

Standard Terms and Conditions - Australia

1. GENERAL CONDITIONS

1.1 Operation

Except where otherwise expressly agreed by the Company (including where a separate contract has been mutually agreed), these standard terms and conditions ("**Terms**") apply to all Services provided by the Company to the Customer to the exclusion of any other Customer terms and conditions referenced on a purchase order or elsewhere. The Terms are available to access via the Company's website (<https://www.onlineage.com/general-terms>) or any successor site) and may be updated or amended by the Company from time to time in accordance with Clause 17.6).

1.2 Commencement

The Contract commences on the earlier of:

- (a) the date these Terms are first provided to the Customer;
- (b) the date the Goods are delivered to the Company's possession for the Services or the Customer otherwise requests or instructs the Company to perform Services; or
- (c) such other date as agreed between the parties in writing (including any Proposal),

and the Customer agrees to be bound by the Contract in all dealings between the parties, including where credit is extended by the Company pursuant to the Credit Application and Guarantee (as applicable).

1.3 Discretion

The Company may, by reasonable notice to the Customer (having regard to the specific circumstances), refuse to provide Services in respect of some or all of the Goods, or to carry out particular Services, where the Company considers it has reasonable justification to do so, which may include, without limitation, due to operational constraints, unforeseen circumstances, changes to the Company's commercial model or preferences, in the event of any unresolved claim or dispute in relation to Goods or Services or any payment default, breach or other non-compliance whatsoever by the Customer with these Terms.

To avoid doubt, Lineage may refuse to provide services that are outside the agreed scope of Services, in its sole discretion.

1.4 Transport Basis

The Company is not a "common carrier" and does not accept any liability as a common carrier and may refuse to transport the Goods or any class of goods for any person.

1.5 Risk

- (a) Subject to Clause 9.8(b) and 9.8(d), the Services in respect of the Goods are undertaken entirely at the risk of the Customer and save as expressly provided in the Contract, the Company accepts no liability and will not be responsible for any claim, loss, damage, liability, cost or expense concerning the Goods

whatsoever, other than to the extent the relevant cost or expense was caused solely and directly by the negligence of the Company or a breach of the Contract or applicable laws by the Company (in which event clause 9 shall apply).

(b) The Customer further acknowledges and agrees that:

- (i) it is the Customer's sole responsibility to ensure that the Goods are made available to the Company for performance of the Services in the correct quantities and in good, proper and undamaged condition and within specification;
- (ii) if Goods received by the Company are damaged, missing or otherwise not in the condition required by clause 1.5(b)(i), the Company's responsibility in respect of such Goods will be limited to providing notice and seeking further direction from the Customer;
- (iii) the Company is not responsible to the Customer for any cost, loss, expense or claim for Goods or stock not being in the condition required by clause 1.5(b)(i) upon receipt by the Company, including (without limitation) due to the incorrect loading, packaging, handling or any other acts or omissions of the Customer, its personnel or any third party prior to the Company's receipt or performance of the relevant Services; and
- (iv) the Company has no obligation to insure the Goods (whether against an Insured Risk or otherwise) and the Charges do not include any allowance for insurance relating to the Goods.

1.6 Details

The Customer hereby acknowledges and agrees that the Company relies on the Customer providing all relevant details of the profile of the Goods reasonably necessary for provision of the Services including (without limitation) description, items, pallet space, quantity, weight, quality, value and measurement, and, in the case of Transport Services, the sender and receiver addresses. The Customer warrants the truth, accuracy and completeness of all the information that it provides to the Company in connection with the Goods.

1.7 Storage Media

- (a) Storage Media must be accounted for with control systems as specified in the Company's applicable policies as provided to the Customer, referred to or contained in any Proposal, or published on the Company's website, and as amended from time to time.
- (b) The Company reserves the right to recover from the Customer any reasonable costs and expenses incurred by the Company as a result of or in

connection with:

- (i) the Customer's deviation from the provisions herein relating to Storage Media or the Company's applicable policies; or
- (ii) as a result of any changes to any Storage Media providers' hire rate.

Where there are changes to the Company's applicable policies or any Storage Media providers' hire rates, the Customer will only be responsible for any reasonable costs and expenses under this clause 1.7(b) where the Company provides reasonable notice to the Customer and such changes to the Company's applicable policies or Storage Media providers' hire rate materially impact the Customer's obligations under these Terms.

- (c) Storage Media costs will be borne by the Customer where the date of original delivery documentation relating to Storage Media exceeds a period of 90 days from the date of presentation of such costs to the Company. The Company will not be responsible for the maintenance, repair or replacement of any Storage Media which is caused by normal wear and tear or is in any way caused, or contributed to, by the Customer or any of its personnel. The Customer is solely responsible for, and fully indemnifies the Company and its Affiliates against, any such costs and must pay such costs immediately to the Company on demand.

1.8 Included Stocktaking Service

If expressly provided for in the Contract or agreed by the Customer and the Company in writing, the Company will conduct such stock counts of Goods held by the Company, at such times and on such terms as are agreed between the Customer and the Company (including under any Proposal), and unless otherwise specified in the Contract, for additional Charges in accordance with the Company's then-current rates.

1.9 Use of Company Goods Entrances and Loading Bays to be Used

The Customer must not:

- (a) convey any Goods or other materials to or from the Location except through the entrances and service areas provided for such purpose as directed by the Company; or
- (b) direct or arrange for any Goods or other materials to be loaded or unloaded from any vehicle at the Location other than in the designated loading docks or other areas designated by the Company for such Goods or materials.

1.10 Compliance with laws, policies and procedures

At all times in connection with the Goods and/or Services, the Customer must comply, and ensure that its personnel comply, with all applicable laws and Company policies and procedures including, without limitation, the Chain of Responsibility Legislation, the Cold Chain Guidelines, the Company's occupational health and safety guidelines for the Location, all other such policies and procedures relating to the management

of the Location (provided that the Company will provide reasonable notice to the Customer of any changes to the Company's guidelines, policies or procedures referred to in this clause 1.10, where such changes materially impact the Customer's obligations under these Terms), and all reasonable instructions given by the Company's authorised representatives from time to time or referred to or contained in any Proposal.

1.11 Australian Quarantine Inspection Service

Without limiting the application of clause 1.10, the Customer must not do anything at the Location which would in any way prejudice the continuing use of the Location for the storage of food and must comply with all requirements of the Department of Agriculture, Fisheries and Forestry ("DAFF") and any other body of competent jurisdiction. The Customer acknowledges that the Company may receive and be required to act upon directions from DAFF officers in respect to the Goods or Services in order to comply with relevant regulatory and legislative requirements and acknowledges and agrees that the Company will not be liable to the Customer for any loss or damage suffered by the Customer as a result of the Company complying with this clause.

1.12 Shelf Life

- (a) Each time the Customer brings new Goods to the Company for provision of Services, the Customer must supply the Company with full details of the provenance and expected shelf life of those Goods under the agreed storage conditions.
- (b) If the Company provides the Customer with a list of Customer Goods which have been brought into storage for Primary Warehousing Services (including, for example, the details of the provenance and expected shelf life of those Goods), the Customer is solely responsible for ensuring that the information contained in that list is correct and current and must, within 30 days after receipt of that list, notify the Company of any changes or corrections which need to be made. If the Customer fails to notify the Company of any changes or corrections to the list of Customer Goods within that 30 day period, the Customer will be deemed to have warranted to the Company the accuracy of the information contained in that list.
- (c) Notwithstanding paragraphs (a) and (b), the Customer will at all times remain responsible for ensuring that the Goods do not exceed their expected shelf life. Except to the extent caused solely and directly by the Company's negligence or breach of the Contract (in which event clause 9 shall apply), and subject to clause 9.8(b), the Company has no liability to the Customer for any loss, claim, cost or expense arising in connection with any Goods reaching or exceeding their expected shelf life while in the possession or control of the Company in the course of providing the Services.

1.13 Quarantine

The Company will be entitled but not obliged to quarantine any Goods that it considers have exceeded their shelf life and hold

them separately from any remaining Goods of the Customer. The Company will dispose of the relevant Goods in accordance with instructions in writing from the Customer (but subject always to the requirements of any applicable laws or regulations) and at the Customer's sole cost and expense (except to the extent that disposal of the Goods is required solely and directly as a result of the Company's negligence or breach of the Contract). If no instructions are received within 7 days, the Company may dispose of the relevant Goods without any liability to the Company.

1.14 Dangerous Goods

Subject to clause 2.1(b), if in the opinion of the Company any Goods are, or are liable to become, dangerous, inflammable, explosive, volatile, offensive or damaging in nature, the Company may at any time without notice to the Customer and at the Customer's cost, destroy, dispose of, abandon or render them harmless without any liability or compensation to the Customer or any other person, and without prejudice to the Company's right to any Charges.

1.15 Method

If the Customer instructs the Company to use a particular method of provision of Services, the Company will use reasonable endeavours to give priority to that method but if the Company cannot conveniently or lawfully adopt that method without incurring additional liability, costs, expenses or time, the Company may use any method that it considers most appropriate in order to carry out the Services and to comply with its obligations under the Contract.

1.16 Details of Goods for Transport Services

- (a) Without limiting any other provision in respect of Goods under the Contract, the Customer must ensure that all Goods subject to Transport Services:
- (i) are packed in appropriate packaging to ensure they arrive at the destination in the same condition as presented to the Company;
 - (ii) are clearly marked with the type of product, sender and receiver's details, and the Customer's pallet, batch or carton identification numbers;
 - (iii) are free from dirt and any contamination;
 - (iv) are stabilised and appropriately secured and fit for transport;
 - (v) if required to be temperature controlled, are presented at the correct temperature when collected by the Company, with appropriate written notice of the correct temperature provided to the Company in a reasonable time prior to collection; and
 - (vi) are ready for collection at the times specified in accordance with the Customer's instructions.
- (b) The Company reserves the right to refuse to provide Transport Services in respect of any Goods presented by the Customer which fail to meet the conditions set out in clause 1.16(a) above or the

Contract.

1.17 Collection and Delivery of Goods

- (a) The Company is not required to make Goods available to any person unless and until (i) all outstanding Charges in respect of those Goods have been paid, (ii) a receipt in respect of those Goods is signed by or on behalf of the Customer, and (iii) the person seeking to collect those Goods, if not the Customer, tenders a proper authority signed by the Customer to the Company.
- (b) The Company will deliver the Goods to the address nominated by the Customer and accepted by the Company. Delivery is deemed to have been made when the Company receives a signed receipt or delivery docket, in paper or electronic form as determined by the Company, from the Customer.
- (c) In the event that the Company is unable to deliver the Goods in accordance with the Customer's directions or there is a delay in unloading the Goods through no fault of the Company, the following Charges in Table 1 (without limitation) will be payable by the Customer to the Company, where:

Table 1

Event	Charge
(a) the Company attends an incorrect address which was provided by the Customer for delivery of the Goods;	<ul style="list-style-type: none"> • Full applicable delivery Charge • Plus 50% of applicable delivery Charge to return Goods back to Company facility • Plus applicable storage & handling Charges
(b) the delivery address is unattended;	<ul style="list-style-type: none"> • Full applicable delivery Charge • Plus 50% of applicable delivery Charge to return Goods back to Company facility • Plus applicable storage & handling Charges
(c) the receiving person or entity at the delivery address rejects, or refuses to accept, the Goods for any reason, including where Goods ordered for delivery by Customer are different to the Goods expected at delivery address (but excluding where Company has incorrectly picked and delivered wrong Goods);	<ul style="list-style-type: none"> • Full applicable delivery Charge • Plus 50% of applicable delivery Charge to return Goods back to Company facility • Plus applicable storage & handling Charges
(d) the Customer cancels delivery of the Goods: <ul style="list-style-type: none"> (i) after the Company has loaded the Goods onto the Company's vehicle; (ii) whilst the Company's vehicle containing the Goods are enroute to the delivery address; 	<ul style="list-style-type: none"> (i) Full applicable handling & processing Charges for loading and unloading of Goods; (ii) The Charges in (i), plus 50% of applicable delivery Charge plus additional handling & processing Charges.
(e) the Customer changes the delivery address after the Company has made at least one attempt to deliver the Goods to the original delivery address;	<ul style="list-style-type: none"> • Full applicable delivery Charge • Plus 50% of applicable delivery Charge to return Goods back to Company facility • Plus applicable storage & handling Charges

(f)	<p>after arrival at the delivery address, the Company's vehicle and vehicle operator are delayed, detained, hampered, or obstructed from unloading the vehicle for a period exceeding 30 minutes. (If delay exceeds 2 hours the vehicle and vehicle operator will abandon attempted delivery and will be rescheduled as a redelivery).</p>	<ul style="list-style-type: none"> • Service rate Charge equal to \$180 (ex GST) per hour, charged in 15-minute increments. • Plus those Charges set out in (b) above.
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1.18 Redelivery Charges

- (a) Where an unsuccessful attempt has been made by the Company, through no fault of the Company, to deliver the Goods in accordance with the Customer's reasonable directions, the Company will:
- (i) return the Goods to the Company's storage facilities at the Customer's expense;
 - (ii) notify the Customer of the circumstances regarding the unsuccessful delivery attempt;
 - (iii) take all reasonable steps to schedule a redelivery of the Goods after the failed delivery issues have been resolved with the Customer; and
 - (iv) invoice the Customer in accordance with the applicable Charges in Table 1.
- (b) In the event that:
- (i) the Customer does not provide the Company with adequate details to enable the Company to redeliver the Goods within 7 Business Days after notification of the failed delivery attempt; or
 - (ii) the Goods expire prior to any delivery or redelivery attempts by the Company;

the Company may, in its absolute discretion, dispose of the Goods at the Customer's expense or return the Goods to storage (where the Customer is also receiving Primary Warehousing Services).

1.19 Opening Goods

If any identifying document or mark is lost, damaged, destroyed or defaced, the Company, without being liable to any person (including the Customer), may open any carton, wrapping, package or other container in which the Goods are placed or carried to inspect them either to determine their nature or condition or to determine their ownership.

1.20 Consolidation

The Company may consolidate the Goods with others and may arrange for the provision of Services in respect of the Goods by any Sub-Contractor in accordance with clause 17.5 but on the same or similar terms as contained in these Terms.

2. CUSTOMER'S OBLIGATIONS

2.1 General Duties

The Customer must:

- (a) specify to the Company the temperature requirements for the Goods during the provision of Services and inform the Company if any Goods tendered for the provision of Services are at a temperature more than 5 degrees Celsius above the temperature at which the Company is required to store or transport them, or to provide Services, and pay any additional charge levied by the Company for blast freezing or otherwise bringing them to their correct temperature, provided that the Company is not

responsible for blast freezing the Goods unless the Customer specifically requested in writing (and subject to additional charge) and provided that the Customer must comply at all times with the Cold Chain Guidelines; in the absence of Customer providing the specifications under this Clause 2.1(a), the Company defaults to its temperature, storage and handling standards which are available upon request, unless otherwise specific regulatory requirements apply;

- (b) not tender for the provision of Services any volatile or explosive Goods or Goods which are or may become dangerous, inflammable or offensive (including radioactive materials) or which may damage any person or property without first obtaining the express consent of the Company in writing and presenting to the Company a full written description disclosing the nature of those Goods and thereafter presenting to the Company such other information relating to those Goods as is requested by the Company;
- (c) immediately notify the Company of any change affecting the Customer which may impact the provision of the Services or this Contract (including any obligation to pay Charges), including any change to its address or any change in the Effective Control of the Customer; and
- (d) in respect of Primary Warehousing Services, unless otherwise agreed, give written notice to the Company of its intention to collect any or all of the Goods from storage prior to 2.00 pm on the previous Business Day; and in respect of removal of storage, if the Company gives notice to the Customer requiring the Customer to remove any or all of the Goods from storage, pay any Charges outstanding and then remove the Goods which are the subject of any such notice within the period of time specified in such notice (which will be a period of not less than 7 days after the date of notice).

2.2 Costs of Services Consumed

The Customer must pay to its suppliers, when due, and fully indemnify the Company against, all charges for Storage Media and other items or services consumed or used in relation to the Goods or Services and must comply with the lawful requirements and regulations of its various suppliers.

2.3 Delivery of Files

Following termination or expiration of the Contract, the Customer must immediately deliver to the Company any and all of its records relating to any of the Customer's Goods which have not been removed from the Company's possession.

2.4 No Nuisance

The Customer will not do or allow to be done anything which causes or may cause annoyance, nuisance, grievance, disturbance or damage to the Location or which interferes with or could interfere with the Company's continuing use of the Location as a cold storage facility or to provide Services.

3. INSURANCE

3.1 Insurance by Customer

The Customer must effect and maintain the insurances specified below (on terms that insurers will not by subrogation or otherwise have any rights to claim an indemnity from the Company in respect of any claims or losses and with an acknowledgment of Clauses 4.2 and 10.1) with a reputable insurer:

(a) Public Risk

In respect of liability for loss, injury or damage of any kind to any person or property (including without limitation to the persons or property of the Company and its officers, employees, agents, other storage and transport customers, invitees and licensees) caused by or arising out of any act of or omission by the Customer or any Affiliate of the Customer or any of their officers, employees, agents, other storage or transport customers, invitees and licensees in relation to the Goods in the sum of \$20,000,000.00 (or such other amount as is stated in the Contract) in respect of any single accident or event, provided that the Company may from time to time by written notice to the Customer require the amount of insurance to be increased to the amount the Company considers reasonable in order to effect sufficient and proper cover (as determined by the Company).

(b) The Goods

All of the Goods against damage or destruction by the Insured Risks (including any other insurable risks required by the Customer) for their full insurable value on a replacement or reinstatement basis including any costs of reinstatement or replacement.

(c) Accident Compensation

In respect of worker's compensation in respect of all employees or eligible contractors of the Customer who may attend the Location for any reason, for full legal liability or the Customer must obtain written approval by the Company (not to be unreasonably withheld) to act as a self-insurer for such risks.

3.2 Delivery of Certificates of Currency

The Customer must:

- (a) upon request by the Company, deliver copies of the certificates of currency in respect of the insurances specified in Clause 3.1 to the Company prior to delivery of the Goods or Services and otherwise as requested by the Company from time to time; and
- (b) punctually pay all premiums payable for the renewal of those insurances as they become due and payable and produce and deliver to the Company on or before the respective renewal dates and on demand the receipts for those premiums.

3.3 Warranty as to Convictions

The Customer warrants that, before entering into the Contract,

it has disclosed to the Company and in the future will immediately disclose to the Company in writing any conviction, judgment or finding of any court or tribunal relating to the Customer or any Affiliate of the Customer, or any director, other officer or major shareholder of the Customer or any Affiliate of the Customer, of such a nature as to be likely to affect the decision of any insurer or underwriter to grant or to continue insurance of the Location or for the Services against any of the Insured Risks.

3.4 Requirements of Insurers

The Customer must comply with all reasonable requirements and recommendations of the Company or its insurers regarding the management of risks.

3.5 Notice of Events Affecting the Policy

The Customer must give prompt notice to the Company of any cancellation or purported cancellation by the relevant insurer of any insurance policy that the Customer is required to effect and maintain under this Contract.

3.6 Other Insurance

If at any time the Customer is entitled to the benefit of any insurance of the Goods that is not effected or maintained pursuant to the Contract, the Customer must apply all money received by virtue of that insurance in making good the loss or damage in respect of which the money is received.

4. CUSTOMER'S WARRANTIES AND INDEMNITIES

4.1 Warranties

The Customer and the person tendering the Goods for the provision of Services must ensure and each warrant that:

- (a) they have fully and adequately described and labelled all of the Goods as to their nature, weight, measurements, provenance, expected shelf life and lot number and have complied with all applicable laws and regulations concerning the Goods including about the notification, classification, description, labelling, transport, packaging and storage of the Goods and given their nature the Goods are packed in a proper way to withstand the ordinary risks of the Services;
- (b) the person delivering or collecting the Goods to or from storage in connection with the provision of Primary Warehousing Services, or the person sending or receiving Goods in connection with the provision of Transport Services, is authorised to do so by the Customer and (if applicable) to sign for any delivery or collection document on behalf of the Customer;
- (c) they are either the owner or the authorised agent of the owner of the Goods;
- (d) the Goods are free from any encumbrance, charge, lien or any other Security Interest;
- (e) the Goods are and will remain free of any objectionable matter or odours that may affect other goods in storage or transit, unless the condition of the Goods has previously been notified in writing to the Company and the Company has expressly accepted

the Goods in that condition in writing;

- (f) the Goods will be delivered to, or made available for pick-up by, the Company at the specified or agreed temperature and in accordance with the Cold Chain Guidelines;
- (g) they have not asked, and will not ask, the Company to handle or transport the Goods in any way that could be unlawful; and
- (h) they will not tender for collection any volatile or explosive Goods which are or may become dangerous, inflammable or offensive or which are or may become liable to damage any person or property without first presenting to the Company a full written description disclosing the nature of those Goods, and the Company has expressly accepted the Goods in that condition in writing in accordance with clause 1.15,

and if the Customer, or the person tendering the Goods for the provision of Services, breaches any of the above warranties, the Customer must promptly rectify the breach at its own cost.

4.2 Indemnity

The Customer fully indemnifies the Company and its Affiliates against all loss, damage, cost or expense (including reasonable legal costs on a full indemnity basis) that may be suffered or incurred by or awarded against that Company as a result of any:

- (a) loss of or damage to any physical property or physical injury to or death of any person caused, or contributed to, by any act or omission of the Customer, any Affiliate of the Customer, or any of their employees, agents, officers or Sub-Contractors; or
- (b) any false, misleading or deceptive conduct of the Customer.

This Clause will survive termination of the Contract.

5. CHARGES

5.1 Payment

Lineage TRS will invoice the Customer for all Services provided under any Contract for itself and as agent for and on behalf of Emergent. The Customer must:

- (a) unless otherwise agreed in writing, pay the Charges to Lineage TRS within 14 days after the date of Lineage TRS' invoice; and
- (b) in addition to the Charges, the Customer must pay the following amounts reasonably incurred to Lineage TRS (or as directed by Lineage TRS) promptly on demand:
 - (i) any expenses not recouped out of the proceeds of sale of the Goods under Clause 6.2;
 - (ii) all costs and expenses incurred by a Company in order to ensure compliance with any law or regulation or any order or requirement made under them or with the requirement of any quarantine service, trade association, market, harbour, dock, railway,

shipping, customs, excise or warehouse authority or other person by reason of the provision of Services in respect of the Goods, and for which the Company would not have incurred in the ordinary course of its business;

- (iii) any applicable customs duty, excise duty and costs (including any fine or penalty) in connection with the provision of Services in respect of the Goods;
 - (iv) all charges relating to a stock count conducted by a Company pursuant to Clause 1.8;
 - (v) any storage charges or other charges or expenses a Company incurs in relation to the Goods (including without limitation salvage costs and additional freight and storage costs);
 - (vi) all costs and expenses incurred by it in connection with the Customer's delay;
 - (vii) any additional costs and expenses a Company incurs as a result of any incorrect declaration by the Customer of the weight, volume, description or packaging of the Goods;
 - (viii) any cost expense, loss or liability incurred by a Company in connection with any destruction or disposal under Clause 1.14, or any opening or inspecting under Clause 1.19;
 - (ix) any present or future imposed taxes, levies or other Government charges or imposts payable on or in respect of the Services provided under the Contract;
 - (x) any cost, expense or loss to a Company's property or any person caused or contributed to by the Goods; and
 - (xi) if the Goods are at any time re-quantified, re-weighed or reassured, any proportional additional Charges in relation to the Goods.
- (c) The Customer must pay any amounts owing to the Company under this clause 5.1 in full without set-off, counterclaim or deduction and otherwise in cleared funds.
 - (d) Subject to clause 5.1(c), the Customer may notify the Company in writing of any alleged error(s) or other discrepancies within one-hundred and twenty (120) days of the date of such invoice (or such other period of time agreed by the Company, acting reasonably and having regard to the extent to which the Company's ability to consider and validate any alleged error(s) or discrepancies has been prejudiced by Customer delay). After expiry of such period, each invoice will be deemed for all purposes to be correct and approved by the Customer and no claim to the contrary (including claims for corrections or adjustments) may be brought by the Customer

against the Company.

- (e) On receipt of notice of a disputed invoice under clause 5.1(d), the parties representatives will make a bona fide attempt to resolve the alleged error or discrepancy within fourteen (14) days, failing which either party may elect to initiate the dispute resolution process set out in clause 17.2.

5.2 Accrual

The Charges apply on and from the date the Goods are delivered to the Company or collected by the Company (as applicable).

5.3 Interest on Default

The Customer will pay to the Company on demand interest calculated at the Interest Rate on any Charges or other money payable by the Customer which remain unpaid for 7 days after the due date for payment, such interest to be calculated from and including the relevant due date and to accrue on a daily basis until paid.

5.4 Increase in Charges

Subject to clause 17.11:

- (a) The Charges may be increased, at the Company's option on 30 days' notice, in accordance with the Company's then-current rate review formula or in accordance with the Consumer Price Index published by the Australian Bureau of Statistics. If there is no Proposal in place between the parties, then the Company's then-current rates, as set from time to time at the discretion of the Company, and as notified in writing, apply.
- (b) Without limiting clause 5.4(a), the Company shall also be entitled to make reasonable adjustments to any Charges on reasonable notice to the Customer in the event of any Force Majeure event, or extraordinary market movement of relevant inputs (e.g. fuel, electricity, labour), where it considers, acting reasonably, that such occurrence or circumstance has a material impact on the Company's ability to provide or cost of providing the Services.
- (c) For the avoidance of doubt:
- (i) requests for additional or varied services, including services that are outside the current scope of Services, including storage of Goods outside the agreed profile or in excess of agreed volume) may be subject to additional Charges; and
- (ii) clauses 5.4(a) and 5.4(b) do not prevent or limit the Company from reviewing applicable Charges in accordance with any review mechanism agreed by the parties in connection with a Committed Volume Agreement (if applicable) and the Customer shall not be entitled to terminate the Contract provided that such review is carried out in accordance with the agreed review mechanism.

6. LIEN

6.1 General Lien

In addition to the Company's statutory or common law storage or warehouseman's liens in respect of the Goods, the Company has both a specific and general lien on the Goods held by the Company and any documents relating thereto and on any other goods of the Customer in the Company's possession from time to time and in priority to any other Security Interest for all Charges or other moneys due under the Contract or which become due on any account whether for Primary Warehousing Services, Transport Services or Secondary Services in respect of the Goods or any other goods or any other service.

6.2 Disposal

If the Charges or any other amounts payable to the Company under the Contract are not paid when due, or the Goods are not collected when so required or designated, the Company may after the giving of notice in accordance with Clause 7.2, and in the case of perishable Goods immediately, do one or more of the following:

- (a) remove all or any of the Goods and store them as the Company thinks fit at the Customer's risk and expense; or
- (b) open and sell all or any of the Goods as the Company thinks fit and apply the proceeds to discharge the lien and costs of sale without being liable to any person for any loss or damage caused.

7. TERMINATION AND DEFAULT

7.1 Default

The Company may terminate the Contract in accordance with Clause 7.2 if:

- (a) the Customer does not pay the Charges or any other amounts payable to the Company under the Contract or meet its other obligations under the Contract;
- (b) the Customer or the Guarantor becomes insolvent, an order is made or a resolution is passed to wind it up, it goes into liquidation or has a provisional liquidator appointed, is placed under official management, has a receiver or receiver and manager appointed over any of its assets or an administrator appointed or any similar event occurs in relation to the Customer or the Guarantor; or
- (c) the Customer or the Guarantor is a natural person and:
- (i) commits an act of bankruptcy as defined in the *Bankruptcy Act 1966 (Cth)*;
- (ii) becomes bankrupt;
- (iii) takes or tries to take advantage of Part X of the *Bankruptcy Act 1966 (Cth)*; or
- (iv) enters into a composition or arrangement with or makes an assignment for the benefit of their creditors.

7.2 Termination after Default

If the Company has given 14 days' prior written notice to the

Customer that:

- (a) the Customer has defaulted under the Contract as provided in Clause 7.1; and
- (b) the Customer fails within such period to remedy the default (if it is capable of remedy) or compensate the Company for the default (in each case, to the satisfaction of the Company),

then the Company may terminate the Contract immediately by written notice to the Customer, the termination taking effect from the date of giving the notice.

7.3 Period for Remedy

The period of 14 days is agreed by the Company and the Customer as a reasonable period within which the Customer must remedy a breach capable of remedy under the Contract or compensate the Company, as contemplated by Clause 7.2.

7.4 Termination on notice

Subject to clause 17.11:

- (a) the Company may at any time terminate the Contract by giving 30 days' prior written notice to the Customer; or
- (b) the Customer may terminate the Contract
 - (i) by written notice within seven (7) days from receipt of the Company's notice of an increase in the Charges under clause 5.4(a) or 5.4(b) where the Customer does not accept the increase and elects to discontinue the Services (and the Company has not withdrawn the new Charges); or
 - (ii) otherwise upon 30 days' prior written notice to the Company,

in which event the Customer must arrange for prompt collection of any Goods (failing which clause 7.5 shall apply) and the Company shall be entitled to payment without delay of:

- (iii) all Charges due and payable up to the date of termination at then-current rates and any other amounts due to the Company under these Terms; and
- (iv) any reasonable costs or expenses incurred by the Company in connection with the termination and/or any instructions issued by the Customer.

7.5 Goods Left in Store

Without limiting the application of Clause 6, if the Customer leaves Goods in the Company's possession after the Contract has been terminated and does not collect them within a reasonable period of time not to exceed 30 days' from receipt of a written notice from Lineage, then the Company may either dispose of the Goods at the Customer's expense and with no liability to the Company or, at the Company's sole discretion, continue to store the Goods for the same Charges and under the same terms and conditions (with the necessary changes made) as those contained in the Contract until the Goods are

collected by the Customer or otherwise disposed of.

8. Acceptance of Charges

Acceptance of Charges by the Company after default by the Customer under the Contract will be without prejudice to the exercise by the Company of the powers conferred on it by Clauses 7.2 and 7.4 or any other right, power or privilege of the Company under the Contract or at law and will not operate as an election by the Company either to exercise or not to exercise any of those rights, powers or privileges then or on any subsequent breach.

8. CONSEQUENCES OF TERMINATION

8.1 Complete Instructions

The Company will, subject to the terms of the Contract, fulfill any reasonable instructions by the Customer with respect to the Goods prior to the termination of the Contract, subject however to the Company obtaining such security or guarantee of payment and performance by the Customer as the Company considers, in its reasonable opinion, appropriate in the circumstances.

8.2 Pay Moneys Owning

Neither the expiration or termination of the Contract will release the Customer from the obligation to pay any sums owing to the Company or from the obligation to perform any other duty or to discharge any other liability that may have been incurred by the Customer prior to the expiration or termination of the Contract.

8.3 Provisions surviving termination

Clauses 4 (Warranties and Indemnities), 7 (Termination and Default), 8 (Consequences of Termination), 9 (Loss or Damage), 10 (Exclusions and Limitations), 15 (Confidentiality), 17 (General) and 18 (Definitions and Interpretation) and any other obligations which are expressed to or, by their nature, survive termination or expiry, will survive the termination or expiry of the Contract.

9. LOSS OR DAMAGE

9.1 General Exclusion of Liability

- (a) Except as otherwise expressly provided in these Terms including clauses 9.8(b) to 9.8(d), the Company will not be liable for any liability, cost, expense, loss or damage suffered by the Customer or any other person, howsoever caused or arising, whether an authorised or unauthorised act under the Contract and whether caused by the negligence of the Company or its officers, employees, agents, Sub-Contractors or otherwise in any way arising out of or in connection with the Services in respect of the Goods or in connection with the Contract.
- (b) Notwithstanding anything to the contrary in the Contract, in no circumstances will the Company or the Customer be liable to one another for any loss of profit, revenue, business contracts or anticipated savings or any special, indirect or consequential loss suffered or incurred by either party or any other person.

9.2 Notice of Loss or Damage

The Customer and the Company acknowledge and agree that

due to the nature of the Goods and the Services it is reasonably necessary and in both parties' interests to ensure that all claims for loss or theft of or damage to the Goods are submitted promptly after the date of removal of the Goods from the Company's possession, including to afford both parties a reasonable opportunity to investigate and access information regarding the circumstances of the claim.

Without limiting this Clause 9, no claim for loss or theft of or damage to the Goods may in any event be made against the Company unless notice of the claim in writing is received by the Company, together with reasonable supporting documentation from the Customer to substantiate the loss or damage and the amount claimed, within thirty (30) days after the date of removal of the Goods or the relevant part of them from the Company's possession in connection with the Services are provided and to the extent permitted by law all claims not so made within the time will be deemed to have been waived.

9.3 Failure to Notify

The failure to notify a claim within the time under Clause 9.2 deems satisfactory performance by the Company of its obligations.

9.4 Failure to Bring Action

The Company will be discharged from all liability for loss of or damage to the Goods unless an action is brought within twelve (12) months of the date of removal of the Goods (or the relevant part of them) from the Company's possession in connection with the Services are provided, or such other period of time agreed by the Company, acting reasonably and having regard to the extent to which the Company's ability to respond to any such action has been prejudiced by Customer delay.

9.5 Ullage Acknowledgment

- (a) The Customer acknowledges that despite all reasonable care and attention on the part of the Company, damage and/or loss of Goods can sometimes occur through storage, handling & transportation (**Ullage**).
- (b) The Customer agrees that except to the extent required by law and except where, clause 9.8(b) applies, the Company will have no liability to the Customer for Ullage that falls within the Ullage Allowance or the circumstances described in clause 1.5(b) as the Parties have taken this into account in negotiating the pricing for the Services in accordance with the Contract. To avoid doubt, the amount of any loss or damage to Goods which contributes towards the Ullage Allowance will reset to zero at the commencement of each 12 month period commencing on the start date identified in clause 1.2 and each anniversary.

9.6 No Claims against the Company

To the extent permitted by law and without limiting the application of the other provisions of this Clause 9, the Company will not be liable in respect of all or any part of any adjustments allowed or payments made by the Customer to any third party or other person unless the Customer will have first received approval in writing from the Company for such adjustments or payments.

9.7 Acknowledgement

Without in any way limiting and subject to the preceding provisions of this Clause 9, and to the extent permitted by law:

- (a) the Customer acknowledges and accepts that due to the nature of the storage processes, chilled and frozen Goods may show variations in quality, weight, measurements, shades, tints and colours;
- (b) the Company will not be bound to make good any defect in Goods; and
- (c) the Company will not accept liability for claims for loss or damage to Goods occurring during loading or unloading to/from Company vehicles by others where the Company's personnel is not permitted, due to Customer or other third-party requirements, to be present to verify proper performance of such activities and/or correct quantities of the Goods.

9.8 Maximum Liability

- (a) Any representation, warranty, condition or undertaking that would be implied in the Contract by legislation, common law, equity, trade, custom or usage is excluded to the maximum extent permitted by law.
- (b) Nothing in the Contract excludes, restricts or modifies any condition, warranty, right or remedy conferred on the Customer by the Australian Consumer Law or any other applicable law that cannot be excluded, restricted or modified.
- (c) If the Customer is a Consumer and the Customer has suffered or incurred any liability, loss, cost or damage (for the purpose of this Clause 9.8, "**Loss**") because of a failure of the Company to comply with a Consumer Guarantee, then to the extent permitted by law and unless it would be unfair, the Company's liability for such Loss (which cannot be limited beyond the following provisions contained in this Clause 9.8) is limited to:
 - (i) in the case of defective goods, any one or more of the following (at the Company's option):
 - a. replace the goods or supply equivalent goods; or
 - b. pay the costs of replacing the goods or of acquiring equivalent goods; and
 - (ii) in the case of defective Services, any one or more of the following (at the Company's option):
 - a. supply the Services again; or
 - b. pay the costs of having the Services supplied again.
- (d) Except in respect of claims for breach of a Consumer Guarantee under clauses 9.8(b) or 9.8(c), and subject to clause 9.5(b), the maximum aggregate liability of the Company for:

(i) any claim for loss, theft, damage to or destruction of the Goods is limited to the lesser of:

- a. Charges actually paid by the Customer under the Contract in relation those specific Services and Goods that are the subject of the relevant claim; and
- b. \$1,000.00 for every full pallet or \$500.00 for every half pallet of Goods lost, damaged, stolen or destroyed; and

(ii) any other claim for loss, liability, damage, cost, expense or otherwise, arising out of or in connection with the Contract is limited to the aggregate of all Charges paid under the Contract in the relevant calendar year,

provided that:

(iii) the Company will only be liable to the Customer to the extent the relevant claim, liability, loss, damage, cost or expense is caused solely and directly by a negligent act or omission of the Company (or its officers, employees, agents or Sub-Contractors) or a breach of the Contract or law by the Company; and

(iv) the limitation on liability set out in this clause 9.8(d) shall not apply in relation to the Company's liability for fraud, criminal conduct or wilful misconduct.

(e) The Customer may, within a reasonable period of time after commencement of the Contract in accordance with Clause 1.2, request in writing an increase to the Company's limitation of liability in connection with the Services or Contract as set out in Clause 9.8(d)(i), in which case, an increased Charge for the Services will be made based on the agreed increased valuation of the limitation of liability, provided that no such request will be valid unless made before any claim, loss, liability, damage, cost or expense has occurred arising out of or in connection with the Services or Contract.

9.9 Demurrage

The Customer agrees that the Company will not be liable to compensate the Customer for demurrage or any associated loss or damage arising from loading, unloading or storing the Goods.

9.10 Duty to mitigate

Each party will use all reasonable endeavours to mitigate losses it suffers under or in connection with the Contract.

9.11 Exclusions permitted by law

The exclusions and limitations of liability in this clause 9 apply to the maximum extent permitted by law and whether a claim is made in contract (including under an indemnity), in tort

(including negligence) or any other basis in law or equity.

10. EXCLUSIONS AND LIMITATIONS

10.1 Release and Indemnity

The Customer hereby releases the Company and its Affiliates from and fully indemnifies and holds the Company and its Affiliates harmless against:

- (a) all physical losses, damage, costs and expenses suffered or incurred by the Company in connection with the Goods; or
- (b) any claims made by a third party against the Company or its Affiliates in respect of:
 - (i) any losses, damage, costs and expenses suffered or incurred by that person;
 - (ii) any losses of or damage to any property owned by that person; and
 - (iii) any injuries to, or death of, any person,

in each case to the extent caused or contributed by the Customer or its personnel, Sub-Contractors or agents, or the Goods.

10.2 Force Majeure

- (a) The Company will not be liable for any direct, consequential, special or indirect loss (including loss of profits) or damage to the Goods, delay or failure to deliver the Goods, or any loss otherwise suffered by the Customer arising from non-performance or late performance of the Contract by the Company caused by Force Majeure.
- (b) If a party is wholly or partially prevented from performing its obligations under the Contract by a Force Majeure event (excluding, in the case of the Customer, any obligation to pay or Committed Volume Arrangement), then the obligation to perform in accordance with the Contract will be suspended for the duration of the Force Majeure event.
- (c) If the Force Majeure event (and consequential inability to perform the Contract) continues for a period longer than 7 days from its initial occurrence, then either the Customer or the Company may terminate the Contract by written notice to the other. Such notice will not prejudice any rights or obligations either Party may have accrued prior to such termination.

10.3 The Company Sub-Contractors & Employees

The Customer agrees that:

- (a) every Affiliate, Sub-Contractor, agent, officer and employee of the Company is entitled to the full benefit of the indemnities, exclusions and limitations of liability set out in the Contract which are for the benefit of the Company, to the same extent as the Company; and
- (b) the Company enters into the Contract in its own right and on trust for such Affiliate, Sub-Contractors, agent, officer and employee of the Company to that extent.

10.4 Breach

Notwithstanding any breach by the Company of any terms of the Contract, all the rights, immunities and limitations of liability in the Contract continue to have their full force and effect in all circumstances.

11. INTELLECTUAL PROPERTY RIGHTS

11.1 Off-Site Access to the Company IT Systems

- (a) If the Company agrees to provide the Customer with access (by any means the Company determines) to the Company IT Systems then the Customer must enter into a separate software licence for the Company IT Systems in such form as the Company will require and the Customer will only utilise such access for the purpose of viewing the data and reports identified in that licence to receive the Services.
- (b) In the event that the Company provides the Customer with such access to the Company IT Systems then the Customer will be responsible for all the costs incurred in setting up such access.
- (c) Without limiting the application of Clause 15, the Customer will keep all the Company IT Systems, telephone numbers and access codes strictly confidential and ensure that all its staff members who are given access to this information are bound by enforceable confidentiality covenants in favour of the Company in respect of the same. If the Customer becomes aware of any breach of confidentiality then the Customer must immediately notify the Company's General Manager IT in writing.

11.2 Ownership of Intellectual Property Rights

The Customer acknowledges and agrees that all Intellectual Property Rights created in the course of the Services, Intellectual Property Rights in the Company IT Systems and Company Trade Identification ('**Company IP**') are owned or entitled to be owned by the Company or an Affiliate of the Company.

11.3 Infringement

Unless otherwise specified in a separate licence agreement, the Customer must:

- (a) notify the Company in writing as soon as practicable of any infringement, suspected infringement or alleged infringement of any Company IP which the Customer becomes aware of;
- (b) promptly notify the Company of, and comply with the Company's directions in relation to, any issue, claim, demand, threat, notice of proceedings or cause of action (whether contingent, accrued or otherwise) against or involving the Customer relating to its use of Company IP ('**IP Claim**');
- (c) In relation to an IP Claim, allow the Company to conduct the defense, including negotiations for settlement or compromise prior to the institution of legal proceedings and provide the Company with reasonable assistance in conducting the defence of such a claim;

- (d) not object to the Company modifying, altering or substituting any infringing part of the Company IP at its own expense in order to avoid infringement;
- (e) only use the Company IP in accordance with the reasonable written directions of the Company; and/or
- (f) do all other acts and things that may be reasonably required by the Company to ensure the protection of the Company IP.

11.4 Prohibited Acts

The Customer must not:

- (a) use the Company IT Systems in combination by any means and in any form with other programs not specifically approved by the Company;
- (b) use the Company IT Systems in a manner or for a purpose not reasonably contemplated or not authorised by the Company;
- (c) modify or alter the Company IT Systems without the prior written consent of the Company;
- (d) enter into any transaction relating to the Company IT Systems without the Company's prior consent in writing;
- (e) license any of the Company IP to or allow the use of any of the Company IP by any other person in any circumstances; or
- (f) use the Company Trade Identification in conjunction with or as part of any other trade marks, names or words, without the prior written consent of the Company.

11.5 Indemnity

- (a) The Customer hereby fully indemnifies the Company and its Affiliates against any losses, costs, expenses, demands or liability, whether direct or indirect, arising out of a claim by a third party alleging an infringement of their Intellectual Property Rights if:
 - (i) the claim arises from an event specified in Clause 11.4(a) to 11.4(f); or
 - (ii) the ability of the Company to defend the claim has been prejudiced by the failure of the Customer to comply with any requirements of Clause 11.3.
- (b) The Company hereby fully indemnifies the Customer against any losses, costs, expenses, demands or liability, whether direct or indirect, in connection with any IP Claim, except to the extent that the loss, costs, expenses, demands or liability is caused or contributed to by the Customer. In this paragraph, "IP Claim" means any claim that use of Company IP by the Customer in accordance with this Contract infringe any copyright or patent owned by a third party in Australia.

12. SUBCONTRACTING

12.1 Independent Contractors

Without derogating from the Company's rights under clause

17.5, the Company may sub-contract responsibility for all or part of the Services to its Affiliates or independent sub-contractors from time to time without the prior written consent of the Customer, provided that the Company is reasonably satisfied that the sub-contractor can perform its obligations under any Contract

12.2 Security and Pest Control

The Customer acknowledges that as part of its normal business method the Company employs independent security, pest control and other such sub-contractors and that the Charges and the Parties' respective insurance obligations have been determined on this basis.

13. APPOINTMENT AS AGENT

The Customer for valuable consideration irrevocably appoints the Company and any officer of the Company jointly and severally as its agent (with power to appoint a substitute or substitutes and to remove any of them) to act at any time after termination of the Contract on behalf of the Customer to deal with any Goods left in Company's possession in connection with the Services and generally to execute any document and do or perform any act or thing in respect of the Goods as fully and effectually as the Customer could do and the Customer will ratify and confirm anything the agent or any substitute may lawfully do or cause to be done.

14. PERSONAL PROPERTY SECURITIES ACT

- (a) The Customer acknowledges that under the Contract the Customer grants a Security Interest(s) to the Company, including but not limited to, the lien in Clause 6. The Customer acknowledges that the Contract constitutes a Security Agreement for the purposes of the PPS Act.
- (b) The Guarantor acknowledges that under the Guarantee the Guarantor grants a Security Interest(s) to the Company, including (without limitation) a charge over all its property. The Guarantor acknowledges that the Guarantee constitutes a Security Agreement for the purposes of the PPS Act.
- (c) If there is a Security Interest in favour of the Customer or the Guarantor and the Customer or the Guarantor proposes to register the Security Interest under the PPS Act, the Customer or the Guarantor (as applicable) must give the Company written notice prior to the registration that the Customer or the Guarantor (as applicable) proposes to register the Security Interest.
- (d) The Customer and the Guarantor will do anything reasonably required by the Company to enable the Company to register its Security Interests, with the priority the Company requires, and to maintain the registration.
- (e) The Security Interests arising under the Contract or the Guarantee attach to the Collateral in accordance with section 19(2) of the PPS Act and the parties confirm that they have not agreed that any Security Interest arising under the Contract or the Guarantee attaches at any later time.
- (f) The Customer and the Guarantor each acknowledge

that the Company may perfect its Security Interests by lodging a Financing Statement on the Personal Property Securities Register.

- (g) To the extent that any of the enforcement provisions of Chapter 4 of the PPS Act apply to the Security Interests created under or referred to in the Contract or the Guarantee, the following provisions of the PPS Act will not apply:
 - (i) section 95 (notice of removal of accession), to the extent that it requires the secured party to give a notice to the grantor;
 - (ii) subsection 121(4) (enforcement of liquid assets – notice to grantor);
 - (iii) section 130 (notice of disposal), to the extent that it requires the secured party to give the grantor a notice;
 - (iv) paragraph 132(3)(d) (contents of statement of account after disposal);
 - (v) subsection 132(4) (statement of account if no disposal);
 - (vi) section 135 (notice of retention);
 - (vii) section 142 (redemption of collateral); and
 - (viii) section 143 (reinstatement of security agreement).
 - (h) The Company does not need to give the Customer or the Guarantor any notice under the PPS Act (including a notice of a Verification Statement) unless the notice is required by the PPS Act and that requirement cannot be excluded.
 - (i) The parties agree that neither party will disclose to an "interested person" (as defined in section 275(9) of the PPS Act) or any other person, any information of the kind described in section 275(1) of the PPS Act. The Customer and the Guarantor will not authorise the disclosure of any information of the kind described in section 275(1) of the PPS Act.
- ## 15. CONFIDENTIALITY
- ### 15.1 Confidentiality obligations
- Each party (**Receiving Party**) must:
- (a) keep confidential, and not use, copy or disclose, any Confidential Information, except as permitted by the Contract; and
 - (b) immediately notify the other party (**Disclosing Party**) if it becomes aware of any loss or unauthorised use, access, copying or disclosure of any Confidential Information.
- ### 15.2 Permitted use and disclosure
- (a) The Receiving Party may, to the extent necessary:
 - (i) use Confidential Information for the purposes of performing the relevant obligations or exercising the relevant rights arising under or pursuant to the Contract; and

- (ii) subject to Clause 15.2(b), disclose Confidential Information to its related bodies corporate, personnel and financial and legal advisers who have a specific need to access that Confidential Information for the purpose of performing the relevant obligations or exercising the relevant rights arising under or pursuant to the Contract.

- (b) The Receiving Party must ensure that a person to whom it discloses Confidential Information under the Contract has entered into binding obligations of confidentiality at least as protective as this clause 15.

15.3 Exclusions

The obligations in Clause 15.1 do not apply to:

- (a) any disclosure made with the Disclosing Party's prior written consent, which can be withheld in its discretion and may be given subject to conditions;
- (b) any disclosure required by law (including any order of a court of competent jurisdiction); and
- (c) information which is, at the relevant time, in the public domain other than as a result of a breach of this Clause.

15.4 Privacy

If the Customer discloses any Personal Information to the Company, the Company will collect, use and manage the Personal Information in accordance with the Company's Privacy Policy available at <https://www.lineagelogistics.com/privacy-notice>

15.5 Data and Data Derivations

The Customer grants the Company the right to process any data that is uploaded to, or processed through the Company IT System, provided to the Company by or on behalf of the Customer or otherwise generated in the course of the Services ('Data'). The Customer warrants that it has obtained all consents from individuals and any other third parties necessary to enable the Company to process the Data.

The Customer acknowledges and agrees that:

- (a) the Company may compile, prepare reports, studies, analyses, or other work product from or by reference (wholly or partly) to the Data on an anonymous basis ('Data Derivations'); and
- (b) the Company shall have exclusive ownership rights to, and the exclusive right to use Data Derivations for any purpose, including to improve the Services.

16. GST

- (a) Words used in this Clause 16 that have a defined meaning in the *A New Tax System (Goods and Services Tax) Act 1999 (Cth)* (**GST Law**) have the same meaning as in the GST Law unless the context indicates otherwise.
- (b) The Company's quoted charges including those set out in any Proposal represent the GST exclusive

value of the supply for GST purposes.

- (c) To the extent that any supply made under or in connection with the Contract is a taxable supply, the recipient must pay, in addition to the amounts provided under the Contract for that supply (supply charge) an amount (additional amount) equal to the amount of the supply charge (or its GST exclusive market value) multiplied by the rate at which GST is imposed in respect of the supply. The Customer must pay the additional amount at the same time as the supply charge to which it is referable.

- (d) Whenever an adjustment event occurs in relation to any taxable supply to which Clause 16(c) applies:

- (i) Lineage TRS must determine the amount of the GST component of the charges payable; and
- (ii) if the GST component of the charges payable differs from the amount previously paid, the amount of the difference must be paid by, refunded to or credited to the Customer, as applicable.

- (e) Lineage TRS will issue a tax invoice to the Customer of a supply to which Clauses 16(b), (c) and (d) apply no later than 7 days following payment of the GST inclusive consideration for that supply under that clause.

- (f) If either Party is entitled under the Contract to be reimbursed or indemnified by the other Party for a cost or expense incurred in connection with the Contract, the reimbursement or indemnity payment must not include any GST component of the cost or expense to the extent that the cost or expense is the consideration for a creditable acquisition made by the party being reimbursed or indemnified, or by its representative member.

17. GENERAL

17.1 Governing Law and jurisdiction

The Contract is governed and must be construed under the laws of the State of Victoria, Australia and will be determined non-exclusively by the courts of Victoria.

17.2 Dispute Resolution

- (a) The Company and the Customer agree that any Dispute must be resolved in accordance with this clause 17.2.
- (b) Either party may initiate the procedure set out in this clause 17.2 by giving written notice to the other party of the existence of a Dispute.
- (c) If either party issues a notice under clause 17.2(b), a senior representative of each party having authority to settle the dispute must meet (either in person or via teleconference) as soon as reasonably practicable, and in any event no later than ten (10) Business Days after the date of receipt of the notice, and endeavour, in good faith, to resolve the Dispute.
- (d) If the Dispute is not able to be resolved under clause

17.2(c) by the date thirty (30) days after the date of the relevant dispute notice, either party may refer the Dispute for resolution via binding arbitration in accordance with clause 17.2(e).

- (e) The Company and the Customer agree that any Dispute unable to be resolved under clause 17.2(c) shall, in lieu of litigation, be resolved via binding arbitration in accordance with ACICA Arbitration Rules. The seat of arbitration shall be Melbourne, Australia and the language of arbitration shall be English. The parties shall be bound by the arbitration decision and a party receiving an award may enter judgment upon the same in any federal or state court of competent jurisdiction.

17.3 Severability

Any provision of the Contract which is invalid in any jurisdiction must, in relation to that jurisdiction:

- (a) be read down to the minimum extent necessary to achieve its validity, if applicable; and
- (b) be severed from the Contract in any other case,

without invalidating or affecting the remaining provisions of the Contract or the validity of that provision in any other jurisdiction.

17.4 Assignment by Customer

Rights arising out of or under the Contract are not assignable by the Customer without the prior written consent of the Company which shall not be unreasonably withheld by the Company provided that the proposed assignee is solvent, suitable, reputable and of sufficient financial standing to meet the Customer's obligations under this Contract and is not a competitor (or an Affiliate of a competitor) of the Company (in each case, as determined by the Company, acting reasonably).

17.5 Subcontracting, assignment and novation by the Company

The Company shall be entitled, in whole or in part, to sub-contract, assign or otherwise dispose of its rights and/or transfer its obligations (including by way of novation) under any Contract to any of its Affiliates, provided the Company is reasonably satisfied that the Affiliate can perform its obligations under the applicable Contract. The Company may effect any such sub-contracting, assignment or disposal and/or transfer its obligations (including by way of novation) by entering into such documentation with any Affiliate as they see fit, without the requirement for the Customer to agree to or sign any such documentation. The Customer agrees that sub-contracting, assigning or otherwise disposing of its rights and/or transferring its obligations (including by way of novation) to any Affiliate may be necessary to protect the Company's legitimate business interests and gives its consent in advance to, any such sub-contracting, assignment or disposal and/or transfer of obligations (including by way of novation) by the Company to any of its Affiliates, provided the requirements of this clause 17.5 are met.

In respect of a novation, by this clause, the Customer agrees with the Company and makes an irrevocable offer to the Company and to such Affiliate as the Company nominates that upon receipt of notice from the Company or such nominated Affiliate, the relevant rights and obligations under the Contract

will be taken to have been novated from the Company to the Affiliate such that the Affiliate will, with effect from the date specified in the notice, owe the Customer the obligations and will be entitled as against the Customer to the rights formerly held by the Company (and the Company will be released from all such obligations and will cease to hold all such rights)

In respect of any such sub-contracting, any Services under the Contract or any part thereof may be subcontracted and supplied to the Customer by the Company or by any Affiliate of the Company which the Company and any Affiliate may, in their sole discretion decide and allocate.

In respect of any such sub-contracting, transfer, novation, assignment or disposal, in whole or in part, to any such Affiliate, either the Company or such Affiliate may enforce the Contract and the Company or the Affiliate may collect and receive all or any portion of the amounts payable by the Customer or any of its Affiliates to such Affiliate-sub-contractor/transferee/assignee under, or in connection with, the Contract, as agent for and on behalf of such Affiliate-sub-contractor/transferee/assignee of the Company.

17.6 Variation

The Company may vary any part of the Contract by 30 days' notice in writing to the Customer (including publishing an updated version of these Terms on the Company's website).

If any unilateral variation to the Contract by the Company is materially adverse to the Customer, the Company will provide notice in writing of not less than 30 days' and the Customer may terminate the Contract by providing the Company with notice in writing prior to variation becoming effective (provided that the Company has not withdrawn the materially adverse changes prior to the termination becoming effective).

If the Customer fails to provide notice of termination prior to any such variation becoming effective, the Customer is deemed to have accepted the variation of the Contract. For clarity, changes to the Contract that are agreed by the parties in advance as part of the Contract, including but not limited to, changes to the Charges as a result of an agreed rate review mechanism, do not constitute variations that are 'materially adverse' for the purposes of this Clause 17.6.

Except for changes that are materially adverse to the Customer, the Customer agrees that it is responsible for periodically checking the Company's website for any such variation. Any other variation of any term of the Contract must be in writing and signed by the Parties.

17.7 Formalities

The Company is not bound by any waiver, discharge or release of a term or condition or any agreement which varies the Contract unless it is in writing and signed for the Company by a director.

17.8 Waiver

If the Company waives a breach of a term or condition the waiver does not operate as a waiver of another breach of the same or any other condition or as a continuing waiver.

17.9 Rights Cumulative

The rights powers and remedies under the Contract and conditions are cumulative with the rights, powers or remedies provided by law independently of the Contract.

17.10 Entire understanding

- (a) The Contract contains the entire understanding between the parties concerning the subject matter of the Contract and supersedes all prior communications between the parties. In particular the Contract supersedes all terms or conditions submitted by the Customer, which will not apply to the provision of Goods except to the extent expressly agreed by the Company in writing.
- (b) Each party acknowledges that, except as expressly stated in the Contract and subject to the Australian Consumer Law, that party has not relied on any representation, warranty or undertaking of any kind made by or on behalf of another party in relation to the subject matter of the Contract.

17.11 'Take or Pay' and Committed Volume Arrangements

To the extent that the Company and the Customer have agreed a Committed Volume Arrangement:

- (a) the Company may exercise its rights to unilaterally increase Charges under clause 5.4, provided that if the Customer does not accept the increased Charges the Customer may, subject to clause 5.4(c), terminate the Contract in accordance with clause 17.6;
- (b) the Customer is not entitled to claim relief from the Committed Volume Arrangement or any obligation to pay due to Force Majeure under clause 10.2;
- (c) neither party shall be entitled to terminate by notice under clause 7.4; and
- (d) if the Customer terminates under clause 17.6 as a result of a materially adverse change, the Company will provide the Customer with a refund of any Charges paid in advance for the Services for the period after the effective date of termination.

18. DEFINITIONS AND INTERPRETATION

18.1 Definitions

In these Terms:

"Affiliate" means, in relation to a body corporate, any person directly or indirectly Controlling, Controlled or under common Control with that person;

"Australian Consumer Law" means Schedule 2 to the *Competition and Consumer Act 2010* (Cth) and the corresponding provisions of the *Australian Consumer Law and Fair Trading Act 2012* (Vic), as applicable;

"Business Day" means any day other than a Saturday, Sunday or Public Holiday in Melbourne, Australia;

"Chain of Responsibility Legislation" means applicable transport and chain of responsibility legislation, including the Heavy Vehicle National Law as enacted in the relevant State

or Territory;

"Charges" means:

- (a) the Company's charges for Primary Warehousing Services, Transport Services or Secondary Services calculated at the rates set out in the Contract including any Proposal (as may be increased in accordance with the Contract or Clause 5.4, or both of them) or if not specified then at the Company's then-current rates;
- (b) the other moneys referred to in Clause 5 (Charges) and Clause 16 (GST); and
- (c) any other charges, expenses or amounts specified in any Proposal.

"Cold Chain Guidelines" means The Australian Cold Chain Guidelines 2017, as amended, consolidated, supplemented or replaced from time to time;

"Collateral" has the same meaning as in the PPS Act;

"Committed Volume Arrangement" means any 'take or pay' or other minimum or committed volume arrangement agreed by the Company and the Customer in connection with the Services or the Contract, including any arrangement where the Customer must pay charges for services regardless of whether or not the Customer actually uses or receives the services in recognition of the Company reserving space or other resources to meet the Customer's requirements.

"Company" means:

- (a) Emergent Cold to the extent the Contract relates to Primary Warehousing Services;
- (b) Lineage TRS to the extent the Contract relates to Secondary Services (including Transport Services),

unless the context requires otherwise.

"Company IT Systems" means the Company computerised warehouse inventory and transport management systems including all data, reports, analysis and other aspects thereof whether in hard copy or machine readable form;

"Company Trade Identification" means the trade marks, service marks, symbols, branding, logos and other trade indicia (whether registered or not) owned or controlled by the Company or any of its Affiliates and used in connection with the business conducted by the Company and its Affiliates including the "Emergent Cold", "Frigmobile", "Cold Chain Logistics", "Freezeline", "Lineage" names (or their respective replacement names);

"Confidential Information" means the Contract and all other information regardless of its form:

- (d) that is disclosed directly or indirectly by the Company to the Customer; and
- (e) that is treated or designated as confidential by the Company or the Customer knows, or ought to know is confidential,

and includes information that:

- (f) relates to the Contract, the Services, the Charges or the commercial arrangements between the parties; or

(g) was provided or obtained prior to the date of the Contract.

“**Consumer**” has the same meaning as in section 3 of the Australian Consumer Law;

“**Consumer Guarantee**” means a Consumer Guarantee applicable to the Contract under the Australian Consumer Law;

“**Contract**” means these Terms, any Proposal, together with any Credit Application and Guarantee accepted by the Company (as applicable);

“**Control**” has the meaning given to that term in section 50AA of the *Corporations Act 2001* (Cth) (and “**Controlled**” has a corresponding meaning);

“**Customer**” means the person identified as such in the Contract (including any Proposal), the person tendering the Goods, or the person on whose behalf the Goods are tendered for the Services (as applicable), including any of its Affiliate or third party who has a legal or beneficial interest in or right to the Goods;

“**Credit Application**” means the commercial credit application provided by the Company to the Customer (if applicable);

“**Dispute**” means any dispute or difference between the parties arising out of or in connection with the Goods, the Services or this Contract;

“**Effective Control**” in relation to a corporation, means the ability to directly or indirectly control the composition of a majority of the board of directors of that corporation or having more than 50% of the shares giving the right to vote at general meetings or securities conferring more than 50% of the rights to the income or capital of the corporation;

“**Emergent Cold**” means Emergent Cold Pty. Ltd. ABN 14 059 512 159;

“**Financing Statement**” means a financing statement within the meaning of the PPS Act;

“**Force Majeure**” means any incident, event, circumstance, act or omission beyond the reasonable control of a party, including:

- (a) an act of God;
- (b) the outbreak of a disease or hostilities (whether or not accompanied by any formal declaration of war), riot, civil disturbance or acts of terrorism;
- (c) the act of any government or competent authority (including the cancellation or revocation of any approval, authority or permit or restrictions);
- (d) fire, explosion, flood, inclement weather, or natural disaster;
- (e) the declaration of a state of emergency or the invocation of martial law having an effect on commerce generally;
- (f) industrial action (including strikes and lock-outs);
- (g) power failure;
- (h) motor vehicle accident;
- (i) the default of any suppliers under any material contracts;

(j) the unexpected breakdown of refrigeration plant, machinery or escape of refrigerant despite regular preventative maintenance; or

(k) pandemics or epidemics.

“**Goods**” mean the classes of goods identified in the Contract and any other goods accepted by the Company from or for the Customer from time to time together with any containers, packaging or Storage Media supplied by or for the Customer;

“**Guarantee**” means a guarantee provided by the Guarantor in favour of a Company in respect of a credit facility granted by a Company to the Customer;

“**Guarantor**” means any person who provides a Guarantee;

“**Insured Risks**” means the risks of loss or damage to the Goods whilst in storage (in connection with Primary Warehousing Services) or during transit (including during the provision of Transport Services) or Secondary Services caused by events including but not limited to fire, theft, storm damage, earthquake, lightning, explosion, malicious damage, flood, collision or overturning of the conveying vehicle and such other risks as may occur in the storage or transport of goods whether or not in the nature of the foregoing, as the Company from time to time decides;

“**Intellectual Property Rights**” means all present and future intellectual and industrial property rights conferred by law and wherever existing, including:

- (a) patents, designs, copyright, rights in circuit layouts, know how, domain names, inventions, trade secrets and any other rights subsisting in the results of intellectual effort in any field, whether or not registered or capable of registration;
- (b) any application or right to apply for registration of any of these rights;
- (c) any registration of any of these rights or any registration of any application referred to in paragraph (c); and
- (d) all renewals and extensions of these rights;

“**Interest Rate**” means the rate determined by the National Australia Bank from time to time as being available generally to commercial borrowers for overdrafts in excess of \$100,000.00;

“**Lineage TRS**” means Lineage AUS TRS Pty Ltd ABN 57 640 590 147, being an Affiliate of Emergent Cold.

“**Location**” means the relevant Company warehouse, facility or other location (as the context requires) where Services are provided;

“**Personal Information**” has the meaning given to it in section 6 of the *Privacy Act 1988* (Cth).

“**Personal Property Securities Register**” means the register established under Section 147 of the PPS Act;

“**PPS Act**” means the *Personal Property Securities Act 2009* (Cth);

“**Primary Warehousing Services**” means the storage, handling and freezing services undertaken by Emergent Cold in respect of the Goods;

“**Proposal**” means the proposal provided by the Company to

the Customer for the Services which forms part of the Contract;

“**Relevant Code of Practice**” means the standard or regulation applying to the Contract (if any) identified in the Contract;

“**Secondary Services**” means all services in respect of the Goods which are not Primary Warehousing Services, or Transport Services including any, distribution, picking, hand-stacking, sorting, labelling, wrapping, certification or documentation services, all invoicing for Services and/or other value-added or non-core services and any other services that Lineage TRS (or any other Company other than Emergent Cold) actually provides to the Customer in respect of the Goods;

“**Security Agreement**” means a security agreement within the meaning of the PPS Act;

“**Security Interest**” means a security interest within the meaning of the PPS Act;

“**Services**” means any Primary Warehousing Services, Transport Services and/or the Secondary Services (as applicable) undertaken by the relevant Company in respect of the Goods as set out in the Contract;

“**Storage Media**” means pallets, roll cages, cartons, crates, drums or other re-useable containers or packaging used for the provision of Services in respect of the Goods;

“**Sub-Contractor**” means any person who is an, agent, employee or sub-contractor of the Company with whom the Company arranges the provision of Services in respect of the Goods;

“**Terms**” has the meaning given in Clause 1.1;

“**Transport Services**” means the transport services undertaken by Lineage TRS in respect of the Goods as set out in the Contract;

“**Ullage Allowance**” means the amount of allowed loss, theft or damage to Goods during the provision of the Services under the Contract for which the Company will have no liability, being 0.05% of Goods throughput in the relevant calendar year; and

“**Verification Statement**” means a verification statement within the meaning of the PPS Act.

18.2 Interpretation

In the Contract unless the context otherwise requires:

- (a) words importing the singular include the plural and vice versa;
- (b) references to any document (including the Contract) are references to that document as amended, consolidated, supplemented, novated or replaced from time to time;
- (c) headings are for convenience only and will be ignored in construing the Contract;
- (d) references to Parties or to a Party will be a reference to the parties or a party to the Contract and includes references to their or its respective successors, permitted assigns, executors and administrators;
- (e) references to law will include references to any constitutional provision, treaty, decree, convention,

statute, act, regulation, rule, ordinance, subordinate legislation, rule of common law and of equity and judgment and shall include the requirements of any applicable stock exchange;

- (f) references to any law are references to that law as amended, consolidated, supplemented or replaced from time to time;
- (g) references to terms defined in the *Corporations Act 2001 (Cth)* will have the meanings given by that Act;
- (h) references to any person include references to any individual, company, body corporate, association, partnership, firm, joint venture, trust and governmental agency;
- (i) references to personnel include references to any officer, employee, agent, contractor and subcontractor;
- (j) references to A\$ are to the lawful currency of Australia;
- (k) references to any costs and expenses incurred by the Company include (without limitation) the Company's internal costs and expenses;
- (l) prices and other payments which are expressed in a particular currency in the Contract are required to be made in that currency;
- (m) each of the obligations of the Parties contained in the Contract are separate and independent and save as expressly provided are limited by reference to any other provision of the Contract;
- (n) no provision of the Contract will be construed adversely to a Party solely on the ground that the Party was responsible for the preparation of the Contract or that provision; and
- (o) all terms defined or quantified in:
 - (i) the Proposal;
 - (ii) the Credit Application; and
 - (iii) the Guarantee,
 (as applicable) will be construed according to these Terms.

18.3 Inconsistency

In the event of any inconsistency between:

- (a) these Terms;
- (b) the Proposal;
- (c) the Guarantee;
- (d) the Credit Application,

(as applicable) the document listed earlier prevails over the document listed later.