



Terms & Conditions



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STANDARD

Service & Supply Agreement

I.

Version 1.2 | Issued: 6th of June 2021

Terms and Conditions

General Terms

1. Introduction and Definitions

1.1 These general terms and conditions ("General Terms") sets out the general terms and conditions for the supply of Services by TIMG to the Client. Any supply of Services by TIMG to the client made after the date of acceptance of these general terms and conditions is a supply pursuant to the supply agreement constituted by these general terms and conditions and the relevant order placed by the Client and any such supply does not give rise to a new or separate agreement.

1.2 In this Agreement:

- [1] Agreement means these General Terms.
- [2] Business Day means a day that is not a Saturday, Sunday or any other day which is a public holiday or a bank holiday in the place where an act is to be performed or a payment is to be made. Charges means the fees and other amounts to be charged to the Client by TIMG for the provision of the Services, as set out in TIMG's most recent price list (or as otherwise advised by TIMG) and includes any fuel surcharge payable under clause 7 or other amount payable under the General Terms.
- [3] Client means the person or organisation to or from whom the Services are to be supplied to by TIMG. Commencement Date means the date on which the Client accepts these General Terms or the date on which Goods or Services are first supplied by TIMG.
- [4] Consequential loss means any indirect or consequential loss or damage, including loss of revenue, loss of profit or anticipated profit, loss of business, loss of business reputation, loss of opportunities, loss of anticipated savings, wasted overheads, damage to goodwill, loss of data or other information, loss of production or business interruptions of any nature. CSD Form means the Client Security Details Form to be provided by TIMG that is required to be filled out by the Client and returned to TIMG upon acceptance and execution of this Agreement.
- [5] Encryption Key means the pass phrase used and created by the Client to encrypt the data stored with TIMG. TIMG has no access to the pass phrase. Encumbrances means, in relation to any property:
 - [a] a security interest as defined in the Personal Property Securities Act 2009 (Cth);
 - [b] a mortgage, charge, encumbrance, pledge, lien or other security over the property;
 - [c] a preferential interest, title retention, or other estate, interest, claim or arrangement affecting the property; or
 - [d] an agreement to grant, create, allow or register any of these, and whether the encumbrance is registered or unregistered, statutory, legal or equitable.
- [6] Force Majeure Event means any event outside the reasonable control of the Company including acts of God, war, riots, strikes, lock outs, trade disputes, break downs, mechanical failures, interruptions of transport, government action, pandemic, epidemic, or any other cause whatsoever, whether or not of a like nature to those specified herein
- [7] Goods means the goods sold or supplied to the Client by TIMG. Loss means any costs (including legal costs), losses, damages, and expenses (including those arising out of the terms of any settlement), whether present or future, fixed or unascertained, actual or contingent.
- [8] Intellectual Property Rights means all intellectual property and industrial rights of any description including without limitation all rights conferred by statute, common law or equity (whether or not registered or registrable and including all applications for registration) in relation to inventions (including patents), trade marks, trade and business names, designs, copyright, circuit layout rights, trade secrets, know-how, moral rights and confidential information and all other rights of a proprietary nature created in any part of the world as a result of intellectual activity in the industrial, scientific, literary and artistic fields. Records means the material of the Client provided to TIMG, whether in hard or soft copy form
- [9] Services means the supply of any goods and/or services by TIMG to the Client from time to time. Term means the period of 24 months from the Commencement Date or such other term the parties may agree to in writing.
- [10] TIMG means The Information Management Group Pty Ltd ABN 52 079 782 666. Wait Fee means the fee of \$45.00 Plus GST per hour (or part thereof) spent waiting to load or unload at the Client's premises

2. Services

- 2.1. TIMG will provide the Services at the reasonable request of the Client on Business Days at the times as agreed to by the parties, or in the absence of agreement, as determined by TIMG in its absolute discretion. TIMG may provide the Client with such Services outside of those specified times (including emergency return of, or access to the Records) as agreed between the Client and TIMG and subject to the Client agreeing to pay any additional charges invoiced by TIMG in respect of such Services.
- 2.2. TIMG agrees, when providing the Services, to take all reasonable steps to keep the Records confidential and in its possession or control, except where TIMG is required by the Client or by law or any court or government authority to do otherwise.
- 2.3. TIMG will:
- (1) perform and provide the Services in a proper and professional manner and in accordance with good industry practice;
 - (2) use suitably controlled and protected premises to store the Records; and
 - (3) take reasonable precautions to protect the Records against theft or damage by fire or storm.
- 2.4. Without limiting clause 6, the Client agrees to pay the applicable Charges or other fees in connection with any requirement for TIMG to deal with the Records in a particular manner, as required by law including by a court or other government authority. Such Charges or other fees will be payable by the Client in accordance with:
- (1) by TIMG's rates as specified by TIMG at the date of dealing with the Records in such a manner; or
 - (2) where there is not a Charge or other fee specified in this Agreement for doing so, at TIMG's then current rate, or as otherwise reasonably determined by TIMG; or
 - (3) other rates as may be agreed by TIMG and the Client prior to the delivery of any Goods or the provision of any Services.
- 2.5. As part of the provision of the Services to the Client (and where applicable), TIMG will require the Client, after acceptance and execution of this Agreement, to properly fill out and return to TIMG the CSD Form.
- 2.6. The Client agrees and acknowledges that the processes, marketing, description of the Services, standard operating procedures, use of technology

and pricing methodologies relating to the Services, and also these General Terms are proprietary to TIMG. Such information made available to the Client is confidential and may only be used for the purpose it is provided for, and may not be disclosed to any third party without the prior written consent of TIMG.

3. Term

- 3.1. This Agreement commences on the Commencement Date and continues for the duration of the Term, unless terminated earlier. This Agreement will automatically renew for further successive periods equal to the length of the Term (each, a Renewal Term), commencing at the end of the then current Term or Renewal Term unless:
- (1) either party provides the other party with written notice no less than 60 days prior to the end of the then current Term or Renewal Term, terminating this Agreement at the end of the Term or Renewal Term (as the case may be); or
 - (2) this Agreement has been earlier terminated in accordance with this Agreement.
- 3.2. In the event that the Client is a "Consumer" or a "Small Business" for the purposes of the Australian Consumer Law, clause 3.1 above shall not apply to the supply of Services to the Client by TIMG.

4. Termination

- 4.1. TIMG may by written notice to the Client immediately terminate this Agreement if:
- (1) the Client breaches any of the terms of this Agreement and, if the breach is capable of remedy, fails to remedy the breach within 10 Business Days after receiving a written notice from TIMG requiring the Client to do so; or
 - (2) unless prevented from doing so by the operation of law, an event of insolvency, bankruptcy, administration, receivership, liquidation or compromise of the Client or any other analogous event in relation to the Client has occurred.
- 4.2. The Client may terminate this Agreement by giving written notice of such termination at any time within 30 days of TIMG increasing the Charges under clause 6.3, except that the Client may not terminate this Agreement where any increase is pursuant to clause 6.4(2).
- 4.3. On termination of this Agreement for any reason including expiration, the Client must pay, prior to the retrieval or destruction of any Records:
- (1) all Charges including all outstanding Charges incurred to the date of termination or

expiration due in respect of those Records, and any Charges or other amounts which accrue in respect of those Records from the date of termination or expiration until such time as those Records are returned, collected or destroyed; and

- (2) any amounts for the permanent retrieval of each Record, in addition to any other Charges normally paid for transport and handling of the Records.

4.4. On termination of this Agreement, subject to TIMG's rights under clause 6.5, the Client must immediately [and no later than 15 Business Days after termination] collect or authorise the destruction of all of its Records. If the Client has not collected or authorised destruction of the Records within 15 Business Days or the Client fails to comply with this Agreement, TIMG may at its discretion and at the Client's expense:

- (1) return the Records to the Client at the last known address for the Client; or
- (2) if it is reasonably impractical for TIMG to return the records to the Client due to any action or inaction on the part of the Client, destroy any Records of the Client, in which case the Client will be deemed to have authorised the destruction of such Records. Prior to any such return or destruction, TIMG may continue to store any Records of the Client at the Client's expense [at the then applicable Charges for such storage] for such period as TIMG determines in its sole discretion. The continuing storage of any Records by TIMG after termination of this Agreement does not derogate from TIMG's rights to subsequently return or destroy those Records under this clause 4.4.

4.5. Termination does not extinguish or otherwise affect:

- (1) any rights which have accrued prior to the time of termination, including TIMG's right to be paid for all Services supplied up to the termination date, including any Charges and any interest payable; or
- (2) those terms and conditions which are expressed to, or which by their nature or context are intended by the parties to, survive termination.

4.6. For the purpose of clause 4.5(2), the parties agree that this clause 4.6 and clauses 4.3, 4.4, 4.5, 5, 6, 7, 8, 9, 10, 11, 14, 15, 17, 19, and 21 will survive the termination of this Agreement.

5. Transport of Records

5.1. Where the Records are transported, the Client agrees that the Records will be deemed to be delivered in accordance with this Agreement upon the signing of an acknowledgement of receipt [whether in hard or soft copy form]:

- (1) by the Client or its representative;
- (2) where the Records are delivered to the address detailed on any instruction note, any person at that address [who will be deemed to be authorised by the Client to receive the Records]; or
- (3) where the Records are delivered to an alternative address [at the instructions of the Client or its representative], any person who is at the alternative address [who will be deemed to be authorised by the Client to receive the Records].

5.2. The Client agrees that such an acknowledgement of receipt under clause 5.1 constitutes conclusive evidence of the delivery of the Records described in the receipt and of the date and time of such delivery.

5.3. If the nominated place of delivery is unattended, or if delivery cannot otherwise be effected by TIMG, the Client must pay TIMG:

- (1) the Charge for the cost of re- delivery of the Records; or
- (2) where there is not a Charge or other fee specified in this Agreement for the re- delivery of Records, at TIMG's then current rate for doing so, or as otherwise reasonably determined by TIMG.

5.4. The Client must pay to TIMG all expenses incurred by TIMG, arising from any delay in excess of 30 minutes in loading or unloading of the Records, including the Wait Fee, for any delivery vehicle and the appropriate number of operators, or at such other rate notified by TIMG in writing from time to time.

5.5. The Client agrees that TIMG is not a common carrier and TIMG accepts no liability as such and reserves the right, in its sole discretion, to refuse to transport or store any Records.

6. Payment and Charges

6.1. The Client must pay the Charges for the Services provided to the Client, as well as any other costs, fees, expenses or other amounts associated with the provision of the Services, or otherwise in relation to the Records, within 14 days of the date of invoice issued by TIMG.

- 6.2. All amounts payable by the Client to TIMG under this Agreement must be paid without set-off or counterclaim of any kind.
- 6.3. At any time during the Term or any Renewal Term, TIMG may vary the Charges by giving at least 60 days prior written notice to the Client. Unless this Agreement is terminated in accordance with clause 4.2, the variation will take effect on the date specified in the notice.
- 6.4. Without limiting clause 6.3, TIMG may, with effect from 1 July [Adjustment Date] of every year during the Term or any Renewal Term, adjust the Charges without giving written notice to the Client, provided that TIMG may only adjust the Charges:
- (1) Up to the maximum amount calculated in accordance with clause 6.6; and
 - (2) if the Adjustment Date is on or after the first anniversary of the Commencement Date.
- 6.5. The maximum adjustment to the Charges under clause 6.4 is calculated by application of the following formula:

$$A = B \times (1+C)$$

Where A is the maximum adjusted charge (the new charge); B is the amount applicable immediately after the date of the last adjustment or, in the case of the first adjustment, the original amount; C is the most recent Consumer Price Index [All Groups: Weighted Average of Eight Capital Cities] [Index] published by the Australian Bureau of Statistics within 45 days of the Adjustment Date.

- 6.6. For the purposes of clause 6.6, if the reference base of the index is amended, then at the next Adjustment Date, must be adjusted arithmetically so as to be comparable with C as though each had the same reference base.
- 6.7. TIMG is under no obligation to return or destroy any Records until the Client has paid all Charges, and any other outstanding amounts in full (including any permanent retrieval charges and any interest owing). In addition to any other rights of TIMG, the Records collected and stored by TIMG are subject to:
- (1) any lien available to TIMG under any law or statute; and
 - (2) a general lien at common law over the Records for all Charges (together with any other fees or interest, if applicable) currently or subsequently due to TIMG by the Client.
- 6.8. Without limiting clause 9, if the Client fails to make payment of any amount payable to TIMG under clause 6.1, then:

- (1) TIMG may give the Client a notice in writing that it will destroy the Records that it holds unless such amount is paid within 90 days; and

- 6.9. If the Client does not pay the outstanding amount in full (including any interest payable under clause 9) within 90 days of the date of the notice given under clause 6.9(1), then TIMG is entitled to destroy the Records. Where TIMG destroys any of the Client's Records for failure to pay amounts outstanding in accordance with clause 6.9(2), the Client releases TIMG, its directors, officers, employees, agents and subcontractors from all sums of money, accounts, claims, actions, proceedings, demands and expenses which the Client at any time had, may have had or has against TIMG and its directors, officers, employees, agents and subcontractors (or any of them) for or by reason or in respect of any such destruction of Records.

7. Fuel Surcharge

This clause 7 applies where the Records are transported to and from the Client.

- 7.1. If the Fuel Price for any calendar month is at least 10% more than the Base Fuel Price, TIMG may charge the Fuel Surcharge (in addition to its listed charges) in respect of each delivery or pickup at a Relevant Address during such calendar month by issuing a further Tax Invoice within 30 days after the end of such month.
- 7.2. For the purpose of clauses 7.1 to 7.2:
- (1) Base Fuel Price or BFP is the Australian Institute of Petroleum average unleaded fuel price for the Capital City for the calendar month in which the Commencement Date falls as specified at <http://www.aip.com.au/pricing/tgp/index.htm> [exclusive of GST and inclusive of the diesel fuel grant];
 - (2) Capital City means nearest capital city to the Relevant Address of the Client;
 - (3) Fuel Price is the Australian Institute of Petroleum average unleaded petrol fuel price for the Capital City as specified at <http://www.aip.com.au/pricing/tgp/index.htm> [inclusive of GST and inclusive of any fuel grant] for the relevant month;
 - (4) Fuel Surcharge, exclusive of GST = $[(\text{Fuel Price} - \text{BFP}) / \text{BFP}] \times Y$ Where:
Y = [the kilometres from TIMG's facility to the Client's Relevant Address / 8] x BFP x 2; and
 - (5) Relevant Address means the address where TIMG picks up any Records from or delivers any Records to.

8. Goods and Services Tax

8.1. If GST [as defined in the A New Tax System (Goods and Services Tax) Act 1999 [Cth] and as amended] is payable on any supply, under or in connection with this Agreement:

- (1) the consideration payable by the Client for such supply is the amount otherwise payable for that supply plus the GST payable on that supply;
- (2) the Client must pay to TIMG the GST payable on such supply at the same time any other amount otherwise payable for that supply is due; and TIMG must provide a valid Tax Invoice to the Client in respect of such supply.

9. Payment defaults

9.1. If the Client fails to pay an invoice issued under clause 6.1 by the due date for payment, the Client must pay interest at the Bank Rate determined under clause 9.2 on any outstanding amount, calculated and payable daily, and computed from the due date until the outstanding amount [together with all interest that is payable] is paid in full.

9.2. For the purpose of clause 9.1.:

- (1) Bank Rate means:
 - (a) The per annum interest rate charged by TIMG's bank on TIMG's overdraft account plus 2%; or
 - (b) if TIMG does not have an overdraft account, the per annum overdraft interest rate charged by the bank with which a Freightways company has an overdraft account plus 2%;
- (2) if the Bank Rate is higher than the rate referred to in clause 9.2(3), then:
 - (a) TIMG must notify the Client in writing of that fact; and
 - (b) the applicable rate will be the Bank Rate; and
- (3) if clause 9.2(1) does not apply, the applicable rate of interest will be 8% per annum.

10. Records

10.1. TIMG has no, and will not be deemed to have any, knowledge of the Records for the purposes of the provision of the Services.

10.2. The Client must ensure that the Records are acceptable and suitable for storage and transport, including ensuring that the Records are appropriately boxed, packed, and labelled. TIMG may:

- (1) refuse to provide any Services in respect of any Records for whatever reason,

including a determination by TIMG that it is not suitable or not appropriate to provide the Services in respect of such Records; or

- (2) at the client's expense, re-box, re-package or re-label to TIMG's standards, any Records which, in the reasonable opinion of TIMG, are inappropriately or unsuitably boxed, packaged or labelled.

10.3. Each time that the Client provides to TIMG, arranges the pickup of, or otherwise gives up possession of any Records to TIMG, the Client warrants to TIMG that:

- (1) the Client is the sole owner, or is entitled to unconditional possession, of the Records and has full power and authority to deal with the Records;
- (2) that the Records are free from any Encumbrances or claims of any third party;
- (3) the representative providing the Records to TIMG is authorised to do so, and to sign any document on behalf of the Client, and the Client or its representatives have accurately and fully provided, and will accurately and fully provide, all information requested by TIMG;
- (4) the Records are not of a nature that requires highly secure or specialized storage beyond the agreed Services, and do not include documents or instruments of value, documents evidencing title to, or an interest in, real or personal property, cash, jewellery, gems, precious metals or other similar valuable items;
- (5) the Records [including any packaging] comply with the requirements of any applicable law or code, including rules and standards of TIMG as notified to the Client; and the Records do not comprise explosive, flammable, volatile, radioactive, offensive or dangerous goods, including, without limitation, dangerous goods within the meaning of any applicable legislation or any applicable codes;
- (6) the Records are not of a nature which is liable to damage any property owned by TIMG, or any other person. If, in TIMG's absolute discretion, the Records are

- of such a nature, TIMG may, without prejudice to any other rights, destroy or render them harmless without compensation to the Client; and
- [7] the provision of the Services by TIMG does not and will not give rise to a breach by the Client of any agreement, infringe the Intellectual Property Rights of any third party or infringe or contravene any law.

11. Supply of Goods

This clause applies where TIMG supplies Goods to the Client as part of the Services.

11.1. Order for Goods

- [1] An order given to TIMG is binding on TIMG and the Client,
- [a] if a written acceptance is signed for or on behalf of TIMG;
- [b] the Goods are supplied by TIMG in accordance with the order.
- [2] The placing of an order with TIMG shall be deemed to be an acceptance of the General Terms the Client, and the General Terms will override and supersede any conditions contained in the Client's order.
- [3] TIMG reserves the right to accept a part of, but not an entire, order placed by the Client by notifying the Client in writing or by delivering the Goods to the Client. No order is binding on TIMG until such time it is accepted by TIMG.

11.2. An order that has been accepted in whole or in part by TIMG, cannot be cancelled by the Client without obtaining the prior written approval of TIMG, which it may refuse in its absolute discretion.

- [1] The times quoted on the order for delivery of the Goods are estimated times only, and TIMG accepts no liability for the failure of or delay in the delivery of the Goods. The Client is not released from any obligations to accept or pay for Goods by reason of any delay in delivery of the Goods.

11.3. The Goods may be delivered by instalments at the sole discretion of TIMG.

- [1] Ownership, title and property of the Goods remains with TIMG until payment in full for the Goods and all sums due and owing by the Client to TIMG on any

account have been made. Until the date of payment:

- [a] the Client has the right to sell the Goods in the ordinary course of the Client's business;
- [b] until the Goods have been sold by the Client in the ordinary course of the Client's business, the Client holds the Goods as bailee for TIMG;
- [c] the Goods are always at the risk of the Client.

[2] The Client is deemed to be in default immediately upon the happening of any of the following events:

- [a] if any payment to TIMG is not made promptly by the due date for payment;
- [b] if the Client ceases to carry on business, or stops or suspends payment, or states its intention of so doing, or is unable to pay its debts as they fall due, or if any cheque or bill of exchange drawn by the Client and payable to TIMG is dishonoured.

[3] In the event of a default by the Client, then without prejudice to any other rights which TIMG may have at law or under this contract:

- [a] TIMG or its agents may without notice to the Client enter the Client's premises under the control of the Client for the purposes of recovering the Goods;
- [b] TIMG may recover and resell the Goods;
- [c] If the Goods cannot be distinguished from similar Goods which the client has or claims to have paid for in full, TIMG may in its absolute discretion seize all Goods matching the description of the Goods and hold same for a reasonable period so that the respective claims of TIMG and the Client may be ascertained. TIMG must promptly return to the Client any Goods that are ascertained to be the property of the Client, and TIMG is in no way liable or responsible for any Loss to the

- Goods or for any loss, damage or destruction to the Client's business howsoever arising from the seizure of the Goods.
- (d) In the event that the Client uses the Goods in some manufacturing or construction process of its own or some third party, then the Client must hold such part of the proceeds of sale of such manufacturing or construction process as relates to the Goods in trust for TIMG. Such part will be an amount equal in dollar terms to the amount owing by the Client to TIMG, at the time of the receipt of such proceeds. The Client will pay TIMG such funds held in trust upon the demand of TIMG.

12 Offsite Data Management

This clause applies where TIMG provides offsite data management services to the Client.

12.1. Encryption Key and Password Security

- (1) The Client agrees to keep any Encryption Key and any associated passwords provided by TIMG secure and confidential.
- (2) TIMG is entitled to assume that anyone who accesses the Client's account or service using the Client's password is authorised by the Client to do so.

12.2. Third Party Software Licenses

- (1) The Client agrees to comply with all license terms of all software supplied by, or used in conjunction with, either directly or indirectly, the Services.

12.3. Encryption of Electronic Data

- (1) The software provided by TIMG must be used by the Client to ensure data is encrypted and compressed in size prior to being transmitted to TIMG's storage facility, to enable the data to be transferred via broadband internet to TIMG.
- (2) The Client agrees to acquire the software required to carry out such encryption and compression.
- (3) The Client agrees and acknowledges that under no circumstances is TIMG responsible or liable for the operation of such encryption and compression software.

12.4. Data Recovery After Termination

- (1) After the Service is terminated, TIMG is not responsible or liable for storing or retaining the Client's data.
- (2) It is the sole responsibility of the Client to copy and download any data that it requires, before the termination of the Services.
- (3) Any item permanently removed from TIMG storage incurs permanent retrieval fee.

12.5. Intellectual Property

- (1) In relation to any intellectual property that the Client creates, modifies, stores, copies or transmits using the Services:
- (a) The Client warrants to TIMG that it has the authority to create, modify, store, copy and/or transmit any and all intellectual property that it creates, modifies, stores, copies and/or transmits when using the Services.
- (b) The Client will indemnify and hold harmless TIMG against any and all breaches of the warranty provided in clause 12.5(1)(a) and against any claim or demand by a third party that its rights have been breached.
- (c) If a third party claims that, or TIMG reasonably believes that there may be a breach of the warranty in clause 12.5(1)(a), TIMG is not obliged to provide the Services to the Client until the issue has been resolved to the reasonable satisfaction of TIMG.
- (d) No Intellectual Property Rights transfer from TIMG to the client as a result of this Agreement or through the provision of the Services.

12.6. Suspension of Services

- (1) TIMG may suspend the Services immediately where:
- (a) it is entitled to terminate under clause 4 but elects to suspend instead;
- (b) there is a planned outage of the Services for operational and/or maintenance reasons;

- (c) it is necessary to do so for unscheduled repair, maintenance or service of
 - (2) TIMG will end a suspension of the Services as soon as reasonably practicable after the event or circumstance giving rise to the suspension has ended.
 - (3) Except to the extent that the event caused by the negligent or wrongful act or omission of the person seeking to be released, the Client release TIMG from and agrees that TIMG is not liable for, liability or loss arising from, and costs incurred in connection with, damage or loss as a result of the Services being suspended.
- 12.7. Termination of Offsite Data Management Services
 - (1) Notwithstanding TIMG's rights to terminate this Agreement under clause 4, the Client agrees and acknowledges that TIMG may terminate the Services immediately where:
 - (a) it is necessary as a result of a force majeure event;
 - (b) TIMG has suspended the Service in accordance with clause 12.6, and such suspension is not lifted within 14 days from the date on which the Service was suspended;
 - (c) TIMG, acting reasonably, suspects that there has been fraudulent or illegal use of the Services;
 - (d) TIMG reasonably believes that the Client is jeopardising the operation or quality of TIMG's systems, or the Services that TIMG supplies to other Clients; and
 - (e) the Client becomes, or is deemed by TIMG to be, an unacceptable credit risk.

13. Exclusion of Warranties

- 13.1. To the maximum extent permitted by law, TIMG excludes all representations, warranties, conditions, consumer guarantees and undertakings in respect of the supply of any Goods or Services (including any software) other than as expressly set out in this Agreement.
- 13.2. Nothing in this Agreement excludes or limits the application of the provisions of any statute (including the Competition and Consumer Act 2010 [Cth]), where to do so would contravene that statute or cause any part of this Agreement to be void or voidable.
- 13.3. To the fullest extent permitted by law, liability under any condition or warranty or consumer guarantee which cannot legally be excluded or which is expressly included in this Agreement is, at the option of TIMG, limited to, in the case of Goods, replacement of the Goods or the supply of equivalent Goods, the repair of the Goods, the payment of the cost of replacing the Goods or of acquiring equivalent Goods, or the payment of the cost of having the Goods repaired, and, in the case of Services, supplying the Services again or paying the cost of having the Services supplied again.
- 13.4. In the event that the Client is a "Consumer" for the purposes of the Australian Consumer Law, the following provisions apply:
 - (1) For Goods: Our goods come with guarantees that cannot be excluded under the Australian Consumer Law. You are entitled to a replacement or refund for a major failure and compensation for any other reasonably foreseeable loss or damage. You are also entitled to have the goods repaired or replaced if the goods fail to be of acceptable quality and the failure does not amount to a major failure.
 - (2) For services: Our services come with guarantees that cannot be excluded under the Australian Consumer Law. For major failures with the service, you are entitled:
 - (a) To cancel your service contract with us; and
 - (b) To a refund for the unused portion, or to compensation for its reduced value. You are also entitled to be compensated for any other reasonably foreseeable loss or damage. If the failure does not amount to a major failure, you are entitled to have problems with the service rectified in a reasonable time and, if this is not done, to cancel your contract and obtain a refund for the unused portion of the contract.

14. Limitation on Liability

- 14.1. Nothing in this Agreement limits or excludes the liability of TIMG for death or personal injury caused by the negligence of TIMG
- 14.2. Subject to clause 14.1, to the fullest extent permitted by law, the aggregate liability of TIMG to the Client in respect of any one incident or series of related incidents relating to this Agreement or the provision of the Services or the Records, and whether arising in contract, tort (including negligence), under legislation or in any other way, is limited to the lesser amount of:
- (1) the amount paid or payable by the Client to TIMG in the 12 months preceding the date in which the incident occurred, where such loss or damage is a result of, or related to, the act or omission of the Client or any other third party; or
 - (2) any amounts recovered by TIMG under any insurance policy required to be effected by TIMG under this Agreement.
- 14.3. Subject to clause 14.1, to the fullest extent permitted by law, TIMG is not liable to the Client for:
- (1) any Consequential Loss; or
 - (2) Loss to the Records, where such Loss is a result of, or related to, the act or omission of the Client or any other third party.

15. Indemnification

- 15.1. In addition to any express indemnities stated under this Agreement, the Client agrees to indemnify, defend, release and hold harmless TIMG and each of its respective directors, employees and representatives from and against any and all Loss suffered, incurred or sustained by TIMG arising as a result or in connection with any action, claim or proceeding by a third party against TIMG arising as a result of or in connection with or relating to:
- (1) the Client's violation or breach of any term, condition, representation or warranty under the terms of this Agreement;
 - (2) any breach or violation of a warranty given by the Client in clause 10.3;
 - (3) the destruction of Records as set out in clause 4.4, clause 6.9 and clause 6.10 of this Agreement, including but not limited to in connection with such destruction of Records causing the Client to be in breach of any law,

regulation or other binding requirement to retain any Records for any particular period; or

- (4) the Client's infringement or misappropriation of any third party's rights, including any Intellectual Property Rights or any misrepresentation by the Client in connection with this Agreement.

- 15.2. The liability of the Client under clause 15.1 to TIMG for any Loss will be reduced to the extent that TIMG's breaches of this Agreement or unlawful or negligent act caused to that Loss.

16. Personal Property Securities Act 2009 ('PPSA')

- 16.1. Defined terms in this clause 16 have the same meaning as given to them in the PPSA.
- 16.2. TIMG and the Client acknowledge that this Agreement constitutes a Security Agreement and gives rise to a Purchase Money Security Interest ['PMSI'] in favour of TIMG over the Collateral supplied to or to be supplied to the Client pursuant to this Agreement.
- 16.3. The Services supplied or to be supplied under this Agreement fall within the PPSA classification of 'Other Goods' acquired by the Client pursuant to this Agreement.
- 16.4. TIMG and Client acknowledge that TIMG as a Secured Party, is entitled to register its Security Interest in the Collateral supplied or to be supplied to the Client, as Grantor under this Agreement on the PPSA Register as Collateral.
- 16.5. To the extent permissible at law, the Client:
- (1) waives its right to receive notification of or a copy of any Verification Statement confirming registration of a Financing Statement or a Financing Change Statement relating to a Security Interest granted by the Client as Grantor to TIMG;
 - (2) agrees to indemnify TIMG on demand for all costs and expenses, including legal costs and expenses on a solicitor / client basis associated with the;
 - (a) registration or amendment or discharge of any Financing Statement registered by or on behalf of TIMG;
 - (b) enforcement or attempted enforcement of any Security Interest granted to TIMG by the Client.

- [3] agrees that nothing in sections 130 and 143 of the PPSA will apply to this Agreement or the Security under this Agreement.
- [4] agrees to waive its right to do any of the following under the PPSA:
 - [a] receive notice of removal of an Accession under section 95;
 - [b] receive notice of an intention to seize Collateral under section 123;
 - [c] object to the purchase of the Collateral by the Secured Party under section 129;
 - [d] receive notice of disposal of Collateral under section 130;
 - [e] receive a Statement of Account if there is no disposal under section 132[4];
 - [f] receive a Statement of Account under section 132[3][d] following a disposal showing the amounts paid to other Secured Parties and whether Security Interests held by other Secured Parties have been discharged;
 - [g] receive notice of retention of Collateral under section 135;
 - [h] redeem the Collateral under section 142; and
 - [i] reinstate the Security Agreement under section 143.

17. Insurance

All Services in respect of the Records are provided at the risk of the Client. Notwithstanding TIMG's undertaking and maintenance of its own insurances, the Client is responsible for appropriately insuring the Records, including insuring against Loss to the Records as a result of fire, theft or any other cause.

18. Dispute Resolution

- 18.1 If any dispute arises under or in connection with this Agreement [Dispute] which Dispute is not able to be resolved by the parties within 14 days, the nominated senior officer [or equivalent] of each of TIMG [on the one hand] and the Client [on the other hand] will promptly meet and discuss in good faith with a view to resolving such Dispute within 30 days.
- 18.2 If any Dispute is unable to be resolved in accordance with clause 18.1 within 14 days, the parties agree to endeavour in good faith to settle

the Dispute by mediation administered by the Australian Commercial Disputes Centre [ACDC] before having recourse to arbitration or litigation.

- 18.3. The mediation will be conducted in accordance with the mediation guidelines of ACDC [Guidelines] which set out the procedures to be adopted, the process of selection of the mediator and the costs involved and the terms of those Guidelines are incorporated in this Agreement.
- 18.4. If the parties fail to settle any Dispute in accordance with clause 18.2, either party may commence proceedings in a court of law.
- 18.5. The parties to a Dispute will continue to perform their respective obligations under this Agreement, pending the resolution of a Dispute under this clause 18. Nothing in this clause 18 is to be taken as preventing any party from seeking urgent interlocutory relief.

19. Subcontractors and Assignment

- 19.1. TIMG may, without any need to seek the prior consent of the Client, arrange for the provision of any or all of the Services by any subcontractor engaged by TIMG.
- 19.2. The parties must not assign any of their rights or obligations under this Agreement without the written consent of the other party, such consent not to be unreasonably withheld or delayed.

20. Notices

- 20.1. Subject to clause 20.3, any notice or other communication in connection with this Agreement must be in writing and delivered or sent by prepaid post or by email to the address of the receiving party.
- 20.2. A notice or other communication is taken to be received:
 - [1] in the case of post, on the next Business Day after posting; or
 - [2] in the case of email, unless the sender receives a delivery failure notice from its or the recipients' server, where the email is sent before 5:00pm on a Business Day, on the day that the email is sent and in all other cases, on the following Business Day.
- 20.3. A notice of a breach of, or the termination of, this Agreement may not be given by email.

21. General

- 21.1. These General Terms:
 - [1] contain the entire agreement and understanding between the Client and

- TIMG on everything connected with the subject matter of these General Terms; and
- (2) supersedes any prior agreement, correspondence, documentation or discussion on anything connected with that subject matter.
 - (3) apply to the exclusion of all other terms and conditions purportedly imposed upon TIMG by the Client or any person on behalf of the Client including any terms and conditions contained in any purchase order of the Client.
- 21.2 Where the Client is required to access any premises of TIMG, the Client must comply with all rules prescribed by TIMG from time to time in relation to the security of, and access to any premises of TIMG, including any requirements relating to the identification of the Client and their authorised agents.
- 21.3. The Client agrees that each exemption, limitation, condition and liberty contained in this Agreement and every right, exemption from liability, defense and immunity of whatever nature applicable to TIMG or to which TIMG is entitled under this Agreement will be available to and extend to protect all subcontractors of TIMG, every employee or agent of TIMG or of a subcontractor, every other person (other than TIMG) by whom the Services or any part of them are provided, and all persons who are or may be vicariously liable for the acts or omissions of those persons.
- 21.4. If TIMG is prevented from, or delayed in complying with any of the terms of this Agreement, by an event or circumstance beyond its reasonable control, performance by it of that obligation is suspended during the time compliance is so prevented or delayed.
- 21.5. If the Client consists of more than 1 person, this Agreement binds them jointly and each of them severally. If the Client is a trustee, this Agreement binds the Client both personally and in its capacity as trustee. This Agreement binds the Client's executors, administrators, successors, substitutes and permitted assigns.
- 21.6. Subject to clauses 6.3 and 6.4, this Agreement may not be varied except by a document signed by the Client and TIMG.
- 21.7. Each party must pay its own costs and outlays connected with the negotiation, preparation and execution of this Agreement.
- 21.8. TIMG's failure or delay to exercise a power or right does not operate as a waiver of that power or right. The exercise by TIMG of a power or right does not preclude its future exercise or the exercise of any other power or right. A waiver is not effective unless it is in writing. Waiver of a power or right is effective only in respect of the specific instance to which it relates and for the specific purpose for which it is given.
- 21.9. If any part of this Agreement is unenforceable, illegal or void then it is severed but the other terms and conditions remain operative.
- 21.10. This Agreement is governed by the laws in force in the State of New South Wales and both parties submit to the nonexclusive jurisdiction of the courts of that State.
- 21.11. If an act must be done on a specified day which is not a Business Day, it must be done instead on the next Business Day.
- 21.12. Unless the context otherwise requires:
- (1) A reference to money is in Australian dollars unless otherwise stated;
 - (2) A reference to a person includes a body corporate, firm, association and any other entity.
 - (3) The singular includes the plural and vice versa; and
 - (4) A reference to one gender includes all genders.



ECOMMERCE SITE

Terms & Conditions

II.

Version 1 | Issued: 6th of August 2021

Terms and Conditions

General Terms

1. Your Acceptance

- 1.1 This e-commerce site [<https://www.timg.com/shop/>] [the Site] is owned and operated by or on behalf of TIMG Pty Ltd ABN 52 079 782 666 and its related entities [referred to as TIMG, we, us or our].
- 1.2 By using or accessing this Site you acknowledge that you have read, understood, and agree to be bound by these Terms and Conditions.
- 1.3 We host and operate the Site from servers located within Australia. These Terms and Conditions are governed by the laws of the State of New South Wales, Australia. You and TIMG agree to submit to the exclusive jurisdiction of the courts of New South Wales. If you choose to access this site from another location, you are responsible for compliance with applicable local laws. I.LJ We may revise or amend these Terms and Conditions at any time at our absolute discretion. Any revisions will be effective immediately. By continuing to use this site after any revision becomes effective, you agree to be bound by these Terms and Conditions as so revised. You should visit this page periodically to ensure that you understand the Terms and Conditions to which you are bound.

2. Orders

- 2.1 By placing an order through our Site, you are making an offer and commitment to purchase products in accordance with these Terms and Conditions [Order]. Your Order is subject to acceptance or rejection at our discretion.
- 2.2 After placing an Order, you will receive an email confirming the details of your Order and receipt of payment [where applicable]. You may also receive further notification emails including:
 - (a) Requests to verify your payment;
 - (b) Notification that your Order has either been accepted or rejected;
 - (c) Notification that your Order is ready for collection, or has been dispatched;
 - (d) Any Communication from us regarding your Order;
- 2.3 Notwithstanding anything to the contrary, we may at any time following receipt of your Order accept, decline, or limit your Order for any reason whatsoever, whether or not your credit card has been charged or we have otherwise received payment from you. We will issue you with a refund if your credit card has been charged or we have

received payment from you, and your Order is cancelled by us.

- 2.4 Where possible, we may at our discretion permit an Order to be cancelled by you. An Order cannot be cancelled by you once it has been dispatched, or you have accepted delivery of the Order.
- 2.5 We do not accept Orders originating from outside Australia.

3. Registered Account

- 3.1 You can place an Order by registering an account or as a guest; you may be required to register an account to access certain features of the Site [Account].
- 3.2 By registering an Account and/or placing an Order as a guest, you warrant to us that you are at least 18 years of age and possess the legal authority to enter into, and use the Site in accordance with, these Terms and Conditions.
- 3.3 You agree to ensure that your registration details are true and accurate at all times, and you undertake to update your registration details from time to time when they change.
- 3.4 When registering your Account, you will nominate a password of your choice [Password]. You agree that you will not disclose, or permit disclosure of, the Password to any person. You will be fully responsible for all acts and omissions of any person who enters into a transaction using your Password, as if they were your own acts and omissions. We will not in any event be liable for any loss, damage, claims, costs, or expenses arising out of the use or misuse of the Password, and you will indemnify us against all loss, damage, claims, costs or demands in this regard.
- 3.5 You may change the Password at any time using the facility provided on the Site. You must immediately notify us of any Password which is lost, inoperable or used in an unauthorised manner.
- 3.6 You agree to be financially responsible for all of your use of the Site [as well as for use of your Account by others, whether or not authorised by you].

4. Payments

- 4.1 We accept online payments for Orders using VISA and MasterCard cards [debit or credit], or bank transfer. We do not accept cash on delivery. If you have an account and we have agreed to extend credit terms to you, you will be able to place Orders on account and pay in accordance with these credit terms.

- 4.2 A card surcharge on the value of the Order applies to all card transactions [1.3% for credit cards; [1.8%] for debit cards]. The card holder must be either the billing or shipping recipient.
- 4.3 Card transactions may be subject to further payment verification processes that may result in a delay to your order.
- 4.4 If we are unable to successfully process your credit card payment, or you are unable to verify payment for your Order, then we may reject your Order, or cancel it if it had been previously accepted.
- 4.5 You must not pay, or attempt to pay, for Orders through any fraudulent or unlawful means.
- 4.6 We will provide you with a receipt at time of credit card payment [where applicable] which specifies the total fees and charges for the products and services in your Order.
- 4.7 All transactions are processed in Australian Dollars [AUD].
- 4.8 TIMG is responsible for all payments made via the Site. This responsibility includes refunds, chargebacks, cancellations, and dispute resolution in accordance with these Terms and Conditions.

5. Pricing and Availability

- 5.1 All Prices are in Australian Dollars and are inclusive of goods and services tax. We may modify prices and product and service offerings at our discretion for any reason at any time.
- 5.2 If there is an error on our Site including but not limited to a product listed at an incorrect price or with incorrect specifications, we maintain the right to accept, decline, or limit any Orders placed as per clause 2.3.
- 5.3 Any information we provide in relation to the availability of products is a guide only and is subject to change without notice. We will not be liable for any lack of availability of products that you may order through the Site.

6. Delivery

- 6.1 We may deliver your Order ourselves or utilise a number of third-party couriers to deliver your Order based on your location [Couriers]. Shipping and delivery of Orders will be in accordance with the delivery terms of us or the Couriers [as applicable]; www.timg.com/timg-terms-and-conditions. You are not able to collect Orders from our premises.
- 6.2 You must provide a physical delivery address where someone is likely to be available to accept the delivery of your Order during business hours. You

may be required by the Couriers to provide proof of identification for verification checks, in accordance with their delivery terms.

- 6.3 Shipping costs are generally influenced by the weight of the products in your Order and your location. You can see the pricing on the available shipping options by entering your post code into the freight calculator. This calculator appears on the lower half of the screen when you add items to your cart. Shipping costs for any cabinets and compactus will be quoted separately for the relevant individual item.
- 6.4 We aim to dispatch all Orders, where products are in stock, within 1-3 business days. Custom products that are built-to-order may take up to 6 weeks to be assembled and dispatched. If for any reason we are unable to dispatch your Order, we will notify you within 2 business days. Shipping times are estimated at between 1-7 business days depending on your location within Australia but are subject to the delivery terms of us or the Couriers [as applicable].

7. Risk and Title

- 7.1 Title to the products in your Order passes to you upon delivery. All risk of loss or damage to the products in your Order passes to you when we despatch the products.
- 7.2 You accept all risk of loss or damage to the products in transit to or from our premises for the purposes of returning or exchanging a product.

8. Returns and Refunds

- 8.1 If you have changed your mind regarding an Order, you may return the product to us within 30 days of your receipt of the Order for an exchange or store credit, provided the following conditions are met
 - (a) The product has not been opened and seals intact [where applicable].
 - (b) The product is not
 - a special-order product [Product is not "In stock at Supplier" status and is stocked by TIMG]
 - Ex-demo products
 - Open box products
 - Clearance products
 - Products with a "Price Markdown" label
 - Products with a "No Return basis" label
 - Products specially ordered for you [custom products]
 - Product listed on the packing slip or invoice as "No Return"

PLEASE NOTE: TIMG may reject the return upon inspecting the condition of the products and will return the products to the customer at the customer's expense. Any items that, because of customer negligence, misuse or tempering are, damaged, or missing parts will not be accepted for return.

- 8.2 All "change of mind" returns: not meeting the above criteria will be at TIMG's discretion; and if accepted will attract a restocking fee of 20% of the price of the relevant product.

PLEASE NOTE: Shipping and payment fees are not refundable. Return postage fee is the responsibility of the buyer; alternatively, we can pick up products for return and will quote the applicable fees for pick up on enquiry. Furthermore, if a product is deemed "No Fault Found" for any warranty/consumer claim, a service fee of \$% will apply.

- 8.3 To return a product you must

- [a] Contact our Online Service Team and request a Return Material Authorisation [RMA] number. They will review your request and at their discretion, issue you an RMA number.
- [b] Send us the product safely and securely with the RMA number on the outside of the package. We will process your return claim in accordance with our warranty policy.

- 8.4 By issuing you with an RMA number, we are not representing that your warranty claim is valid or that you will be entitled to have your product repaired or replaced, or a refund provided in relation to that product.

- 8.5 In order to obtain a refund, exchange or to repair a product purchased from us, including those products which carry a manufacturer's warranty, you must have clear proof of purchase; typically, a receipt or invoice.

9. Content

- 9.1 All intellectual property rights [including copyright and patents] in the information, comment, content, communication, advice, text, training materials, trademarks, logos, service names and trade names of TIMG, images of people or places or other content [Content] contained in the Site are owned or licensed by TIMG.
- 9.2 The Content on the Site is for general information purposes only. We do not warrant or make any representations as to any third-party products or services described or referred to on the Site. Any use of the Content by another person or organisation is at the user's own risk.

- 9.3 The Content on the Site is obtained and developed from a variety of sources including but not limited to collaborations with third parties and information provided by third parties under licence. Inclusion of Content on the Site is not an endorsement of any organisation, product, or service.

- 9.4 We may modify any information on the Site [including Content] at our discretion for any reason.

10. Prohibited uses

- 10.1 Unless expressly permitted by and in accordance with these Terms, you agree that in accessing and using the Site, you will not:
- [a] download [other than page caching] or modify the Site or any portion of the Site;
 - [b] impersonate or falsely claim to represent a person or organisation;
 - [c] frame the Site without our express written permission; or
 - [d] post, link to, or otherwise communicate or distribute any inappropriate, profane, defamatory, infringing, obscene, indecent or unlawful material or information, or otherwise use the Site in a manner which is unlawful or would infringe the rights of another person including any intellectual property rights.

11. Hyperlinks

- 11.1 Our Site may contain hyperlinks to other Sites [Links]. Links are provided for convenience only and we take no responsibility for the content and maintenance of or privacy compliance by any linked Site. Any Link on our Site to another Site does not imply our endorsement, support, or sponsorship of the operator of that Site nor of the information and/or products which they provide.

12. Security

- 12.1 Whilst we take reasonable precautions to protect information transmitted via the Site such as using Secure Socket Layer technology to ensure that your details are encrypted and securely communicated to us, we cannot and do not guarantee the security or confidentiality of these communications or the security of the Site.
- 12.2 We do not guarantee the delivery or security of communications over the internet as such communications rely on third party service providers, and electronic communication [including electronic mail] is vulnerable to interception by third parties.

13. Privacy

- 13.1 Any personal information submitted by you to us is subject to and will be handled in accordance with our Privacy Policy. The Privacy Policy forms part of these Terms and Conditions. It can be found here.

14. Indemnity

- 14.1 You agree to indemnify and hold us harmless from all claims, actions, damages, costs, and expenses including legal fees arising from or in connection with any of the following:
- (a) any breach of these Terms and Conditions by you;
 - (b) your use of the Site; or
 - (c) your communications with us

15. Warranties and consumer guarantees

- 15.1 For the purposes of this clause 15:
- (a) Standard Product means any product sold on the Site, except for Custom Products;
 - (b) Custom Product means a custom-built product that is assembled at your request under the custom system assembly service we obtain from relevant manufacturers [including custom files, folders, labels, computers, laptop or servers]; and
 - (c) Products means Standard Products and Custom Products.
- 15.2 Our goods come with guarantees that cannot be excluded under the Australian Consumer Law, Schedule 2 of the Competition and Consumer Act 2010 [Cth] [ACL]. You are entitled to a replacement or refund for a major failure and compensation for any other reasonably foreseeable loss or damage. You are also entitled to have the goods repaired or replaced if the goods fail to be of acceptable quality and the failure does not amount to a major failure.
- 15.3 Nothing in these Terms and Conditions excludes, restricts, or modifies any consumer guarantee, right or remedy conferred on you by the ACL or any other applicable law that cannot be excluded, restricted or modified by agreement.
- 15.4 If you have returned a Product to us:
- (a) We will assess whether the Product has a fault and can be accepted as a warranty claim.
 - (b) We may be required to consult with the manufacturer or their repair agent

to determine the fault and resolution. If we have to send your product to the manufacturer or their repair agent, we will ask them to assess the product and provide their assessment within a reasonable timeframe.

- c) Where the assessment finds that there is no fault with the product, or that the product has been damaged due to use of the product by you for a purpose for which it is not intended, outside its recommended parameters or specifications, or circumstances otherwise beyond our control, we may require, at our option, that you compensate us for any fees incurred by us in relation to the assessment.
- [d) Once your product assessment is completed, we will inform you whether your warranty claim is accepted, and whether we will repair, replace, or refund your product.

- 15.5 Subject to clause 15.2, you acknowledge and agree that we are not the manufacturer or producer of any Standard Product or Custom Product, and the only warranties offered in respect of a Product are those of the manufacturer.
- 15.6 If you encounter an issue with a Product, we recommend that you contact the manufacturer's customer assistance department directly. Even if the manufacturer's warranty has expired, the manufacturer is obliged [and best placed] to assess the nature, cause and extent of a failure or fault if you believe your consumer guarantees have been breached.
- 15.7 If you encounter any issues with a Custom Product, you will need to comply with the normal returns' procedure in clause 8, for us to assess whether that Custom Product is faulty and can be accepted as a warranty claim.
- 15.8 If you return any Product capable of retaining user-generated data, then we hereby give you notice that the repair of those goods may result in the loss of the data. Your data is not covered by any warranty. You are entirely responsible for any data on your device and should maintain a regular backup of the data.
- 15.9 Software problems including but not limited to corrupted system files or issues caused by viruses, Trojan horses, malicious and/or third-party software are not covered by any warranty, implied or explicit.

15.10 Any representation, warranty, condition, guarantee or undertaking that would be implied in these Terms and Conditions by legislation, common law, equity, trade, custom or usage is excluded to the maximum extent permitted by law including the ACL, we do not make or will not be deemed to have made any:

- [a] warranty or representation, express or implied, as to:
 - i. the title, condition, design, operation, acceptable quality or fitness for purpose of any Product [or any part thereof];
 - ii. the absence of any latent or other defects;
 - iii. the absence of any infringement of any intellectual property rights [including copyright and patents];
 - iv. the absence of obligations based on strict liability in tort; or
- [b] other representation, guarantee or warranty whatsoever, express or implied, with respect to any Product or any part thereof or services sold on the Site.

16. Limitation of liability

16.1 To the fullest extent permitted by law, our liability for a breach of a non-excludable guarantee referred to in clause 15.3 is limited, at our option, to:

- [a] in the case of goods supplied or offered by us, any one or more of the following:
 - 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; or
 - iv. the payment of the cost of having the goods repaired; or

[b] in the case of services supplied or offered by us:

- i. the supplying of the services again; or
- ii. the payment of the cost of having the services supplied again.

16.2 We will not be liable to you for any indirect, incidental, special or consequential loss or damage, loss of profits or anticipated profits, economic loss, loss of business opportunity, loss of data, loss of reputation or loss of revenue [irrespective of whether the loss or damage is caused by or relates to breach of contract, tort [including negligence], statute or otherwise] arising in connection with, the Site, the Content, all links to or from the Site, the goods and services advertised or purchased from us or any interaction you have with us.

16.3 Our maximum aggregate liability for all proven losses, damages and claims arising out of or in connection with these Terms and Conditions or a supply under these Terms and Conditions, including liability for breach, in negligence or in tort or for any other common law or statutory action, is limited to the sum of \$100.

17. Termination of access

17.1 We may at any time immediately terminate your access [including restricting access] to the Site or any feature of the Site for any reason [including due to your breach or alleged breach of these Terms and Conditions] in its sole discretion and without prior notice. Any indemnities given by you and any limitations of our liability survive such termination.

18. Severability

18.1 Each provision of these Terms and Conditions is severable from the others and no severance of a provision will affect any other provision.



Offsite File Storage & Records Management

III.

Issued: 5th of April 2023

Terms and Conditions

1. Definitions

- 1.1 'TIMG' means The Information Management Group Pty Ltd ABN 52 079 782 666, its employees, servants, subcontractors and assigns
- 1.2 'Customer' means the person or entity appearing as Customer overleaf including its employees, servants, successors and permitted assigns
- 1.3 'Records' means documents, envelopes, files, satchels, cartons and their packaging and any other material that TIMG receives from Customer in connection with the Services
- 1.4 'Retention Period' is the number of years prepaid for storage commencing from the date TIMG receives the Records
- 1.5 'Services' means the services described overleaf or in any proposal to Customer or appendix or schedule hereto

2 Introduction

- 2.1 The Services are for paper Records only and Customer is to ensure that the Records do not contain any flammable, volatile or explosive material, or any liquids whatsoever.
- 2.2 Customer warrants that it is either the owner of the Records or the authorised agent for the owner of the Records and Customer accepts the conditions of this Agreement, as well as for all other parties on whose behalf Customer is acting.
- 2.3 Customer acknowledges that the processes, marketing, description of Services, standard operating procedures, use of technology and pricing methodologies relating to the Services, and also these terms and conditions are proprietary to TIMG. Such information made available to Customer is 'Commercial in Confidence' and it may only be used for the purpose it is provided and may not be disclosed to any third party without the prior written permission of TIMG.

3. Charges and Payment

- 3.1 Customer agrees to pay TIMG within 14 days of invoice date at the rates set out overleaf or as amended in accordance with clause 3.2. If Customer fails to pay an invoiced amount within 30 days of invoice date, TIMG may charge the greater of a late payment fee of \$15.00 for each month that invoices remain outstanding, or interest on the amount outstanding at the rate of 10% per annum calculated daily from invoice date until the date the invoiced amount is paid in full.

- 3.2 Payment via credit card will attract a loading of 2% for MasterCard and Visa, and 3% for American Express
- 3.3 TIMG may vary the terms, rates and charges from time to time by giving Customer 30 day's written notice. Should Customer not accept any variation in charges above the rate of increase in CPI, TIMG may, at its discretion, either terminate the Agreement by giving Customer 60 day's written notice, or continue to provide services at the prevailing rates until expiry of the Agreement.
- 3.4 Storage is chargeable from the date of initial receipt of the Records through until Customer authorises and TIMG carries out destruction of the Records.

4. Prepaid Services

- 4.1 TIMG's charges shall be considered earned as soon as the Records are collected from Customer's premises or if delivered to TIMG's premises, upon receipt by TIMG.
- 4.2 If Customer is not the owner of the records, in the event of termination Customer agrees to provide to TIMG a complete list of names and addresses matched to TIMG's barcodes for all prepaid Records in storage such that, in TIMG's opinion, the information is adequate for TIMG to accurately identify the owners of the Records. If Customer fails to do so, TIMG may, at its discretion, return some or all Records to Customer or continue to retain the records up until expiry of the Retention Period.

5. Term and Termination

- 5.1 This Agreement shall commence on the date of signing by Customer or on the date of commencement of services, whichever is the earlier, and continue for the initial term if any stated overleaf. Following expiry of the initial term or any renewed term, this agreement will continue until terminated by either party by giving the other party 60 days written notice.

6. Limitation of Liability

- 6.1 TIMG is not a common carrier and accepts no liability as such. TIMG reserves the right to refuse, at its sole discretion, the carriage of any Records.
- 6.2 TIMG does not and will not be deemed to have knowledge of the contents of the Records.
- 6.3 TIMG shall not be liable to any person (whether in contract, tort or otherwise) for any loss or damage suffered, or that may be suffered, as a result of any

act, omission, whether negligent or otherwise, by or on behalf of TIMG in relation to provision of the Services, or any other matter or thing related to this Agreement.

6.4 To the extent permissible by law, TIMG expressly disclaims all conditions and warranties express or implied, in respect of the Services. Where the law precludes such exclusion and implies certain

conditions and warranties into this Agreement, the liability of TIMG for breach of such condition or warranty shall be limited to, at TIMG's option, supplying the Services again, or payment of the cost of providing the Services again.

6.5 In no circumstance shall TIMG be liable for any indirect, consequential or economic loss or damage arising in connection with this Agreement.



TIMG / LITSUPPORT

Ordering Terms & Conditions

IV.

Version 1.1 | Issued: 15th of November 2018

Ordering Terms and Conditions

These are the standard ordering terms and conditions [Order Terms] of TIMG/LitSupport Pty Ltd ABN 29 084 736 069 [LitSupport]. From time to time customers may submit orders for work to LitSupport via JOTATM, email, phone, letter or otherwise. LitSupport may refuse any such order, or require modifications to it before accepting it. Each order that is accepted by LitSupport [Order] is the subject of a separate legally binding agreement as described below between LitSupport and the customer described in the Order [Customer].

1. Performance of Work

Subject to these Order Terms, LitSupport will perform the work described in the Order [Work].

2. Instructions

LitSupport will use its best endeavours to comply with all instructions provided in the Order regarding the Work [Instructions]. Customer must ensure that all Instructions are clear and complete. Work performed in literal compliance with Instructions will be deemed to have been fully performed. If Customer requests that LitSupport revise any Work in circumstances where the original Instructions were ambiguous, inconsistent, imprecise or incomplete, then LitSupport may charge Customer for the revised Work as if it were a separate Order.

3. Quality

If any printed, copied or scanned output delivered to Customer as part of the Work [Deliverable] is not an accurate replica of the original (including where the copy is smudged, materially darkened or lightened), then LitSupport will redo the copy at no charge to Customer if requested within 14 days after delivery of the relevant copy to Customer.

4. Completion and delivery

All timeframes specified in an Order are indicative only, although LitSupport uses its best endeavours to deliver all Deliverables within the specified timeframe. Completion of the Work on time is also subject to Customer providing in a timely manner the relevant hard copy or electronic documents for LitSupport to reproduce [Original Documents]. In the case of large or complex Orders, the rostered Operations Supervisor will endeavour to keep Customer informed of progress of the Order, and to advise Customer promptly of any change in the expected delivery time if a change becomes likely.

All Deliverables will be delivered to the usual delivery address for Customer held by LitSupport unless Customer expressly states otherwise in the Order.

5. Pricing and variation

The price for the Work is as determined under the applicable price list recorded in JOTA [Price List], as at the time when LitSupport accepted the Order. LitSupport may change the Price List from time to time without notice to Customer. Similarly, LitSupport may vary these Order Terms from time to time by posting a revised version on its website at www.litsupport.com.au. LitSupport may do so without notice to Customer, and Customer should check the website each time before submitting a proposed Order.

6. Payment

Customer must pay each LitSupport invoice for Work within 30 days of the date of the invoice. Overdue payments will bear interest at 1.5% per month, compounding monthly.

LitSupport does not do work on a contingency or delayed payment basis. Where Customer requests any Work in relation to a client of Customer, any delay by that client in paying, or refusal to pay, any amount to Customer does not affect Customer's obligation to pay LitSupport. If Customer wishes its client be responsible for payment, then Customer must arrange for LitSupport to contract directly with that client for the performance of the Work.

7. Original Documents

7.1 Confidentiality

Subject to any disclosure directed by Customer, LitSupport will take all commercially reasonable steps to maintain the confidentiality of any information derived from any Original Document [Confidential Information]. Upon completion of the Work, LitSupport will return, destroy or delete:

- (a) all documents in any medium that are in the possession, power or control of LitSupport that contain any Confidential Information; and
- (b) any Confidential Information that was stored electronically by LitSupport.

7.2 Protection

LitSupport will use its best endeavours to protect the integrity of Original Documents. At the time when Original Documents are collected for an Order, Customer must (after making any necessary correction) sign the relevant collection inventory or receipt. Similarly, when Original Documents are returned, Customer must (after making any necessary correction) sign the relevant instruction sheet or receipt. If requested by Customer, LitSupport will provide a statutory declaration to Customer as to the chain of custody of Original Documents. To the extent permitted by law, any claim by Customer in relation to the loss, damage or destruction of any Original Document that is not notified in writing to LitSupport within 14 days after

signing the instruction sheet or receipt applicable to the return of the Original Document is excluded.

7.3 Right to reproduce

Customer hereby licenses LitSupport to reproduce the Original Documents for the purpose of performing the Work. Without limiting the foregoing licence, nothing in this agreement grants or transfers to LitSupport any interest in any intellectual property in any Original Document.

8. Contents of agreement

The legally binding agreement between Customer and LitSupport in relation to each Order [Agreement] comprises the following documents. If there is any inconsistency between them, then the document higher in the following order of descending priority will prevail to the extent of the inconsistency: (a) any arrangement titled "Specific Customer Arrangement" separately agreed in writing between Customer and LitSupport; (b) the applicable Order Terms; (c) the applicable Price List; and (d) the relevant Order. The Agreement is to be construed according to, and is governed by, the laws of Victoria.

9. Termination

Customer may terminate any Order at any time by written notice to LitSupport. LitSupport may suspend or terminate any Order if any amount payable by Customer for that or any other Order is overdue, if Customer substantially ceases business or if any receiver, administrator, trustee or other form of external administrator is appointed to Customer.

Promptly after termination of an Order, LitSupport may invoice Customer, and Customer must then immediately pay LitSupport, for the part of the Work that has been performed under the Order [but not previously invoiced] up to the time of termination and for any expenses incurred in relation to the remainder of the Order that LitSupport is not reasonably able to avoid.

10. LitSupport liability

10.1 Exclusion of other terms

To the extent permitted by law, and except as expressly provided in the Agreement, all terms, conditions, warranties and representations (in each case whether express, implied, statutory or otherwise) relating in any way to the Agreement or the Work are excluded.

10.2 Limitation of liability

To the extent permitted by law, any liability of LitSupport in connection with any Work, Deliverable or Order, or the Agreement:

- (a) under any condition or warranty that by law cannot be excluded [Statutory Warranty];
- (b) under any guarantee or other right under any statute (including the Competition and Consumer Act) [Consumer Guarantee]; or
- (c) on any other basis (including contract or negligence), is, where permitted by law, limited at the option of LitSupport to the replacement, repair or resupply of the relevant goods or services or the payment of the cost of same.

Despite any other provision of the Agreement, no provision of the Agreement other than this clause 9.2 limits or excludes any liability of LitSupport under a Consumer Guarantee or Statutory Warranty.

10.3 Exclusion of liability

All liability of LitSupport is excluded in respect of any indirect or consequential liability or loss suffered or incurred by Customer, in relation to the Work, any delay or failure in performing it, or otherwise under or in connection with any Order or Deliverable or the Agreement, and in any event (including where amounting to a direct loss) for any lost profits or goodwill or lost or corrupted data.



EDISCOVERY

Terms & Conditions

V.

Issued: 5th of February 2021

TIMG Terms and Conditions

The following is a list of TIMG's Standard Terms and Conditions relating to all engagements.

1. Rates.

- 1.1 TIMG reserves the right to amend its rates annually, and TIMG will advise Client promptly if a rate adjustment is being made. The rates exclude GST unless otherwise stated. If GST is payable on any of TIMG's products and services supplied under this Engagement Contract, TIMG will include an additional amount for GST (currently at the rate of 10%) in the invoices. Client will be liable for any GST liability incurred by TIMG in connection with this Engagement Contract, including penalties.

2. Payment Terms.

- 2.1 All payments will be due within thirty (30) days from the date of invoice. Client must be current on all prior outstanding invoices in order for any agreed discounts to apply. In the event Client disputes any of the fees or expenses on a specific invoice, the Client shall notify TIMG within twenty (20) days of receipt of the invoice of such a dispute. If Client fails to notify TIMG within the twenty (20) day period, the Client shall have waived its right to dispute such invoice. Invoices with disputed line items shall be paid in full, excepting such disputed line items.
- 2.2 In addition to any remedies available at law, TIMG reserves the right to halt further services until payment is received on past-due invoice. If payment is not received from Client by the due date, TIMG may do any one or more of the following:
 - i. Charge Client interest on the outstanding amount from the due date, at a rate equivalent to the ANZ Retail Index Rate as at the due date plus 2% per annum and compounded monthly;
 - ii. Recover from Client any reasonable costs, including legal costs, which TIMG may incur in recovering any outstanding amounts due to TIMG;
 - iii. Suspend all or part of any Services until Client has paid to TIMG all outstanding amounts;
 - iv. Keep the Records or Data until Client has paid TIMG all outstanding amounts;
 - v. Where invoices remain unpaid for a period of 12 months, TIMG may, without further notice to Client, destroy the Records or Data in TIMG's possession.

3. Confidentiality.

- 3.1 TIMG will take all reasonable measures to ensure that all confidential information and personal information collected by TIMG pursuant to the Services, is protected from misuse, unauthorised access, modification or disclosure. At all times when collecting Personal Information from individuals, TIMG will manage that Personal Information in accordance with the Privacy Act 1988.
- 3.2 TIMG understands that its work product and files may become subject to discovery; however, until such materials are sought by subpoena or other process, they will be maintained by TIMG as confidential. It is agreed that those materials and all other working papers and other documents prepared by TIMG pursuant to this Engagement Contract will be maintained as confidential materials and will not be disclosed to third parties without Client consent, except as may be required by law, regulation, or judicial or administrative process or to obtain legal or professional advice.
- 3.3 Should a third-party request any such documents, TIMG agrees to notify the Client prior to seek instructions prior to any release of such material. This includes any subpoena or other legal process to produce any documents or to give evidence relating to this Engagement for Counsel

4. Intellectual Property.

- 4.1 Subject to the terms and conditions of this Engagement Contract and payment of the applicable fees as set forth herein, TIMG grants to Client the non-exclusive and limited right and license in Australia (a) to use copies of the work product and deliverables created or first reduced to practice in the performance of services under this Engagement Contract for Client (collectively, the "Work"), but only for the internal, in-house use by Client. Except as expressly set forth herein, all rights and licenses granted to Client are non-transferable and non-assignable. Client may make a reasonable number of back-up copies of the Work in accordance with its normal backup procedures so long as all copyright and other proprietary rights notices are included on all copies. TIMG reserves all rights not expressly granted herein.
- 4.2 Client acknowledges and agrees TIMG shall be the sole and exclusive owner and copyright proprietor of all rights and title in and to the results of the services and Work hereunder

in whatever stage of completion. Except as otherwise agreed to by TIMG, no express or implied license or right of any kind is granted to Client regarding the Work including, but not limited to, any right to know, use, produce, receive, reproduce, copy, market, sell, distribute, transfer, modify, or adapt the Work or create derivative works based on the Work or any portions thereof, or obtain possession of any source code or other technical material relating to the Work.

- 4.3 Client acknowledges and agrees that, except for Client's license described in this Engagement Contract, Client has no right, title and interest in the Work, in any form, or in any copies thereof, including all intellectual property rights therein.

5. Termination and Survival.

- 5.1 Without limiting their other rights under these Terms and Conditions, either party may terminate these Terms and Conditions with immediate effect by giving written notice to the other party if:
- 5.1.2 The other party materially breaches these Terms and Conditions and fails to correct the breach within 14 days after notice of that breach from the non-breaching party.

6. Liability and Indemnity.

- 6.1 In no event shall TIMG be liable for punitive or consequential damages of any kind. The Client shall indemnify TIMG, and hold TIMG harmless against any and all liability in tort, contract, or otherwise in respect of any loss, damage, injury or death arising out of or in connection with the performance, non-performance, breach or other matter arising out of these Terms and Conditions or the provision of Services, including but not limited to, duties, taxes, levies, charges, liability due to negligence, breach or the willful act or default of TIMG, our agents or employees or subcontractors.
- 6.2 Terms of this paragraph shall survive the termination of this Engagement Contract and shall apply to any controlling person, director, officer, employee or affiliate of TIMG. To the extent permitted by law, any warranties not expressly included in this Agreement are excluded. TIMG's liability is limited to the payment of the cost of having the Services supplied again.

7. Governing Law.

- 7.1 The Engagement and this Engagement Contract shall be governed by and interpreted in accordance with the laws of the State of New South Wales, Australia. Each party submits to the non-exclusive jurisdiction of the courts of New South Wales, Australia.



COURIERS

Standard Service & Supply Agreement

VI.

Version 1 | Issued: 10th of August 2021

General Terms

1. In these Terms and Conditions of Contract:

“Carriage” shall mean the whole of the operations and services undertaken by the Courier in respect of the Goods including but not limited to transportation and storage;

“Courier” shall mean TIMG Couriers;

“Consignee” shall mean any person receiving or accepting the Goods, the subject of the Carriage by the Courier;

“Consignor” shall mean the person with whom this Contract is made;

“Contract” shall mean the contract between the Courier and the Consignor as evidenced by these Terms and Conditions;

“Goods” shall mean the items accepted by the Courier together with any container or packaging supplied by or on behalf of the Consignor;

“Subcontractor” shall include any other person who pursuant to a contract or arrangement with any other person (whether or not the Courier) performs or agrees to perform the Carriage or any part of the Carriage.

2. The Courier is not a common carrier and shall accept no liability as such. All Goods are carried by the Courier subject only to these Terms and Conditions and the Courier reserves the right to accept or refuse the Carriage of Goods for any person at its sole discretion. Any other terms or conditions sought to be imposed on the Courier by the Consignor or Consignee will not form part of the Contract and shall be of no effect.

3. The Consignor undertakes to indemnify the Courier in respect of any loss or damage whatsoever and howsoever arising (including without limiting the foregoing from negligence or breach of contract or wilful act or default of the Consignor or others) suffered by the Courier and/or any person (other than the Consignor) who claims to have, who has or may hereafter have any interest in the Goods or any part of the Goods, in connection with the Courier’s performance of the Contract.

4. The person delivering the goods to the Courier shall be deemed to be the agent of the Consignor for the purposes of the Contract and the Consignor hereby warrants to the Courier that such a person is and at all times will be authorised to enter into the Contract on behalf of the Consignor and do all things necessary for the Consignor’s performance of the Contract.

5. Subject only to Clause 13, the Goods are at all times at the risk of the Consignor and not the Courier and the Courier shall not be responsible in tort or contract or

bailment or otherwise for any, and the consequences of any, loss of or damage to or deterioration of Goods or misdelivery or failure to deliver or delay in delivery of Goods either in transit or in storage for any reason whatsoever (including without limiting the foregoing negligence or breach of contract or wilful act or default of the Courier or others). This Clause shall apply to all, and the consequences of all, such loss of or damage to or deterioration of the Goods or mis-delivery or failure to deliver or delay in delivery of Goods, whether or not the same occurs in the course of performance by or on behalf of the Courier of the Contract or in events which are in the contemplation of the Courier and/or the Consignor or in events which are foreseeable by them or either of them or in events which could constitute a fundamental breach of the Contract or a breach of a fundamental term of the Contract.

6. The Courier and any Subcontractor shall be entitled to subcontract on any terms the whole or any part of the Carriage.

7. The Consignor undertakes:

[a] that no claim or allegation shall be made, whether by the Consignor or any other person who is or who may hereafter be interested in the Goods against any person (other than the Courier) by whom (whether it is a Subcontractor, principal, employer, servant, agent or otherwise) the Carriage or any part of the Carriage is performed or undertaken which imposes or attempts to impose upon such person any liability whatsoever and howsoever arising (including without limiting the foregoing from negligence or breach of contract or wilful act or default of the Courier or others) in connection with the Goods and if any such claim or allegation should nevertheless be made, to indemnify the Courier and the person against whom such claim or allegation is made against the consequence of it. Without prejudice to the foregoing and for the purpose of this clause, the Courier is or shall be deemed to be acting as agent or trustee on behalf of and for the benefit of all such persons and each of them and all such persons and each of them shall to this extent be or be deemed to be parties to this Contract; and

[b] to indemnify the Courier against any claim or allegation made against it by any person in connection with any loss of or damage to the Goods occurring at any time during the Carriage.

8. Every exemption, limitation, condition and liberty herein contained and every right, exemption from liability, defence and immunity of whatsoever nature applicable to the Courier or to which the Courier is

entitled hereunder shall also be available and shall extend to protect:

- (a) All Subcontractors;
- (b) Every servant or agent of the Courier or of a Subcontractor;
- (c) Every other person [other than the Courier] by whom the Carriage or any part of the Carriage is performed or undertaken;
- (d) All persons who are or may be vicariously liable for the acts or omissions of any persons falling within sub-Clauses (a), (b) or (c) of this Clause;

and for the purposes of this Clause, the Courier is or shall be deemed to be acting as agent or trustee on behalf of and for the benefit of all such persons and each of them shall to this extent be or be deemed to be parties to this Contract.

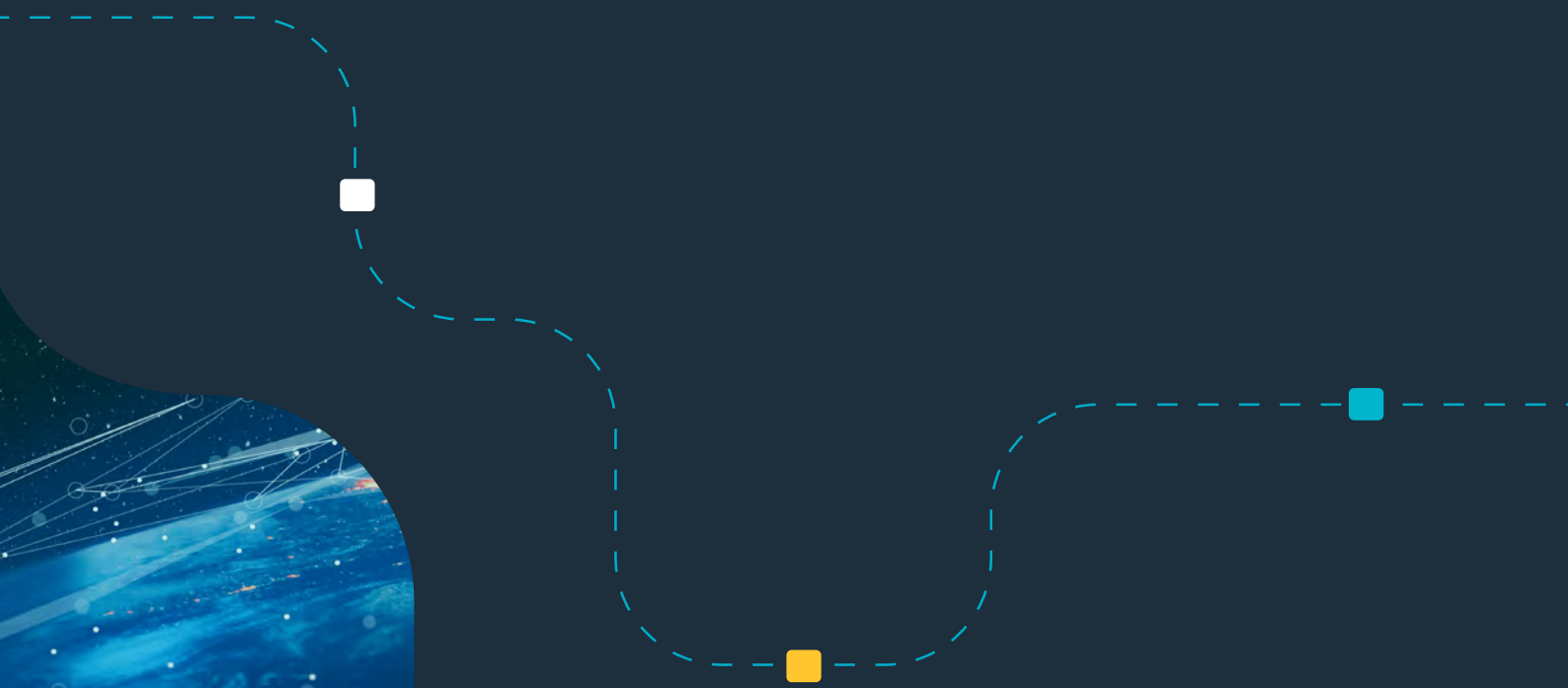
- 9. The Consignee hereby authorises any deviation from the usual route or manner of Carriage of the Goods which may in the sole discretion of the Courier be deemed reasonable and necessary in the circumstances.
- 10. If the Consignee expressly or impliedly instructs the Courier to use or it is expressly or impliedly agreed that the Courier shall use a particular method of handling or storing the Goods or a particular method of Carriage whether by road, rail, sea or air, the Courier shall give priority to that method but its adoption remains at the sole discretion of the Courier and the Consignor hereby authorises the Courier to handle, store, carry or have the Goods carried by any other method.
- 11. The Courier shall use reasonable endeavours to deliver the goods as specified by the Customer. The Courier shall not be bound to deliver the goods except to the consignee shown on the consignment note or in the Courier's electronic gateway or to such other person(s) as may be authorised in writing by the Customer to receive the goods, or to effect delivery in such other manner as specified by the Customer including an "authority to leave".
- 12. If the Courier is unable to deliver the goods for any reason [including failure on the part of a receiver to take delivery within a reasonable time] the Courier shall be entitled to handle and store the goods at the Customer's risk and in such manner as it may in its discretion determine and shall be entitled to make a reasonable charge in respect of such handling and/or storage and additional charges for each call until the delivery is completed.
- 13. Unless agreed otherwise by the Courier, the Consignee will be deemed to have given the Courier "authority to leave". Where the Goods are deemed or expressed to be on an "authority to leave" basis, if a receiver is in attendance the Courier will attempt to obtain

a signature. If a receiver is not available, then the Courier will leave the goods in a place it deems, in its discretion acting reasonably, to be safe to do so and will inform the Consignee accordingly. If the Courier deems it unsafe to leave the Goods, they will be re-directed to a place for collection by the Consignee. No re-delivery will be made without incurring further charges. The Consignor accepts the risk of the goods being left in circumstances where they have not exercised the ability to specify a signature on delivery.

- 14. Where the Consignee has specified a manner of delivery other than "authority to leave", the Courier shall be deemed to have delivered the Goods to the consignee if the Courier obtains from any person present at the place of delivery confirmation of receipt of the Goods [including a signature on the delivery driver's manifest or scanner], proof of which shall be binding on the Consignor or any other person liable to pay the freight charges.
- 15. The Courier shall not be liable for any failure or delay in delivering the Goods where such failure or delay is wholly or partly due to any cause or circumstance whatsoever outside the reasonable control of the Courier including but not limited to war, strikes, lockouts, industrial disputes or arrest, government restrictions or intervention, transport delays, fire, act of God, breakdown of any mechanical equipment including any vehicles, shortage of supplies or labour, storm or tempest, theft, vandalism, riots, civil commotions or accidents of any kind.
- 16. The charges of the Courier shall be considered earned as soon as the Goods are accepted by the Courier for Carriage or as soon as the Courier is ready to load the Goods at the place of acceptance and under no circumstances shall any of the charges of the Courier be refunded.
- 17. The Courier shall have a lien on the Goods and any documents relating to the Goods and any other goods of the Consignor in the possession of the Courier [or any documents relating to those goods] for all overdue sums payable by the Consignor to the Courier for that purpose and shall have the right to sell any such Goods by public auction or private treaty without notice to the Consignor.
- 18. The Consignor shall not tender for Carriage any volatile or explosive goods or goods which are or may become dangerous, inflammable or offensive [including radioactive materials] or which are or may become liable to injure any person or damage property whatsoever without presenting a full description disclosing the nature of such goods and in any event shall, to the maximum extent permitted by law, be liable for all death, bodily injury, loss and/or damage caused thereby.

19. If, in the opinion of the Courier, the Goods are or are liable to become of a dangerous, inflammable, explosive, volatile, offensive or damaging nature, the same may at any time be destroyed, disposed of, abandoned, or rendered harmless by the Courier without compensation to the Consignor and without prejudice to the Courier's right to charges in accordance with this Contract.
20. The Consignor warrants that it has complied with all laws and regulations relating to the nature, packaging, labelling, storage and carrying of the Goods and that the Goods are packed in a manner to withstand the ordinary risks of Carriage having regard to their nature and hereby indemnifies the Courier for any liability whatsoever and for all costs and expenses incurred as a result of or arising out of the Consignor's breach of this warranty.
21. Notwithstanding any other provision of this Contract the Courier shall continue to be subject to any implied warranty provided by the *Competition and Consumer Act 2010* [CT] as amended if and to the extent that that Act is applicable to this Contract and prevents the exclusion, restriction and modification of any such warranty.
22. Futile charges:
- (a) A flat fee of \$50.00 will be applied for any bookings that are not ready and or available for collection at the specified booking time and location, please ensure Goods are packed, addressed and ready for collection at the time a booking is made.

Special Conditions



Discover how TIMG can help your business.

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