LINX Kooragang General Terms and Conditions

These **LINX** General Terms and Conditions (**General Terms**) set out the terms on which Services will be provided by LINX to the Customer. These General Terms are attached to and form part of a services quotation, Formal Instrument of Agreement or other document which specifies the types of Services to be provided.

1. Services

(a) LINX will provide the Services to the Customer on the terms and conditions of this Agreement.

(b) If LINX continues to provide Goods and/or Services beyond the expiry of the Term at the request of the Customer, unless otherwise agreed in writing by the parties, those Goods and/or Services will be supplied subject to these General Terms on a month to month basis (**Holding Over Period**). Either party may terminate during the Holding Over Period by giving one months' notice.

2. Invoices and Payment

(a) LINX will invoice the Customer for the Services provided each month. The Customer must pay into the account notified by LINX to the Customer the amount invoiced in full within the Payment Term without discount, deduction, counterclaim or set-off.

(b) If the Customer has not paid an amount due under this Agreement on or by the due date for a period of 5 days following receipt of a notice of demand from LINX, then:

(i) the Customer must pay Interest on the amount unpaid. The Interest payable under this clause 2(b) accrues daily from and including the due date for payment up to the actual date of payment and may be capitalised by LINX at monthly intervals; and

(ii) LINX may, at its discretion, suspend the Services until payment has been made in full or terminate this Agreement by giving notice to the Customer with immediate effect.

(c) Notwithstanding anything else in this clause 2, any invoice rendered by LINX will become immediately due and payable as soon as an Insolvency Event occurs in respect of the Customer or if the Customer fails to comply with any of its obligations under this Agreement following a demand issued by LINX.

(d) LINX will be entitled to exercise a right of lien and retention over the Goods and/or containers to secure payment of the Rates for which a demand for payment has been made by LINX and/or to secure compliance with and discharge of all obligations and liabilities of the Customer under this Agreement.

(e) In exercising its right of lien and retention, LINX will be entitled to seize and store or otherwise detail the Goods and/or containers until the monies owing are fully paid or any breach of this Agreement on the part of the Customer has been rectified. The Customer indemnifies LINX in relation to all reasonable costs borne by LINX in connection with this clause 2(e).

(f) All payments are to be in Australian dollars, deposited as follows, quoting the reference number specified in the Service Quotation or the relevant invoice number:

Account Name: LINX Deposit Account
ANZ Banking Corporation
King & George Streets
SYDNEY NSW 2000
Account No: 8378 64177
BSB No: 014 052

3. Responsibility

3.1 LINX

(a) In carrying out the Services, LINX will:

(i) comply with all applicable laws in providing the Services, including Chain of Responsibility Laws;

(ii) provide properly maintained equipment and properly trained labour sufficient to perform the Services in accordance with this Agreement;

(iii) ensure the Services are carried out in a safe and workmanlike manner, with due and proper diligence, skill and expedition; and

(iv) where the Services are to be carried out in relation to Dangerous Goods or Temperature Controlled Goods, comply with the Dangerous Goods Protocol or the Temperature Controlled Goods Protocol, as applicable.

(b) LINX is not a common carrier and accepts no Liability as such and may agree or refuse to contract with the Customer in its absolute discretion.

(c) LINX is not, and will not be deemed to be, a consignor for the purpose of the Transport of Dangerous Goods Legislation and accepts no Liability as such. The Customer authorises LINX to name the Customer as the consignor in any documentation, where applicable.

(d) LINX relies on the details of the Goods supplied to it by the Customer. LINX has no obligation to inspect the Goods and no inspection will increase LINX's Liability under this Agreement.

(e) LINX is not responsible for and has no Liability in respect of any inaccuracy in the description of the Goods.

(f) LINX is entitled to deliver the Goods to the bearer of the relevant delivery order and LINX has no Liability for mis-delivery due to fraud or misrepresentation or a wrongful act of a third party.

(g) LINX may determine, in its absolute discretion, that the Services be provided in a manner other than that previously agreed with the Customer, where it is reasonable and necessary to do so (including by reason of an order, direction or recommendation of a Government Agency). If the Customer does not agree with the alternative provision of the Services, acting reasonably, either party may terminate this Agreement by written notice to the other and the Customer will be entitled to a refund of any unused portion of Services paid for in advance.

(h) If in LINX's reasonable opinion any location (or surrounding area) in which the Services are being carried out is unsafe, the Goods are or are liable to become Dangerous Goods, the Goods do not comply with all applicable laws or the Goods are unsuitable to be handled using the equipment and operating procedures normally employed by LINX in providing the Services, LINX may:

(i) refuse to provide the Services in respect of those Goods; or

(ii) take whatever measures it considers to be reasonably practicable, (including opening containers, inspecting, weighing and measuring Goods, requiring the Goods to be repacked or reloaded and delaying or rescheduling their loading and carriage) at the Customer's risk and expense prior to or while performing the Services to cause the Goods, the vehicle or train by which the Goods will be transported, the driver of such vehicle or train, and the Services, to comply with all applicable laws and be suitable for handling by LINX.

(i) If LINX refuses to provide the Services pursuant to clause 3.1(h)(i):

(i) LINX will promptly notify the Customer and specify a time (acting reasonably) by which the Goods must be collected by the Customer; and

(ii) LINX will permit the Customer to collect the Goods, provided the Customer has first paid all outstanding amounts due under this Agreement.

(j) If LINX becomes aware of any damage to or deterioration of Goods whilst in its possession or under its control, LINX will:

(i) promptly notify the Customer, providing details of the damage or deterioration; and;

(ii) to the extent reasonably practicable, quarantine the affected Goods (**Affected Items**) to allow for inspection of the Affected Items by the LINX Representative and the Customer Representative (such inspection to occur as soon as reasonably practicable).

(k) LINX (or a third party appointed by LINX) may conduct an audit or review of the Customer's compliance with its obligations under this Agreement, including any applicable road laws and the Customer agrees to comply with any reasonable requests made by LINX as a result of any such audit or review.

(l) LINX may subcontract the Services in whole or in part without notice to the Customer and all benefits, defences, exceptions, immunities, and limitations of Liability under this Agreement and at law which apply to LINX will apply in respect of a claim against LINX's subcontractor, however, where LINX subcontracts the Services in whole or in part, LINX remains primarily liable for the provision of the Services in accordance with this Agreement.

3.2 Customer

(a) If the Customer is an authorised agent of the person owning or having an interest in the Goods, it has the authority to enter into this Agreement as authorised agent of that person.

(b) The Customer will, and will procure that its Associates, will:

(i) be responsible for packing the Goods;

(ii) comply with all applicable laws (including Chain of Responsibility Laws) and provide LINX with all necessary assistance, information and documentation to enable LINX to comply with such laws, including ensuring that the weight of any container (including the weight of the Goods) which is specified in the container weight document is accurate; and

(iii) comply with any policies or procedures of LINX (as notified from time to time);

(c) The Customer must:

(i) not less than 7 days (or such shorter period as LINX may agree in writing) before the Customer requires the Services, provide a Work Request to LINX;

(ii) allow LINX immediate access to any Commercial Document which LINX is obliged to produce at the request of a Government Agency;

(iii) ensure that the Goods:

A. are packed to withstand the ordinary risks of transport and handling and avoid damage or destruction;

B. comply with all applicable laws; and

C. have been accurately and fully described and all relevant instructions and information for the handling, care and control of the Goods have been (and will continue to be) provided to LINX;

(iv) only tender Dangerous Goods or Temperature Controlled Goods in compliance with the Dangerous Goods Protocol and/or the Temperature Controlled Goods Protocol, as applicable;

(v) ensure that no spills of a Contaminant occur in any location in which the Services are being carried out;

(vi) ensure that any equipment, vehicle or train used by it or its Associates to load, unload, deliver or collect the Goods is in a fit and proper condition and complies with all applicable laws, safety standards and any persons involved in the loading, unloading, delivery or collection of Goods has the requisite skill, competence, knowledge and experience, and is appropriately licensed, accredited and certified;

(vii) at LINX's request, use its best endeavours to promptly implement paperless trading to enable LINX to use electronic import delivery orders; and

(viii) when requested by LINX, provide LINX with a copy of the current Material Safety Data Sheet for Goods a minimum of 7 days prior to the arrival of the vessel carrying the Goods for loading or discharge at a Terminal.

3.3 Delivery of Goods

(a) The Customer must not in any circumstances abandon any Goods and LINX will be entitled, on 28 days' notice, to dispose of Abandoned Goods at the Customer's risk and expense (including any costs of storage of the Abandoned Goods prior to disposal) in any manner it deems reasonable, and the Customer will not be entitled to any compensation in respect of those Abandoned Goods or their disposal.

(b) LINX will only deliver the Goods to the location specified in the Service Quotation, delivery order, Details or to the bearer of the appropriate Bill of Lading, unless expressly agreed otherwise.

(c) LINX has no liability for mis-delivery due to fraud or misrepresentation or a wrongful act of a third party. LINX may where it deems necessary or desirable, deviate from the usual method or route of transport.

(d) The delivery location (including any wharf area) for the Goods must be accessible at the times agreed with LINX and be suitable for delivery of the Goods by vehicles ordinarily used in the industry for the purpose of picking up or delivering Goods of that type.

(e) The Customer must and must procure that delivery is taken of the Goods and in respect of Transport Services provide an acknowledgement of delivery upon delivery being effected. If the delivery location is unattended or delivery of the Goods is refused or otherwise does not occur, LINX may (in its absolute discretion and at the Customer's risk and expense):

(i) deposit the Goods at the delivery location;

(ii) store the Goods; or

(iii) return the Goods to the sender of the Goods,

and any such action will constitute delivery.

3.4 Storage Services

The Customer acknowledges and agrees that where LINX is providing Storage Services:

(a) the Customer must give at least 2 clear Business Days notice (or such other period as agreed by LINX) of its intention to collect some or all of the Goods or have them collected or delivered; or

(b) if LINX gives notice to the Customer requiring the Goods to be removed, the Customer must arrange for the Goods to be collected within 2 clear Business Days of the date of the notice.

3.5 Title and Risk

At all times during the Term, the Customer retains legal and equitable title in the Goods hauled or transported by LINX on behalf of the Customer pursuant to this Agreement.

4. Liability

4.1 Non-Excludable Rights

(a) To the extent permitted by law and except as expressly set out in this Agreement, LINX makes no and expressly excludes all warranties and representations with respect to the Services.

(b) Where the Customer has the benefit of a warranty or condition regarding the Services provided under this Agreement which cannot by law be excluded, LINX's Liability for breach of any such warranty or condition is limited to, at LINX's sole option, the re-supply of the Services or the payment of the costs of having those Services supplied again.

4.2 LINX Liability

(a) Except to the extent directly caused or contributed to by an act or omission of LINX or any of its Associates, LINX will not be liable to the Customer or the Customer's Associates in tort, contract, bailment or otherwise for anything arising out of or relating to any:

(i) deterioration, contamination or evaporation of the Goods whilst in LINX's possession, including during any storage provided by LINX;

(ii) in the case of Goods being delivered to or collected from the LINX Site for Storage Services, any Liability for damage to, deterioration or contamination of Goods that occurred prior to their delivery to the LINX Site or after the Goods exited the LINX Site;

(iii) delay in delivering or failure to deliver the Goods or Services;

(iv) delay arising out of the breakdown of any plant, equipment or infrastructure;

(v) any demurrage or other costs arising from any delay in the performance of the Services or the breakdown of any plant, equipment or infrastructure;

(vi) breach or negligence by the Customer or its Associates of this Agreement;

(vii) acts or omissions on the part of any third party;

(viii) any spill of a Contaminant; or

(ix) damage to any Goods or containers.

(b) Subject to clauses 4.2(a) and 4.5, to the extent permitted by law, LINX's Liability to the Customer arising in connection with this Agreement in tort, contract, bailment or otherwise, will be limited as follows:

(i) for any loss or damage to containers, up to a maximum of $50,000 for any one event; and

(ii) for any loss or damage to Goods, up to a maximum of $250,000 for any one event; and

(iii) for any other loss or damage, up to a maximum of $100,000 in the aggregate.

(c) The limitation of liability under clause 4.2(b) shall not limit any:

(i) liability of LINX which is covered by insurance maintained by LINX under clause 4.6(a) or ought to be maintained by LINX under clause 4.6(a) in which case LINX's liability will be limited to the amount actually recovered under the relevant insurance policy or which would have been recovered but for the failure to maintain the relevant insurance policy;

(ii) liability in relation to personal injury or death of any person;

(iii) liability which cannot be limited at law;

(iv) liability for breach of any warranty, statutory guarantee or condition that cannot by law be excluded; and

(v) liability in relation to fraudulent acts, criminal acts, gross negligence or wilful misconduct by LINX or its Associates.

4.3 Notification of Claims

(a) The Customer agrees to notify LINX of any alleged Claim brought by the Customer or its Associates pursuant to this Agreement, within 30 days of the relevant incident giving rise to the Claim.

(b) The Customer agrees that the time period in clause 4.3(a) is reasonable to ensure LINX can adequately respond to the alleged Claim within a reasonable time.

4.4 Exclusion of Consequential Loss

Despite any other provision of this Agreement, neither party will be liable to the other for any Consequential Loss.

4.5 Indemnities

(a) Each indemnity in this Agreement is a continuing obligation, separate and independent from the other obligations of the parties, and survives termination, completion or expiration of this Agreement.

(b) It is not necessary for a party to incur expense or to make any payment before enforcing a right of indemnity conferred by this Agreement.

(c) A party must pay on demand any amount it must pay under an indemnity in this Agreement.

4.6 Insurance

(a) Each party must at all times during the Term have in place:

(i) public liability insurance to a minimum value of AUD $20,000,000 in respect of any single event; and

(ii) such other insurances as are required by law.

(b) The Customer must notify LINX of any cancellation of a policy that it is required to take out and maintain under clause 4.6(a).

(c) The Customer acknowledges that it is responsible for obtaining any insurance it requires relating to the Goods, the Services or any vessel or vehicle and unless otherwise agreed LINX will have no Liability to insure the Goods, the Services or any vessel or vehicle.

(d) The Customer must provide to LINX on request a copy of a certificate of currency of insurance and any endorsement required in respect of a policy that the Customer is required to take out and maintain under this clause 4.6.

4.7 Change of Law or Operating Environment

(a) If a change in law or regulation (including the imposition of an additional regulatory requirement) and/or additional fees and/or charges are imposed in relation to or arising from a material change in the operating environment (**Change**) occurs during the Term then:

(i) to the extent that the Change directly results in an increase in the cost to LINX of providing the Services, LINX may increase its Rates relating to the Services to reflect the Change by giving reasonable written notice to the Customer of not less than 14 days; and

(ii) to the extent that the Change results in LINX being required to undertake certain tasks, cease to undertake certain tasks or otherwise change the manner in which it carries out the Services, LINX is entitled to amend this Agreement in a reasonable manner to reflect the Change by giving reasonable written notice to the Customer.

(b) If, at any time before or whilst this Agreement is operative, a Carbon Scheme is imposed or varied, or the impact of a Carbon Scheme varies, then to the extent that:

(i) the Carbon Scheme gives rise to or increases Carbon Costs incurred by LINX in connection with the supply of Services; and

(ii) those Carbon Costs (or increases in Carbon Costs) are not to be reimbursed to LINX under other provisions of this Agreement,

then LINX may increase its Rates relating to the Services to reflect the Carbon Costs (or increases in Carbon Costs) incurred by LINX by giving reasonable written notice to the Customer of not less than 14 days.

5. Dispute Resolution

5.1 Dispute Resolution

(a) If a dispute arises out of or in relation to this Agreement, either party may give notice of the dispute to the other, which notice must request that a '*Dispute Review Meeting*' be called.

(b) Each party's Representative must attend a Dispute Review Meeting called under clause 5.1(a) and must negotiate in good faith to promptly settle the dispute. If the parties' Representatives are unable to resolve a dispute, the dispute may be referred by either party for mediation to the Australian Disputes Centre. Each party must bear its own costs in relation to the mediation and the costs of the mediator will be borne equally by the parties.

(c) If the dispute has not been resolved through mediation under clause 5.1(b) within 20 Business Days of the date of the referral, or such longer period agreed in writing by the parties, either party may commence proceedings in a court of competent jurisdiction.

(d) Until the dispute is resolved, the parties must continue to observe their obligations under this Agreement (unless the dispute relates to an amount payable under an invoice, in which case, the Customer's obligation to pay an amount is suspended to the extent of the disputed amount until such time as the dispute is resolved).

(e) For avoidance of doubt, this clause does not apply to any disputes regarding a failure by the Customer to pay any undisputed amounts which are due and payable under this Agreement.

5.2 Interlocutory Relief

Nothing in this clause 5 prevents a party from seeking urgent interlocutory, declaratory or injunctive relief from a court of competent jurisdiction where, in that party's reasonable opinion, such action is necessary to protect that party's rights.

6. Termination

(a) Subject to clause 6(b), if either party (**Defaulting Party**) commits a material breach of this Agreement, the other party (**Non-Defaulting Party**) may give notice to the Defaulting Party of that breach requiring the Defaulting Party to remedy that breach within 14 days of the date of the notice and if the Defaulting Party fails to rectify the breach within 14 days of the date of the service of the notice, the Non-Defaulting Party may by notice terminate this Agreement with immediate effect.

(b) LINX may terminate this Agreement by giving reasonable notice in writing to the Customer where, due to no fault of LINX, LINX is unable to continue to provide the Services in circumstances where its ability to operate at the Site ceases or continuing to provide the Services will cause LINX to breach any contract with a third party or any applicable law.

(c) Either party may terminate this Agreement with immediate effect if the other party is affected by an Insolvency Event.

(d) Termination of this Agreement does not affect any

rights which a party has against the other in respect of any breach of this Agreement occurring prior to termination.

7. Notices

(a) Each communication (including each notice, consent, approval, request and demand) under or in connection with this Agreement must be in writing and addressed as set out in the Reference Schedule (as amended by notice from time to time) and must be delivered by hand or sent by mail, courier service or email.

(b) Each communication served under this Agreement is taken to be received by the addressee:

(i) (in the case of hand) at the time in the place to which it is delivered;

(ii) (in the case of registered mail or courier sent to an address) on actual receipt; and

(iii) (in the case of email) on that day if delivered by 5.00pm (local time in the place of receipt) on a Business Day, or on the next Business Day if delivered after 5.00pm (local time in the place of receipt) on a Business Day or on a day that is not a Business Day.

8. Force Majeure

(a) LINX will be released from its obligations under this Agreement to the extent and for the duration that performance of this Agreement is delayed, hindered or prevented by a Force Majeure Event.

(b) LINX must use its reasonable endeavours to promptly overcome any Force Majeure Event and restore its ability to perform. However:

(i) nothing will oblige LINX to settle any strike or other industrial dispute on terms contrary to LINX's wishes; and

(ii) nothing will oblige LINX to contest the validity or enforceability of any law, regulation or legally enforceable order by way of legal proceedings.

(c) The Customer will provide reasonable assistance to LINX if a Force Majeure Event occurs.

(d) Subject to clause 8(e), LINX will resume its obligations under this Agreement as soon as it is no longer affected by a Force Majeure Event.

(e) If a Force Majeure Event exceeds the period of 3 months, either party may provide notice to the other terminating this Agreement with immediate effect.

9. Confidentiality

Each party must keep confidential the terms of this Agreement and any information provided by a party to another party that, by its nature, or by the circumstances of its disclosure, is or could reasonably be expected to be regarded as confidential (**Confidential Information**) and must not cause or permit any persons to disclose Confidential Information without the consent of the other party except:

(a) to the extent necessary for the exercise of any right or compliance with any obligation under this Agreement;

(b) as required by law or the rule of a stock exchange;

(c) to its Related Bodies Corporate; and

(d) to lawyers, accountants and auditors of that party for the purpose of those persons providing services in that capacity to the party that engaged them.

10. Chain of Responsibility

(a) LINX and the Customer acknowledge and agree that each of them have obligations under the Chain of Responsibility Law.

(b) Each party must comply with its obligations under the Chain of Responsibility Law.

(c) The Customer must (and procure that its Associates) comply with any directions, procedures or policies advised or notified by LINX or its Associates to the Customer or its Associates with respect to packing, securing, loading or unloading of the Goods or entry into, use of or egress from the site upon which the Services are performed.

(d) The Customer acknowledges and agrees that, unless otherwise stated in this Agreement, it will be responsible for packing the Goods and will be responsible for discharging any obligations under the Chain of Responsibility Law in respect of Goods which the Customer (or its Associates) has packed.

11. General

11.1 Amendment and Assignment

The Agreement can only be amended, supplemented, replaced, assigned, novated or otherwise transferred by written agreement of the parties.

11.2 Further Acts and Documents

Each party must promptly do all further acts and execute and deliver all further documents (in form and content reasonably satisfactory to that party) required by law or reasonably requested by another party to give effect to this Agreement.

11.3 Entire Agreement

To the extent permitted by law, in relation to its subject matter, this Agreement embodies the entire understanding of the parties, and constitutes the entire terms agreed by the parties and supersedes any prior written or other agreement of the parties.

11.4 Severance

If at any time a provision of this Agreement is or becomes illegal, invalid or unenforceable in any respect under the law of any jurisdiction that will not affect or impair the legality, validity or enforceability of any other provision of this Agreement.

11.5 Waiver

(a) Failure to exercise or enforce, or delay in exercising or enforcing, or the partial exercise or enforcement of, a right, power or remedy provided by law or under this Agreement by a party does not preclude, or operate as a waiver of, the exercise or enforcement, or further exercise or enforcement, of that or any other right, power or remedy provided by law or under this Agreement.

(b) A waiver or consent given by a party under this Agreement is only effective and binding on that party if it is given or confirmed in writing by that party. No waiver of a breach of a term of this Agreement operates as a waiver of another breach of that term or of a breach of any other term of this Agreement.

11.6 Costs

(a) Subject to clause 11.6(b), each party must pay its own

costs and expenses in connection with negotiating, preparing, executing and performing this Agreement.

(b) The Customer must pay any stamp duty payable in relation to the execution or performance of this Agreement.

11.7 Governing Law and Jurisdiction

This Agreement will be governed and construed in accordance with the law applying in the State and each party irrevocably submit to the exclusive jurisdiction of the courts in that State.

11.8 Relationship

Nothing in this Agreement creates a relationship of employer and employee, principal and agent or partnership between the parties.

11.9 Rights

(a) All rights, immunities, indemnities and limitations of Liability in this Agreement will continue to have their full force and effect in all circumstances and notwithstanding any breach of this Agreement by LINX or any other person entitled to the benefit of such provisions, or termination of this Agreement.

(b) Any right that a person may have under this Agreement is in addition to, and does not replace or limit, any other right that the person may have.

11.10 Exchange of Counterparts

(a) This Agreement may be executed in any number of counterparts and by the parties on separate counterparts. Each counterpart constitutes an original of this Agreement, and all together constitute one agreement.

(b) This Agreement is binding on the parties on the exchange of executed counterparts. A copy of an original executed counterpart sent by email:

(i) must be treated as an original counterpart;

(ii) is sufficient evidence of the execution of the original; and

(iii) may be produced in evidence for all purposes in place of the original.

12. GST

(a) Unless otherwise expressly stated, all consideration to be provided under this Agreement is exclusive of GST. Any consideration that is specified to be inclusive of GST must not be taken into account in calculating the GST payable in relation to a supply for the purposes of this clause.

(b) If GST is payable by a supplier or by the representative member for a GST group of which the supplier is a member, on any supply made under or in connection with this Agreement, the recipient of that supply will pay to the supplier an amount equal to the GST payable on the supply.

(c) The recipient will pay the amount referred to in clause 12(b) in addition to and at the same time that the consideration for the supply is to be provided under this Agreement.

(d) The supplier must provide a tax invoice to the recipient no later than 5 days after the day on which any consideration is to be first provided for that supply.

(e) If the GST payable in relation to a supply made under or in connection with this Agreement varies from the additional amount paid by the recipient under clause 12(b), then the supplier will provide a corresponding refund or credit to, or will be entitled to receive the amount of that variation from, the recipient. Any payment, credit or refund under this clause 12(e) is deemed to be a payment, credit or refund of the additional amount payable under clause 12(b).

(f) Where a party is required under or in connection with this Agreement to pay or reimburse an expense or outgoing of another party, the amount to be paid or reimbursed by the first party will be the sum of:

(i) the amount of the expense or outgoing less any input tax credits in respect of the expense or outgoing to which the other party, or to which the representative member for a GST group of which the other party is a member, is entitled; and

(ii) if the payment or reimbursement is subject to GST, an amount equal to that GST.

13. Definitions and Interpretation

13.1 Definitions

In this Agreement, terms defined in the Quote have the meaning given in those documents and:

Abandoned Goods means Goods, subject to all applicable laws, which have not been accepted for delivery by the person identified as being the person to take delivery and which have remained in the possession of LINX for 90 days after the date of arrival at a port in the case of Goods which have been or are to be transported by sea or the date on which the Goods were due to be removed from a storage facility, as the case may be.

Agreement means the agreement comprising these General Terms and either:

(a) the Services Quotation; or

(b) the Formal Instrument of Agreement, the Specific Terms; the Schedule of Services or the Schedule of Rates.

Associate means a party's Related Bodies Corporate, employees, officers, servants, agents and subcontractors and, in the case of the Customer also includes any person who has an interest in the Goods and their employees, officers, servants, agents and subcontractors.

Business Day means a day which is not a Saturday, Sunday, Closed Port Day or a gazetted public holiday in the State.

Carbon Cost means any royalty, tax, excise, levy, fee, payment, rate, duty, charge, liability, cost or expense incurred, whether directly or indirectly in respect of the provision of Services arising out of, incidental to or resulting from the implementation of the Carbon Scheme.

Carbon Scheme means any law or regulation or any requirement or condition of a licence, permit, governmental consent or approval with respect to the production, or emission of, or, to reduce, limit, cease, prevent, offset, remove or sequester, greenhouse gas emissions, including without limitation any statutory emissions trading scheme for the management of greenhouse gas emissions or concentrations.

Chain of Responsibility Laws means any law or regulation relating to chain of responsibility obligations, including laws and regulations relating to driver fatigue, mass, dimension, load restraint and dangerous goods.

Claim means a demand, claim, action or proceeding made or brought by or against a person, however arising and whether present, unascertained, immediate, future or contingent.

Closed Port Day means any days which the relevant Port Authority designates as Closed Port Days including, but not limited to, Christmas Day, Good Friday, Anzac Day, Labour Day and Maritime Union of Australia Picnic Day.

Commercial Document has the meaning given in the *Customs Act* 1901 (Cth).

Consequential Loss means any loss which is loss of profits, loss of revenue, loss of access to markets, loss of goodwill or credit, loss of reputation or future reputation, loss of production, loss of business, loss of opportunity, adverse publicity, damage to credit rating, loss of use, increased overhead cost, production or other down time, remote or abnormal loss or loss of anticipated savings or any financial or economic loss (whether direct or indirect); or results from some special circumstance or supervening event.

Contaminant means a noxious or hazardous substance which, having regard to the quantity and location of the substance and other substances in conjunction with which it is stored or used is capable of causing or presenting risk of material harm to human health or any other aspect of the environment.

Dangerous Goods means dangerous goods as defined in the Australian Dangerous Goods Code and, to the extent not otherwise stated in the Australian Dangerous Goods Code, means any Goods which are dangerous, volatile, explosive, inflammable or offensive or which may become so, or which may become harmful to any person, property or the environment.

Dangerous Goods Protocols means the protocols for managing Dangerous Goods developed by LINX from time to time.

Force Majeure Event means an act of God, war, embargo, flood, industrial dispute or any other event (including a breakdown or failure of equipment or plant) which is beyond LINX's reasonable control.

Goods mean the cargo, baggage, motor vehicle or item in relation to which the Services have been or are to be performed and/or the Goods described in this Agreement.

Government Agency means any government or governmental, semi-governmental, administrative, fiscal or judicial body, department, commission, authority, tribunal, agency or entity.

GST Law has the meaning given to that expression in the *A New Tax System (Goods and Services Tax) Act* 1999 and words and expressions which are not defined in this Agreement but which have a defined meaning in GST Law have the same meaning as in the GST Law.

Insolvency Event means, in respect of a party, where that party is wound up, dissolved, has a liquidator or provisional liquidator appointed, enters into a scheme of arrangement or similar arrangements with or for the benefit of its creditors, is unable to pay its debts as they fall due, is granted protection from creditors or has an administrator or similar officer appointed or an order, application, resolution or notification is made in respect of any of the foregoing and not revoked within 7 days.

Interest means the aggregate of the relevant Reserve Bank of Australia Cash Rate Target plus 5%.

Liability means any Claim, loss, liability, cost or expense of any kind and however arising (whether in contract, negligence, another tort, the general law, under statute or otherwise), including damages, penalties, fines and interest and including those which are prospective or contingent and those the amount of which for the time being is not ascertained or ascertainable.

LINX means LINX Kooragang Pty Ltd (ACN 663 815 914) or such other LINX Entity named in the services quotation or Formal Instrument of Agreement or other document.

LINX Entity means LINX Cargo Care Pty Ltd (ACN 123 685 183) and each of its Related Bodies Corporate.

Payment Terms means the payment terms outlined in the payment section of this Agreement from the date of the relevant LINX invoice.

Rates mean the rates specified in the Quote for transport, storage and ancillary services, as the case may be, as reviewed and varied by LINX on 1 July each year or otherwise in accordance with this Agreement.

Related Body Corporate has the meaning given in section 50 of the *Corporations Act* 2001 (Cth).

Services means the services described in the Services Quotation or the Schedule of Services.

State means the state in which the Services are supplied by LINX, or where supplied in multiple jurisdictions, in the state in which the majority of the Services are provided.

Storage Services means the services described as such (if any) in the Services Quotation or the Schedule of Services.

Temperature Controlled Goods means goods which require temperature control.

Temperature Controlled Goods Protocols means the protocols for managing Temperature Controlled Goods developed by LINX from time to time.

Term means the period of time LINX carries out the Services as described in this Agreement, unless terminated earlier in accordance with this Agreement.

Transport of Dangerous Goods Legislation means:

(a) where the Services are performed in New South Wales:

  (i) the *Dangerous Goods (Road and Rail Transport) Act 2008*; and

  (ii) the *Dangerous Goods (Road and Rail Transport) Regulation 2014*;

(b) where the Services are performed in Queensland:

  (i) the *Transport Operations (Road Use Management) Act 1995*;

  (ii) the *Transport Operations (Road Use Management-Dangerous Goods) Regulation 2018*;

  (iii) the *Transport Infrastructure Act 1994*; and

  (iv) the *Transport Infrastructure (Dangerous Goods by Rail) Regulation 2018*;

(c) where the Services are performed in Victoria:

  (i) the *Dangerous Goods Act 1985*; and

  (ii) the *Dangerous Goods (Transport by Road or Rail) Regulations 2018*;

(d) where the Services are performed in South Australia:

(i) the *Dangerous Substances Act 1979*;

(ii) the *Dangerous Substances (Dangerous Goods Transport) Regulations 2023*;

(e) where the Services are performed in Western Australia:

(i) the *Dangerous Goods Safety Act 2004*; and

(ii) the *Dangerous Goods Safety Regulations*;

(f) where the Services are performed in the Northern Territory:

(i) the *Transport of Dangerous Goods By Road and Rail (National Uniform Legislation) Act*; and

(ii) the *Transport of Dangerous Goods By Road and Rail (National Uniform Legislation) Regulations;*

(g) where the Services are performed in the Australian Commonwealth Territory:

(i) the *Dangerous Goods (Road Transport) Act 2009*; and

(ii) the *Dangerous Goods (Road Transport) Regulations 2010*;

(h) where the Services are performed in Tasmania:

(i) the *Dangerous Goods (Road and Rail Transport) Act 2010*; and

(ii) the *Dangerous Goods (Road and Rail Transport) Regulations 2010*,

and regardless of the location where the Services are performed, includes:

(i) the *Australian Code for the Transport of Dangerous Goods by Road & Rail*; and

(j) any codes of conduct or other guidelines prepared under any of the abovementioned legislation addressing the transport of dangerous goods which applies to the Services.

Transport Services means the services described as such (if any) in the Services Quotation or the Schedule of Services.

Work Request means a written request for LINX to perform the Services containing the following details:

(a) description of Services; and

(b) the date the Services are required.

13.2 Interpretation

In this Agreement, unless the context indicates a contrary intention:

(a) headings are for convenience only and do not affect interpretation;

(b) an obligation or a liability assumed by, or a right conferred on, 2 or more persons binds or benefits them jointly and severally;

(c) "person" includes an individual, the estate of an individual, a corporation, an authority, an association or a joint venture (whether incorporated or unincorporated), a partnership and a trust;

(d) a reference to a party includes that party's executors, administrators, successors and permitted assigns, including persons taking by way of novation;

(e) a reference to a document (including this Agreement) is to that document as varied, novated, ratified or replaced from time to time;

(f) a reference to a statute includes its delegated legislation and a reference to a statute or delegated legislation or a provision of either includes consolidations, amendments, re-enactments and replacements;

(g) a word importing the singular includes the plural (and vice versa), and a word indicating a gender includes every other gender;

(h) a reference to a party, clause, schedule, exhibit, attachment or annexure is a reference to a party, clause, schedule, exhibit, attachment or annexure to or of this Agreement, and a reference to this Agreement includes all schedules, exhibits, attachments and annexures to it; and

(i) if a word or phrase is given a defined meaning, any other part of speech or grammatical form of that word or phrase has a corresponding meaning; and "includes" in any form is not a word of limitation.

13.3 Relationship of LINX Entities

(a) Where more than one LINX Entity provides the Services each LINX Entity:

(i) will hold the benefit of all rights under this Agreement for and on behalf of each other LINX Entity; and

(ii) is entitled to enforce those rights for and on behalf of that other entity.

(b) Each indemnity, limitation, condition and liberty in this Agreement and every right, exclusion from or limitation of Liability, defence and immunity of whatever nature applicable to LINX or to which LINX is entitled under this Agreement will be available to each relevant LINX Entity and to each of LINX Entity's Associates. Where LINX is deemed to be acting as agent or trustee on behalf of and for the benefit of another LINX Entity or its Associates, those LINX Entities or their Associates are, to this extent, deemed to be party to this Agreement and may enforce the terms of this clause 13.3 against the Customer.