

**SWIRE SHIPPING PTE. LTD.  
TERMS AND CONDITIONS GOVERNING SWIRE SHIPPING WAREHOUSING AND  
CONSOLIDATION SERVICES (“SSL TERMS”)**

**PART A – WAREHOUSING TERMS**

**1 DEFINITIONS**

“Company” means Swire Shipping Pte. Ltd.

“Company Affiliate” means any and all corporate affiliates, subsidiaries and parent companies of Company.

“Customer” includes the consignor, shipper, depositor, consignee, receiver and retriever of the Goods as well as any person, including any corporation, company or other legal entity having any interest in the Goods, or anyone acting on behalf of any such person.

“Fees” means the rates, charges, fees and expenses relating to services rendered to Customer, on Customer’s account, or on Customer’s behalf.

“Goods” means the cargo tendered by or on behalf of the Customer for warehousing and/or consolidation services to be performed by the Company pursuant to these terms, and shall include any and all packaging and/or containers not supplied by or on behalf of the Company.

“Parties” refers to Company and Customer collectively and the term “Party” shall refer to either Company or Customer.

“PPSA” means the *Personal Property Securities Act 2009* (Cth).

“PPSR” means the Personal Property Securities Register.

“Security Interest” has the meaning given to that term in section 10 of the PPSA.

“SSL Terms” shall mean these terms for warehousing and consolidation services.

**2 SCOPE OF SSL TERMS**

**2.1 Applicable Services**

These SSL Terms shall apply to all warehousing and/or consolidation services performed by Company or a Company Affiliate.

In the event a document issued by Company or a Company Affiliate – or a written agreement between Customer and Company – incorporates these SSL Terms by reference, these SSL Terms shall apply with full force and effect as if verbatim set forth in such document or agreement, except as specifically modified or otherwise conditioned in a written agreement between Customer and Company.

**2.2 No Carriage Services**

These SSL Terms are not intended to be and shall in no event be construed as a contract of carriage.

Transportation services rendered by the Company or a Company Affiliate shall be dealt with separately and are governed by the terms of the respective contract(s) of carriage entered into between the Company (or a Company Affiliate) and the Customer and the bill of lading or waybill issued pursuant to such contract of carriage.

**3 FEES**

**3.1 Quotation and Calculation of Fees**

Quotations of Fees given by the Company to the Customer are for informational purposes only and are subject to change without notice; no quotation shall be binding upon the Company unless and until the Company agrees to Fees in writing. Fees are subject to change and are subject to surcharges.

**3.2 Calculation of Fees**

Fees may be calculated on the basis of the description of the Goods furnished by the Customer, but Company may at any time, count, weigh, measure and examine contents of the Goods; in the event the Customer’s description is found to be erroneous and additional fees are payable, Customer and the Goods shall be liable for any additional fees and expense incurred in weighing, measuring, and/or examining the contents of the Goods. Any error in Fees is subject to correction, and if, on correction, the Fees are higher, Company may collect the additional amount.

### **3.3 Payment of Fees; Late Fees**

If Company agrees to collect Fees from a party other than Customer, Company acts as an agent for Customer with respect to collection of Fees for Customer's account; the Company assumes no risk of collection and the Customer remains obligated to pay all Fees if Company is not able to collect upon request the same from any third party nominated by Customer. Each Customer is jointly and severally liable for the payment of Fees. Payment to any third party agent, representative or contractor of Customer shall not be deemed payment to Company unless actually received by Company as cleared funds. Customer shall pay to Company all Fees with no right of set-off for any claim filed against Company or a Company Affiliate. Customer payments not received within 30 days after the Company invoice date will cause Customer account to be considered past due and late fees of 1.5% of all outstanding Fees per month will apply.

If Customer in good faith disputes Fees invoiced or otherwise asserted owed by Company, Customer shall pay the undisputed amount and Customer shall promptly notify Company in writing of such dispute and work in good faith with Company to promptly resolve the disputed amount. All such disputed invoice amounts must be resolved within 60 days of the date of Customer's written notice to Company. Once the Parties have resolved the dispute, Customer shall, within ten days of resolution, pay to Carrier all previously disputed and resolved amounts for which Customer is responsible.

If such invoice dispute is not resolved within the sixty-day time period stated above, or as the Parties may otherwise agree in writing, for any reason other than data unavailability to support resolution of the dispute, then Company shall have the right to bill Customer a charge of 1.5% per month on the disputed amount(s).

Customer shall pay all applicable taxes and shall defend and indemnify Company and its affiliates from and against all sales, use, personal property, or other taxes (including any penalties, fines or interest thereon), except for taxes on revenue earned by Company, imposed by any federal, state or local government or taxing authority with respect to the services performed by Company under these SSL Terms. To the extent permitted by law, the Customer will provide all reasonable assistance to the Company in obtaining tax benefit in relation to the services the subject of this Agreement.

### **3.4 Contractual Lien and Right to Sell**

Company shall have a general lien on any and all Goods in its possession, custody and/or control for any and all Fees, advances, claims, costs, freight charges, duties, surcharges, expenses, debts or other liabilities or money due and payable to Company or any Company Affiliate by Customer, whether or not relating to the Goods being subject to lien. Company shall have the right to sell the Goods at public or private sale not less than 30 days after having given written notice thereof to Customer and Customer shall be liable for all costs and fees incurred by Company in the lien and lien sale of the Goods. Company also reserves all other rights allowed by law to recover unpaid amounts. Company Affiliates shall be third party beneficiaries to these SSL Terms to the extent necessary to enforce this Clause 3.4.

Customer:

- (a) acknowledges this agreement is a security agreement for the purposes of the PPSA.
- (b) consents to Company registering its Security Interests under this agreement on the PPSR;
- (c) will execute all documents and do all things as may be required to give effect to this grant of Security Interests;
- (d) agrees not to grant any other person a Security Interest in the goods;
- (e) agrees to indemnify Company on an indemnity basis against all costs and expenses incurred by Company in connection with registering and enforcing its Security Interest on a full indemnity basis.

### **3.5 PPSA**

To the extent the law permits, Company need not comply with any of the provisions of the PPSA which the parties are permitted to contract out of under section 115(1) and 115(7) of the PPSA. The parties exclude the operation of sections 142 and 143 to the extent permitted by the law.

Customer waives its rights to receive all notices that are permitted to be waived under section 157(3) of the PPSA.

Unless otherwise agreed and to the extent permitted by the PPSA, Customer agrees not to disclose information of the kind referred to in section 275(1) of the PPSA to an interested person, or any other person requested by an interested person. Customer waives

any right it may have, or but for this clause may have had, under section 275(7)(c) of the PPSA to authorize the disclosure of such information.

If Company exercise a right, power or remedy in connection with this agreement, that exercise is taken not to be an exercise of a right, power or remedy under the PPSA unless Company states otherwise at the time of exercise. However, this clause does not apply to a right, power or remedy which can only be exercised under the PPSA.

### **3.6 Company's Right to Suspend Services and to Recover Costs of Collection**

In the event payment is not made when due, Company reserves the right in its sole discretion to suspend all services and all amounts owed shall immediately become due and payable. Company will further be entitled to all costs of collection, including reasonable attorneys' fees.

### **3.7 Change in Operating Parameter or Condition(s)**

In the event of agreed Fees for prospective services, such Fees are based on and in reliance upon certain key assumptions or design criteria supplied to Company by or on behalf of Customer ("Operating Parameters"). In the event a change in any Operating Parameter (i.e., a change that is encountered over the course of time and is anticipated to be ongoing) or a "Changed Condition" (as defined below) occurs, which (i) increases the obligations or costs of Company or adversely affects the ability of Company to perform the Services, or (ii) decreases the Fees to which Company would otherwise be entitled under the Agreement had the change not occurred, Company shall provide written notice of the same to Customer. Company shall specify in its notice in reasonable detail the impact of the change in Operating Parameters or the Changed Condition on the Services and the corresponding change to the then current Fees (the "Notification").

"Changed Condition" means (a) the enactment or promulgation of any new law, regulation or charge or any change to any existing law, regulation or charge occurring after the Effective Date, or (b) a change to any permit, license, lease agreement, consent or approval required to perform the Services in accordance with the terms of the Agreement and occurring after the date of rate agreement.

In the event Customer objects to any changes to Company's proposed Fees pursuant to this Clause 3.7, Customer shall provide written notice of such objection to Company within ten business days of the Notification. If Customer does not provide such written notice, then the Parties' agreement as may exist shall be deemed amended to reflect such change in Fees in accordance with Clause 17 (Amendments; Waiver; Severability).

If Customer objects in writing to any changes in proposed Fees, the Parties shall use their good faith efforts to negotiate and reach agreement regarding the proposed Fees within ten business days after receipt of Customer's written notice of objection to the proposed Fees. Notwithstanding anything in the Agreement to the contrary, if the Parties are unable to reach agreement within the ten (10) business day period described in the preceding sentence, then both Parties shall escalate the matter to their respective senior officers who will use their good faith efforts to negotiate and reach agreement regarding the proposed Fees within the subsequent ten business day period. If the Parties reach agreement with respect to the proposed Fees during the cumulative twenty- (20) business day period described above, such proposed Fees will be in effect as of the date of the Notification. Customer shall pay Company such Fees, and the Parties shall amend the applicable agreement accordingly to reflect such change in Fees in accordance with these SSL Terms (Amendments; Waiver; Severability). If the Parties are not able to reach agreement with respect to the proposed Fees during the cumulative twenty- (20) business day period described above, then Company may terminate the impacted agreement (or its applicable service schedule / statement of work) upon written notice to Customer, and Customer shall pay all Fees due and outstanding through the date of termination and any termination costs set forth in the Parties' agreement as may exist. Company shall not be liable for failure to meet performance commitments due to a Changed Condition or a change in an Operating Parameter, unless Company specifically agrees in writing to the contrary.

## **4 INDEMNIFICATION**

### **4.1 Indemnity Obligations**

Each Party ("Indemnifying Party") shall defend and indemnify the other Party and any affiliated and controlling entities of such Party, and the directors, employees, officers and agents of each of them (in each case "Indemnified Party") from and against all third party liabilities, claims, suits, demands, actions, fines, damages, losses, costs and expenses (including reasonable attorneys' fees)

(“Claims”) for bodily injury to or death of any person or damage to or loss of improvements to real property or tangible personal property to the extent caused by or resulting from such Party’s negligent acts or omissions or willful misconduct, except to the extent caused by the Indemnified Party. Notwithstanding the foregoing or anything in these SSL Terms to the contrary, Company shall have no indemnification obligation under this Clause 4.1 or under the Agreement arising out of or in connection with Customer’s goods, packages or property for which the Services are provided (collectively the “Goods”), the liability for which is governed by Clause 7 hereunder.

#### **4.2 Third-party Claims**

Customer shall defend and indemnify Company and its Indemnified Parties from and against any third party Claim arising out of or in connection with the design, manufacture, packaging, marketing, use or sale of the Goods or Customer’s instructions regarding the Goods or Services or Customer’s representations and/or descriptions of the Goods.

#### **4.3 Indemnification**

With respect to a Claim for which indemnification is sought under this Clause 4, the Indemnified Party shall provide Indemnifying Party with: prompt written notice; tender of the defense or settlement; and full cooperation in the defense.

Failure to give prompt written notice of a Claim will not affect the Indemnified Party’s right to indemnification unless the failure materially and adversely affects the rights, remedies or liability of the Indemnifying Party. If the Indemnifying Party fails to honor a timely request for indemnification and has a binding legal obligation to do so, the Indemnified Party is entitled to all costs (including reasonable attorneys’ fees) incurred in the enforcement of its indemnification rights.

The Indemnifying Party shall not make a compromise or settlement of a Claim without the Indemnified Party’s consent unless all of the following apply: (i) there is no finding or admission of any violation of law or any violation of any person’s rights by Indemnified Party; (ii) there is no effect on any other Claim by or against Indemnified Party; (iii) the sole relief is monetary damages that are paid by the Indemnifying Party; and (iv) the compromise or settlement contains an unconditional requirement to provide by the claimant or the plaintiff to the Indemnified Party a release from all liability in respect of such Claim. The Indemnified Party will have no liability for any compromise or settlement made without its consent.

### **5 TITLE TO GOODS**

Unless otherwise agreed in formal writing, title to Goods will remain with Customer. Where a warehouse receipt is issued, goods will be delivered or released against presentation of the original warehouse receipt only. Notwithstanding anything herein to the contrary, nothing in this Clause 5 shall be deemed to waive or otherwise limit any lien rights that Company may have with respect to the Goods under applicable law and/or these SSL Terms.

### **6 SUBCONTRACTORS**

Company may at its discretion appoint Company Affiliates or third party vendor subcontractors for all or portions of the warehousing and consolidation services performed under these SSL Terms. Company may disclose to Company Affiliates or third party vendors any Customer Confidential Information and Shipping Information reasonably necessary to perform the Services.

### **7 COMPANY’S LIABILITY LIMITATIONS AND IMMUNITIES FOR GOODS**

#### **7.1 Liability Limitation**

As to warehousing and consolidation services under these SSL Terms, and except as otherwise agreed in writing between Company and Customer, the maximum collective liability of Company, Company Affiliates and third-party subcontractors arising out of or related to loss or damage to Goods, however caused, shall not exceed the lesser of Customer’s actual damages or [insert].

Customer and Company agree that they have negotiated a reasonable limitation of liability based upon the value of the Goods, the Parties’ respective business interests and rates charged. In the event of loss or damage subject to mandatory applicable law which provides for a higher liability limitation than the maximum contractual liability provided hereunder, Company’s liability shall be limited to the lowest amount permissible by or in accordance with such applicable law.

The liability limitations herein shall not apply to any indemnity obligations of Company for personal injury or damage to property other than Goods. Customer may obtain additional protection in excess of the foregoing liability limitation, up to the actual value of the Goods, by making a written request and paying an additional charge prior to the provision of services, always subject to Company's written approval or confirmation prior to the provision of services.

The knowledge of Company or any Company Affiliate of the value of Goods and/or Customer's declaration of the value of the Goods to Company or any Company Affiliate in regular course or for any other purpose, such as for Customs purposes, shall in no event constitute a declared value of the Goods for liability purposes. Customer waives all rights of subrogation on behalf of its insurers for any loss or damage in excess of Company's liability as agreed and determined under this Clause 7.

## **7.2 Liability, Immunities and Waiver**

In no event shall Company be liable for an amount greater than the value of the affected portion of the Goods or for any delay, consequential, indirect, incidental, or punitive damages even if Company has been put on notice of the possibility of such damages. Company shall have no liability for loss of, or damage to, the Goods or any portion of the Goods in circumstances of: inherent defect, quality or vice of the Goods; defective packing not performed by the Company; inadequate or inaccurate information provided by customer; any event not attributable to the negligence of Company or its Affiliates or subcontractors participating in the performance of warehousing and consolidation services; any event beyond Company's reasonable control ("force majeure" event), to include but not be limited to, natural disasters, strikes or lockouts or stoppage/restraint of labor from whatever cause, equipment failure not attributable to the fault of Company (to include electrical power, heat, light, air conditioning or communications equipment), civil unrest, acts of war or armed conflicts, acts of public authorities, or acts or threatened acts of public enemies, hijackers or assailing thieves. Customer shall reimburse Company for all efforts taken to mitigate Customer's losses under circumstances of any force majeure event, including but not limited to storage charges. Company's liability shall be predicated on a duty of reasonable care, and Company shall have no liability for any damages not directly attributable to Company's breach of such duty. Company makes no warranties, representations or guarantees, either express, implied, statutory, or otherwise, oral or written, with respect to warehousing and consolidation services furnished under these SSL Terms, including without limitation any implied warranties of merchantability or fitness for a particular purpose.

In no event shall the Company be liable to you for any consequential, special, incidental or indirect damages of any kind arising out of the use of the Services even if the Company has been advised of the possibility of such damages.

## **7.3 Liability of Company Affiliates**

The liability of Company under these SSL Terms shall constitute the total and collective recovery rights of Customer as against Company, Company Affiliates and Company's subcontractors participating in the performance of warehousing and consolidation services. The liability limitations and immunities inuring to Company's benefit under these SSL Terms shall equally inure to the benefit of Company Affiliates and Company's subcontractors, each of whom shall be a third party beneficiary of these SSL Terms to the extent necessary to enforce this Clause 7.

## **8 CLAIM PROCEDURE, TIME FOR CLAIM AND SUIT AGAINST COMPANY AND WAIVER**

### **8.1 Notice of Claim**

As a condition precedent for liability, any and all claims against Company for a potential or actual loss or damage to Goods must be filed in writing within sixty (60) days from the event giving rise to the claim, or such claim is otherwise waived.

### **8.2 Commencement of litigation**

Any litigation brought by Customer against Company under this Agreement must be filed within two (2) years from the event giving rise to the claim, or such claims are otherwise waived.

## **9 INSURANCE**

Each Party shall maintain commercial general liability insurance including premises or operations, broad form property damage, independent contractors, and contractual liability covering its obligations hereunder for bodily injury and property damage, with a combined single limit of not less than AS\$10,000,000 each occurrence. In addition, Company shall maintain workers' compensation insurance in statutory amounts covering Company and its employees, and employer's liability insurance. Customer shall maintain,

during the term of this Agreement, product liability insurance in an amount not less than A\$2,000,000 on a per occurrence basis which coverage shall be primary to any coverage of Company. Each Party shall carry the insurance required herein with insurance companies licensed to do business in the state(s) where operations are maintained. All policies will provide that such coverage under these policies will not be canceled or materially changed without at least 30 days' prior written notice to the other Party.

## **10 INDEPENDENT CONTRACTOR**

Warehousing and consolidation services are performed by Company under these SSL Terms in capacity as independent contractor. Each Party shall comply with all payroll tax withholdings, social security, unemployment and related employer obligations applicable to it.

## **11 HAZARDOUS MATERIALS, DANGEROUS GOODS AND OTHER REGULATED GOODS**

Unless otherwise provided in a separate written agreement between Customer and Company, Company will not handle, receive, accept, ship, carry, dispose of, transport, store, or arrange for the handling, disposal, storage or transportation of: (i) any type of hazardous materials, dangerous goods, or Goods containing hazardous materials or dangerous goods; or (ii) any type of Goods, which may be regulated by a governmental body, entity or agency in countries in which the Services are provided (collectively, "Hazardous, Dangerous or Regulated Goods").

Customer covenants and warrants that it will not itself or through others offer, present or otherwise tender any Hazardous, Dangerous or Regulated Goods to Company, Company Affiliates, agents, servants or subcontractors.

Company may take any reasonable action, which is not against any applicable law, that Company, in its sole discretion, deems appropriate or necessary in relation to any actual or suspected Hazardous, Dangerous or Regulated Goods or Hazardous Waste. Customer hereby fully and completely releases and forever discharges Company from and against all Claims arising out of or caused by: (a) Customer's failure to notify Company in writing 60 days in advance of Customer or others offering, presenting or otherwise tendering to Company Hazardous, Dangerous or Regulated Goods; or (b) Company's reasonable actions, which are not against any applicable law, in connection with actual or suspected Hazardous, Dangerous or Regulated Goods. Customer shall defend and indemnify Company from and against all Claims related to or arising out of: (1) any Company action taken in relation to such actual or suspected Hazardous, Dangerous or Regulated Goods, except to the extent that any such Claim results from Company's wilful misconduct or that of its employees, subcontractors, agents or servants; or (2) Customer's non-compliance with applicable laws and regulations; or (3) the breach of any covenant of Customer contained in or made pursuant to this Clause.

## **12 IMPORT AND EXPORT LAWS**

### **12.1 Import and export laws**

The Parties acknowledge and agree that all activities hereunder, including the export, re-export, import, transshipment, transfer, release, delivery, or pickup of all Goods, as well as any software and technology provided to Company by Customer or on behalf of Customer ("Software and Technology"), are subject to all applicable Australian and U.S laws, together with the laws of any other relevant jurisdiction (as may be applicable), including any statutes, executive orders, regulations, governmental agency decisions, judicial decisions, or any other written decrees that have the force and effect of law in the country in question (collectively defined as "Laws" for purposes of this Clause) governing the import and export of Goods, Software, and Technology, including, but not limited to, laws concerning exports and economic sanctions, and customs laws, (collectively, "Import and Export Laws").

### **12.2 Parties' responsibilities**

Customer agrees:

- (i) to act as the importer, exporter, or other principal party (as the case may be) under all Import and Export Laws;
- (ii) that Customer is solely responsible for complying with all Import and Export Laws applicable to the export, re-export, import, transshipment, transfer, or release of any Goods, Software, and Technology from any country;
- (iii) that Customer is solely responsible for (a) properly classifying under the Import and Export Laws all Goods, Software, and Technology; (b) obtaining any required licenses and other authorizations for export, re-export, import, transshipment, transfer, or release; (c) correctly completing and filing with any government, as appropriate, all documents required under the Import and Export Laws; and (d) ensuring that all export-related documents, including shipping and sales documents, generated in connection with the Services performed pursuant to this Agreement conform to and are maintained in accordance with the Import and Export Laws;

- (iv) that Customer is solely responsible for providing accurate written instructions to Company in advance of any export, re-export, import, transshipment, transfer, release, delivery, pickup, or other activity in relation to any Goods, Software, and Technology, which instructions will be in compliance with all Import and Export Laws and will set forth all information required for Company to comply with all Import and Export Laws in connection with that export, re-export, transshipment, transfer, release, delivery, pickup, or other activity; and
- (v) that, notwithstanding any other provision in this Agreement to the contrary, Customer shall indemnify, defend, and hold harmless Company from and against all Claims or investigations arising out of or in connection with: (a) Customer's breach of this Clause; (b) compliance by Company, Company Affiliates or their respective subcontractors, agents or servants with Customer's instructions in the export, re-export, import, transshipment, transfer, release, delivery, pickup, or other activity in relation to any Goods, Software, and Technology; or (c) error on the part of any government authority or any other country, in connection with the export, re-export, import, transshipment, transfer, release, delivery, pickup, or other activity in relation to any Goods, Software, and Technology.

### **13 COMPANY'S RIGHT TO LIMIT QUANTITIES AND RIGHT TO REMOVAL OF GOODS**

Company reserves the right to limit quantities of Goods tendered for warehousing and/or consolidation services. Customer must effect removal of Goods from Company's care, custody and/or control within the time specified by Company. In the event Customer fails to effect removal of Goods upon Company's notice, Company may in its discretion take any commercially reasonable action, including, but not limited to, sale, destruction or disposal of the Goods. Customer shall reimburse Company for all expenses incurred as a result of disposition of Goods not timely retrieved upon Company's notice.

### **14 INSOLVENCY**

In the event of Company's insolvency, Customer remains the owner of the Goods. Customer will be entitled to immediate discharge of the Goods, upon reasonable notice and subject to clause 3.4 (lien) and 3.5 (PPSA).

## **PART B – GENERAL PROVISIONS**

### **15 CONFIDENTIALITY**

As used herein, the term "Confidential Information" means the terms of any written agreement between Company and Customer incorporating these SSL Terms, agreed rates between Company and Customer and any information relating to the business, technology, operations and financial condition of either Company or Customer that a reasonable person would consider confidential or proprietary to the disclosing Party (the "Disclosing Party") based on the nature of the information or the circumstances regarding its disclosure.

The Party receiving such Confidential Information (the "Receiving Party") will not disclose such Confidential Information to any third party except as permitted herein and shall not use such Confidential Information for any purpose except as necessary to perform its obligations under these SSL Terms.

The Receiving Party shall exercise the same degree of care to avoid disclosure of such Confidential Information as it employs with respect to its own Confidential Information, but not less than reasonable care. These obligations with respect to Confidential Information will remain in effect for a period of two years from the date of its disclosure, except with respect to (i) the agreed rates between Company and Customer, which such obligations will remain in effect for the term of the business relationship and for a period of two years after the termination of the business relationship; and (ii) Confidential Information that rises to the level of a trade secret (as defined under applicable law), which such obligations will remain in effect for the greater of (a) two years from the time of its disclosure, or (b) for as long as such information remains a "trade secret" as determined by applicable law. The obligations as to Confidential Information will not apply to such information that: (a) is now or hereafter becomes publicly available without violation of these SSL Terms; (b) was known to the Receiving Party prior to the time of disclosure without obligation to preserve confidentiality; (c) was received by the recipient from a third party without obligation to preserve confidentiality; (d) was independently developed by the Receiving Party; (e) is authorized to be disclosed by the Disclosing Party.

In the event that disclosure of Confidential Information is required by law, regulation or legal or judicial process or pursuant to a request from a governmental authority, the receiving Party shall notify, to the extent such notice is permitted by law, the Disclosing Party of the obligation to make such disclosure sufficiently in advance of the disclosure to allow the Disclosing Party a reasonable opportunity to object. In the event of required disclosure, the Receiving Party shall disclose only the particular Confidential Information directly required to be disclosed. If the Receiving Party, pursuant to the written opinion of its legal counsel, is required

to disclose any Confidential Information in connection with a security filing or other regulatory filing requirement, the Receiving Party, to the extent legally permissible, shall give the Disclosing Party at least 30 days' written notice to enable the Parties to discuss the matter. The Parties shall use commercially reasonable efforts to come to agreement regarding, which Confidential Information may be disclosed hereunder by the Receiving Party in connection with a security filing or other regulatory filing requirement.

## **16 ASSIGNMENT; THIRD PARTY BENEFICIARIES**

The rights and obligations under these SSL Terms may not be transferred or assigned to a third party by either Party without the prior written consent of the other Party; *provided however*, Company may transfer or assign all or part of its rights and/or obligations of these SSL Terms to one or more Company Affiliates. Under no circumstances may Customer resell any of the services under these SSL Terms to any third party without the express written consent of Company. Except as expressly provided herein, there are no third party beneficiaries to these SSL Terms.

## **17 AMENDMENTS; WAIVER; SEVERABILITY**

These SSL Terms can only be modified, amended and/or supplemented by a written instrument signed by the Parties. A waiver of any right by either Party will not constitute a waiver of such right on any subsequent occasion. Acceptance by Company of the amounts (or lesser amounts) payable under for services under these SSL Terms shall not to be deemed a waiver of any default. If any provision of this Agreement is determined to be invalid, such invalidity will not affect the validity of the remaining portions of this Agreement.

## **18 SURVIVAL**

The rights and obligations of this Agreement, which by their nature are intended to survive expiration or termination will survive, including but not limited to obligations for payment of Fees and indemnification, obligations relating to Confidential Information, benefits of liability limitations and lien rights over Goods.

## **19 NO USE OF TRADEMARKS**

Neither Party may use the other Party's or its affiliates' name, logo, trademarks, service marks or trade names without the other Party's prior written consent; *provided however*, Company may disclose Customer's name as a reference to any current or prospective customer.

## **20 NON-SOLICITATION OF PERSONNEL**

During the term of this Agreement and for two years after its expiration or termination, neither Party may actively solicit the employment of any employee of the other Party, which employee was engaged in the performance of this Agreement. Notwithstanding the foregoing, neither Party may be precluded from conducting general recruiting activities, such as participating in job fairs or publishing advertisements for general circulation. If the soliciting Party violates this Clause 20, then such Party shall pay to the other Party an amount equal to one year's salary for any solicited employee as liquidated damages. The amount of annual salary will be the annual salary in effect at the date the employee was solicited. The Parties agree that such amount is a reasonable estimate of the damages to be suffered by the aggrieved Party in such an event, which damages would be difficult to ascertain, and that such amount is not intended to be a penalty.

## **21 INTELLECTUAL PROPERTY RIGHTS**

Customer and Company acknowledge that the other has certain intellectual property rights that may be revealed or provided to the other Party in the course of performance and in accordance with these SSL Terms. Each Party acknowledges that this Agreement does not grant any right or title of ownership in their respective intellectual property rights to the other unless specifically provided in this Agreement. Any intellectual property remains the originator's property unless otherwise provided herein.

## **22 BREACH OF OTHER AGREEMENTS**

Customer and Company each respectively represent and warrant that their execution of this Agreement does not violate any applicable law or breach any other agreement to which they are a party or are otherwise bound.



## 23 GOVERNING LAW

Parties agree that these SSL Terms shall be governed by the laws of New South Wales, Australia.

Any claim against the Company hereunder shall be determined by the courts of New South Wales to the exclusion of the jurisdiction of the courts of another country. The Company shall however be entitled to pursue any claim against the Customer in New South Wales or in any other jurisdiction in which the Customer has assets or where the warehouse facility is located.

[to insert country-specific clauses]