

TERMS AND CONDITIONS

Payment terms

1. Payment must be received within thirty (30) days from the end of the calendar month in which the goods and/or services are invoiced unless otherwise agreed in writing between the Applicant and the Supplier. Hi-Quality Waste Management Pty Ltd ABN 25 003 105 379, Hi-Quality Sales Victoria Pty Ltd ABN 65 100 174 712, Hi-Quality Environmental Services Pty Ltd ABN 87 097 554 580, Hi-Quality Recycling Services Pty Ltd ABN 60 101 044 688, Hi-Quality Quarry (NSW) Pty Ltd ABN 95 104 362 110, Hi-Quality Civil and Environmental Services Pty Ltd ABN 58 133 722 915, Hi Quality Building & Landscape Supplies ABN 52 145 898 095 and their related bodies corporate (as that term is defined in the *Corporations Act 2001*) (together referred to as the **Supplier**) may, at any time, unilaterally vary the terms of trade in its absolute and unfettered discretion.
2. Should the Applicant not pay for the goods or services supplied by the Supplier in accordance with the credit terms as provided herein, or as agreed in writing by the Supplier from time to time, the Supplier will be entitled to charge an administration fee of:
 - (a) 10 percent of the amount of the invoice payable; and
 - (b) a further 10 percent per annum payable per year, or part thereof, until payment by the Applicant.

Jurisdiction

3. The Applicant acknowledges and agrees that this agreement will be governed by the laws of New South Wales, and the laws of the Commonwealth of Australia which are in force in New South Wales.
4. The Applicant acknowledges and agrees that any contract for the supply of goods or services between the Supplier and the Applicant is formed at the address of the Supplier.
5. The parties to this agreement submit to the non-exclusive jurisdiction of the courts of New South Wales and the relevant federal courts and courts competent to hear appeals from those courts.

Security/charges

6. The Applicant charges in favour of the Supplier all of its estate and interest in any real property that the Applicant owns at present and in the future with the amount of its indebtedness hereunder until discharged.
7. The Applicant charges in favour of the Supplier all of its estate and interest in any personal property that the Applicant owns at present and in the future with the amount of its indebtedness hereunder until discharged.
8. The Applicant appoints as its duly constituted attorney the Supplier's company secretary from time to time to execute in the Applicant's name and as the Applicant's act and deed any real property mortgage, bill of sale or consent to any caveat the Supplier may choose to lodge against real property that the Applicant may own in any Land Titles Office in any state or territory of Australia, even though the Applicant may not have defaulted in carrying out its obligations hereunder.
9. Where the Applicant has previously entered into an agreement with the Supplier by which the Applicant has granted a charge, mortgage or other security interest (including a security interest as defined in the *Personal Property Securities Act 2009 (PPSA)*) over or in respect of real or personal property, those charges, mortgages or other security interests and the terms which directly or indirectly create rights, powers or obligations in respect thereto will continue and co-exist with the obligations and security interests created in this agreement and will secure all indebtedness and obligations of the Applicant under this agreement. The Supplier may, at its election, vary the terms of such previous charges, mortgages or other securities to reflect the terms herein.

Purpose of credit

10. The Applicant acknowledges and agrees that the credit to be provided to the Applicant by the Supplier is to be applied wholly or predominantly for commercial purposes.

Formation of contract

11. Quotations made by the Supplier will not be construed as an offer or obligation to supply in accordance with the quotation. The Supplier reserves the right to accept or reject, at its discretion, any offer to purchase received by it. Only written acceptance by the Supplier of the Applicant's offer will complete a contract.
12. Placement of an order, either verbally or in writing, will imply acceptance of the Supplier's offer and of these terms and conditions.

Retention of title

13. Title in the goods does not pass to the Applicant until the Applicant has made payment in full for the goods and, further, until the Applicant has made payment in full of all the other money owing by the Applicant to the Supplier (whether in respect of money payable under a specific contract or on any other account whatsoever).
14. Whilst the Applicant has not paid for the goods supplied in full at any time, the Applicant agrees that property and title in the goods will not pass to the Applicant and the Supplier retains the legal and equitable title in those goods supplied and not yet sold.
15. Until payment in full has been made to the Supplier, the Applicant will hold the goods in a fiduciary capacity for the Supplier and agrees to store the goods in such a manner that they can be identified as the property of the Supplier, and will not mix the goods with other similar goods.
16. The Applicant will be entitled to sell the goods in the ordinary course of its business, but until full payment for the goods has been made to the Supplier, the Applicant will sell as agent and bailee for the Supplier and the proceeds of sale of the goods will be held by the Applicant on trust for the Supplier absolutely.
17. The Applicant's indebtedness to the Supplier, whether in full or in part, will not be discharged by the operation of clause 16 hereof unless and until the funds held on trust are remitted to the Supplier.
18. The Applicant agrees that whilst property and title in the goods remains with the Supplier, the Supplier has the right, with or without prior notice to the Applicant, to enter upon any premises occupied by the Applicant (or any receiver, receiver and manager, administrator, liquidator or trustee in bankruptcy of the Applicant) to inspect the goods of the Supplier and to repossess the goods which may be in the Applicant's possession, custody or control when payment is overdue.
19. The Applicant will be responsible for the Supplier's costs and expenses in exercising its rights under clause 18. Where the Supplier exercises any power to enter the premises, that entry will not give rise to any action of trespass or similar action on the part of the Applicant against the Supplier, its employees, servants or agents.
20. The Applicant agrees that where the goods have been retaken into the possession of the Supplier, the Supplier has the absolute right to sell or deal with the goods, and if necessary, sell the goods with the trademark or name of the Applicant on those goods, and the Applicant hereby grants an irrevocable licence to the Supplier to do all things necessary to sell the goods bearing the name or trademark of the Applicant.
21. For the avoidance of doubt, the Supplier's interest constitutes a 'purchase money security interest' pursuant to the PPSA.

Cancellation of terms of credit

22. The Supplier reserves the right to withdraw credit at any time, whether the Applicant is in default under the terms of this agreement or not.
23. Upon cancellation with or without notice all liabilities incurred by the Applicant become immediately due and payable to the Supplier.

Indemnity

24. The Applicant agrees to indemnify the Supplier and keep the Supplier indemnified against any claim. This indemnity includes any legal fees and expenses the Supplier incurs in order to enforce its rights, on an indemnity basis.

Provision of further information

25. The Applicant undertakes to comply with any request by the Supplier to provide further information for the purpose of assessing the Applicant's creditworthiness, including an updated credit application.

26. If the Applicant is a corporation (with the exception of a public listed company), it must advise the Supplier of any alteration to its corporate structure (for example, by changing directors, shareholders, or its constitution). In the case of a change of directors or shareholders the Supplier may ask for new guarantors to sign a guarantee and indemnity.

Corporations

27. If the Applicant is a corporation, the Applicant warrants that all of its directors have signed this agreement and that all of its directors will enter into a guarantee and indemnity with the Supplier in relation to the Applicant's obligations to the Supplier.

Trustee capacity

28. If the Applicant is the trustee of a trust (whether disclosed to the Supplier or not), the Applicant warrants to the Supplier that:
 - (a) the Applicant enters into this agreement in both its capacity as trustee and in its personal capacity;
 - (b) the Applicant has the right to be indemnified out of trust assets;
 - (c) the Applicant has the power under the trust deed to sign this agreement; and
 - (d) the Applicant will not retire as trustee of the trust or appoint any new or additional trustee without advising the Supplier.
29. The Applicant must give the Supplier a copy of the trust deed upon request.

Partnership

30. If the Applicant enters into this agreement as partners, the Applicant warrants that all of the partners have signed this agreement and that all of the partners will enter into a guarantee and indemnity with the Supplier in relation to the Applicant's obligations to the Supplier.
31. If the Applicant is a partnership, it must not alter its partnership (for example, adding or removing partners or altering its partnership agreement) without advising the Supplier. In the case of a change of partners, the Supplier may ask for new guarantors to sign a guarantee and indemnity.

Insolvency

32. If the Applicant becomes insolvent, the Applicant remains liable under this agreement for payment of all liabilities incurred hereunder. The Applicant remains liable under this agreement even if the Supplier receives a dividend or payment as a result of the Applicant being insolvent.

Waiver

33. A waiver of any provision or breach of this agreement by the Supplier must be made by an authorised officer of the Supplier in writing. A waiver of any provision or breach of this agreement by the Applicant must be made by the Applicant's authorised officer in writing.
34. Until ownership of the goods passes, the Applicant waives its rights it would otherwise have under the PPSA:
 - (a) under section 95 to receive notice of intention to remove an accession;
 - (b) under section 118 to receive notice that the Supplier intends to enforce its security interest in accordance with land law;
 - (c) under section 121(4) to receive a notice of enforcement action against liquid assets;
 - (d) under section 129 to receive a notice of disposal of goods by the Supplier purchasing the goods;
 - (e) under section 130 to receive a notice to dispose of goods;
 - (f) under section 132(2) to receive a statement of account following disposal of goods;
 - (g) under section 132(4) to receive a statement of account if no disposal of goods for each 6 month period;
 - (h) under section 135 to receive notice of any proposal of the Supplier to retain goods;
 - (i) under section 137(2) to object to any proposal of the Supplier to retain or dispose of goods;
 - (j) under section 142 to redeem the goods;
 - (k) under section 143 to reinstate the security agreement; and
 - (l) under section 157(1) and 157(3) to receive a notice of any verification statement.

Costs

35. The Applicant must pay for its own legal, accounting and business costs and all costs incurred by the Supplier relating to any default by the Applicant. The Applicant must also pay for all stamp duty and other taxes payable on this agreement (if any).
36. The Applicant will pay the Supplier's costs and disbursements incurred in pursuing any recovery action, or any other claim or remedy, against the Applicant, including collection costs, debt recovery fees and legal costs on an indemnity basis. Such costs and disbursements will be due and payable by the Applicant to the Supplier irrespective of whether pursuit of the recovery action, claim or remedy is successful.
37. Subject to clauses 38 and 40, payments by, or on behalf of, the Applicant will be applied by the Supplier as follows:
 - (a) Firstly, in payment of any and all collection costs and legal costs in accordance with clauses 18 and 36.
 - (b) Secondly, in payment of any interest incurred in accordance with clause 43.
 - (c) Thirdly, in payment of the outstanding invoice(s).
38. The Supplier may apply and allocate payments received by, or on behalf of, the Applicant in a manner in the Supplier's absolute and unfettered discretion, including so as to attribute the payments to satisfy obligations which are or are not secured by a purchase money security interest or otherwise.
39. To the extent that payments have been allocated to invoices by the Supplier in its business records, the Supplier may, in its sole and unfettered discretion, allocate and/or retrospectively reallocate payments in any manner whatsoever at any time whatsoever.
40. Payments allocated (and/or reallocated) under clause 38 and/or 39 will be treated as though they were allocated or reallocated, respectively, in the manner determined by the Supplier on the date of receipt of payment.

Taxes and duty

41. The Applicant must pay GST on any taxable supply made by the Supplier to the Applicant under this agreement. The payment of GST is in addition to any other consideration payable by the Applicant for a taxable supply.
42. If as a result of:
 - (a) any legislation becoming applicable to the subject matter of this agreement; or
 - (b) any changes in legislation or its interpretation by a court of competent jurisdiction or by any authority charged with its administration;the Supplier becomes liable to pay any tax, duty, excise or levy in respect of the amounts received from the Applicant, then the Applicant must pay the Supplier these additional amounts on demand.

Interest rates

43. The interest rate on any outstanding debts is a fixed rate of 18 percent per annum.

Set-off

44. All payments required to be made by the Applicant under this agreement will be made free of any set-off, or counterclaim and without deduction or withholding.
45. Any amount due to the Supplier from time to time may be deducted from any monies which may be or may become payable to the Applicant by the Supplier.

Miscellaneous

46. The Supplier is not liable for any loss caused to the Applicant by reason of strikes, lockouts, fires, riots, war, embargoes, civil commotions, acts of God or any other activity beyond the Supplier's control.
47. In relation to the supply of goods, the Supplier's liability is limited to:
 - (a) replacing the goods or supplying similar goods;
 - (b) repairing the goods;
 - (c) providing the cost for replacing the goods or for acquiring equivalent goods; and
 - (d) providing the cost for having the goods repaired.
48. In relation to the supply of services, the Supplier's liability is limited to:
 - (a) supplying the service again; or
 - (b) providing for the cost of having the services supplied again.

49. The Supplier is not liable, whether claims are made or not, for loss of profit, economic or financial loss, damages, consequential loss, loss of opportunity or benefit, loss of a right or any other indirect loss suffered by the Applicant.
50. The Applicant will, at the request of the Supplier, execute documents and do such further acts as may be required for the Supplier to register the security interest granted by the Applicant under the PPSA.
51. The Applicant agrees to accept service of any document required to be served, including any notice under this agreement or the PPSA or any originating process, by prepaid post at any address nominated in this application or any other address later notified to the Supplier by the Applicant or the Applicant's authorised representative.
52. The Applicant further agrees that where we have rights in addition to those under part 4 of the PPSA, those rights will continue to apply.
53. The Applicant irrevocably grants to the Supplier the right to enter upon the Applicant's property or premises, without notice, and without being in any way liable to the Applicant or to any third party, if the Supplier has cause to exercise any of their rights under sections 123 and/or 128 of the PPSA, and the Applicant shall indemnify the Supplier from any claims made by any third party as a result of such exercise.
54. Nothing in this agreement shall be read or applied so as to purport to exclude, restrict or modify or have the effect of excluding, restricting or modifying the application in relation to the supply of any goods and/or services pursuant to this agreement of all or any of the provisions the *Competition and Consumer Act 2010* or any relevant State or Federal Legislation which by law cannot be excluded, restricted or modified.
- Severance**
55. If any provision of this agreement is not enforceable in accordance with its terms, other provisions which are self-sustaining are, and continue to be, enforceable in accordance with their terms.
56. If any part of this agreement is invalid or unenforceable, that part is deleted and the remainder of the agreement remains effective.
- Variation**
57. The Applicant agrees that these terms and conditions may be varied, added to, or amended by an authorised officer of the Supplier at any time by written notice to the Applicant.
58. Any proposed variation to these terms and conditions by the Applicant must be requested in writing. The Supplier may refuse any such request without providing reasons either orally or in writing.
59. Variations requested by the Applicant will only be binding upon the Supplier if they are accepted in writing.
- Consent to register**
60. The Applicant hereby consents to the Supplier recording the details of this Agreement on the Personal Property Securities Register and agrees to do all things necessary and reasonably required by the Supplier to effect such registration.
61. The Applicant waives any right or entitlement to receive notice of the registration of any security interest(s) created by this instrument on the Personal Property Securities Register.
- Entire agreement**
62. Together with any Hire Agreement between the parties, this agreement constitutes the entire agreement between the parties relating in any way to its subject matter. All previous negotiations, understandings, representations, warranties, memoranda or commitments about the subject matter of this agreement are merged in this agreement and are of no further effect. No oral explanation or information provided by a party to another affects the meaning or interpretation of this agreement or constitutes any collateral agreement, warranty or understanding. Subject to clause 1 of this agreement, where the terms of any Hire Agreement differ from the terms herein, the terms of this agreement shall prevail.
63. Notwithstanding the preceding paragraph, in circumstances where there is a pre-existing written credit agreement (**Original Agreement**) between the Applicant and the Supplier, these terms and this agreement will constitute a variation of the Original Agreement whereby the terms of the Original Agreement are deleted and replaced with the terms herein, unless the terms of the Original Agreement are otherwise expressly or implicitly preserved by the terms herein in which case they will co-exist with the terms herein, and, to the extent of any inconsistency, these terms will prevail.
- Privacy Act**
64. The Applicant agrees to the terms of the Privacy Statement pursuant to the *Privacy Act 1988* (as amended by the *Privacy Amendment (Enhancing Privacy Protection) Act 2012* contained in this document.

The Applicant hereby applies for the opening of an account and provides the above information in support thereof.

I am/We are authorised to sign this credit application form on behalf of the Applicant and the information given is true and correct to the best of my/our knowledge.

Signature		Signature	
Name (print)		Witness name (print)	
Position		Date	
Date			

Signature		Signature	
Name (print)		Witness name (print)	
Position		Date	
Date			

FOR COMPLETION BY THE SUPPLIER

Credit Limited Approved: \$

The Applicant's credit application is accepted. Signed for and on behalf of the Supplier.

Signature		Position	
Name (print)		Date	

ACCOUNT APPROVED FOR CASH ON DELIVERY / 7 DAYS / 14 DAYS / 30 DAYS
(supplier to nominate)

PRIVACY STATEMENT

- This privacy statement encompasses consents, notifications and disclosures under or in relation to the *Privacy Act 1988* (as amended by the *Privacy Amendment (Enhancing Privacy Protection) Act 2012*) (**Act**).
- The terms of this statement operate concurrently with any pre-existing privacy statement, authorisation or notification, whether contained in our credit application, terms and conditions of trade or otherwise, save to the extent of any inconsistency in which case the terms of this privacy statement shall prevail.
- For the purpose of this statement, the terms "personal information", "sensitive information", "credit eligibility information", "credit information", "commercial credit purpose", "credit guarantee purpose", "consumer credit purpose", "credit reporting body", "credit provider", "credit reporting information", "credit reporting code" carry the same meaning as under the Act and the term "Information" means personal information, sensitive information, credit eligibility information, credit reporting information and credit information, both severally and collectively.
- The Supplier may collect personal information about the Applicant and/or Guarantor(s) for the Supplier's primary purposes which include the assessment of a credit application, reviewing existing credit terms, assessing credit worthiness, collecting overdue payments, assessing credit guarantees (current and prospective), internal management purposes, marketing, sales and business development purposes and direct marketing.
- The Applicant and/or Guarantor(s) consent to the Supplier collecting, using and disclosing personal information (including sensitive information) for both their primary purposes specified herein and purposes other than the primary purposes, including the purpose of direct marketing.
- The Supplier may collect, and may already have collected, Information from the Applicant and/or Guarantor(s), other credit providers, credit reporting bodies and other third parties for the purposes of its functions and activities including, but not limited to, credit, sales, marketing and administration. If the Information was not collected by the Supplier it may restrict or impede upon the Supplier trading with, extending credit to, continuing to extend credit to or extending further credit to the Applicant and/or Guarantor(s) or their related bodies corporate.
- The Applicant and/or Guarantor(s) consent to the Supplier obtaining and making disclosure of Information about the Applicant and/or Guarantor(s) from and to a credit reporting body and/or another credit provider for a commercial credit related purpose and/or a credit guarantee purpose and/or a consumer credit purpose and/or another related purpose. The Supplier notifies the Applicant and/or Guarantor(s) that it may use and/or disclose credit eligibility information under section 21G of the Act.
- The Supplier may provide personal information about the Applicant and/or Guarantor(s) to any or all of the credit reporting bodies nominated below. The Supplier intends to disclose default information to any or all of the credit reporting bodies listed below. The Applicant and/or Guarantor(s) consent to such disclosure. The Supplier's credit reporting policy contains a statement of notifiable matters in accordance with s21C of the Act and items 4.1 and 4.2 of the Credit Reporting Code in respect of disclosure to credit reporting bodies including what the information may be used for, what the Supplier may disclose and the Applicant's and/or Guarantor(s)' right to request limitations to the use of their information.

Veda Advantage Level 15, 100 Arthur Street NORTH SYDNEY NSW 2060 Tel: 1300 921 621	Creditor Watch Level 13, 109 Pitt Street SYDNEY NSW 2000 Tel: 1300 501 312	NCI Level 2, 165 Grenfell St ADELAIDE SA 5000 Tel: 1800 882 820
Dun & Bradstreet Level 2, 143 Coronation Drive MILTON QLD 4064 Tel: 07 3360 0600	Experian Level 6, 549 St Kilda Road MELBOURNE VIC 3004 Tel: 03 9699 0100	
- The Supplier may disclose Information to, and about them and the Applicant and/or Guarantor(s) hereby acknowledge that they consent to the disclosure of such information to the Supplier's employees, subsidiaries, employees, agents and related bodies corporate, past, present or prospective credit providers of the Applicant and/or Guarantor(s) or their related bodies corporate, including for the purpose of that person considering whether to offer to act as guarantor or offer security for that credit.

10. By reason of the Applicant's and/or Guarantor(s)' consent to the disclosure to overseas recipients hereunder, APP 8.1 will not apply to the Supplier's dealing with the Applicant's and/or Guarantor(s)' Information.
11. A full copy of the Supplier's privacy policy and credit reporting policy can be obtained from the Supplier's website (details above) or by making a request in writing directed to the Supplier's privacy officer. The Supplier's privacy policy and credit reporting policy contain information about how to access and seek correction of Information, or how to complain about a breach of the Act, APP, code(s) and how the Supplier will deal with any such complaint.
12. The Applicant and/or Guarantor(s) will be deemed to have acknowledged and accepted the terms of this privacy statement by either signing and returning this statement, failing to provide written notification to the Supplier within 14 days of receipt of this statement that its terms are not accepted, continuing to trade with the Supplier after receipt of this Statement or, if the Applicant and/or Guarantor(s) are directors or guarantors of a customer, by not taking steps to prevent the customer from continuing to trade with the Supplier after receipt of this statement.

Schedule A – Terms and Conditions relating to recycling and landfill sites

Inspection of loads

1. The Supplier reserves the right to inspect any of the Applicant's materials that the Applicant intends to tip. The Applicant must provide the Supplier with reasonable access to such materials upon request for inspection and the Applicant agrees to cooperate with the Supplier's reasonable directions during such inspection.
2. Upon inspection, if the Supplier determines that there are materials which fall outside of its operating licence or are contrary to the Supplier's policies, the Supplier may, in its sole discretion, refuse to provide Goods and Services to the Customer in relation to such materials.
3. Where the Applicant's materials have been transported to the Supplier's premises and the Supplier, upon inspection, determines that there are materials which fall outside of its operating licence or are contrary to the Supplier's policies, the Supplier may at its option and in its sole discretion, either return the rejected materials to the Applicant or send the rejected materials to a licensed facility that is capable of dealing with the rejected materials. The Applicant is liable for all costs and expenses incurred by the Supplier in dealing with the rejected materials including but not limited to loading, unloading, transport, testing and disposal costs.
4. The Applicant indemnifies and agrees to indemnify the Supplier against all loss or damage resulting from the Supplier dealing with the rejected materials.

Site Access

5. The Applicant will provide "all weather", unobstructed and structurally appropriate truck access for the Supplier's vehicles. The Applicant is liable for all expenses incurred in retrieving the Supplier's vehicles from the site in the event that access and egress to the site is hindered by circumstances beyond the control of the Supplier.

Insurance

6. The Applicant is responsible for ensuring that it obtains its own insurance in respect of its staff and equipment and in relation to all business activities carried out by the Applicant including when in attendance at any site owned or operated by the Supplier. Further, the Applicant will ensure that all of its subcontractors obtain their own insurance in respect of all works and activities carried out including on any site owned or operated by the Supplier.

Schedule B – Terms of Cartage

1. Hi-Quality Waste Management Pty Ltd ABN 25 003 105 379, Hi-Quality Sales Victoria Pty Ltd ABN 65 100 174 712, Hi-Quality Environmental Services Pty Ltd ABN 87 097 554 580, Hi-Quality Recycling Services Pty Ltd ABN 60 101 044 688, Hi-Quality Quarry (NSW) Pty Ltd ABN 95 104 362 110, Hi-Quality Civil and Environmental Services Pty Ltd ABN 58 133 722 915, Hi Quality Building & Landscape Supplies ABN 52 145 898 095 and their related bodies corporate (as that term is defined in the *Corporations Act 2001*) are the businesses which make up the Hi-Quality Group of companies and shall be hereinafter referred to as "**the Carrier**".
2. In these conditions the Australian code for the Transport of Dangerous Goods by Road and Rail as endorsed by the Australian Transport Advisory Council in July, 1981, and published in Commonwealth Gazette p2, on the 24th day of February, 1982 and as amended from time to time is hereafter called "The Code".
3. The Carrier is not a common carrier and hereby gives notice that it accepts goods for carriage only upon the conditions set out herein and shall not be bound by any agreement to vary these conditions unless such agreement is in writing and signed by a duly authorized Officer of the Carrier.
4. The Carrier reserves the right to refuse the carriage or transport of the goods of any person, corporation or company and the carriage or transport of any class of goods at its discretion.
5. The Carrier accepts goods for carriage on the condition that the Carrier and any servant or agent of the Carrier shall be:
 - (i) exempt from all liability of whatsoever nature and howsoever arising in respect of any loss or damage which may be due to the negligence or wilful misconduct or default, or otherwise of the Carrier or others and whether or not the same occurs in the course of the performance by the Carrier of any contract or in the events which are in the contemplation of the Carrier and or the Consignor or in the events which are foreseeable or not foreseeable by them or either of them or in the events which may constitute a fundamental breach of any contract or a breach of any fundamental term hereof.
 - (ii) Compensated by the Consignor for any loss or damage in any way caused by the goods to the property of the Carrier or its servants or agents.
 - (iii) Indemnified by the Consignor against all claims in respect of any injury, loss or damage in any way caused by the goods to any person or to the goods of any person whatsoever.
6. The Consignor of the goods shall be deemed to warrant that:
 - (a) The goods are not dangerous as defined in the Code unless the Consignor shall describe the goods in the shipping documents in the manner prescribed in the Code.
 - (b) All dangerous goods offered for carriage are properly classified, described packaged, marked and labelled and are in proper condition for transport according to the provisions of the Code.
 - (c) If any goods offered for transport are subject to any law or regulation relating to customs or exercise, then any customs or excise duty and any costs to which they are liable have been paid and that if the Carrier becomes liable to pay any monies in respect thereof, then such monies shall be repaid by the Consignor to the Carrier on demand.
 - (d) The goods are fully described in the shipping documents as to their nature, weight and measurement at the time that possession of the goods are given to the Carrier and the Consignor indemnifies the Carrier against all claims, costs and penalties payable by the Carrier to any third party due to any error or misdescription of the goods as aforesaid whether such error or misdescription is intentional or otherwise
 - (e) The Consignor is either the owner or the authorized agent of the owner of the goods offered for carriage and that the Consignor accepts these conditions on behalf of the owner of the goods and for the Consignee,
7. Where any contract for the carriage of goods is made in the State of Queensland then these conditions of carriage will be read subject to the provisions of Cartage of Goods By Land (Carriers liability) Act 1967 of that State but except to the extent that they are inconsistent with the provision of that Act these terms and conditions shall remain in full force in that State.
8. The Carrier may carry any goods or may have them carried by a third party by any method which it in its absolute discretion deems fit and any specified mode of carriage shall be deemed an expression of preference only.
9. The Carrier does not undertake to dispatch any goods at any particular time and may at its discretion detain and stop the carriage of any goods in transit and may require the Consignor retake possession of the goods at any time
10. Dangerous goods will be carried in accordance with the Code including the General Conditions for the Rail Transport of Dangerous Goods forming part thereof if the goods are carried by rail.
11. The Consignor shall authorize the Carrier (if the Carrier desires to do so) to act as the agent of the Consignor and to arrange the carriage of goods by a third party and any such arrangement shall be deemed to have been made by the Carrier on behalf of the consignor and the third party or third parties shall be entitled to the full benefit of these terms and conditions to the same extent as the Carrier.
12. All rights, immunities and limitations of liability conferred on the Carrier whether expressly or impliedly in the within conditions of carriage shall continue to be in full force and effect in all circumstances and notwithstanding any breach of the contract or any condition hereby by the carrier.
13. The Carrier may deviate from the usual manner of cartage of goods if it shall consider it necessary or desirable to do so.
14. Should the Consignee of the goods described on the shipping documents not be in attendance at the address given during normal trading hours when delivery is attempted an additional charge may be made at ruling rates for each day until delivery is accomplished.
15. The Carrier will deliver goods at intermediate points only by special arrangement and then provided facilities are available at all hours.
16. Goods may be onforwarded by any means at the discretion of the Carrier.
17. The goods are accepted for carriage subject to a general lien for all charges due or which may become due to the Carrier on any account. If the lien is not satisfied and/or the goods are not collected the Carrier may at its option and without any notice in the case of perishable goods, forthwith and in any other case upon the expiration of one month either:
 - (i) remove such goods or part thereof and store them in such a place and manner as the Carrier shall think proper and at the risk and expense of the Consignor as the case maybe;
 - (ii) or Open any package and sell such goods or part thereof upon such terms as it shall think fit and apply the proceeds in or towards discharge of the lien and the costs of sale without liability to any person for any loss or damage thereby caused.
18. All charges shall be deemed to have been earned when the Carrier takes possession of the goods for carriage and under no circumstances shall any charges be refunded discounted or abated notwithstanding that he goods may not be delivered or that they are delivered in a damaged condition.
19. Every special instruction to the effect that charges will be paid by the Consignee shall be deemed to include a stipulation that if the Consignee does not pay the said charges within 7 days of delivery or attempted delivery of the goods, then the Consignee shall pay the said charges including any additional charge for each call made in an attempt to effect delivery.
20. The Carrier may charge freight by weight, measurement or value and may at any time reweigh, revalue or remeasure or require the goods to be reweighed, revalued or remeasured and in the event of any increases being disclosed in the weight, value or measurement of any of the said goods the Carrier may make additional charges proportional to such increase so disclosed
21. All uncrated machinery shall be deemed to have a height of 2.6 metres and shall be measured and charged accordingly.
22. (a) Where freight charged is by weight there shall be a minimum weight for each shipment of goods unless otherwise stated in writing.
 - (i) The minimum weight for each pallet of goods shall be calculated at the rate of 1000 kilograms per 2 cubic metres of any part thereof.
 - (ii) The minimum weight of goods shipped other than by pallet shall be calculated at the rate of 333 kilograms per cubic metre or part thereof.
- (b) The minimum weight shall be used for the calculation of the charge unless the actual weight of the shipment exceeds the minimum weight so.
23. Notwithstanding any condition herein purporting to limit or exclude the liability of the Carrier where the contract involves the transportation of goods otherwise than for the purpose of a business, trade, profession or occupation carried on or engagement in by the Consignor the contract shall be subject to the warranty or warranties implied by section 74 of the Trade Practices Ad, 1974 and in particular the warranty by the Carrier that such transportation shall be rendered with due care and skill.
24. The Consignor does hereby authorize the Carrier to store or to arrange for the storage of the goods at any place and at any time as the Carrier considers appropriate and at the sole risk of the Consignor and the Consignor undertakes to pay any charges in respect thereof on demand.
25. The Carrier may effect delivery of the goods to the Consignee or to any person or place at the direction of the Consignee
26. In the event that the Consignee cannot be found or the Consignee refuses to accept delivery of the goods or the delivery of the goods cannot be effected for any other reason then the Consignor does hereby authorize the Carrier to store and arrange for the storage or to sell or otherwise dispose of the goods or return them to the Consignor at the sole discretion of the Carrier and payment or tender of the net proceeds of any sale after deduction of all charges and expenses incurred as aforesaid shall be equivalent to delivery.
27. Notwithstanding any rule of law or statute the Consignor shall not bring any action or raise any counterclaim or set off against the Carrier in respect of any error or omission in any invoice of consignment note for the carriage of goods unless the consignor shall give the Carrier notice in writing of such error or omission within thirty days (30) days of the issue of such invoice or consignment note and the Carrier may plead this condition in bar to any such action claim or set off in any Court of Law within the Commonwealth of Australia.
28. These Conditions and quotation on the face hereof merge all prior discussions between the Carrier and the Consignor and set forth entirely the terms under which the Carrier will take possession of the goods. The Carrier shall not be bound by any agreement purporting to vary these conditions unless such agreement shall be signed on behalf of the Carrier or by an officer of the Carrier.
29. Unless otherwise documented Consignor and Applicant shall be the same "Consignee" means the person to whom the goods are delivered or are requested to be delivered by the Carrier.