

CUSTOMER TERMS AND CONDITIONS
SILK CONTRACT LOGISTICS PTY LTD
ABN 56 006 444 355

Important Notification

Please note that if you complete an Account Application, or otherwise use the Services, you agree to be bound by these Terms. If you do not agree to these Terms, then you must not use the Services.

1. Definitions and Interpretation

1.1 In these Terms, the following definitions apply:

(a) **Account Application** means the form completed by the Customer in respect of the Customer's trading account with Silk;

(b) **Business Day** means a day that is not a Saturday, Sunday or public holiday in the State or Territory that the Services are provided;

(c) **Business Hours** means between 9.00 am and 5.00 pm on a Business Day;

(d) **Claim** includes a claim, notice, demand, action, proceeding, litigation, investigation, judgment, loss, cost, expense or liability however arising whether present or future;

(e) **Consequential Loss** means any loss or damage suffered by a party or any other person which is indirect or consequential including any loss of income, economic loss, loss of profits, loss of revenue, loss of production, loss of reputation, loss or impairment of goodwill, loss due to delay, loss of business, loss of customers, loss of an opportunity or chance, loss of value, loss of use, loss of anticipated savings, increased costs of work or materials, or the cost of defending and settling any claim, demand or proceeding brought by any third party;

(f) **Consignment Note** means a consignment note issued by Silk and accepted by the Customer with respect to the Services;

(g) **Container** means any container, trailer, transportable tank, lift van, flat, pallet or any similar article of transport used to consolidate Goods;

(h) **Controller** means an administrator, receiver, receiver and manager, trustee, provisional liquidator, liquidator, or any other person holding or appointed to a similar office or acting or purporting to act in a similar manner whether under any statute, the order or authority of any court

or other government agency, an encumbrance or otherwise;

(i) **Customer** means the customer identified in the Account Application, Purchase Order, Quote, Consignment Note or other document issued by Silk from time to time with respect to the Services;

(j) **Dangerous Goods** means goods, substances, mixtures or articles that present an immediate or potential hazard to people, property or the environment, including those:

(1) classified as such by either the IATA Dangerous Goods Regulations or the Australian Dangerous Goods Code, being goods which are, or contain substances or materials capable of being explosive, flammable or toxic gasses, flammable solids or flammable liquids, oxidising or water-reactive, organic peroxides, corrosive, combustible, toxic or infectious substances, noxious, or of a miscellaneous dangerous nature; or

(2) capable by their nature of causing damage or injury to other goods, to any persons or animals, to the environment, to property or any packaging in which those goods are carried or stored and are subject to controls or restrictions in accordance with any Law applicable to the Goods or the Services;

(k) **Fees** means:

(1) the fees and charges for Services calculated under the Rates Schedule or any other fees and charges agreed in writing between Silk and the Customer from time to time;

(2) any taxes, duties and government charges levied on or in respect of the Services; and

**CUSTOMER TERMS AND CONDITIONS
SILK CONTRACT LOGISTICS PTY LTD
ABN 56 006 444 355**

- (3) any costs incurred by Silk in complying with the requirements of any market, harbour, dock, railway, airline, shipping, excise, customs or warehouse authority or any Government Authorities (including any container detention fee, demurrage, fine or penalty) in respect of the Services and the costs of loading, unloading, maintaining or protecting the Goods;
- (n) **Government Authority (or Authorities)** means all government departments and agencies including those with responsibility for the import and export of goods, the collection of revenue on the import and export of goods and the transport of goods, including those State, Territory and Commonwealth government authorities in Australia responsible for road safety and the laws governing the transportation of goods by road;
- (o) **Insolvency Event** means in respect of a party:
- (1) an application is made to a court for an order, or an order is made appointing a liquidator, provisional liquidator (or proceedings are commenced or a resolution passed or proposed in a notice of meeting for any of those things);
- (2) proceedings are initiated with a view to obtaining an order for the winding up or similar process, or an order is made or any effective resolution is passed for the winding up of a party;
- (3) except to reconstruct or amalgamate while solvent on terms approved by the non-defaulting party, a party enters into, or resolves to enter into, a scheme of arrangement, deed of company arrangement or composition with, or assignment for the benefit of, all or any class of its creditors, or it proposes a reorganisation, moratorium or other administration involving any class of its creditors;
- (4) a Controller is appointed to or over or takes possession of all or a substantial part of the assets or undertakings of a party;
- (5) a party is or is deemed or presumed by law or a court to be insolvent; or
- (6) anything analogous or having a substantially similar effect to any of the events specified above happens under the law of any applicable jurisdiction;
- (l) **Force Majeure Event** means an event or cause which is beyond the reasonable control of the party claiming force majeure and not able to be overcome by the exercise of reasonable care, and includes but is not limited to any:
- (1) act of war (whether declared or not) or terrorism, the mobilisation of armed forces, civil commotion or riot;
- (2) natural disaster including any earthquake, cyclone, flood, landslide, storm, explosion, fires, pandemic, epidemic or act of God;
- (3) any border closure or road closure or complete unavailability of diesel fuel or adblue or any accident, collision or breakdown of a vehicle;
- (4) strikes, labour dispute or other industrial dispute or disturbance;
- (5) any quarantine or customs restriction, derailment, power, port or rail outage;
- (6) any unlawful act against public order or authority;
- (7) any act of a third party, not reasonably anticipated, which is outside of a party's direct control or influence that has an adverse impact on that party's ability to perform its obligations under these Terms; or
- (8) a Government Authority restraint.
- (m) **Goods** means the goods picked up or received from the Customer or on the Customer's behalf by Silk or as otherwise dealt with as part of the Services;
- (p) **Law** means common law, equity, legislation, regulations, statutory instruments, guidelines, codes, standards

**CUSTOMER TERMS AND CONDITIONS
SILK CONTRACT LOGISTICS PTY LTD
ABN 56 006 444 355**

- and policies of the Commonwealth of Australia or any State, Territory government or local authority and includes any statutory modification, substitution or re-enactment of any of them;
- (q) **Loss** means any damage, loss, liability, outgoing, debt, demand, claim, cost and expense (including reasonable legal expenses) but does not include Consequential Loss;
- (r) **Purchase Order** means an order placed, and each order placed, by the Customer with Silk for particular services to be provided by Silk in relation to Goods or any other Service;
- (s) **Rates Schedule** means Silk's rates schedule agreed with the Customer, or any other rates schedule issued by Silk from time to time and applicable to the Customer;
- (t) **Services** means any storage, transportation, picking or packing, logistics, fumigation or other services which Silk provides to the Customer with respect to the Goods or otherwise and in accordance with these Terms;
- (u) **Silk** means Silk Contract Logistics Pty Ltd ABN 56 006 444 355 and its related bodies corporate within the meaning of that expression in section 9 of the Corporations Act 2001 (Cth) and their officers, employees, agents and Subcontractors;
- (v) **Subcontractor** means any person or organisation Silk arranges to provide Services in respect of the Goods and any person who is an employee, agent or subcontractor of that person; and
- (w) **Terms** means the agreement created by the acceptance of this document (including these terms and conditions, the Rate Schedule and any associated Account Application, Quote, Purchase Order or Consignment Note) whether by conduct or in writing by the Customer.
- (d) an expression indicating an individual includes a company, partnership, joint venture, association, corporation or other body corporate;
- (e) a reference to a party in these Terms includes that party's executors, administrators, successors and permitted assigns;
- (f) a reference to a clause, party, schedule, annexure or exhibit is a reference to a clause of, and a party, schedule, annexure, and exhibit to, these Terms and a reference to these Terms includes any schedule, annexure or exhibit;
- (g) a reference to a right includes a remedy, power, authority, discretion or benefit;
- (h) a reference to legislation includes any amendment to that legislation, any consolidation or replacement of it, and any subordinate legislation made under it;
- (i) a reference to a document (including these Terms) includes all amendments or supplements to, or replacements or novation of, that document;
- (j) a promise on the part of 2 or more persons binds them jointly and severally;
- (k) a reference to a body (statutory or not), which ceases to exist or whose powers or functions are transferred to another body, is a reference to the body which replaces it or which substantially succeeds to its powers or functions;
- (l) no rule of construction applies to the disadvantage of a party merely because that party was responsible for the preparation of these Terms or any part of it;
- (m) if a word or phrase is defined, another grammatical form of that word or phrase has a corresponding meaning;
- (n) an amount of money is a reference to the lawful currency of Australia; and
- (o) a reference to "includes", "including" or "such as" are not to be interpreted as words of limitation, and when such words introduce an example, they do not limit the meaning of the words to which the example relates, or to examples of a similar kind.
- 1.2 In these Terms, unless the context requires otherwise:
- (a) headings are only for convenience and do not affect interpretation of these Terms;
- (b) words in the singular include the plural and vice versa;
- (c) words of one gender include any gender;

2. Not a common carrier

Silk is not a common carrier, does not accept any liability as a common carrier and excludes all liability

**CUSTOMER TERMS AND CONDITIONS
SILK CONTRACT LOGISTICS PTY LTD
ABN 56 006 444 355**

for any Loss or Claim (whether direct, indirect or consequential and whether accrued or paid) to third party cargo.

3. Services

3.1 Silk agrees to provide Services in accordance with these Terms.

3.2 Silk does not offer or provide insurance cover for the Customer's Goods whilst such Goods are in Silk's possession or control. The Customer is solely liable for holding and maintaining appropriate and adequate insurance cover with respect to the Goods.

3.3 The Customer acknowledges and agrees that Silk:

(a) relies on the details supplied to Silk by the Customer or the Customer's agent in the provision of the Services and accordingly Silk does not admit their accuracy or completeness and Silk's signature is only an acknowledgement for the number of items picked up or received by Silk;

(b) may (acting reasonably) deviate from any usual route or method of transport to provide the Services;

(c) may subcontract the whole or any part of the Services;

(d) may (acting reasonably) dispose, destroy or otherwise appropriately deal with the Goods if Silk considers the Goods are misdescribed, or if the Customer has failed to provide Silk with an appropriate declaration about the Goods, or if the Goods are or have become Dangerous Goods;

(e) may lease, hire or enter into any agreement for, or use, any aircraft, ship, Container or rail wagon to provide the Services;

(f) may, on behalf of the Customer or otherwise, complete and execute any documents required to comply with any Law; and

(g) is not responsible for the return or de-hire of pallets, nor is it required to exchange any pallets. The Customer must not transfer any pallet to an Silk pallet account unless Silk otherwise agrees in writing. The Customer is solely responsible for the return or de-hire of pallets and Silk accepts no liability for the non-return or failure to de-hire of pallets.

3.4 If any Goods the subject of the Services require temperature controls:

(a) the Customer must notify Silk in writing prior to release of those Goods to Silk of additional arrangements (including temperature range requirements) that may need to be made by Silk to ensure the Goods the subject of the Services are maintained at the temperatures within accepted tolerance levels;

(b) Silk will use reasonable endeavours to provide the Services at temperatures within accepted tolerance levels, but the Customer acknowledges temperature variations can occur; and

(c) any temperature record maintained by Silk (including a recording of a faulty reading) will be conclusive evidence of the temperatures during the Services.

4. Delivery

4.1 Silk will be deemed to have delivered the Goods if, at the delivery address, Silk obtains an acknowledgement of delivery, or if delivery occurs under clause 4.2.

4.2 If the delivery address that the Customer or the Customer's agent gives Silk is unattended during Business Hours or the prearranged delivery time or period or if the recipient of the Goods does not take delivery of the Goods, then Silk may, at its option and at the Customer's risk and expense:

(a) leave the Goods at the delivery address;

(b) store the Goods; or

(c) return the Goods to the sender,

each of which constitutes delivery and the completion of Silk's obligations under these Terms.

4.3 If Silk stores the Goods, whether under clause 4.2 or otherwise:

(a) Silk may require the Customer to remove the Goods, at the Customer's expense, if the Customer fails to pay the Fees when due;

(b) Silk does not have to make the Goods available until all Fees have been paid and the Customer signs, or a person authorised in writing by the Customer signs, a receipt for the Goods; and

(c) Silk can return the Goods to the Customer at the Customer's last known address if the Customer fails to remove the Goods when Silk reasonably requires or Silk gives the Customer notice to remove the Goods.

CUSTOMER TERMS AND CONDITIONS
SILK CONTRACT LOGISTICS PTY LTD
ABN 56 006 444 355

- 5. Fees**
- 5.1 The Customer agrees to pay Silk the Fees in consideration of the Services provided under these Terms.
- 5.2 Subject to clause 5.3, Silk may amend the Fees (or any other rates or fees agreed between Silk and the Customer) on the provision to the Customer of 30 days' written notice (**Rates Notice**).
- 5.3 The Customer may terminate the Services upon the provision of 30 days' written notice from the date of the Rates Notice in the event that it does not agree with the Rates Notice. Amended rates or fees will only apply to services provided from the date the amended rates apply (after expiration of the notice period).
- 6. Payment**
- 6.1 All invoices payable by the Customer shall be paid in accordance with the Account Application, unless otherwise agreed in writing by Silk.
- 6.2 Silk reserves the right to charge interest on any overdue amount at the interest rate specified from time to time by the *Penalty Interest Rates Act 1983* (Vic).
- 6.3 The Customer agrees to indemnify Silk against all costs incurred by Silk in collecting any overdue amounts including but not limited to debt collection agency fees, legal fees and court costs.
- 6.4 The Customer must not set-off or deduct from any Fees payable by the Customer under these Terms, any amounts which it believes are payable by Silk to the Customer (whether under these Terms or otherwise).
- 6.5 Silk reserves the right to suspend or cease providing the Services on the provision of 7 days written notice if the Customer fails to pay for the Services in accordance with this clause 6.
- 6.6 Silk may amend, alter or terminate the Customer's trading account, terms of credit or alter its payment terms on the provision to the Customer of 60 days' written notice (**Payment Terms Notice**). The Customer may terminate the Services upon the provision of 30 days' written notice from the date of the Payment Terms Notice in the event that it does not agree with the Payment Terms Notice.
- 7. Lien**
- 7.1 Silk shall have a general and special lien over the Goods in its possession (belonging to, or held on trust by, the Customer) and shall have a right, exercisable only after 14 days prior written notice to the Customer, to sell such Goods, by public or private sale, in the event that the Customer fails to pay an amount owed to Silk for the Services provided under these Terms or costs, fees, debts or other amounts incurred by Silk in carrying out the Services. In addition, the lien shall
- cover the costs and expenses of exercising the lien including without limitation, the costs of sale and reasonable legal fees.
- 7.2 Silk shall pay to the Customer any surplus proceeds that are released by it from a sale of any such items after discharging in full all monies outstanding to Silk.
- 8. Security Interests**
- 8.1 Terms that are defined in the *Personal Property Securities Act 2009* (Cth) (**PPSA**) have the same meaning in this clause.
- 8.2 The Customer agrees and acknowledges that, for the purposes of the PPSA, Silk has a security interest in the Goods and in any right to or derived from the Goods.
- 8.3 Silk may register its security interests under clause 8.
- 8.4 The Customer waives the right to receive a verification statement under the PPSA.
- 8.5 The Customer agrees that, if Chapter 4 of the PPSA applies to the enforcement of Silk's security interests, the following provisions of the PPSA will not apply to that enforcement: section 95 to the extent it requires Silk to give notice to the Customer; section 96; section 130 to the extent it requires Silk to give notice to the Customer; subsection 132(3)(d); subsection 132(4); section 135; section 142 and section 143.
- 8.6 Subject to subsection 275(7) of the PPSA, neither party may disclose information of the kind referred to in subsection 275(1) of the PPSA.
- 8.7 The Customer acknowledges and agrees that:
- (a) it will do all things necessary to facilitate registration of Silk's Security Interest in the Goods; and
- (b) the Security Interest is not discharged, nor the Customer's obligations affected by the Customer becoming subject to an Insolvency Event.
- 9. Customer warranties and obligations**
- 9.1 Warranties**
- The Customer represents and warrants to Silk that:
- (a) the Customer is either the owner or the authorised agent of the owner of the Goods and has authority to enter into these Terms;
- (b) the Customer has rights in the Goods and the power to transfer rights in the Goods to Silk;

**CUSTOMER TERMS AND CONDITIONS
SILK CONTRACT LOGISTICS PTY LTD
ABN 56 006 444 355**

- (c) the Customer or the Customer's agent have fully and accurately described the Goods and their value;
- (d) the Goods can be safely handled, stored and transported and are packed to withstand any risks incidental to the handling, transportation and storage of the Goods in connection with the provision of the Services;
- (e) it has not granted any other person a Security Interest in respect of the Goods;
- (f) it will provide all documents, information and assistance reasonably required by Silk to comply with the requirements of any Law and the requirements of any Government Authorities in an accurate and timely fashion as required by the relevant Law and Government Authority;
- (g) it will retain all documents or records in the manner required by Law and Government Authorities;
- (h) it will observe all requirements of any applicable Law and Government Authority;
- (i) the Goods and their packaging, transportation and storage does not contravene any Law and the Customer has complied with all Laws and requirements of Government Authorities relating to the nature, condition, packaging, handling, storage and transportation of the Goods;
- (j) subject to clause 9.2(c), the Goods are not Dangerous Goods; and
- (k) it will notify Silk of any issues or requirements under Law in relation to the Goods or the Services of which Silk should be aware, or which may be relevant to Silk's compliance with any Law.

(disclosing their nature) and obtain written consent from Silk to the release of said Dangerous Goods; and

- (d) if the Customer is not the recipient of the Goods, tell Silk what steps are necessary to make the Goods conform to the receiver's requirements.

10. Indemnity from Customer to Silk

The Customer indemnifies Silk, and will keep it indemnified against any Claim (including a third-party Claim) or Loss arising out of or in connection with:

- (a) loss or damage to property (including the Goods) or illness, injury or death caused by an act or omission of the Customer;
- (b) any breach by it of any applicable Laws;
- (c) any infringement of any intellectual property rights of any third party;
- (d) any breach by the Customer of its obligations under, or a representation or warranty made by it under, these Terms; or
- (e) any negligent or unlawful act or omission or wilful misconduct of the Customer or the receiver of the Goods or any person acting for the Customer or the receiver of the Goods.

10.2 Limitation of liability of Customer to Silk

- (a) Subject to clause 10.2(b), the Customer's total aggregate liability to the Customer for any Claim or Loss under or in connection with these Terms is limited to the amount paid by the Customer to Silk under these Terms during the financial year ending 30 June immediately prior to a Claim being made;
- (b) The limitation in clause 10.2(a) does not apply to the liability of the Customer in relation to:
 - (i) any Fees properly owed by the Customer to Silk under these Terms;
 - (ii) a breach of clause 9.2(c);
 - (iii) personal injury or death from a negligent act or omission of the Customer;
 - (iv) loss or damage to tangible property;
 - (v) fraud, wilful misconduct, unlawful or illegal acts; or
 - (vi) liability that otherwise cannot be excluded at law.

9.2 Additional obligations of the Customer

In addition to any other obligations of the Customer under these Terms, the Customer must, or must cause its agent to:

- (a) provide Silk with all necessary documentation for the Services and fully, accurately and legibly complete the label on the Goods (if there is one) or any of Silk's, or the Customer's, documentation;
- (b) comply with Silk's Pooled Equipment Policy (as amended and advised from time to time) and other policies as reasonably required by Silk;
- (c) notify Silk in writing prior to release of any Dangerous Goods to Silk (including full description of the Dangerous Goods and

**CUSTOMER TERMS AND CONDITIONS
SILK CONTRACT LOGISTICS PTY LTD
ABN 56 006 444 355**

directly or indirectly by, without limitation, a port operator, a container park operator, a Government Authority, the Customer or any combination of these or other third parties except, and to the extent, such Claim or Loss are directly attributable to a breach of these Terms by Silk;

11. Limitation of liability

11.1 Loss or damage to Goods

- (a) Subject to clauses 11.1(b) and 11.1(c), and only to the extent that such loss or damage was directly caused by Silk's negligent act or omission, Silk shall be liable to the Customer for any loss or damage to the Goods whilst in Silk's possession.
- (b) To the extent permitted by Law, Silk's liability to the Customer for loss or damage to the Goods howsoever arising is limited to compensating the Customer for the manufactured cost of the Goods only and is capped at \$500 per incident and in aggregate per annum at \$5,000.
- (c) Unless caused or contributed to by Silk's negligent act or omission, Silk does not accept any liability to the Customer or any other person for any loss of or damage to Goods if such loss or damage is caused by ordinary loss in weight or volume, shrinkage, ordinary leakage, ordinary wear and tear, insufficient and/or unsuitable packing or preparation, electrical or mechanical derangement or the Customer or the Customer's agent overloads or incorrectly loads a transport vehicle.
- (d) does not accept any liability to the Customer arising from any delay; and
- (e) limits its total aggregate liability to the Customer for any Claim or Loss under or in connection with these Terms or the Services to an amount equal to the amount paid by the Customer under these Terms during the financial year ending 30 June immediately prior to a Claim being made.
- (f) agrees that the limitation in clause 11.2(e) does not apply to the liability of Silk in relation to:
 - (i) personal injury or death arising from a negligent act or omission of Silk;
 - (ii) loss or damage to tangible property (excluding Goods);
 - (iii) fraud, wilful misconduct, unlawful or illegal acts; or
 - (iv) liability that otherwise cannot be excluded at law.

11.2 Limitation of liability of Silk to Customer

To the extent permitted by Law, Silk:

- (a) expressly excludes all conditions, warranties, terms and guarantees whether express or implied, statutory or otherwise. If any condition, warranty, term or guarantee applies or is implied into these Terms under any Law, and providing it is reasonable to do so, Silk's liability for breach of the condition, warranty, term or guarantee will be limited to either resupplying the Services, or paying the cost of resupplying the Services, in respect of which the breach occurred and otherwise will be limited to the maximum extent permitted by Law;
- (b) does not accept any liability to the Customer arising from the use by Silk of any Container or Containers provided by the Customer (pursuant to contracts with third parties or otherwise) including cleaning costs and/or detention or demurrage charges;
- (c) does not accept any liability to the Customer arising from a delay to the performance of the Services caused

11.3 Consequential Loss

Neither party shall be liable to the other party under these Terms for any Consequential Loss.

11.4 Bar on Claims

To the extent permitted by Law, Silk accepts no liability with respect to any Claim or Loss incurred by the Customer under these Terms unless the Customer provides notice in writing of such Claim or Loss within 120 days of the event giving rise to the Claim or Loss, or, on first becoming aware of any Claim or Loss.

11.5 Australian Consumer Law

The Australian Consumer Law which is Schedule 2 of the *Competition and Consumer Act 2010* confers rights on consumers and in respect of consumer contracts and small business contracts. If the Customer is a consumer within the meaning of the Australian Consumer Law it will be entitled to the benefit of guarantees which cannot be excluded. These Terms do not affect any rights the Customer may have under the Australian Consumer Law.

**CUSTOMER TERMS AND CONDITIONS
SILK CONTRACT LOGISTICS PTY LTD
ABN 56 006 444 355**

12.	Termination	14.6	Nothing in this clause 13 prevents either party from obtaining any injunctive or other interlocutory relief from a court of appropriate jurisdiction.
12.1	A party (Non-defaulting party) may terminate these Terms immediately in the event that the other party (Defaulting Party):	15.	GST
	(a) commits a breach of these Terms which in the reasonable opinion of the Non-defaulting Party is incapable of remedy;	15.1	Construction
	(b) commits a breach of these Terms which is capable of remedy, but the Defaulting Party fails to remedy said breach within 14 days of written notification by the Non-defaulting Party; or		In this clause:
	(c) becomes subject to an Insolvency Event.		(a) Words and expressions which are not defined in this document but which have a defined meaning in GST Law have the same meaning as in the GST Law; and
12.2	Either party may terminate these Terms by the provision of 90 days' written notice to the other party. The Customer remains liable to pay any Fees outstanding for Services provided prior to termination.	15.2	Consideration GST Exclusive
			Unless otherwise expressly stated, all Fees, prices or other sums payable or consideration to be provided under this document are exclusive of GST.
13.	Consequences of termination	15.3	Payment of GST
13.1	On termination all monies (including Fees) owing to Silk will become immediately due and payable by the Customer;		If GST is payable by the Customer or by the representative member for a GST group of which the Customer is a member, on any supply made under this document, the Customer will pay to Silk an amount equal to the GST payable on supply.
13.2	Subject to receiving full payment of all amounts owed to it in respect to the Services and under these Terms, Silk will, within a reasonable timeframe, make available for collection any Goods in its possession, custody or control.	15.4	Timing of GST Payment
13.3	Any accrued rights and obligations of the parties as at the date of termination will be unaffected by termination.		The Customer will pay the amount referred to in clause 15.3 in addition to and at the same time that the consideration for the supply is to be provided under this document.
14.	Dispute Resolution	15.5	Reimbursement
14.1	If a dispute arises in relation to the Services or these Terms, the parties to the dispute expressly agree to endeavour to settle the dispute by mediation administered by the Australian Disputes Centre (ADC) before having recourse to litigation.		Where a party is required under this document to pay or reimburse an expense or outgoing of another party, the amount to be paid or reimbursed by the first party will be the sum of:
14.2	The mediation shall be conducted in accordance with the ADC Guidelines for Commercial Mediation (Guidelines) which are operating at the time the matter is referred to the ADC.		(a) the amount of the expense or outgoing less any input tax credits in respect of the expense or outgoing to which the other party is entitled; and
14.3	The Guidelines set out the procedures to be adopted, the process of selection of the mediator and the costs involved.		(b) if the payment or reimbursement is subject to GST, an amount equal to that GST.
14.4	The terms of the Guidelines are hereby deemed incorporated into these Terms.	16.	General provisions
14.5	During the period in which the dispute is being resolved, the parties must continue to perform all of their obligations under these Terms which are not under dispute, and which are able to be performed by the parties.	16.1	Inconsistency
			If there is any inconsistency between these Terms and/or any terms and conditions set out in the Customer's order or Account Application, these Terms will prevail to the extent of such inconsistency.
		16.2	Acceptance

**CUSTOMER TERMS AND CONDITIONS
SILK CONTRACT LOGISTICS PTY LTD
ABN 56 006 444 355**

By engaging Silk to provide the Services, the Customer is deemed to have accepted these Terms, and to have agreed that they apply to the exclusion of all others.

of these Terms remain otherwise in full force and effect apart from such provision which will be deemed severed to the extent of its invalidity, unenforceability or illegality.

16.3 Governing Law

- (a) These Terms are governed by the laws of Western Australia.
- (b) Each party irrevocably submits to the non-exclusive jurisdiction of the courts of Western Australia.

16.10 Assignment

Neither party may assign, novate or transfer any of its rights or obligations under these without the prior written consent of the other party, which consent shall not be unreasonably delayed or withheld.

16.4 Force Majeure Event

- (a) An obligation of a party under these Terms is suspended for the time and to the extent that that party is prevented from or delayed in complying with that obligation by a Force Majeure Event.
- (b) Neither party shall have any liability to the other for any Claim or Loss suffered as a result of a Force Majeure Event.
- (c) Either party may by 20 Business Days' written notice to the other party, terminate these Terms if a Force Majeure Event continues for at least 30 days.

16.5 Entire Agreement

These Terms contain the entire agreement between the parties in relation to its subject matter, and there are no other oral or written representations, stipulations, warranties, agreements, or understandings which apply in respect of the Services.

16.6 Survival

The following provisions survive the performance or termination of these Terms: 6, 7, 8, 10, 1, 13, 14, and 16.4.

16.7 Variation

Any variation or modification of these Terms must be in writing and agreed by both parties.

16.8 No Waiver

A party's failure or delay to exercise a power or right does not operate as a waiver of that power or right and the exercise of a power or right does not preclude either its exercise in the future or the exercise of any other power or right. A waiver is not effective unless it is in writing and is effective only in respect of the specific instance to which it relates and for the specific purpose for which it is given.

16.9 Severability

If any provision of these Terms are deemed invalid, unenforceable or illegal for any reason, the remainder