty Ltd ABN number 31 124 961 314.

2. APPLICATION OF THESE CONDITIONS

2.1 These Conditions apply to the provision of Services in respect of specified Goods under the Contract of Carriage.

2.2 The carriage of any Goods by TGI is performed by TGI upon and subject to these Conditions only.

3. **PARAMOUNTCY OF THESE CONDITIONS**

All Services are provided to TGI subject only to these Conditions which prevail at all times over the conditions of contract (if any) of the Customer. In the event of, and to the extent of, any inconsistency between these Conditions and the conditions which are incorporated into a bill of lading, waybill, consignment note or other transport document issued by TGI, these Conditions prevail.

4. **NOT A COMMON CARRIER**

4.1 TGI is not a common carrier and accepts no liability as such.

4.2 TGI may (in its absolute discretion) refuse to deal with any goods.

5. **WARRANTIES AND INDEMNITIES BY CUSTOMER**

5.1 In addition to any other provisions of these Conditions, the Customer warrants that:

- (a) the Customer has complied with all applicable laws and regulations relating to the nature, condition, packaging or carriage of the Goods and that the Goods are packed in a manner, having regard to their nature, adequate to withstand the ordinary risks of carriage;
- (b) the Goods are accurately described in writing in the Contract of Carriage;
- (c) the value of the Goods does not exceed any estimate or estimates of the maximum value of those Goods which may have been provided by the Customer to TGI;
- (d) the Goods do not include any explosive, inflammable or otherwise dangerous goods which are or may be liable to damage any other goods or property other than as are specifically and fully described and disclosed as such in the Contract of Carriage;
- (e) the Customer is, or has the authority of, the person owning or having any interest in the Goods to enter into the Contract;
- (f) the accuracy of all descriptions, values and other particulars furnished to TGI by the Customer (including any senders, owners and consignees) relating to the Goods.

5.2 If in the opinion of TGI the Goods, either by themselves or in combination with any other goods, are likely for any reason to cause injury to persons or damage to other goods or to property or to the environment, the Goods may be retained, destroyed, disposed of, abandoned, removed or rendered harmless by TGI without compensation to the Customer and without prejudice to TGI's rights to any Charges under the Contract including the cost of such action.

5.3 The Customer indemnifies TGI for any loss, damage, cost or expense of any kind that TGI may suffer or incur at any time (including claims by third parties) arising from a breach by the Customer of the warranties in clause 5.1 or due to any of those warranties being untrue or inaccurate.

5.4 Notwithstanding that the Customer may enter into the Contract as agent for a principal, whether disclosed or not, the Customer will remain personally liable under the Contract, such liability to include but not be limited to liability for payment of the Charges.

5.5 Any debt recovery or legal costs are to be borne by the Customer.

6. Cargo Requirements

(a) The Cargo tendered shall be fit for Transportation with sufficient internal strength and with any loose parts properly secured, so as to withstand the forces to which it will be subjected during the loading operation, carriage and discharge operation. The Cargo shall be properly marked to indicate exact place(s) where piece(s) are to be slung and to indicate exact dimensions and weight and, to the extent necessary to enable the Carrier to lift the Cargo in a steady and stable manner, the location of the centre of gravity. Unless otherwise mutually agreed the Cargo shall be properly crated and/or boxed and fully stackable.

(b) The Cargo shall be equipped with sufficient, adequate and safely accessible lifting devices, eyes/lugs or slinging points always with guaranteed sufficient strength for the Transportation, all to the satisfaction of the Carrier. Any and all lifting equipment supplied by the Merchant, such as but not limited to, spreaders, beams, lugs, etc, shall be certified by a recognised classification society.

Any cradle(s)/support(s) for the Cargo shall be safely attached to the Cargo unless otherwise agreed and be of sufficient number and strength and be suitable for the carriage, so as to withstand acceleration forces which may be encountered during the Transportation, all to the satisfaction of the Carrier. If requested, the Merchant shall provide a certificate from a recognised classification society for the cradle(s)/support(s).

The Cargo shall be equipped with sufficient, adequate and safely accessible lashing points/eyes/lugs always with guaranteed sufficient strength for the Transportation, all to the satisfaction of the Carrier.

*(c) The Merchant shall, prior to Transportation, present a certificate of weight to the Carrier certified by an officially recognised authority for any Cargo exceeding the number of metric tons stated in Box 14. The report shall include the weight, and longitudinal and transverse location of the centre of gravity. **If Box 14 is not filled in then this Sub-clause (c) shall not apply.*

(d) The Merchant shall present and be liable for transport drawings of any cargo exceeding 100 metric tons and for other cargo as required by the Carrier. The drawings shall indicate the position of lifting and lashing eyes and /or points and the position of footprint/cradle and centre of gravity. The drawings shall be presented in autocad and/or dxf format unless otherwise agreed.

(e) Notwithstanding acceptance of the Cargo by the Carrier the Merchant agrees to indemnify and hold the Carrier harmless for all claims, costs, expenses, actions, proceedings, suits, demands, and liabilities whatsoever arising out of or in connection with the Merchant's failure to comply with the requirements of this Clause.

(f) The Carrier shall not be responsible for any loss of or damage to the Cargo resulting from insufficient and/or unseaworthy packing/construction and/or any other failure of the Merchant to protect the Cargo for the loading or discharging or carriage by sea.

7. AUTHORITY OF CUSTOMER'S AGENTS

The Customer warrants that any person delivering the Goods to TGI is authorised to enter into the Contract on behalf of the Customer and to sign any consignment note or other document.

8. CHOICE OF ROUTE

Subject to any instructions given in writing by the Customer to TGI as part of the Contract, TGI reserves the right to choose and determine the route and procedure to be followed in handling and transportation of the Goods and to vary those things at any time at TGI's discretion.

9. QUOTATIONS

- 9.1 All quotations are given by TGI subject to a right of withdrawal prior to acceptance.
- 9.2 If any changes occur in the rates of customs, duty, freight, warehouse, insurance premiums or other charges applicable to the Goods, all quotations and Charges may be reviewed by TGI to account for such changes at the discretion of TGI.

10. CONTAINERS

- 10.1 Subject to any express instructions given in writing by the Customer to TGI as part of the Contract, the Customer is responsible for the timely return of containers to the person who owns them or has a right to possession of the containers in a clean and undamaged condition.
- 10.2 The Customer indemnifies TGI for any loss, damage, cost or expense of any kind (including detention or demurrage charges) arising from:
- (a) a failure or delay in returning a container;
 - (b) damage to any container; or
 - (c) the return of the container in a dirty, contaminated or otherwise unacceptable condition.

11. LOADING DELAYS AND VOYAGE INTERRUPTIONS

- 11.1 The Customer accepts the risk of, and indemnifies TGI for any loss, damage, cost or expense of any kind arising from:
- (a) any delay in loading or unloading the Goods, any waiting time, detention or demurrage; and
 - (b) any forced interruption or abandonment of a voyage or flight at the port or airport of shipment or elsewhere.

12. RIGHT TO INSPECT FREIGHT

- 12.1 TGI reserves the right to open any container, package, unit or other freight at any time relating to the Goods to re-weigh, re-measure or re-value the contents or for any other reasonable purpose.

13. WAREHOUSING

TGI reserves the right to warehouse, store or otherwise hold the Goods pending delivery at any time and at such places that TGI may determine at its sole discretion and at the Customer's risk and expense.

14. TAXES, LEVIES AND DUTIES

- 14.1 The Customer (including any senders, owners, consignors, consignees and receivers of the Goods) are jointly and severally liable for any duty, tax, impost, excise, levy, penalty, deposit or outlay of any kind charged or imposed by any government authority or any other person at any port or place in connection with the Goods or Services and for any payments, fines, expenses, loss or damage incurred or sustained by TGI in relation to such duties, taxes and imposts.
- 14.2 The Customer will remain fully liable and responsible for all freight, duties, charges or other expenses which TGI is instructed by the Customer to collect from a consignee or other person in respect of any Goods.
- 14.3 The Customer indemnifies TGI for any loss, damage, cost or expense of any kind suffered or incurred by TGI in respect of the liabilities described in clauses 14.1 and 14.2.

15. DANGEROUS GOODS

- 15.1 TGI will not (except under special arrangements agreed in writing between TGI and the Customer and forming part of the Contract) accept or deal with any Dangerous Goods.
- 15.2 Any person (including the Customer) delivering Dangerous Goods to TGI or causing TGI to handle or deal with Dangerous Goods will be liable for, and will indemnify TGI for, all penalties, losses, damages, costs and expenses arising from, or in connection with, such dangerous goods
- 15.3 Any Dangerous Goods of the kind referred to in clause 15.2 may be destroyed or otherwise dealt with at the sole discretion of TGI at the cost of the Customer / owner of the dangerous goods
- 15.4 TGI will have the right, at its sole discretion, to destroy or otherwise deal with Dangerous Goods, even if the Goods are previously accepted by TGI under special arrangements in writing, if those Goods become dangerous to other goods or Property.

16. EXCLUSIONS AND LIMITATIONS OF LIABILITY OF TGI

- 16.1 The Goods are at the risk of the Customer.
- 16.2 Except as provided for in this clause 16, TGI is not liable for:
- (a) any loss or damage to Goods (either in transit or in storage) unless:
 - (i) such loss or damage occurs while the Goods are in the actual custody and control of TGI; and
 - (ii) such loss or damage is due to the willful neglect or default of TGI or its employees or agents,
 - (b) any misdelivery, delay in delivery, forwarding or transit or failure to deliver Goods;
 - (c) any deterioration, contamination, evaporation of any Goods (including chilled, frozen, refrigerated or perishable Goods);
 - (d) any failure or delay in providing the Services;
 - (e) any loss, damage, cost or expense of any kind arising from, or in any way connected with, the description, quality or branding of the Goods;
 - (f) any loss or damage resulting from fire, water, explosion or theft whether caused by TGI's employees or agents or otherwise;
 - (g) any loss or damage arising from any cause whatsoever which is of a special, consequential or indirect nature including (without limitation) loss of profits, loss of contract, loss of business reputation, loss of revenue or costs of business interruption.
- 16.3 Clause 16.2 applies to all loss or damage whether or not that loss or damage occurs:
- (a) in the course of the performance of the Contract by TGI;
 - (b) due to or in respect of events which are foreseeable by, or in contemplation of, TGI or the Customer; or
 - (c) in respect of events which would constitute a fundamental breach of, or a breach of a fundamental term of, the Contract.

16.4 Despite any other provision of the Contract and to the extent permitted by law, TGI disclaims all implied warranties and conditions in respect of the Services and the Goods including any warranty for merchantability or fitness for a particular purpose. If any condition or warranty is implied in the Contract pursuant to any legislation and the legislation avoids or prohibits provisions in a contract excluding, restricting or modifying the application of, exercise, or liability under such condition or warranty, the condition or warranty will be deemed to be included in the Contract, provided that TGI's liability for breach of the condition or warranty will, if legislation so permits, be limited, in the sole discretion of TGI, to:

- (a) in the case of goods, any one or more of the following:
 - (i) the replacement of the goods or the supply of equivalent goods;
 - (ii) the repair of the goods;
 - (iii) the payment of the cost of replacing the goods or of acquiring equivalent goods; and
 - (iv) the payment of the cost of having the goods repaired; and
- (b) in the case of services:
 - (i) the supply of the services again; or
 - (ii) the payment of the cost of having the services supplied again,and otherwise will be limited to the maximum extent permitted by law.

17. GENERAL INDEMNITY BY CUSTOMER

17.1 The Customer indemnifies TGI from and for all damages, losses, costs and expense and liabilities of any kind suffered or incurred by TGI arising from:

- (a) any misdelivery, delayed delivery or early delivery of the Goods or a failure to deliver the Goods;
 - (b) the implementation of the Customer's instructions in respect of the Goods;
 - (c) the Goods,
- including (without limitation) any liability TGI may suffer or incur, from any hauler, carrier, warehouseman, consignor, consignee or other third party.

18. DELIVERY OF GOODS

The Goods will be deemed to have been delivered or described in the Contract unless written notice of loss of, or damage to, the Goods is given to TGI or its representative:

- (a) at the place of delivery before or at the time of removal of the Goods by the person entitled to delivery of them; or
- (b) if loss or damage is not of the kind that would be apparent at the time referred to in paragraph (a), then within 3 days after the date of the delivery of the Goods.

19. CAP ON TGI LIABILITY

19.1 To the extent prevented by law, the maximum aggregate liability of TGI under, or in respect of, the Contract is limited to a maximum amount equal to the Contract Price stated in the Contract of Carriage.

20. SUBCONTRACTING

20.1 The Customer authorises TGI and any Subcontractor to subcontract on any terms the whole or part of the provision of the Services provided that TGI will remain responsible to the Customer for the provision of the Services.

20.2 Any provision of these Conditions or otherwise of the Contract which excludes or limits the liability of TGI will also apply to exclude or limit the liability of any Subcontractor in the same manner and to the same extent.

20.3 The Customer undertakes that no claim will be made, whether by the Customer or any other person who owns or who may have any interest in the Goods, against any person (other than TGI) taking part in the provision of the Services or any part of the Services.

21. APPLICATION OF EXEMPTIONS AND LIMITATION

21.1 Every exemption, limitation, condition and liberty in these Conditions and every right, exemption from liability, defense and immunity of whatsoever nature applicable to TGI or to which TGI is entitled in accordance with these Conditions will also be available and will extend to protect:

- (a) all Subcontractors;
- (b) every servant or agent of TGI or of a Subcontractor;
- (c) every other person (other than TGI) by whom the Services or any part of the Services are or is provided; and
- (d) all persons who are or may be vicariously liable for the acts or omissions of any persons falling within paragraphs (a), (b) or (c) of this Clause 20.1.

21.2 For the purposes of this Clause 20, TGI is or will be deemed to be acting as agent or trustee on behalf of and for the benefit of such persons referred to in clauses 20.1(a) to (d) and all such persons will to this extent be or be deemed to be parties to the Contract.

22. METHOD OF PROVIDING SERVICES

22.1 The Customer authorises any deviation from the usual manner in which the Services are provided which may in the absolute discretion of TGI be deemed reasonable or necessary in the circumstances.

22.2 If the Customer expressly or impliedly instructs TGI to use, or it is expressly or impliedly agreed that TGI will use, a particular method of providing the Services TGI will give priority to that method but its adoption remains at the sole discretion of TGI and the Customer authorizes TGI to provide the Services by another method.

23. INSURANCE

Insurance will not be arranged by TGI except with the express written instructions of the Customer and then only at the Customer's expense and on lodgment of a declaration as to value prior to acceptance of the Goods by TGI. TGI may charge the Customer for arranging such insurance.

24. CHARGES FOR SERVICES

24.1 Unless otherwise specified in the Contract of Carriage the Customer must pay the Charges to TGI within 7 days of the date of TGI's invoice.

24.2 The Charges will be considered earned as soon as the Goods are delivered to TGI and under no circumstances will any Charges be refunded.

24.3 TGI may charge by weight, measurement or value and may at any time reweigh, re-measure or revalue or require the Goods to be reweighed, re-measured or revalued and charge proportional additional Charges accordingly.

24.4 The Customer is and remains responsible to TGI for payment of the Charges whether or not the Goods are delivered or the Services are provided as instructed and whether or not they are damaged.

24.5 Every special instruction to the effect that Charges will be paid by a person other than the Customer will be deemed to include a stipulation that if that nominated person does not pay those Charges within seven (7) days of delivery or attempted delivery of the Goods, then the Customer must pay those Charges to TGI within seven (7) days of being notified of that person's failure to pay.

24.6 All Charges must be paid without any set off, counterclaims, deductions or withholdings of any kind.

25. TGI'S LIEN

25.1 The Goods (and all documents relating to the Goods) are accepted subject to a general lien in favour of TGI for all Charges at any time due to TGI by the Customer (including any sender, owner or consignee).

25.2 If the Charges owing as referred to in clause 25.1 are not paid within 14 days after TGI has given written notice to the Customer requiring payment, TGI may:

- (a) remove the Goods and documents and store them in such place and in a manner as TGI considers proper and at the risk and expense of the Customer; or
- (b) sell the Goods by public auction, private treaty or otherwise and apply the

proceeds towards payment of the moneys owing and the costs of sale and hold the balance of the moneys (if any) on account of the Customer.

- 25.3 If TGI stores any Goods at the request of the Customer, TGI may, at any time on giving the Customer 30 day's written notice, require the Customer to remove the Goods from storage. If the Customer fails to remove the Goods, TGI may exercise any of the rights described in clauses 25.2(a) or (b) in respect of the Goods.

26. **EXCLUSION OF LIABILITY - CLASSIFICATION OR VALUE OF GOODS OR AMOUNT OF DUTIES**

TGI will not be liable in negligence, contract or otherwise for any loss, damage, costs, fines or penalties incurred by the Customer or any other person resulting from or arising out of or in connection with any quotation, advice, statement, representation or information given or made by, or on behalf of, TGI to the Customer or others as to the classification of, or any matter material to the valuation of, or the liability for, or the amount, scale or rate of customs duty, excise duty or other impost, tax or rate charged in respect of, the Goods. In giving or making any such quotation, advice, statement, representation or information TGI relies solely on the particulars provided by the Customer and the Customer warrants that those particulars accurately and completely describe all aspects of the Goods and the transaction(s) relating to the Goods.

27. **AMENDMENTS IN WRITING**

TGI will not be bound by any agreement purporting to waive or vary these Conditions unless such agreement is in writing and signed by a duly authorised representative of TGI.

28. **CLAIMS**

In addition to any other exclusions and limitations of TGI's liability under the Contract, TGI will be discharged from all liability whatsoever in connection with the provision of the Services or the Goods unless suit is brought and notice given within seven (7) days of the date of the provision of the Services or delivery of the Goods or the date when the Services should have been provided or the Goods should have been delivered.

29. **SURVIVAL OF LIMITATIONS OF LIABILITY**

All the rights, immunities and limitations of liability in these Conditions will continue to have their full force and effect in all circumstances and notwithstanding any breach of the Contract by TGI or any other person entitled to the benefit of such provisions.

30. **SEVERANCE**

If any provision or any part of any provision of the Contract is unenforceable such unenforceability will not affect any other provision or any other part of such provision of the Contract.

31. **GOVERNING LAW AND JURISDICTION**

The Contract is governed by, and is to be constructed in accordance with, the laws of the State of Queensland and the parties submit to the non-exclusive jurisdiction of the courts of that State.

32. **GST**

- 32.1 This Clause 32 applies if TGI is or may become liable to pay GST in relation to any Supply under these Conditions.
- 32.2 Unless otherwise stated, all Charges quoted are exclusive of GST. In addition to such Charges, the Customer must pay GST on the Taxable Supply to TGI of an amount equal to the GST exclusive consideration multiplied by the GST Rate.

- 32.3 GST will be payable by the Customer without any deduction or set off for any other amount at the same time as the GST exclusive consideration is payable. GST will be payable by the Customer to TGI upon the same basis as the GST exclusive consideration is payable by the Customer under these Conditions.
- 32.4 TGI must issue an Invoice or Invoices to the Customer for the amount of GST referable to the Taxable Supply. TGI must include in any such Invoice such particulars as are required by the GST Law in order that the Customer may obtain an input tax credit for the amount of GST payable on the Taxable Supply.
- 32.5 If any part of the consideration is referable to both a Taxable Supply and anything that is not a Taxable Supply, the amount of GST payable by the Customer will be determined by TGI and will be the same amount of GST that would be payable if the Taxable Supply were the only Supply made to the Customer.
- 32.6 If the Customer makes default in the payment the due date of any amount payable pursuant to this Clause 32 then, without prejudice to any other remedies of TGI, the Customer will pay to TGI upon demand an amount equal to the amount of any damages, interest penalties or additional GST that may become payable by TGI arising out of the default of the Customer.

33. FORCE MAJEURE

- 33.1 A failure by TGI to perform any of its obligations under the Contract will not constitute a breach of the Contract by TGI where the failure has been caused by events beyond the control of TGI including, without limitation, strikes, industrial disputes, labour unrest, natural disasters, Acts of God, floods, fires, weather conditions, war or civil unrest.
- 33.2 Nothing in clause 33.1 will in any way limit or affect any other provision of the Contract which excludes or limits the liability of TGI.

34. DISPUTE RESOLUTION

- 34.1 If there is any dispute between the parties arising out of, or in connection with this Agreement, no party may commence court proceedings relating to the dispute until the following procedure has been complied with:
- (a) the party claiming a dispute has arisen must give written notice to the other party specifying the nature of the dispute;
 - (b) the parties will endeavor, in good faith, to resolve the dispute referred to in the notice by using informal dispute resolution techniques including appropriate escalation within the respective parties' organisations;
 - (c) if the parties do not resolve the dispute within 14 days after the date that the notice of dispute was given, the dispute will be submitted to arbitration in accordance with, and subject to, The Institute of Arbitration & Mediators Australia Rules for the Conduct of Commercial Arbitration;
- 34.2 Nothing in this clause 34 will prevent any party from seeking urgent interlocutory relief;
- 34.3 The Contract will remain in full effect without prejudicing the parties' respective rights and remedies pending resolution of the dispute;
- 34.4 The parties agree that pending final resolution of any dispute under the Contract, none of them will make any press release, public announcement or statement concerning the subject matter of the dispute to any person at the prior written consent of the other party.

35. NOTICES

- 35.1 Unless expressly stated otherwise in the Contract, all Notices in connection with the Contract must be in legible writing and in English and signed by the sender.
- 35.2 Notices must be:
- (a) left at the address set out in the Contract of Carriage;
 - (b) sent by prepaid ordinary post (airmail if appropriate) to the address set out in the Contract of Carriage;
 - (c) sent by fax to the fax number set out in the Contract of Carriage.
- However, if the intended recipient has notified a changed address or fax number, then the Notice must be sent to that changed address or fax number.
- 35.3 Notices take effect from the time they are received by the addressee unless a later time is specified.
- 35.4 If delivered in person, Notices are regarded as being received by the addressee when delivered to the addressee.
- 35.5 If sent by post, Notices are taken to have been received by the addressee three Business Days from and including the date of posting (or seven Business Days from and including the date of posting if posted to or from a place outside Australia).
- 35.6 If sent by fax, Notices are taken to have been received by the addressee at the time shown in the transmission report indicating successful delivery of the entire fax.
- 35.7 Despite clauses 35.3 to 35.6 (inclusive), if a Notice is received by the addressee on a day which is not a Business Day or after 5.00pm in the place of receipt, the Notice is taken to be received by the addressee at 9.00am on the next Business Day.

36. GENERAL

- 36.1 The Contract does not constitute a relationship of employment, agency or partnership between the parties. The rights and obligations of each party under these Conditions are several.
- 36.2 Each party will pay its own costs and expenses in negotiating, preparing, signing and delivering the Contract and any other agreement or document entered into or signed under the Contract.
- 36.3 A party must not assign, transfer or in any way deal with its rights under the Contract, without the prior written consent of the other parties (which must not be unreasonably withheld).
- 36.4 All representatives and warranties in the Contract will survive termination of the Contract and completion of the transactions contemplated by it.
- 36.5 A waiver of a provision of the Contract or a right or remedy under the Contract, including this clause must be in writing and signed by the party granting the waiver. Failure by a party to exercise a right or delay in exercising that right does not prevent its exercise, or operate as a waiver. A waiver is only effective in the specific instance and for the specific purpose for which it is given.
- 36.6 The rights and remedies of a party under the Contract do not exclude any other right or remedy provided by law.
- 36.7 Each party must do all things necessary to give full effect to the Contract and the transactions contemplated by the Contract.
- 36.8 The Contract supersedes all previous agreements about its subject matter and embodies the entire agreement between the parties.
- 36.9 These Conditions, may be executed in any number of counterparts and all those counterparts taken together will be construed as one deed.

37. INTERPRETATION

37.1 In the Contract, unless the subject or context is inconsistent:

- (a) a reference to these Conditions, the Contract or another instrument includes any variation or replacement of them;
- (b) a reference to a statute, ordinance, code or other law includes regulations and other instruments under it and consolidations, amendments, re-enactments or replacements of any of them;
- (c) a reference to one gender includes each other gender;
- (d) a reference to the singular includes the plural and the plural includes the singular;
- (e) the word "person" includes a firm, a body corporate, a trust, an unincorporated association or an authority;
- (f) a reference to a person (including the Customer or TGI) includes a reference to the person's executors, administrators, successors, substitutes and permitted assigns;
- (g) a reference to a party or to clauses, schedules or annexure is, unless otherwise provided, a reference to the parties for the time being of the Contract and to the clauses, schedules or annexure of, or to, the Contract;
- (h) a reference to \$ and "dollars" is to the lawful currency of Australia;
- (i) where a word or phrase is defined, its other grammatical forms have a corresponding meaning;
- (j) a party which is a trustee is bound both personally and in its capacity as trustee;
- (k) "including" and similar expressions are not words of limitation;
- (l) headings are inserted for convenience only and do not affect the interpretation of these Conditions; and
- (m) where a party is comprised of two or more persons, the obligations of those persons under the Contract are joint and several.