

1. Agreement that BRI may seek consumer credit information (Section 18K(1)(b), Privacy Act 1988)
If BRI considers it relevant to assessing my/our application for commercial credit, I/we agree to BRI obtaining from a credit reporting agency a credit report containing personal credit information about me/us in relation to commercial credit provided by BRI.

2. Exchanging information with other credit providers (Section 18N(1)(b), Privacy Act 1988).

I/we agree to BRI obtaining personal information about me/us from other credit providers, whose names I/we may have provided for BRI or that may be named in a credit report, for the purpose of assessing my/our application for commercial credit made to BRI.

3. Agreement to a credit provider being given a consumer credit report to collect overdue payments on commercial credit (Section 18K 1(h) Privacy Act 1988).

I/we agree that BRI may obtain a consumer credit report about me/us from a credit reporting agency for the purpose of collecting overdue payments relating to commercial credit owed by me/us.

Furthermore, I/we certify that the information provided is true and correct and we agree to adhere to the attached Terms and Conditions of Trade BRI. A copy of which can also be located at www.brint.com.au/resources

We understand that credit facilities will not become effective until written confirmation is received from BRI.

Name (please print) _____ Title _____

Signature _____ Date _____

Name (please print) _____ Title _____

Signature _____ Date _____

Name (please print) _____ Title _____

Signature _____ Date _____

Name (please print) _____ Title _____

Signature _____ Date _____

Office Use Only

Credit Terms (Disbursements) _____ days from invoice date / end of month.

Credit Terms (General Trading) _____ days from invoice date / end of month.

Credit Limit \$ _____

Special Conditions:

Approved by: _____

Sales Rep: _____

Signature: _____

Signature: _____

Date: _____

Date: _____

Introduction

1. These terms and conditions apply to all Carriage performed or undertaken by the Company. To the extent permitted by law and except as provided in clauses 4 and 5 below, all other terms, conditions or warranties, expressed or implied whether by law, custom or otherwise, are hereby excluded.
2. The Company is not bound by any purported waiver or variation of these terms and conditions unless the same is in writing and signed by a Director of the Company.
3. If there is any inconsistency between these terms and conditions and the terms and conditions contained in any other document issued by or on behalf of the Company (and signed by a Director) in connection with a particular Carriage, these terms and conditions prevail.
4. If any such other document referred to in clause 3 above deals with any matter not dealt with in these terms and conditions, then such matter only is governed by that other document.
5. These terms and conditions are subject only to any mandatory contrary provision of law (which includes a determination of any competent court). Where a mandatory contrary provision of law makes the whole or any part of these terms and conditions void or unenforceable, such part shall be severed and shall not affect the validity or enforceability of any other part.
6. For the avoidance of doubt, no document issued by the Client to the Company (including a purchase order) has any effect to derogate from, vary or add to these terms and conditions.

7. Interpretation

The following rules of interpretation apply unless the context clearly requires otherwise:

- (a) The singular includes the plural and vice versa.
- (b) A gender includes all genders.
- (c) If a word or phrase is defined, its other grammatical forms have a corresponding meaning.
- (d) A reference to a person, corporation, trust, partnership, unincorporated body or other entity includes any of them.
- (e) A reference to conduct includes an omission, statement and undertaking, whether oral or in writing.
- (f) References to any statute or statutory provisions include that statute or statutory provision as amended, extended, consolidated, or replaced by subsequent legislation and any orders, regulations, instruments or other subordinate legislation made under the relevant statute.
- (g) These terms and conditions bind

the Client, its legal representatives, successors and assigns.

8. Definitions

Carriage means the carriage, storage, warehousing, packaging, handling, packing, unpacking, consolidation, despatch, loading or unloading of Goods by the Company, and includes any other service provided by the Company as forwarding, transport, customs or shipping agent of the Client, and any services ancillary to or connected with any of the above.

Client means any person requesting (either as principal or agent for another) the Company to provide Carriage.

Company means BR International Logistics Pty Ltd, its officers, employees, agents, Subcontractors and representatives and includes all subsidiaries and all companies related to any subsidiary of the foregoing.

Customs Act means the *Customs Act 1901* (Cth).

Customs-related law has the same meaning as defined in section 4B of the *Customs Act*. **Dangerous Goods** means Goods which are volatile or explosive or which are or may become dangerous, flammable or offensive (including radioactive materials) or which may become liable to damage any person or property whatsoever and includes all Goods which fall or may fall within the definition of hazardous, dangerous, explosive, flammable or radioactive goods in any legislation, regulations, code or convention (whether or not legally enforceable) relevant to the Carriage.

Goods mean goods, chattels, containers or other items.

Government Authority includes, inter alia, a federal, state or local government department or agency in Australia or any other country with responsibility for, among other things, the import and export of goods, the collection of revenue on the import and export of goods, the transport and movement of goods.

Licence means any licence issued by a Government Authority including:

- (a) a broker's licence as defined in section 180 of the *Customs Act*;
- (b) a depot licence as defined in section 77F of the *Customs Act*; and
- (c) a warehouse licence as defined in section 78 of the *Customs Act*.

Premises mean any place or places where Goods are held, warehoused, stored or removed to or from by the Company from time to time in connection with Carriage.

Subcontractor means:

- (a) any third party appointed or engaged by the Company to assist with the Carriage; and
- (b) any employee, officer, agent, representative or subcontractor of any of the persons in paragraph (a) above.

Contract for Carriage

9. The Client warrants that it is either the owner, or authorised agent of the owner, of the Goods and has the authority to request Carriage. By requesting the Company to provide Carriage, the Client is entering into a contract with the Company and the Client accepts these terms and conditions on behalf of itself and any other persons having an interest in the Goods. The Client agrees to indemnify and hold harmless the Company from all loss, costs and expense which the Company pays or incurs as a result of any dispute or litigation, whether instituted by the Company or others, in respect of the Client's right, title or interest in the Goods. Such amounts shall be charged to the Client and be subject to the Company's lien.

Not a Common Carrier / General Liability

10. The Company is not a common carrier and accepts no liability as such. The Company reserves the right in its absolute discretion to refuse the Carriage of any Goods or any class of Goods.

11. The Company carries on business as a customs and forwarding agent and is not the actual carrier unless the Goods are carried on an aircraft, ship or other conveyance owned or operated by the Company.

12. The Client authorises the Company as its agent to arrange for Carriage (in whole or part) by any Subcontractor on any terms.

13. When requested, the Client must provide to the Company all assistance, information, descriptions, valuations, documents or other things in relation to the Carriage or the Goods including as the Company considers to be necessary or prudent to enable the Company to comply with all relevant laws, customs, conventions, codes and regulations in a timely manner. The expenses and charges of the Company in effecting such compliance, and compliance with the requirements of any harbour, dock, airport, railway, shipping, customs, warehouse or other authority must be paid by the Client.

14. The Company may without notice to the Client adopt any means, mode, route or procedure whatsoever for the Carriage of Goods. If the Client instructs the Company to use a particular means, mode, route or procedure of Carriage, the Company will use reasonable endeavours to follow such instruction unless in the opinion of the Company it is unreasonable or impractical to do so.

15. Any dates or times specified for departure or arrival at the point of collection or delivery are estimates only and do not bind the Company.

16. The Goods may, at the sole discretion of the Company and at the Client's risk and expense, be held

at any Premises and may be moved from any Premises to any other Premises.

17. To the extent permitted by law, neither the Company nor its Subcontractors, are under any circumstances whatsoever liable in tort (including negligence), contract or on any other basis whatsoever, and whether arising from misconduct or wilful default, for:

- (a)** any loss or destruction of or damage to the Goods (including arising out of theft, vandalism, freezing, ice, rain, storm, lightning, fire, flooding or any other occurrence arising out of acts or forces of nature or for any deterioration, contamination or evaporation of any chilled, frozen, refrigerated or perishable Goods);
- (b)** any non-delivery, mis delivery, delay in delivery of, or failure to produce, the Goods;
- (c)** any delays in loading or unloading Goods;
- (d)** any advice, representation, information, assistance, or service of any kind provided in any form by or on behalf of the Company in the course of or in connection with the Carriage of the Goods;
- (e)** any accident, injury, death, damage or loss to any Goods, machinery, persons or property arising from the use of any vehicle, cargo handling appliances or other equipment in relation to Carriage;
- (f)** compliance with the directions of any Government Authority;
- (g)** any loss of profits, loss of business, lost revenues or other economic loss; and
- (h)** any loss which does not arise naturally or in the ordinary course of things and any consequential or indirect loss whatsoever even if in the contemplation of the parties arising from or in connection with any of the matters or things referred to in clauses **17(a), (b), (c), (d), (e) or (f)** or the Carriage.

18. Without limiting clause **17(d)**, the Company shall not under any circumstances whatsoever be liable for any loss, damage, cost, fine or penalty sustained or incurred by the Client, the owner of the Goods or any other person resulting from or in connection with any quotation, advice, prediction, forecast, statement, representation or information given or made by or on behalf of the Company, whether negligently or otherwise, as to liability of the Client for customs duty, excise duty or any other impost or tax or as to the particular tariff or classification applicable to the Goods. [The Client must make its own enquiries as to its liability for duties, taxes or other charges.](#)

19. In all cases where liability has not been effectively excluded, whether by these terms and conditions or otherwise, to the extent permitted by law, the total liability of the Company to the Client or to any

other person shall be limited to the lesser of:

- (a)** \$100;
 - (b)** the value of the Goods at the time the Goods were received by the Company;
 - (c)** a resupply of the Goods or payment of the cost of resupplying the Goods; or
 - (d)** the cost of the Carriage. The Client acknowledges that the foregoing limitations are accepted as customary in the industry.
- 20.** If a statutory guarantee applies to any goods or services supplied by the Company to the Client, which guarantee cannot be excluded, restricted or modified then, to the extent permitted by law, the
- 21.** Company's liability for a failure to comply with a statutory guarantee is limited, at the Company's option to the remedies set out in section 64A of Schedule 2 of the *Competition and Consumer Act 2010* (Cth) or similar remedies under any applicable State or Territory legislation. The Client acknowledges that having regard to the customary industry practices, these limitations are fair and reasonable and reflected in the cost of Carriage.
- 22.** The Client shall indemnify and hold harmless the Company, its Subcontractors, officers, employees, representatives and agents against any claims against any of them arising from any of the matters in clause **17** and **18** of these terms and conditions.
- 23.** The Client agrees to indemnify the Company, against any claim or allegation made against the Company by any person in connection with any liability arising out of or relating to the Carriage or the Goods.

Reporting Obligations and Indemnity

24. The Company has certain reporting obligations under Customs-related laws. The Company is not in breach of any obligations to the Client and has no liability to the Client as a result of its compliance with its reporting obligations or any conditions of its Licences.

25. Without limiting clause **13**, the Client must provide all assistance (including documentation) required by the Company to enable the Company to comply with its reporting obligations or conditions imposed by its Licences.

26. The Client must indemnify, and keep indemnified, the Company (including its officers, employees, agents, Subcontractors and representatives) from all costs and liabilities (including any legal costs incurred in determining whether a reporting obligation has arisen) incurred in relation to reporting obligations arising under the law or conditions imposed by its Licences insofar as they relate to the Carriage or the Goods.

Client Warranty

27. The Client warrants that it has complied with and will continue to comply with all legislation, customs, conventions, codes and other regulations relating to the nature, condition, packaging, handling, storage and Carriage of the Goods and that the Goods are packed to withstand the ordinary risks of handling, storage and Carriage, having regard to their nature.

28. The Client warrants that it requires Carriage for the purposes of a business, trade, profession or occupation carried on or engaged in by the Client and not for personal, domestic or household use or consumption. The Client must give written notice to the Company if the foregoing warranty is or becomes incorrect.

29. The Client agrees to indemnify the Company for all liability and for all costs incurred by the Company as a result of or arising out of a breach of the warranties in clauses **27** and **28**.

Insurance

30. Goods are at all times at the Client's risk, and it is the Client's responsibility to maintain adequate insurance of the Goods. The Company will not insure the Goods except upon the Client's written instructions (which must include a signed declaration as to the value and nature of the Goods) and the Company's written agreement. Any insurance the Company agrees to effect, will be effected for and on behalf of and at the expense of the Client and may be subject to such exceptions and conditions as may be required by the insurance company or underwriter accepting the risk. The Company may make an administrative charge for arranging such insurance (in addition to the cost of any premiums) but shall have no liability or responsibility whatsoever (whether in tort (including negligence), contract or otherwise) in respect of any insurance policy. The Company is not the insurer and no deduction or set-off may be made from any charges or other moneys due to the Company on any account pending settlement by the insurance company. If there is any dispute about liability under any insurance policy for any reason whatsoever the Client (or other insured) has recourse against the insurer or underwriter only.

Dangerous Goods

31. The Client must not tender any Dangerous Goods for Carriage without first providing the Company with a full written description of the Goods and the nature and degree of their volatility so they can be properly classified, described, packaged and labelled for Carriage in accordance with the provisions of

all relevant legislation, regulations, codes, customs and conventions. If the Client fails to do so, it shall be liable for any resulting loss or damage and must indemnify the Company against all claims, liability, loss, damage, penalties and expense which the Company may suffer or incur. If the Goods are found to be explosive, flammable, noxious or otherwise dangerous, hazardous or likely to cause damage without having been described to the Company as provided above or if the Goods become dangerous to any person, other goods or property, the Goods may be destroyed or otherwise dealt with by, and at the sole discretion of, the Company or any other person in whose custody they may be at the relevant time without compensation to the Client and without prejudice to the Company's right to freight and charges.

Warehousing and Distribution

32. No Goods will be delivered or transferred except upon receipt by the Company of complete written instructions. Without limiting clause 17, when the Client requests Goods from the warehouse, the Company will use reasonable endeavours to deliver the Goods within a reasonable time.

33. Where loss or injury occurs to stored Goods, the Client is responsible for the cost of removing and disposing of the Goods and the cost of any environmental clean-up resulting from the loss or injury of the Goods. The Client will provide the Company with information concerning the stored Goods which is accurate complete and sufficient to allow the Company to comply with all legislation concerning the storage, handling and transporting of the stored Goods. The Client will indemnify and hold the Company harmless from all loss, costs, penalty and expense which the Company pays and incurs as a result of the Client failing to fully discharge this obligation.

34. Access to the Company's warehouse is by appointment only and hours of access are Monday to Friday from 9am to 3pm excluding public holidays. Any access is provided subject to the Client's strict compliance with the Company's policies and procedures.

Lien

35. The Client agrees that the Company has a general and particular possessory lien upon all Goods (which in this clause includes any documents relating to those Goods) whatsoever which are in the possession or under the control of the Company until all accounts (including those related to Goods already released) due to the Company by the Client, consignee or owner of such Goods are paid in

full (including all costs and expenses incurred by the Company in recovering or enforcing payment of such accounts). The Company is entitled to detain any Goods and may decline to effect delivery even where accounts are not overdue for payment. The Company may sell all or any of the Goods by public auction or private treaty without notice to the Client and apply the proceeds of sale in satisfaction of the unpaid accounts (including all costs of detaining and selling the Goods).

PPSA

36. The Client acknowledges that the lien referred to in clause 36 is in addition to and not in substitution for any general law or statutory lien that may arise out of the Carriage of Goods provided by the Company to the Client at the request of the Client.

37. The Client acknowledges that its agreement to these terms and conditions creates and constitutes a security interest for the purposes of the *Personal Properties Securities Act 2009* ("PPSA") in the Goods and any proceeds of sale of the Goods to secure the payment of all monies owed by the Client to the Company. The costs of registering a financing statement or taking other action under the PPSA will be paid by the Client and may be debited against the Client's trading account. The Client agrees not to do or permit anything to be done that may result in the security interest granted to Company ranking in priority behind any other security interest (as defined in the PPSA). The Client will take such further steps (including obtaining consents, supplying information, signing forms or executing documents) which may be required by the Company to register any statement or document or take further or better security under the PPSA in respect of the Goods and proceeds of sale of the Goods or to maintain the effectiveness or priority of any security interest under the PPSA.

38. To the extent permitted by the PPSA:

- (a)** the Company and the Client contract out of the provisions specified in section 115 of the PPSA, if they would otherwise be applicable; and
- (b)** the Client waives its right to receive notice under section 157 of the PPSA.

Quotations

39. Quotations are conditional and do not constitute a binding offer by the Company. All quotations may be revoked or revised by the Company including for changes to freight, fees, premiums, taxes, levies or other charges or costs applicable to the Goods or Carriage. Irrespective of a quotation, all costs and expenses

incurred by the Company in the course of or in connection with the Carriage are chargeable to and payable by the Client.

40. In giving any quotation or any advice, prediction, forecast, statement, representation or information, the Company relies solely on the information provided by the Client who warrants that the information provided by it to the Company accurately and completely describes all aspects of the Goods and the transactions relating to the acquisition, sale, importation and/or export of the Goods.

41. Without limiting clauses 17(d) or 39, if Goods are misdescribed in any way, the Company may at any time withdraw the quotation whether or not the offer contained in it has been accepted. The Client indemnifies the Company in respect of any liability for any loss or damage to any person, property or goods as a result of a misdescription.

Freight and Charges

42. Freight charges are incurred from the time the Goods are collected by or delivered to the Company or any Subcontractor and charged in accordance with the Company's tariff and charges in force from time to time or as agreed plus applicable goods and services (or similar) taxes.

43. In addition to freight the Client is liable for all costs associated with Carriage including:

- (a)** charges for any additional advice, assistance or services provided by the Company;
- (b)** for demurrage, detention of Goods before, during and after the Carriage of the Goods;
- (c)** for permits, road tax, tolls, escort, fuel surcharges imposed by any airline, shipping company or other transport operator;
- (d)** all disbursements paid or payable to third parties for, by way of example only, Carriage, crane hire, terminal charges, storage charges, labour for loading and unloading Goods, **(e)** costs associated with any unreasonable delay (in the Company's opinion) in loading or unloading; and
- (f)** customs duty, excise duty, costs, expenses or penalties in respect of or in connection with the Carriage, Goods or any documents relating to the Goods,

and the Client must reimburse and indemnify the Company in respect of all such sums.

44. All freight and other costs are payable in full, without deduction or set-off for any reason. Amounts paid are non-refundable.

45. The Company may require payment in advance and the Company will not provide Carriage until the required payment is received in full.

46. Where the Company agrees to provide Carriage without requiring payment in advance, the Client must:

(a) pay the full amount of any disbursements incurred by the Company on the Client's behalf, within seven days of receiving the Company's invoice detailing the same; and

(b) pay the balance of the account no later than the 20th day of the month following the date of the invoice.

47. If any payment is not made when due the Client must, whether or not any demand has been made, pay to the Company interest on the amount outstanding at a rate of 1.5% per month calculated daily from the due date of the payment until payment is made in full. The Company's right to receive interest is in addition to all other rights which it has in respect of the Client's default.

48. If the Company (in its absolutely discretion) accepts a Client's request to cancel Carriage the Client remains liable to pay all freight and other costs incurred by the Company prior to cancellation of the Carriage.

49. The Client agrees that it must indemnify the Company for any and all costs incurred in the recovery of amounts owing to the Company by the Client and such costs will be added to the Client's account.

Claims

50. Without limiting the Company's exclusions and limitations of liability under these terms and conditions and the requirements of clause **30**, any purported claim by the Client for loss or damage to Goods must be notified in writing to the Company within two (2) days of delivery or collection of the Goods or the date upon which the Goods should have been delivered, failing which (to the extent permitted -by law) the Company shall be discharged of all liability howsoever arising. Time is of the essence of this clause. An endorsement on a freight note, delivery docket or similar does not constitute notice in writing for the purposes of this clause.

51. To the extent permitted by law, the Company shall be discharged from all liability in relation to Goods unless suit is filed and served on the Company within nine months after completion of the Carriage, delivery of the Goods or the date when the Goods should have been delivered, whichever occurs first.

Brokerage etc

52. The Company may be paid and retain all brokerages, commissions, allowances and other remunerations customarily retained by or paid to customs, shipping and forwarding agents and insurance brokers, whether declared or otherwise, and no such brokerage, commission, allowance or other remuneration is payable or allowable to the Client.

Indemnities

53. Each indemnity in these terms and conditions is a continuing obligation, separate and independent from all other obligations and indemnities and survives completion of the Carriage. It is not necessary for the Company to incur expense or to make any payment before enforcing a right of indemnity.

Law and Jurisdiction

54. These terms and conditions and all contracts of Carriage are subject to the laws of Victoria, Australia and any claim or dispute arising under them shall be solely determined by the courts of Victoria, Australia.

55. The Company may unilaterally amend these terms and conditions by publishing the amendments on the Company's website at www.brint.com.au. All contracts concluded by the Company and the Client after such publication shall be subject to the amended terms and conditions.