

Standard Customer Terms and Conditions

This Agreement contains important terms affecting your rights and you should read the contents within carefully. Your attention is drawn to the following terms in particular:

5 Not a common carrier – Centurion is not a common carrier and accepts no liability as such.

9.3 Dangerous Goods – the Customer indemnifies Centurion from and against all Claims and Damages (including legal expenses) caused by the Customer or the Consignor's breach in connection with Centurion's carriage, handling, storage or disposal of any Dangerous Goods.

10 Temperature Controlled Services – Goods will be carried at Customer's risk only if Customer refuses to include a temperature tracker for Temperature Controlled Services and the Customer will indemnify Centurion for any Claims in connection with any loss, damage or deterioration of the Goods in connection with the Services.

15.11 Set off – Centurion has a right to set off any amounts due from Centurion to the Customer under any contract, debts and monies due from Customer to Centurion.

17 Claim for Damage – Customer must notify Centurion in writing within 72 hours of the earlier of actual or expected delivery of any Goods that are lost, damaged, delayed, or otherwise give rise to a Claim, submit a formal claim with supporting documents within 20 Business Days, and commence legal proceedings within one year.

20 Possessory Lien – Centurion has a lien over the Goods for any amount owing by the Customer.

27.2 Limitation of Liability – Centurion's liability is limited at its option to specific remedies. For Goods, this includes replacement, repair or reimbursement of the cost to replace or repair, and for Services, it includes re-supply or reimbursement of the cost to re-supply.

27.3 Indemnity – Customer agrees to defend, indemnify, keep indemnified upon demand, release and hold harmless Centurion and its Personnel from all Claims and Damage arising out of or in relation to the Customer's breach, negligence, instructions, cancellations, liabilities relating to the Goods, or Centurion exercising its rights under the Agreement except to the extent caused or contributed to by Centurion's own breach or negligence.

28 Consumer Guarantee liability – Centurion is not liable for any loss or Damage arising from or in connection with the supply of, or failure to supply, the Services except to the extent the loss or Damage is a foreseeable result of Centurion's failure to meet an applicable Consumer Guarantee.

29 Legislative Requirements – the Customer indemnifies Centurion for all loss and liability Centurion incurs in connection with the Customer's non-compliance with Legislative Requirements.

30 Privacy – The Customer will keep Centurion indemnified against all Claims that arise in connection with personal information provided by the Customer to Centurion.

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1. DEFINITIONS

In this Agreement, unless the contrary intention appears or the context otherwise requires:

Agreement means these 'Customer Terms & Conditions' and the terms of any contract or agreement incorporating or subject to them;

ACL means the Australia Consumer Law contained in Schedule 2 of the *Competition and Consumer Act 2010* (Cth).

Address means an address given by the Customer to Centurion to which Goods or Services are to be delivered;

Authority means any government or government department, a governmental, semi-governmental or judicial person or a person (whether autonomous or not) charged with the administration of any applicable law;

Business Day means a day that is not a Saturday or Sunday or public, special or bank holiday in the Jurisdiction;

Centurion means Centurion Transport Co. Pty Ltd (ACN 008 746 334); Centurion Forestry Pty Ltd (ACN 609 403 312); or Centurion Central Pty Ltd (ACN 159 225 322), as applicable;

Charges means charges set by Centurion and payable by the Customer to Centurion in consideration of Services provided to the Customer or which otherwise become payable to Centurion in accordance with this Agreement as determined by reference to the charges set out in Appendix C and the charges review mechanism set out in clause 15, and includes:

- a) costs caused by delays that are not the fault of Centurion;
- b) taxes, fines and duties, including customs and excise duties, payable by Centurion in respect of the Services;
- c) any GST;
- d) all other costs and expenses incurred in the provision of the Services including demurrage at the rate charged by the railway or shipping authority; and
- e) any other amount, including third party charges payable in respect of the provision of the Services, incurred by Centurion in the provision of the Service;

Claim includes any claim, notice, demand, costs (including legal costs and expenses), debts, dues, liabilities, damages, losses, taxes, duties, fees, suits, action, demands, proceeding, litigation or judgment, however it arises;

Commencement Date means the date of execution of this Agreement set out in Item 1 of the Appendix A.

Consequential Loss means any indirect, economic, special or consequential loss or damage (and whether or not foreseeable at the Commencement Date or effect of any extended Term or other extension of this Agreement by agreement) arising out of or in connection howsoever with the performance or breach of the Agreement, including any act, neglect, default, breach of duty or express or implied warranty or any other legal fault (including strict liability), including but not limited to loss or deferment of profits, sales, revenue or savings (including anticipated profits, sales, revenue or savings); loss of time, goodwill or reputation; loss of use, shut-in; loss or deferral of production or product; loss of or damage to business brand or reputation or business interruption; additional borrowing costs; loss of opportunity, contract or chance; wasted management time; costs of claim handling services provided by insurers; insurance premiums or excesses; special or punitive damages; special, indirect, punitive or exemplary loss or damages.

Consumer Guarantees means a guarantee relating to the supply of goods or services to consumers provided by Division 1 of Part 3-2 of the ACL.

Container includes any container, flexitank, trailer, transportable tank, flat, pallet, cage, fridge or any article of transport used to carry or consolidate the Goods and any equipment of or connected thereto;

Customer means the person with whom Centurion contracts to provide the Services and, where the circumstances provide, may include the owner, Consignor and/or Consignee of the Goods;

Consignor means the person and its officers, employees and agents who

consigns, sends or directs the Goods;

Consignee means the person and its officers, employees and agents to whom the Customer or Consignor consigns, sends or directs the Goods;

Damage means any loss of, damage to, deterioration of, or misdelivery of, or non-delivery of, or delay in delivery of the Goods and any other loss or damage arising therefrom or in relation to the performance or non-performance of the Services, including but not limited to personal injury or death;

Dangerous Goods means any Goods which are dangerous, hazardous or damaging, including Goods which are or may become of a dangerous, inflammable, radio-active or of a damaging nature, Goods likely to harbour or encourage vermin or other pests and Goods the carriage, handling or storage of which is illegal, prohibited or otherwise regulated by any law or regulation of a State, Territory or the Commonwealth;

Goods means any goods accepted from the Customer or its Personnel, together with any Containers, packaging, dunnage or pallets supplied by or on behalf of the Customer which are the subject of the Services;

GST has the same meaning as in the GST Act and includes any replacement or subsequent similar tax;

GST Act means A New Tax System (Goods and Services Tax) Act 1999 (Cth);

HVNL means Heavy Vehicle National Laws as it applies (with modifications by law in each state and territory of the Commonwealth of Australia), together with any supporting regulations but in the case of:

- a) Western Australia, means the Road Traffic (Vehicles) Act 2012 (WA) and the Work Health and Safety Act (WA); and
- b) Northern Territory means the *Motor Vehicles Act 1949* (NT) and the *Work Health and Safety (National Uniform Legislation) Act 2011* (NT).

Incidental Matters means anything done or to be done in relation to the Goods or the provision of any Services ancillary to the Goods including but not limited to moving, storing or leaving the Goods at any warehouse, terminal, yard, wharf or other place or area, loading or unloading the Goods from any vehicle, vessel or other conveyance, stowing or packing the Goods or fumigating, transshipping, inspecting or otherwise handling the Goods or anything done in relation thereto;

Initial Term means the period from the Commencement Date to the Termination Date (see item 3 of Appendix A).

Legislative Requirements means any applicable law, ordinances, regulations, by-laws and other subordinate legislation.

Quotation means any request or order by, from or for the Customer for the supply of Services by Centurion, whether written, oral or otherwise including via work purchase orders, delivery notes, invoices or other correspondence.

Jurisdiction means Perth, Western Australia;

Personnel means, in relation to a party, any of its officers, employees, agents, contractors, subcontractors, consultants or representatives, at any level;

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

PPSR means the Personal Property Securities Register established under the PPS Act;

Rise and Fall Formula means the rise and fall formula used to calculate any increases or decreases to the Rates as specified in Appendix D.

Services means any services to be supplied by Centurion to the Customer in accordance with the terms of this Agreement, which may include but are not limited to collection, receipt, loading, unloading, carriage, transportation, handling, storage, distribution or delivery of Goods as specified in the Scope of Services in Appendix B.

Termination Date means the date set out in Item 2 of Appendix A.

Temperature Controlled Services means the provision of Services which requires the temperature of Goods to be maintained within a specified temperature range, or Services for Goods where the storage life or characteristics of the Goods may change if handled at different

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temperatures.

Term has the meaning given to it in clause 6.1.

Workplace Health and Safety Laws means any Legislative Requirements or guidelines relating to workplace health and safety.

2. INTERPRETATION

In this Agreement, unless the context otherwise requires:

- a) the singular includes the plural, and vice versa;
- b) the word "person" includes a natural person, firm, corporation, government authority or other body or organisation;
- c) headings are for convenience only and do not affect the interpretation of this Agreement;
- d) references to a party includes that party's executors, administrators, successors, substitutes and permitted assigns;
- e) references to any law are references to that law as amended, consolidated, supplemented or replaced and includes references to regulations and other instruments under it;
- f) references to time are to time in the Jurisdiction;
- g) "including" and similar expressions are not words of limitation;
- h) references to money and currency are to Australian dollars;
- i) if a payment or other act (but for this clause) be made or done on a day which is not a Business Day, then it must be made or done on the previous Business Day;
- j) a warranty, representation, covenant, liability, obligation or agreement given or entered into by more than one person binds them jointly and severally;
- k) a reference to a document includes the document as modified, supplemented or replaced from time to time; and

3. ACCEPTANCE OF TERMS

- 3.1. The terms and conditions of this Agreement, along with any terms which are mandatorily applicable by law and unable to be excluded, exclusively govern the provision by Centurion of any Services to or at the request of the Customer.
- 3.2. The Customer warrants that it is either the owner or authorised agent of the owner of the Goods and the authorised agent of the Consignor and Consignee of the Goods, if different from the Customer and is authorised to enter into this Agreement for itself and jointly and severally for and on behalf of each of the owner, Consignor and Consignee of the Goods.
- 3.3. In addition to any other provision of this Agreement, the terms and conditions of this Agreement apply to and bind the Owner, Consignor and Consignee of the Goods (if not the Customer) as if they were original parties to this Agreement and subject to any obligations or liabilities of the 'Customer' throughout. The consignment of the Goods by the Consignor and/or receipt of the Goods by the Consignee will be deemed to be acceptance of the terms and conditions of this Agreement by those persons.
- 3.4. The request or giving of any instructions for the performance of any Services by the Customer constitutes acknowledgement that the Customer, on its own behalf and on behalf of the owner, Consignor and Consignee of the Goods (if not the Customer) and any other person on whose behalf the Customer is acting, has received, read, understood and agrees to be bound by the terms and conditions of this Agreement and constitutes authorisation by the Customer for Centurion to provide the Services in accordance with the terms of this Agreement.

4. REQUESTS AND ORDERS FOR SERVICES

- 4.1. The terms and conditions of this Agreement apply to and govern all Services and all Quotations supplied by or for the Customer which have been accepted by Centurion and processed on behalf of the Customer by any means of

communication including phone and email. If there is any inconsistency between these terms and conditions and any other document issued by Centurion, including Quotations, then these terms and conditions will prevail. Any other terms and conditions purporting to apply to the supply of the Goods and/or Services shall be superseded by these terms and conditions and be of no legal effect and do not form part of these terms and conditions, even if a representative of Centurion has signed them.

- 4.2. By placing an order, the Customer warrants that the person placing the order has the authority to request the Services, to accept these terms and conditions and to enter into any contract on the Customer's behalf and confirms acceptance of these terms and conditions on behalf of the Customer.
- 4.3. No request or order for Services submitted by or with the authority of the Customer is deemed to be accepted by Centurion unless and until confirmed in writing by an authorised representative of Centurion.
- 4.4. No order which has been accepted by Centurion may be cancelled.
- 4.5. Centurion reserves the right to accept or reject (in whole or in part), in its absolute discretion, any request or order for Services received by it. Centurion will not be liable for any Claim or Damage the Customer, Consignor or Consignee may suffer as a result of any acceptance or rejection.
- 4.6. Centurion may amend these terms and conditions from time to time. These terms and conditions cannot otherwise be amended except in writing by an authorised representative of Centurion. Unless otherwise stated, the amended terms and conditions will apply to all orders placed by the Customer after the earlier date that the amended terms and conditions are either published on Centurion's website (click [here](#)) or provided to the Customer.

5. NOT A COMMON CARRIER

Centurion is not a common carrier and accepts no liability as such. Centurion reserves the right to refuse to provide Services in respect of any or any class of person or Goods at its discretion.

6. TERM

- 6.1. This Agreement commences on the Commencement Date and will continue in full force and effect until the Termination Date for the Initial Term and any extension of this Agreement pursuant to clause 6.2 (**Term**).
- 6.2. If the Customer does not give notice in writing to Centurion that it intends to terminate this Agreement no later than 90 days before the end of the Initial Term, then this Agreement will continue in force for a further period of 12 months and after that additional period until either party gives the other party not less than 90 days' written notice that it intends to terminate this agreement.

7. CUSTOMER'S OBLIGATIONS AND WARRANTIES

The Customer warrants that:

- a) the Goods comply with all the applicable laws, customs and other requirements of any Authority;
- b) the description and all particulars of the Goods provided by the Customer, Consignor and their respective Personnel are complete and correct;
- c) the Goods are properly packed and labelled, unless previously agreed in writing that Centurion will do so;
- d) it will give sufficient and executable instructions in relation to the Goods, both generally and upon request by Centurion;
- e) the Goods will not be subject to any inherent vice, wastage or deterioration;

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- f) it or the owner retains title in the Goods at all times;
- g) the Services are not acquired for personal, domestic or household use or consumption; and
- h) that any Services requested, ordered or provided under this Agreement are for the purposes of a business, trade, profession or occupation carried on or engaged in by the person for whom the Services are provided.

8. PACKAGING

- 8.1. The Customer must (and must ensure that the Consignor does) securely package and fully enclose the Goods before delivery to or collection by Centurion in a manner that is both customary and sufficient to withstand the conditions that may reasonably be expected during the provision of the Services, unless previously agreed in writing that Centurion will do so.
- 8.2. All Goods must conform to any requirements of Centurion communicated to the Customer or Consignor and the Customer is liable for any expense caused by non-conformance.
- 8.3. If pallet or package weight is not included in the weight of the Goods nominated by the Customer or Consignor, each pallet or package will be charged at a rate determined by Centurion.
- 8.4. Markings and delivery details not related to the current Goods or Services must be removed or covered. All Goods must be accompanied by a valid Centurion consignment number and delivery details including the Customer's name, address and telephone number, the Consignor's name, address and telephone number (if different to the Customer), the Consignee's name, address and telephone number (if different to the Customer) and the description and metric weight of the Goods (including individual pallets or packages).
- 8.5. Centurion may carry, store, redirect, handle, remove, inspect, assemble, erect, pack, unpack, load, unload or consolidate the Goods, including with other goods.
- 8.6. The Customer is responsible for the return to the proper owner of any returnable Containers which were provided to Centurion with the Goods.

9. DANGEROUS AND HAZARDOUS GOODS

- 9.1. Unless previously agreed in writing, the Customer warrants that it will not (and that it will ensure that the Consignor does not) tender or arrange for the provision of any Services in respect of or cause Centurion to deal with or handle, Dangerous Goods unless a full description disclosing the dangerous, hazardous or damaging character of those goods is notified to Centurion at the time of requesting or placing any order for any Services in respect of any such Goods.
- 9.2. The Customer warrants that all information provided by it or the Consignor in relation to any Dangerous Goods is complete and correct.
- 9.3. Centurion will not be liable to the Customer for any loss or Damage the Customer may incur by reason of Centurion's actions and/or breach of applicable laws (to the extent allowable) and the Customer will keep Centurion indemnified against all Claims and Damages (including legal expenses) caused by the Customer or the Consignor's breach of this clause 9 in connection with Centurion's carriage, handling, storage or disposal of any Dangerous Goods.
- 9.4. Centurion may return to the Customer or destroy, dispose or make harmless Goods tendered in breach of this clause or in breach of any law or regulation, without liability and at the Customer's risk and expense.
- 9.5. Irrespective of whether Centurion has been informed that any Goods are Dangerous Goods, if Centurion reasonably considers that the Goods may cause or pose a risk of injury or damage to

any other goods, property, life or health, or are tendered in breach of this clause, Centurion reserves its right to do anything that it considers appropriate to avoid or reduce any such risk, including disposing of, rendering harmless, abandoning, returning to the Customer or destroying all or any part of the Goods, without notice or liability and at the Customer's risk and expense.

10. SPECIAL INSTRUCTIONS

- 10.1. The Customer warrants that it will not (and that it will ensure that the Consignor does not) tender any Goods which require temperature control without previously giving written notice of their nature and the particular temperature range to be maintained and, in the case of a temperature controlled Container packed or stuffed by or on behalf of the Customer, the Customer further warrants that:
 - a) the Container has been properly pre-cooled or pre-heated as appropriate;
 - b) the Goods have been properly packed or stuffed in the Container;
 - c) the Container's thermostatic controls have been properly set by the Customer; and
 - d) if the Container is not supplied by Centurion, the Container is suitable for the provision of the Services and is and will remain for the duration of the Services in good working order and condition.
- 10.2. The Customer agrees to the temperature of the Goods being monitored by a temperature tracker while they are in the Container, at the Customer's cost.
- 10.3. If the Customer refuses to accept a temperature tracker at its cost for Temperature Controlled Services, and Centurion agrees to provide the Services notwithstanding any other provision of this Agreement it will do so solely at the Customer's risk and the Customer will indemnify Centurion for any Claims (including any Claim by the Customer) in connection with any loss, Damage or deterioration of the Goods in connection with the Services.
- 10.4. Unless agreed in writing, Centurion shall not be obliged to make any declaration for the purposes of any statute, convention or contract as to the nature or value of any Goods or as to any special interest in delivery or to make any declaration as to specific stowage requirements of any Goods.
- 10.5. Unless agreed in writing or otherwise provided for under the provisions of a document signed by Centurion, instructions relating to the delivery or release of Goods against payment or against surrender of a particular document shall be in writing.
- 10.6. Unless agreed in writing that the Goods shall depart or arrive by a particular date, Centurion accepts no responsibility or liability for departure or arrival dates of Goods.

11. CONTAINERS

- 11.1. If a Container has not been packed or stuffed by Centurion, Centurion shall not be liable for loss of or Damage to the contents caused by:
 - a) the manner in which the Container has been packed or stuffed;
 - b) the unsuitability of the contents for carriage in Containers, unless Centurion has approved the suitability;
 - c) breach of any of the 'Special Instructions' in clause 10 relating to Customer or Consignor-supplied Containers;
 - d) the unsuitability or defective condition of the Container, provided that where the Container has been supplied by or on behalf of Centurion this paragraph (d) shall only apply if the unsuitability or defective condition of the Container:
 - i) arose without any negligence or breach of this Agreement on the part of Centurion; or

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- ii) would have been apparent upon reasonable inspection by the Customer, Consignor or any person acting on its behalf;
 - e) the fact that the Container is not sealed at the commencement of the carriage, except where Centurion has agreed to seal the Container.
- 11.2. Where Centurion is instructed to provide a Container, in the absence of a written request to the contrary, Centurion is not under an obligation to provide a Container of any particular type or quality and the Customer must satisfy itself (or must ensure that the Consignor satisfies itself on the Customer's behalf) that any such Container provided is suitable in all respects.
- 11.3. The Customer must return any Containers provided by Centurion or its Personnel clean and undamaged to a place or point of interchange nominated by Centurion within any time prescribed by Centurion, or if no time is prescribed, within 7 days, failing which the Customer is liable for any detention, loss or expense incurred as a result thereof, including but not limited to demurrage, container detention charges, the costs of replacement, transportation, cleaning and repair of any damage.
- 11.4. Any Container provided to the Customer by Centurion remains the property of Centurion and the Customer must not offer to sell, assign, sub-let, mortgage or pledge the Containers in any way which is inconsistent with Centurion's rights over that Container. Centurion will also be entitled to take back possession of that Container and the Customer shall not have continuous possession of any Container for more than 90 days without express written agreement of Centurion, and in any event for no longer than one year.

12. METHOD AND ROUTE

- 12.1 Unless otherwise agreed in writing, Centurion shall be entitled to enter into contracts on behalf of itself or the Customer and without notice to the Customer:
- a) for the carriage of Goods by any route, means or person;
 - b) for the carriage of Goods of any description, whether containerised or not, on or under the deck of any vessel;
 - c) for the storage, packing, transhipment, loading, unloading or handling of Goods by any person at any place whether on shore or afloat and for any length of time;
 - d) for the carriage or storage of Goods in containers or with other goods of whatever nature; or
 - e) for the performance of its own obligations, and to do such acts as Centurion reasonably considers may be necessary or incidental to the performance of Centurion's obligations.
- 12.2 Centurion shall be entitled (without incurring any additional liability), but shall be under no obligation, to depart from the Customer's instructions in any respect if Centurion considers there is good reason to do so in the Customer's interest.
- 12.3 Centurion may at any time comply with the orders or recommendations given by any Authority. The responsibility and liability of Centurion in respect of the Goods shall cease on the delivery or other disposition of the Goods in accordance with such orders or recommendations.
- 12.4 Centurion shall be entitled (but under no obligation) at any time and from time to time to inspect the Goods and, for this purpose, to open or remove any Containers.
- 12.5 If at any time Centurion reasonably considers that the carriage of the Goods should not be undertaken or continued or only continued after effecting any necessary Incidental Matters or incurring additional expense or risk, Centurion shall be entitled to:
- a) abandon the provision of any Services in respect of the Goods or

- to effect such additional Incidental Matters and incur such additional expense as may be reasonably necessary in order to enable the provision of any Services to be effected or further effected; and
- b) be reimbursed by the Customer for the cost of all such additional Incidental Matters and all such additional expense incurred.

- 12.6 If Centurion (or any person whose services Centurion makes use of) considers:

- a) the performance of Centurion's obligations are likely to be effected by any hindrance, risk, delay, difficulty or disadvantage whatsoever; and
- b) the hindrance, risk, delay, difficulty or disadvantage cannot be avoided by reasonable endeavours of Centurion or such other person,

Centurion may (upon giving notice in writing to the Customer, unless it is not reasonably possible to give such notice) treat the performance of its obligations as terminated and may, at the Customer's expense, place the Goods or any part of them at the Customer's disposal at any place which Centurion deems safe and convenient, at which time Centurion's responsibility and liability in respect of the Goods shall cease absolutely, with immediate effect.

13 DELIVERY

- 13.1 The Customer must or must ensure that the owners or Consignee of the Goods accept delivery of the Goods at the conclusion of the provision of the Services or when requested to do so by Centurion.
- 13.2 If the Customer or owner or Consignee of the Goods fails to take delivery of the Goods, Centurion shall be entitled to store the Goods in the open or under cover, without liability and at the Customer's risk and expense.
- 13.3 Where Centurion is required to deliver the Goods:
- a) Centurion must deliver the Goods to the Address, if provided, and delivery will be deemed to be complete at the time that Centurion leaves the Goods at the Address;
 - b) by rail to an Address in a place where Centurion has no receiving depot, delivery occurs when the Goods are delivered to the nearest rail terminus or station to the Address;
 - c) if the Address is unattended, Centurion may (but is not obliged to) store and redeliver the Goods, and the Customer will indemnify Centurion for all expenses incurred by storage and attempted or actual redelivery; or
 - d) if the Address is unattended or the receiver fails to take delivery of the Goods, Centurion may at the Customer's risk and expense leave the Goods at the Address if it is safe to do so.

14 STORAGE

- 14.1 Where the Services include storage of Goods by Centurion:
- a) The Customer warrants that the Goods are suitable for storage and capable of withstanding the conditions and duration of storage;
 - b) Within 28 days of Centurion's request, the Customer must pay any storage Charges and remove or take delivery of the stored Goods (Removal);
 - c) Where storage Charges in respect of the Goods are unpaid for 1 month, the Customer is required to pay the storage Charges within 7 days (Storage Payment).
- 14.2 If the Customer fails to comply with the requirement of Removal or Storage Payment, Centurion may deal with the Goods in any way it sees fit including but not limited to, opening and selling the Goods by public auction or private treaty at the Customer's risk and expense and applying the proceeds of any sale to the Charges then in arrears. Centurion does not need to account to the Customer for any sale or disposal of the Goods unless required by law.

15 CHARGES

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- 15.1 All Charges are deemed earned in full upon delivery or collection of the Goods to or by Centurion and must be paid in full without any deduction, deferment, counterclaim or set-off.
- 15.2 Unless otherwise agreed in writing, Centurion will invoice the Customer for Services rendered periodically, but no more frequently than on a weekly basis, and the Customer must pay all Charges within the time frame set out in Item 4 of Appendix A of the date of the invoice being issued. If any Charges relate to amounts incurred after the Goods are delivered (for example, taxes, duties, excise, demurrage, transport fees (including but not limited to any fuel levy or surcharge) etc.) then the Customer must pay those additional charges within 14 days of notification of such additional charges having been incurred and an invoice being issued.
- 15.3 Subject to clause 15.4, the Charges are fixed for the first 12 months from the Commencement Date, and are subject to review annually on the anniversary of the Commencement Date in accordance with the Rise and Fall Formula set out in Appendix D.
- 15.4 Notwithstanding clause 15.3, either party may at any time during the currency of this Agreement give the other party one month's written notice that it requires a review of the Charges where that party considers that:
- a) any changes in the work practices of either party (including the volume, type or nature of the Services requested) have materially affected the cost of providing the Services;
 - b) there is a material change in any of the components of the costs to Centurion of providing the Services (including the pricing assumptions identified in Appendix C); or
 - c) any changes to the applicable law, tax, regulation or any procedure or practice of any applicable authority or regulatory body (including changes to any applicable road tolls) materially affects the method or cost of providing the Services.
- 15.5 Notwithstanding clauses 15.3 and 15.4, Centurion shall be entitled to charge the Customer:
- a) an additional fuel levy as a percentage of each or particular Charges (at its discretion) reflecting monthly fluctuations in the price of fuel; and
 - b) demurrage at the rate specified in the Charges, or if no rate for demurrage is so specified then at an hourly rate set out in item 5 of Appendix A (excluding GST), for all unanticipated delays at the location of loading or unloading of the Goods which exceeds the allotted time, unless the delay is solely and directly caused by Centurion.
- 15.6 Unless otherwise agreed in writing, Centurion's Charges are (subject to Centurion's discretion) based on the greater of the actual deadweight or cubic volume measure of the Goods. For the purpose of calculating deadweight, Centurion will round up to the next whole kilogram. When calculating Charges based on cubic volume, Centurion will at its discretion use the projected rectangular footprint measurement multiplied by the height of the Goods. For all Goods, Centurion may assume 333 kilograms (or part thereof) is equal to one cubic metre.
- 15.7 Centurion uses safe loading practise and may charge for space not utilised by the Goods due to the requirements of such load practises.
- 15.8 A further Charge may be made for any delay exceeding 2 hours from the time of Centurion reporting for loading or unloading.
- 15.9 In addition to freight, Centurion reserves the right to charge the Customer for, inter alia:
- a) any additional expenses Centurion incurs as a result of any inaccurate declaration by the Customer of the weight, volume, description or packaging of the Goods;
 - b) any re-delivery fee for failed deliveries (for example where there is no one is at the premises to sign for the Goods);
 - c) any futile pick up (for example where the Goods are not ready in the time band given or no one is in attendance at the collection point);
 - d) storage charges or other charges or expenses Centurion incurs in relation to holding the Goods;
 - e) any additional expenses Centurion incurs as a result of inaccurate delivery instructions provided by the Customer.
- 15.10 The parties agree to negotiate in good faith to agree on Charges where the Customer requests Centurion to provide services for which Charges are not specified in this Agreement.
- 15.11 Centurion may deduct or set-off from any monies due from Centurion to Customer under any contract, debts and monies due from Customer to Centurion under this Agreement.
- ## 16 PAYMENT
- 16.1 Subject to any statutory rights the Customer may have and which are unable to be excluded, all payments accepted by Centurion are non-refundable.
- 16.2 Any payments tendered by the Customer to Centurion shall be applied in the following order:
- a) in payment of any interest charged;
 - b) in payment of any storage fees charged; and
 - c) in satisfaction of any other amounts payable under this Agreement, including under any indemnity.
- 16.3 If there is any underpayment of any Charges by way of any mistake or omission on the part of Centurion, the difference between the Charges agreed pursuant to this Agreement and the amount paid by the Customer is a debt due from the Customer to Centurion and the Customer must pay that difference within 5 days of request by Centurion.
- 16.4 Centurion will not collect any payment on delivery on behalf of the Customer, even if instructed so.
- 16.5 If the Customer specifies that some other person will pay the Charges, the Customer remains responsible for the payment of those Charges. If that person fails to pay the Charges when due, the Customer must pay the Charges within 5 days of request by Centurion.
- 16.6 The Customer must pay to Centurion interest on any unpaid amounts which will accrue on a daily basis from the date when due until payment, at the rate of 2% above the maximum unsecured business overdraft rate charged by Centurion's bankers from time to time being in force.
- 16.7 Time is of the essence in respect of the Customer's obligation to make payment for the Services.
- ## 17 CLAIM FOR DAMAGE
- 17.1 Any claim for loss or Damage whatsoever must be notified in writing to Centurion within 72 hours of the earlier of the time of delivery or time at which delivery should have been made of the Goods lost, damaged or delayed or in respect of which or arising from any loss or Damage is incurred. Failure to give any such notice is prima facie evidence of the satisfactory delivery of any Goods and performance of the Services. Time is of the essence in respect of this clause 17. An endorsement on a freight note, delivery docket or other note or document regarding damage does not constitute notice in writing for the purposes of this clause.
- 17.2 The Customer must then submit a claim in the required form with all supporting documentation within 20 Business Days.
- 17.3 Centurion shall be discharged from all liability whatsoever in respect of the Goods or otherwise arising under or in connection with this Agreement, unless suit is brought within one year of their delivery or of the date when they should have been delivered.
- ## 18 INSURANCE
- 18.1 Unless other agreed in writing between the parties, the Customer may take out its own insurance cover for the Goods and must make

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Centurion a co-insured to the Customer's insurance policy.

- 18.2 Upon the Customer's request, Centurion may at any time arrange reasonably required insurance, for an additional fee, over the Goods, which the Customer agrees to pay.

19 TRUSTEE PURCHASER

If the Customer enters into the Agreement as the trustee of a trust, it is acknowledged that the Customer will be liable under this Agreement both as trustee of the trust and in the Customer's own right and that, in addition, the assets of the trust will be available to satisfy the Customer's liabilities under this Agreement.

20 POSSESSORY LIEN

- 20.1 Centurion has a possessory lien over the Goods and any other property of the Customer or documents relating thereto in its actual or constructive possession or control from time to time with respect to any Charges or monies due from the Customer to Centurion under this or any other Agreement, including the exercise by Centurion of any rights or remedies under this Agreement.
- 20.2 Centurion may sell the Goods by public auction or private treaty at the Customer's risk and expense and apply the proceeds to pay any Charges or other monies due, after providing at least 20 Business Days written notice to the Customer's last known place of business or registered office of its intention to do so.
- 20.3 In the event that any such sale proceeds are insufficient to pay all Charges or monies due, Centurion retains the right to recover any balance of unpaid Charges.

21 SECURITY

- 21.1 The Customer grants to Centurion a security interest in:
- all Goods and any documents relating thereto; and
 - all other present and after-acquired property of the Customer of any kind; and
 - all proceeds relating to the same (**Collateral**),
- 21.2 to secure the payment of all Charges or other monies owing by the Customer from time to time to Centurion and the performance of all the Customer's obligations under this Agreement.
- 21.3 The Customer acknowledges and agrees that this Agreement constitutes a security agreement for the purposes of the PPS Act and is in addition to any other contractual lien or lien arising under common law or other relevant law.
- 21.4 The Customer acknowledges that Centurion may, at the Customer's cost, register or amend its security interest in the Collateral on the PPSR.
- 21.5 The Customer undertakes, at its cost, to do all things that Centurion may require from time to time to perfect, preserve, maintain or otherwise give full effect to the security interest in the Collateral.
- 21.6 To the extent the law permits, Centurion need not comply with and the Customer waives its right to receive any notice of any action or intended action under or otherwise required by:
- any of the provisions referred to in sections 115(1) and (7) of the PPS Act;
 - any provision of the PPS Act (including notice of a verification statement);
 - any other law before a secured party exercises a right, power or remedy; and
 - any time period that must otherwise lapse under any law before a secured party exercises a right, power or remedy.

22 FORCE MAJEURE

- 22.1 If either party is prevented or delayed (directly or indirectly and in whole or part) from performing any obligation arising under this Agreement (other than the Customer making any payment to Centurion or taking delivery of any Goods) by reason of any cause

outside its control, including strike, lockout, labour dispute or shortage, trade dispute, fire, breakdown, flood, serious inclement weather, cyclone, natural disaster, earthquake, lightning, explosion, accident, road or rail closure, rail derailment, wharf delays, act or omission of air traffic control, act of god, acts of war, acts of public enemies, terrorist acts, sabotage, epidemic, quarantine restriction, riots, civil commotion, customs restriction, computer software or hardware defect, virus or cyber-attack, then that party's obligations will be suspended and the time for their performance extended for the duration of such event or occurrence upon the affected party providing reasonable notice of force majeure and details of the event or occurrence and its expected duration to the other party.

- 22.2 If a party is prevented or delayed from performing any obligation for more than 90 days, then either party may terminate this Agreement by giving 30 days prior written notice to the other party.

23 RISK AND LIABILITY

Subject to any mandatory law not able to be excluded, the Goods are at the sole risk of the Customer at all times. Unless expressly agreed in writing, Centurion will not be liable for any loss or Damage, including Consequential Loss, whether or not any such Damage or Consequential Loss occurs in the course of performance by Centurion of the Services or when otherwise in the possession of Centurion pursuant to this Agreement, for any reason whatsoever, save where the loss, damage or Consequential Loss is caused by Centurion's negligent acts or omission or breach of this Agreement.

24 TERMINATION

- 24.1 Centurion may terminate this Agreement at any time by giving the Customer 30 days' notice in writing.
- 24.2 If the total volume of Services requested by Customer under this Agreement decreases materially over any 3-month period, then Centurion may on 30 days' written notice to the Customer terminate this Agreement. Centurion shall be entitled, at any time prior to the expiry of the notice period, to withdraw any notice issued under this clause 24.
- 24.3 Either party may terminate this Agreement immediately by written notice to the other party if the other party:
- is in default under the terms of this Agreement and does not remedy any such default (if capable of remedy) within 14 days' notice requiring it to do so; or
 - goes into liquidation or provisional liquidation, has an administrator or controller appointed to it or any of its property, fails to comply with a statutory demand, is unable to pay its debts or otherwise becomes insolvent.
- 24.4 On termination or expiry of this Agreement the Customer must immediately pay all outstanding amounts due to Centurion, whether or not time for payment has otherwise arisen.
- 24.5 Customer agrees to make arrangements to collect all Goods and other goods held or being stored by Centurion on its behalf on or before the date of termination of this Agreement, failing which Centurion shall be authorised to pack, load and deliver all Goods and other goods held on behalf of Customer, at commercial rates, to the Customer. The Customer shall make payment for any packing, loading and delivery in accordance with this clause within 14 days of the date of termination.
- 24.6 Termination pursuant to this clause does not affect any accrued right or obligation.

25 NOTICES

- 25.1 A notice under this Agreement must be in English and be signed by or on behalf of the party giving it, addressed to the party to whom it is to be given and:
- delivered by hand to that party's address;
 - sent by pre-paid mail to that party's address; or
 - sent by email to that party's email address.

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25.2 A notice given to a party in accordance with this clause is treated as having been given and received if:

- a) delivered to a party's physical or email address, on the day of delivery if a Business Day, otherwise on the next Business Day; or
- b) sent by pre-paid mail, on the fifth Business Day after posting.

25.3 For the purposes of this clause the addresses and email addresses of a party are those set out below, or another address or email of which either party has given notice from time to time:

Customer

Attention:

Address:

E-mail:

Centurion

Attention: General Counsel

Postal Address: 13 Yagine Close, Perth Airport WA 6105

E-mail: legal@centurion.net.au

26 GST

26.1 Terms defined in the GST Act have the same meaning in this clause 26 unless expressly provided otherwise.

26.2 To the extent that a party makes a Taxable Supply under or in connection with this Agreement, the consideration payable by a party under or in connection with this Agreement represents the value of the Taxable Supply for which payment is to be made and on which GST is to be calculated.

26.3 If a party makes a Taxable Supply under or in connection with this Agreement for a consideration, which represents its value, then the party liable to pay for the Taxable Supply must also pay at the same time and in the same manner as the value is otherwise payable, the amount of any GST payable in respect of the Taxable Supply.

26.4 The right of a party to payment under this clause is subject to a Tax Invoice being issued and delivered by the supplier of the Taxable Supply to the recipient.

26.5 If either party is required to reimburse or indemnify the other party for any cost, expenses or other amounts, the amount to be reimbursed or indemnified must be reduced by any part which is recoverable as an input tax credit by the party which incurred it (or representative member of that party's GST group).

27 LIMITATION AND INDEMNITY

27.1 Subject to any other term of this Agreement and to the extent that any provision of this Agreement is held to be contrary to any provision of Part 2-3 of the ACL, Centurion will not be liable for any loss or Damage, including Consequential Loss, whether or not any such Damage or Consequential Loss occurs in the course of performance by Centurion of the Services or when otherwise in the possession of Centurion pursuant to this Agreement, for any reason whatsoever, unless and to the extent that such Loss or damage was caused or contributed to by the breach of this Agreement by or negligent acts or omissions of Centurion or Centurion's Personnel.

27.2 To the extent that any liability of Centurion is subject to any mandatory law not able to be excluded, including the ACL then Centurion's liability shall in all events be limited to, at Centurion's option:

- a) In the case of any goods supplied by Centurion:
 - i) the replacement of the goods or the supply of equivalent goods;
 - ii) the repair of the goods;
 - iii) the payment of the cost of replacing the goods or of acquiring equivalent goods;

iv) the payment of the cost of having the goods repaired;

b) In the case of any Services supplied by Centurion:

- v) the supplying of the Services again; or
- vi) the payment of the cost of having the Services supplied again.

27.3 The Customer agrees to defend, indemnify and keep indemnified upon demand and release and hold harmless Centurion and its Personnel in respect of all Claims and Damage howsoever arising out of or in relation to:

- a) Any breach of any warranty given by the Customer in respect of the Goods;
- b) Centurion acting in accordance with any instructions of the Customer or its Personnel;
- c) Any breach of the terms of this Agreement by the Customer or its Personnel;
- d) Any negligent act or omission of the Customer or its Personnel;
- e) Any duties, taxes, imposts, levies, deposits and outlays whatsoever levied by any Authority in respect of the Goods and for all payments, fines, costs, expenses, loss and damage whatsoever incurred or sustained by Centurion in connection with the Goods;
- f) Loss, damage, contamination, soiling, delay, detention or demurrage of any property of Centurion or any third party, including any Containers;
- g) Cancellation by the Customer or its Personnel of any request or order for any Services;
- h) Centurion exercising any right under the terms of this Agreement;
- i) Any unplanned storage and redelivery of Goods; or
- j) Disposal, destruction, abandonment or rendering harmless any Goods in accordance with the terms of this Agreement,

except and to the extent caused or contributed to by the breach of this Agreement by or negligence of Centurion.

27.4 The Customer agrees that the Services are not dedicated 'hand to hand' services and must not be used for high value, sensitive or fragile goods or goods subject to regulation without the express written consent of Centurion. The Customer agrees that whilst Centurion will use reasonable endeavours to avoid loss or damage to Goods, and subject to clause 28, Centurion will not pay for any loss or damage to:

- a) computers, jewellery, pictures or picture frames, porcelain china, ceramic items, crystal, marble or enamel goods;
- b) dangerous goods;
- c) lass (including bottles), windscreens or car panels;
- d) precious stones or metals;
- e) currency or negotiable instruments;
- f) produce, liquids, perishable goods, floor or wall tiles;
- g) currency or negotiable instruments;
- h) regulated waste, cigarettes; or
- e) goods under bond.

27.5 The parties each have an obligation to mitigate its loss.

28 CONSUMER GUARANTEE

28.1 Nothing in this Agreement limits or excludes any guarantees, warranties, representations or conditions implied or imposed by law, including ACL (or any liability under them) which by law may not be limited or excluded.

28.2 To the maximum extent permitted by law and subject to clause 27, the Customer acknowledges and agrees that all terms, guarantees, warranties, representations or conditions which are not expressly stated in these terms and conditions are excluded.

28.3 To the maximum extent permitted by law and subject to clause 27,

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Centurion is not liable for any loss or Damage arising from or in connection with the supply of, or failure to supply, the Services (including loss of, deterioration in, damage to, mis-delivery of, delay in delivering or failure to deliver Goods) except to the extent the loss or Damage is a foreseeable result of Centurion's failure to meet an applicable Consumer Guarantee.

29 COMPLIANCE WITH LAWS

- 29.1 The Customer warrants that it has complied with and undertakes that it will continue to comply with all Legislative Requirements, including the HVNL and Workplace Health and Safety Laws applicable to the storage, packaging, processing, handling and carriage of the Goods. The Customer warrants that it has in place work policies and practices to ensure its compliance with all Legislative Requirements and that it will not do or require anything to be done that requires, causes or encourages any other person to contravene the Legislative Requirements.
- 29.2 The Customer indemnifies Centurion for all loss and liability Centurion incurs in connection with the Customer's non-compliance with any of the Legislative Requirements.
- 29.3 The Customer must provide in a timely manner all assistance, information and documents reasonably required by Centurion to comply with Legislative Requirements, HVNL or Workplace and Safety Laws applicable to the Services.

30 PRIVACY

- 30.1 The Customer consents to Centurion's collection, use, storage and disclosure of information including personal information in accordance with Centurion's Privacy Policy accessible at: [Privacy Policy - Centurion](#).
- 30.2 The Customer consents to the disclosure of information, including personal information, to overseas jurisdictions (as applicable). To the maximum extent permitted by law, the Customer indemnifies and will keep indemnified Centurion and its officers, employees and contractors against all Claims whether at common law, in equity, or under statute that directly or indirectly arise from or are connected with the provision of any personal information by the Customer to Centurion.

31 GENERAL

- 31.1 Centurion may perform all or any part of the Services using one or more contractors or subcontractors. Centurion enters into this Agreement as the agent and trustee for all such contractors and subcontractors, who have the benefit of these terms and conditions, including any limitations or exclusions of liability, as if this Agreement was entered into between the Customer and such contractors and subcontractors.
- 31.2 This Agreement may only be varied in writing and signed by all parties.
- 31.3 The Customer must not assign or deal with any right under this Agreement without the prior written consent of Centurion and any purported dealing in breach of this clause is of no effect.
- 31.4 This Agreement will be binding on the parties and their respective representatives, successors and assigns.
- 31.5 The parties are responsible for their own costs or expenses incurred in connection with preparing and executing this Agreement.
- 31.6 The Customer acknowledges that they have had the opportunity to seek and obtain any desired legal advice in relation to this Agreement.
- 31.7 Subject to any mandatory law unable to be excluded, this Agreement contains the entire understanding between the parties concerning the subject matter contained herein. Any previous representations, warranties, explanations and commitments, expressed or implied, affecting the subject matter (including any marketing or printed materials or website of Centurion) are superseded by this document

and have no effect.

- 31.8 Subject to any mandatory law unable to be excluded, no warranty, guarantee, condition or representation is given by Centurion in relation to the Services or any goods (including any Container) supplied by Centurion for the performance of the Services and any express or implied warranty as to quality, fitness for purpose or otherwise is hereby excluded.
- 31.9 Any terms and conditions of the Customer not expressly contained in this Agreement are not binding and have no effect, including without any limitation any terms contained in any request or order for Services, any purchase order, consignment note or receipt, whether issued before or after the commencement of this Agreement and regardless of Centurion having been provided with notice of any such terms or accepted, surrendered or signed any document subject to or on which any such terms are printed.
- 31.10 Each party warrants to the other that, in entering into this Agreement, it has not relied on any matter that is not expressly contained in this Agreement.
- 31.11 The Customer must promptly do all further acts and execute and deliver all further documents required by law or reasonably requested by Centurion to give effect to this Agreement.
- 31.12 Except as expressly stated otherwise in this Agreement, the rights of a party under this Agreement are cumulative and are in addition to any other rights of that party.
- 31.13 Any provision of this Agreement which is prohibited or unenforceable in any jurisdiction is ineffective to the extent of the prohibition or unenforceability only. That does not invalidate the remaining provisions of this Agreement nor affect the validity or enforceability of that provision, including in any other jurisdiction.
- 31.14 The obligations in this Agreement (to the maximum extent possible), survive expiry of this Agreement and are enforceable at any time at law or in equity.
- 31.15 The non-exercise of or delay in exercising any power or right of a party does not operate as a waiver of that power or right, nor does any single exercise of a power or right preclude any other or further exercise of it or the exercise of any other power or right. A power or right may only be waived in writing, signed by the party to be bound by the waiver.
- 31.16 This agreement may be executed electronically and in any number of counterparts and signatures on behalf of a party may be on different counterparts.
- 31.17 This Agreement is to be construed according to the laws of the Jurisdiction. The parties agree to submit any dispute arising out of or in relation to this Agreement (including as to its formation, terms, performance, non-performance, breach or termination) non-exclusive jurisdiction of the Jurisdiction's courts and any courts that may hear appeals from those courts.

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APPENDIX A – DETAILS SCHEDULE

Item 1	Commencement Date (Clause 6.1)	
Item 2	Terminate Date (Clause 6.1)	
Item 3	Initial Term (Clause 6.1)	
Item 4	Charges – Payment Terms (Clause 15.2)	<i>Within 14 days of the date of invoice</i>
Item 5	Demurrage (Clause 15.5(b))	<i>\$145 plus GST</i>

APPENDIX B – SCOPE OF SERVICES

Specify the Services to be performed

APPENDIX C – CHARGES

Set out the rates for the services to be performed

APPENDIX D – RISE AND FALL FORMULA

[INSERT RISE AND FALL FORMULA]