

TERMS AND CONDITIONS

Definitions

1. In these terms and conditions:
 - 'ADG Code'** means The Australian Code for the Transport of Dangerous Goods by Road & Rail (or its successor).
 - 'Approval'** means any licence, permit, consent, approval, determination, certificate or permission from any authority under any law, or any requirement made under or issued in accordance with any law, which must be obtained or satisfied (as the case may be) with respect to either the Client's use of the Equipment or carrying out the Services pursuant to this agreement.
 - 'Client'** means the person, firm, organisation, partnership, corporation, trustee of a trust or other entity that engages Geraldton Cranes for the purpose of receiving Services and/or the Dry Hire of Equipment.
 - 'Commencement Date'** means, in relation to the Dry Hire of Equipment, the commencement date of the Term, being the earlier of:
 - (a) the date of delivery of the Equipment to the Client; or
 - (b) the date the Client (or any servant or agent thereof) collects the Equipment from Geraldton Cranes' premises (or such other premises at which the Equipment is stored).
 - 'Contract'** means a contract between the Geraldton Cranes and the Client for the provision of Services and/or the Dry Hire of Equipment (as the context requires).
 - 'Dangerous Goods'** means goods classified as 'Dangerous Goods' by the ADG Code and also includes, without limitation, goods that are (or may become) dangerous, noxious, flammable, explosive, or radioactive that may cause damage to property and/or injury or death to any person or, in the opinion of Geraldton Cranes (acting reasonably), are likely to cause damage to property and/or injury or death to any person.
 - 'Dry Hire'** means the hire of Equipment under the exclusive direction and control of the Client, where the Equipment is supplied without GC Personnel.
 - 'Equipment'** means the plant, machinery, vehicles and/or equipment hired by Geraldton Cranes to the Client (together with such accessories, tools and associated items, manuals, logbooks as accompanies such plant, machinery vehicles and/or equipment) and any further Equipment supplied by Geraldton Cranes to the Client following formation of a Contract as identified in any instrument delivered by Geraldton Cranes to the Client.
 - 'Fair Wear and Tear'** means wear and tear which would be normal for similar Equipment operating in usual conditions, but excludes:
 - (a) panel or structural damage from collision or abuse;
 - (b) damage to glass or instrumentation;
 - (c) damage to wheels and/or tyres; and
 - (d) damage to the drive system.
 - 'Goods'** means any and all plant, machinery, equipment, goods, articles, items, and/or cargo (together with any packaging, containers, and/or pallets) accepted by Geraldton Cranes for transportation from one location to another location by way of Geraldton Cranes' haulage Services.
 - 'GC Personnel'** means the person or persons employed or engaged by Geraldton Cranes to drive, operate, use, supervise, or transport the Equipment supplied to the Client as described in the quotation, invoices, work authorisation, job docket or any other forms as provided by Geraldton Cranes to the Client, and may include operators, riggers, dogmen, supervisors, drivers and any other personnel.
 - 'Geraldton Cranes'** means Geraldton Cranes Pty Ltd ACN 164 558 543 and its related bodies corporate (as that term is defined in the *Corporations Act 2001*).
 - 'GST'** has the meaning given to it by *A New Tax System (Goods and Services Tax) Act 1999* (Cth).
 - 'Hire Charge'** means, in relation to the Dry Hire of Equipment, the amount, or amounts, payable by the Client to Geraldton Cranes to hire the Equipment for the Term, being the amount, or amounts, specified in the quotation, invoices, work authorisation, job docket or any other forms as provided by Geraldton Cranes to the Client, or, if not specified, based on Geraldton Cranes' current rates (as amended from time to time).
 - 'Order'** means a written or verbal order from the Client requesting the provision of Services and/or the Dry Hire of Equipment.
 - 'PPSA'** means the *Personal Property Securities Act 2009*.
 - 'PPSR'** means the Personal Property Securities Register.
 - 'Recipient'** means the person to whom the Goods are delivered (in circumstances where Geraldton Cranes has been engaged to provide haulage Services).
 - 'Service Fee'** means the amount, or amounts, payable by the Client to Geraldton Cranes for the provision of Services, being the amount, or amounts, specified in the quotation, invoices, work authorisation, job docket or any other forms as provided by Geraldton Cranes to the Client.
 - 'Services'** means the works and services Geraldton Cranes has agreed to provide using the Equipment and/or GC Personnel, and includes any other services performed by Geraldton Cranes from time to time, as described in the quotation, invoices, work authorisation, job docket or other forms as provided by Geraldton Cranes to the Client.
 - 'Site'** means the location at which the Equipment will be used and/or the Services provided.
 - 'Term'** means:
 - (a) where Geraldton Cranes has been engaged to provide Services, the period for which the Services are to be provided, as agreed between the parties; and
 - (b) where Geraldton Cranes has been engaged to supply Equipment on Dry Hire, the period the Equipment is hired by the Client, as agreed between the parties (subject to any extension in accordance with clause 22).

Formation of Contract

2. Quotations are exclusive of GST and shall remain valid for a period of thirty (30) days from the date of quotation, unless otherwise specified in writing. Geraldton Cranes, in its sole discretion, reserves the right to withdraw, vary or extend any quotation at any time prior to the formation of a Contract in accordance with clause 4.
3. Unless specified otherwise, insofar as quotations relate to the provision of Services, the Service Fee will be based on the provision of such Services during normal working hours on business days. If requested by the Client, Geraldton Cranes may from time to time agree to provide Services outside normal working hours or business days, in which case:
 - (a) such Services shall be deemed a variation and will be charged in accordance with clause 10(b); and,
 - (b) where the Services are valued by hourly rates of charge (for each hour or part thereof that the Services are provided), a minimum of four (4) hours will be charged to and paid by the Client (even if the Services are completed in less than four hours).
4. Quotations made by Geraldton Cranes are estimates only and will not be construed as an offer or obligation to supply in accordance with the quotation. Geraldton Cranes reserves the right to accept or reject, at its discretion, any Order received by it upon provision of written reasons to the Client. Written or verbal acceptance by Geraldton Cranes of the Client's Order will complete a Contract.
5. The Client acknowledges and agrees that on each occasion the Client issues an Order to Geraldton Cranes for the provision of Services or for the Dry Hire of Equipment, and Geraldton Cranes confirms its acceptance of the Order, a separate and binding Contract is made in accordance with these terms and conditions.
6. Placement of an Order will imply acceptance of these terms and conditions.
7. At Geraldton Cranes' sole discretion, a deposit may be required. The deposit amount due will be stipulated at the time of the Order and shall immediately become due and payable upon the formation of a Contract in accordance with clause 4. For the purposes of clarity, where a deposit is requested, Geraldton Cranes is under no obligation to provide the Services and/or hire the Equipment until the deposit has been received by Geraldton Cranes in cleared funds.

Service Fee

8. In consideration for Geraldton Cranes providing the Services, the Client agrees to pay to Geraldton Cranes the Service Fee. The Client shall be liable to pay for mobilisation and demobilisation of the Equipment, unless otherwise agreed in writing.

Variations

9. Where the Client requests or directs that any Services be supplied that are not strictly in accordance with the Contract, then such Services shall constitute a variation, unless otherwise agreed between the parties.
10. The Client understands and agrees that:
 - (a) all variations must be agreed between the parties in writing prior to the Services being supplied pursuant to a request or direction given under clause 9; and
 - (b) all variations shall be, at Geraldton Cranes' discretion, invoiced (a) at the rate(s) specified in the Contract, as specifically quoted, or (b) in accordance with Geraldton Cranes' prevailing rates (as updated from time to time) or (c) as specified in writing by Geraldton Cranes to the Client.

11. Notwithstanding clauses 9 and 10, and subject to any rights the Client might have under any relevant legislation, Geraldton Cranes reserves the right to vary the Service Fee if:
 - (a) there is any movement in the cost of supplying the Services specified in the Contract (including, without limitation, any actual increase in the costs to Geraldton Cranes in procuring or transporting the Equipment (including, without limitation, where pilot vehicles and/or a police escort is required or where it is necessary to temporarily remove power lines), actual increases in labour in connection with the provision of Services by GC Personnel (including, without limitation, loadings, penalties and allowances), and/or any actual increase in the costs to Geraldton Cranes in transporting the Goods;
 - (b) the Client requires Geraldton Cranes (including its contractors, agents, and employees) to be subject to Site specific requirements, such as medical requirements and/or inductions;
 - (c) where modifications to the Equipment are required or requested by the Client; or
 - (d) otherwise provided for in these terms and conditions.

Payment terms

12. If commercial credit facilities are extended by Geraldton Cranes to the Client, then the terms of payment are strictly thirty (30) days from the date of invoice (or such other period as otherwise set out herein or as stipulated by Geraldton Cranes' invoices).
13. If credit is not extended by Geraldton Cranes to the Client, then the terms of payment are (at Geraldton Cranes' option):
 - (a) where Geraldton Cranes has been engaged to provide Services:
 - (i) before commencement of the Services;
 - (ii) immediately upon completion of the Services; or
 - (iii) the date stipulated by Geraldton Cranes' invoices or other form as being the date for payment.
 - (b) where Geraldton Cranes has been engaged to supply Equipment on Dry Hire:
 - (i) before the Commencement Date;
 - (ii) immediately upon completion of the Term; or
 - (iii) the date stipulated by Geraldton Cranes' invoices or other form as being the date for payment.
14. The Client must check all invoices and advise Geraldton Cranes of any errors or omissions within seven (7) days of receipt. Failing advice from the Client that the invoice contains any errors or omissions, the invoice will be deemed accepted by Geraldton Cranes.
15. Should the Client not make payment of any amounts payable in accordance with the terms as provided herein, or as agreed in writing by the parties from time to time, after issuing a written demand to the Client demanding payment within fourteen (14) days, Geraldton Cranes will be entitled to charge an administration fee of ten (10) percent of the amount of the invoice or each invoice payable.
16. The Client acknowledges that Geraldton Cranes shall be at liberty to charge a surcharge for credit card transactions equal to Geraldton Cranes' cost of processing such transactions.

Cancellation of Orders

17. Unless otherwise agreed in writing between the parties, the Client may not cancel an Order (or any part of an Order) accepted by Geraldton Cranes, delivery of the Equipment hired and/or the provision of the Services cannot be deferred and Equipment ordered cannot be returned prior to expiry of the Term, except with the prior written consent of Geraldton Cranes and then only upon terms that the Client reimburse and indemnify Geraldton Cranes against all loss it has incurred or may incur as a result of the cancellation, deferral or return, including, without limitation, mobilisation and demobilisation costs, cartage, bank charges and other incidental expenses incurred on any part of the Order that is cancelled and loss of profits.
18. Notwithstanding any other rights Geraldton Cranes may have under these terms and conditions, Geraldton Cranes may cancel any Contract by providing written notice to the Client, if the Client:
 - (a) defaults in payment of any invoice by the due date;
 - (b) enters into liquidation or, in the case of an individual, becomes bankrupt; or
 - (c) breaches an essential term.
19. To the fullest extent permitted by law, Geraldton Cranes accepts no liability for any loss whatsoever incurred by the Client or any third party as a result of Geraldton Cranes exercising its rights under clause 18.

Dry Hire of Equipment

20. Where Geraldton Cranes has been engaged to supply Equipment on Dry Hire, the Term shall commence on the Commencement Date and shall continue thereafter until the conclusion of the Term, unless:
 - (a) the Term is extended in accordance with clause 22 hereof; or
 - (b) the Term is terminated earlier in accordance with these terms and conditions.
21. Upon delivery of the Equipment in accordance with clause 32, the Client must inspect the Equipment and must, within twenty-four (24) hours, notify Geraldton Cranes if the Equipment is unsuitable for the purpose of hire or is not in good order. If the Client fails to provide Geraldton Cranes with such notice, then, to the extent permitted by law, the Client shall be deemed to have inspected the Equipment, accepted the Equipment in the condition it was provided, and satisfied itself as to the suitability of the Equipment for the purpose of hire.
22. At any time up until the conclusion of the Term, the Client may request that the Term be extended. Geraldton Cranes may, in its sole discretion, agree to such an extension and shall specify the period by which the Term is to be extended ("**Extended Term**").
23. If Geraldton Cranes agrees to an extension of the Term pursuant to clause 22, the Client shall be liable to pay to Geraldton Cranes additional charges to hire the Equipment in accordance with the rates set out in the Contract or as otherwise agreed.
24. Upon conclusion of the Term (or Extended Term, as the case may be), the Client shall be liable to pay to Geraldton Cranes additional charges at the applicable daily rate (and if a daily rate is not specified for the relevant Equipment, it shall be calculated by reference to the relevant Hire Charge paid by the Client for the said Equipment) for each day (or part thereof) until such time as the Equipment is either:
 - (a) collected by Geraldton Cranes; or
 - (b) returned to Geraldton Cranes' premises (or such other location nominated by Geraldton Cranes).
25. Upon conclusion of the Term (or Extended Term, as the case may be):
 - (a) if it is agreed that the Equipment is to be collected by Geraldton Cranes, the Client shall ensure that the Equipment is ready for collection by Geraldton Cranes at the time and place agreed between the parties in the same state of cleanliness and condition that it was in at the time the Client took possession of it (Fair Wear and Tear excepted); or
 - (b) if it is agreed that the Equipment is to be returned to Geraldton Cranes' premises (or such other location nominated by Geraldton Cranes) by the Client, then the Client shall return the Equipment to Geraldton Cranes' premises (or such other location nominated by Geraldton Cranes) by the time and date required in the same state of cleanliness and condition that it was in at the time the Client took possession of it (Fair Wear and Tear excepted).

Dry Hire of Equipment – Hire Charge

26. In consideration of Geraldton Cranes hiring the Equipment to the Client, the Client agrees to pay to Geraldton Cranes the Hire Charge.
27. Unless specified otherwise in writing, the Hire Charge does not make allowance for the following items ("**Additional Charges**"):
 - (a) fuel;
 - (b) oil/grease;
 - (c) tyre repairs or replacement;
 - (d) all other consumables;
 - (e) mobilisation;
 - (f) demobilisation;
 - (g) freight;
 - (h) insurance;
 - (i) the supply of GC Personnel;
 - (j) loadings, penalties and allowances (including, without limitation, accommodation, meal and travel expenses) for GC Personnel;
 - (k) daily services;
 - (l) scheduled services;
 - (m) repairs (minor and major);
 - (n) toll charges;
 - (o) traffic management expenses;
 - (p) cleaning fees;
 - (q) decontamination costs;
 - (r) all other costs and expenses incurred or paid by Geraldton Cranes in connection with the Dry Hire of the Equipment to the Client or the Client's use of the same.
28. Subject to clause 29, if the Additional Charges arise, they will be payable by the Client as an extra charge.

29. The right to payment for Additional Charges shall be valued in the following order of precedence:
- any applicable rates or prices or other value methods as provided by the Contract;
 - by agreement between the parties;
 - reasonable rates and prices;
 - costs incurred by Geraldton Cranes plus a reasonable margin for profit and overheads.

Dry Hire of Equipment - Delivery

30. The Client shall be liable for all costs associated with delivery, installation (where applicable), mobilisation and demobilisation, and collection of the Equipment, including freight, insurance, handling, and other charges, unless specified otherwise in writing. These are Additional Charges which will be charged as extra charges in accordance with clause 28.
31. Where Geraldton Cranes agrees to transport the Equipment to the Site, delivery will be made within normal business hours between Monday to Friday, 8.00am to 5.00pm and only on business days (unless otherwise agreed to in writing).
32. Delivery of the Equipment is deemed to have occurred at the earlier of:
- when the Equipment is collected by the Client from Geraldton Cranes' premises (or such other premises nominated by Geraldton Cranes);
 - where Geraldton Cranes agrees to transport the Equipment to the Site, at the time of loading the Equipment at Geraldton Cranes' premises (or such other premises at which the Equipment is stored) for the purpose of delivery to the Client;
 - where the Client nominates a carrier to transport the Equipment to the Site, when the carrier takes possession of the Equipment, in which event the carrier shall be deemed to be the Client's agent.
33. If the Client retains Geraldton Cranes to deliver the Equipment, Geraldton Cranes is entitled to charge:
- a reasonable fee for redelivery charges in the event the Client does not, or is unable to, accept delivery of the Equipment; and
 - the Client a reasonable fee for storage and/or for any costs which Geraldton Cranes incurs as a result of any delay in the delivery of the Equipment caused by the Client, its agents, or employees.
34. The Client accepts that Geraldton Cranes may deliver the Equipment in instalments and may require payment for each separate instalment in accordance with these terms and conditions.
35. The Client acknowledges and accepts that it is not relieved from any obligation arising under these terms and conditions by reason of any delay in the delivery or dispatch of the Equipment.

Risk and title

36. Geraldton Cranes is the legal and beneficial owner of the Equipment and, where the Equipment is supplied on Dry Hire, the Client's rights under the Contract to use the Equipment for the Term is as bailee only.
37. Where the Equipment is supplied on Dry Hire, risk of damage to or loss of the Equipment passes to the Client on delivery in accordance with clause 32 and the Client acknowledges that the Equipment shall remain at the sole risk of the Client during the Term and during any further term in which the Client has possession, custody, or control of the Equipment ("Risk Period") until such time as the Equipment is repossessed by Geraldton Cranes.
38. The Client must insure the Equipment on or before delivery against all losses which may be sustained as a result of the loss, damage or destruction of the Equipment (or any part thereof) by accident, theft, fire, flood, negligence and such other insurable causes as may be available and shall include Geraldton Cranes as co-insured. The Client must produce a certificate of currency to Geraldton Cranes upon request.
39. If the Equipment is damaged, destroyed, or stolen during the Risk Period due to any act or omission of the Client, its servants, agents, employees, invitees or any third party, including through failure to comply with these terms and conditions, the Client shall:
- pay to Geraldton Cranes all money past due in relation to the Hire Charge plus the cost of repair and/or replacement of the Equipment; and
 - repair the Equipment if reasonably directed to do so by Geraldton Cranes (a direction to repair shall be at Geraldton Cranes' sole discretion); and
 - indemnify Geraldton Cranes in respect of any loss and/or damage, including any consequential losses associated with the loss and/or damage of the Equipment.
40. Notwithstanding clause 39, if the Equipment is damaged, destroyed, or stolen during the Risk Period, Geraldton Cranes is entitled to receive all insurance proceeds payable in respect of the Equipment to the extent of the indebtedness of the Client to Geraldton Cranes. The production of these terms and conditions by Geraldton Cranes is sufficient evidence of Geraldton Cranes' rights to receive the insurance proceeds without the need for any person dealing with Geraldton Cranes to make further enquiries.
41. If the Client requests that the Equipment be delivered either to an unattended location or left outside, the Client acknowledges that Geraldton Cranes may, in its sole discretion, deliver the Equipment as requested at the Client's sole risk.

Client's obligations

42. The Client warrants and acknowledges that she shall:
- provide Geraldton Cranes with all relevant information and documents relating to the Client's requirements (including Site requirements such as unusual Site access requirements, irregular terrain and safety requirements);
 - promptly and satisfactorily answer all reasonable enquiries and furnish information requested by Geraldton Cranes;
 - take all reasonable steps to avoid doing or omitting anything which may delay Geraldton Cranes in supplying the Services;
 - prior to the Client's use of the Equipment or the provision of any Services by Geraldton Cranes, apply for and obtain all Approvals required by law in respect of the Client's use of the Equipment and the Services (and provide a copy of the same to Geraldton Cranes if requested to do so by Geraldton Cranes);
 - where the Equipment is supplied on Dry Hire:
 - protect the Equipment against acts of theft and vandalism, and store the Equipment safely and securely (at its own cost);
 - keep the Equipment in its possession, in a suitable place, and not part with possession of any Equipment or enter into any sub-lease agreement in respect of the Equipment without Geraldton Cranes' prior written consent;
 - not sell, pledge, assign or otherwise deal with the Equipment in a manner inconsistent with Geraldton Cranes' rights and interest in the Equipment;
 - not move the Equipment over any body of water or remove the Equipment from the Site without Geraldton Cranes' prior written consent;
 - each day complete the pre-start safety checklist and logbook provided with the Equipment;
 - check the Equipment daily for oil, grease, water and battery levels and any sign of looseness or wear and, at the Client's own cost, maintain the Equipment as required by Geraldton Cranes (including, but not limited to, maintaining (where applicable) oil, grease, water, battery levels, other fluid levels (using only products approved by Geraldton Cranes) and tyre pressure);
 - ensure the Equipment is refuelled prior to its return;
 - not alter, tamper with, modify, repair (or attempt to alter, tamper with, modify or repair) any Equipment without the express written consent or prior direction of Geraldton Cranes;
 - not alter, remove, deface, or cover up any label, plates, or marks on the Equipment which bear the name of Geraldton Cranes, or any other entity, or any trade marks or trade names used in relation to the Equipment;
 - not allow any person to operate or occupy (or attempt to operate or occupy) the Equipment except for properly trained, licensed (where applicable) and competent personnel, and GC Personnel, and only strictly in accordance with the law and in line with the Equipment's intended purpose;
 - not allow any person to operate (or attempt to operate) the Equipment under the influence of drugs and/or alcohol;
 - not exceed the recommended or legal load and capacity limits of the Equipment;
 - observe warranties and maintenance guidelines given by Geraldton Cranes and the manufacturer of the Equipment;
 - use best endeavours to use the Equipment in a manner that will minimise damage to the Equipment;
 - comply on time with all of its obligations in connection with the Equipment, including statutes and requirements and orders of government authorities (including, without limitation, Approvals), including, for the avoidance of doubt, all environmental laws;
 - immediately give to Geraldton Cranes any notice or order received from any government authority about the use or condition of the Equipment;
 - not carry any animals or illegal, prohibited or hazardous substances on, or in, the Equipment without prior written permission from Geraldton Cranes;
 - use best endeavours to ensure that the Equipment is not contaminated with any noxious or hazardous substances;

- promptly notify Geraldton Cranes in writing if the Equipment becomes bogged or stuck;
- promptly notify Geraldton Cranes in writing of any breakdown or loss of, material damage to, or contamination of the Equipment (however so caused) and take all reasonable steps to secure and safeguard the Equipment from any potential damage or injury to any person and/or property (including further damage to the Equipment); and
- indemnify Geraldton Cranes for all injury and/or damage caused to persons and property in relation to the Equipment and its operation and have adequate insurance to cover all liabilities incurred as a result of the use of the Equipment.

Site access and conditions

43. It is the responsibility of the Client to ensure that the Site is suitable to accept the weight of laden vehicles and/or Equipment as may be deemed necessary by Geraldton Cranes. The Client shall provide Geraldton Cranes (and GC Personnel, where applicable) with free, clear, and unrestricted access to the Site at all reasonable times to enable Geraldton Cranes (and GC Personnel, where applicable) to:
- deliver, drive, operate, use, inspect, service, and/or remove any Equipment in accordance with these terms and conditions; and
 - perform the Services without unreasonable interruption, impediment, delay, or obstruction.
44. In the event that free, clear and unrestricted access to the Site is not available in accordance with clause 43, Geraldton Cranes reserves the right to suspend or cease the provision of Services upon the provision of twenty-four (24) hours' notice to the Client.
45. The Client agrees to indemnify Geraldton Cranes from any and all costs, expenses, and penalties (including claims for liquidated damages) incurred as result of:
- Geraldton Cranes and/or GC Personnel being unable to gain suitable access to the Site;
 - delays in the provision of the Services caused by interrupted and/or unsuitable Site access; and
 - Geraldton Cranes recovering any vehicles and/or Equipment from the Site in the event such vehicles and/or Equipment becomes bogged, damaged, or otherwise immovable.
46. If Geraldton Cranes encounters any conditions at the Site or its surroundings ("Conditions"), which might impact on its ability to perform the Services, and which could not have been reasonably anticipated, Geraldton Cranes will notify the Client of the Conditions and obtain the Client's instructions in writing prior to further proceeding with the Services. The Client acknowledges that it is the Client's responsibility to remedy the Conditions and that if any additional time or cost is spent by Geraldton Cranes as a consequence of the Conditions, Geraldton Cranes will be entitled to additional payment in accordance with clause 45(b).

Site damage

47. The Client further acknowledges that Geraldton Cranes, to the fullest extent permitted by law, shall not be liable for any damage caused to the Client's property or to any third party's property (including, without limitation, damage to pathways, driveways, concreted or paved or grassed areas, or foliage), where free, clear and unrestricted access has not been permitted in accordance with clause 43.
48. The Client must notify Geraldton Cranes of any damage caused to the Site (or any neighbouring real or personal property) Geraldton Cranes or GC Personnel within twenty-four (24) hours of becoming aware of the damage. To the extent permitted by law, Geraldton Cranes accepts no liability for any damage when Geraldton Cranes is not notified within this timeframe.

Unsafe conditions

49. The Client acknowledges and agrees that GC Personnel may suspend or cease performance of the Services at any time if, in the reasonable opinion of GC Personnel, it would be unsafe to any person or detrimental to the Equipment for GC Personnel to operate the Equipment.
50. The Client agrees to indemnify Geraldton Cranes from all costs, losses and expenses incurred by Geraldton Cranes for any Services already performed.

Haulage terms and conditions

51. Clauses 52 to 77 apply to all Contracts for the provision of haulage Services between Geraldton Cranes and the Client.

No liability as common carrier

52. Geraldton Cranes is not a common carrier and will accept no liability as such. Geraldton Cranes accepts Goods for carriage only upon the terms and conditions set out herein and shall not be bound by any agreement to vary these terms and conditions unless such agreement is in writing and signed by an authorised officer of Geraldton Cranes.
53. Geraldton Cranes, in its sole discretion, reserves the right to refuse to handle, store or transport any Goods (or any class of Goods) without assigning any reason for such refusal.

Charges

54. Every special instruction to the effect that charges will be paid by the Client shall be deemed to include a stipulation that if the Client does not pay the said charges within seven (7) days of delivery or attempted delivery of the Goods, then the Client shall pay the said charges including any additional charge for each call made in an attempt to effect delivery.

Client's warranties and obligations

55. The Client warrants and represents that:
- it has complied with all laws and regulations in relation to the nature, conditioning, packaging, and carriage of the Goods, including, without limitation, the ADG Code;
 - the Goods are fully, adequately, and accurately described in writing, whether on a consignment note or otherwise, and fully, adequately and accurately detail the nature and value of the Goods, as well as the requirements of any relevant authority and any other relevant information required by Geraldton Cranes (including, without limitation, the weight and measurements of the Goods);
 - subject to clauses 56 and 57, the Goods are not Dangerous Goods;
 - the Client is the owner of the Goods, or is the duly authorised agent of the person who owns, or has an interest in, the Goods and is authorised to provide the Goods to Geraldton Cranes; and
 - the Client has in place, and will maintain, an insurance policy to cover any and all loss of, or damage, to the Goods (however so caused) while the Goods are at the Client's risk.

Dangerous Goods

56. The Client acknowledges that it shall not tender for transport any Dangerous Goods, unless otherwise agreed in writing by Geraldton Cranes.
57. If, in its sole discretion, Geraldton Cranes agrees to accept for transport any Dangerous Goods:
- such Dangerous Goods must be accompanied by an accurate, written declaration that details the nature and value of the Dangerous Goods (as well as the requirements of any relevant authority and any other relevant information required by Geraldton Cranes); and
 - the Client warrants that it has complied with all laws and regulations in relation to the nature, conditioning, packaging, and carriage of the Dangerous Goods, including, without limitation, the ADG Code.
58. If, in the opinion of Geraldton Cranes, the Dangerous Goods accepted for transport are liable to become dangerous, inflammable, explosive, volatile, offensive or damaging in nature (whether to persons or property), Geraldton Cranes may, at any time and at the Client's cost, destroy, dispose of, abandon, or render harmless the Dangerous Goods, without any liability to the Client or Recipient whatsoever.

Route and deviation

59. In provision of the Services, the Client acknowledges that Geraldton Cranes has right to use, or may use, any method or methods to handle, carry or store, or cause to be handled, carried or stored, the Goods, or to carry or cause to be carried, the Goods, in its absolute discretion, and the Client is deemed to have authorised such method or methods, unless it is expressly agreed that Geraldton Cranes is to use a particular method for handling, transporting, or storing the Goods.
60. The Client authorises any deviation from the usual route of carriage that may, in the sole discretion of Geraldton Cranes, be considered preferable or necessary.

Delivery

61. Delivery will be made within normal business hours between Monday to Friday, 8.00am to 5.00pm only (unless otherwise agreed).
62. Geraldton Cranes shall deliver the Goods to the Client's nominated address and it is expressly agreed that Geraldton Cranes reserves the right to arrange transport of the Goods by any means in its sole discretion.
63. Subject to clause 64, delivery is deemed to occur if, at the Client's nominated address, Geraldton Cranes obtains from the Recipient (or any person on behalf of the Recipient) an acknowledgement of delivery.
64. If the Client's nominated address for delivery is unattended or the Recipient fails to take delivery of the Goods (for whatever reason), Geraldton Cranes, in its sole discretion, may:
- deposit the Goods at the Recipient's address;
 - store the Goods; or
 - return the Goods to the Client;

- and it is expressly agreed that Geraldton Cranes' actions under clause 64(a) to 64(c) will constitute delivery.
65. Geraldton Cranes is entitled to charge:
- a reasonable fee for storage and/or redelivery charges in the event the Recipient does not, or is unable to, accept delivery of the Goods; and
 - the Client for any costs and/or expenses which Geraldton Cranes incurs as a result of any delay in the delivery of the Goods caused by the Client, its agents, or employees or the Recipient.
66. Goods may be onforwarded by any means at the discretion of Geraldton Cranes.
67. Geraldton Cranes does not undertake to collect and/or despatch the Goods at any particular time, unless otherwise specified in writing. The Client acknowledges and accepts that any estimated delivery time provided by Geraldton Cranes is an estimate only and Geraldton Cranes will not be liable for any loss or liability suffered or incurred by the Client as a result of any incorrect delivery, delay in delivery, or non-delivery of the Goods.
68. Geraldton Cranes may its discretion detain and/or stop the carriage of any Goods in transit and may require the Client retake possession of the Goods at any time.
69. The Client accepts that Geraldton Cranes may deliver the Goods by instalments and require payment for each separate instalment in accordance with these terms and conditions.
70. The Client acknowledges and accepts that it is not relieved from any obligation arising under these terms and conditions by reason of any incorrect delivery, delay in delivery or non-delivery of the Goods.
- Risk**
71. The Client acknowledges that risk of damage, loss and/or deterioration to the Goods shall at all times be at the risk of the Client and that it is aware that Geraldton Cranes is not an insurer of Goods (either warehoused or in transit) and that Geraldton Cranes does not effect insurance on behalf of the Client, unless otherwise agreed in writing.
72. If the Client requests that the Goods are delivered either to an unattended location, or to a location without the Recipient (or any person on behalf of the Recipient) being in attendance at the time of delivery, the Client acknowledges that Geraldton Cranes will deliver the Goods as requested at the Client's risk.
- Claims**
73. To the extent permitted by law, notice in writing of any claim intended to be made in relation to delivery (or non-delivery) of the Goods must be given to Geraldton Cranes within fourteen (14) days of the date of delivery, or, in the case of non-delivery within thirty (30) days from the date the Services should have been completed, or the Goods should have been delivered, and unless so given and made the claim however so made shall be absolutely extinguished and will not be enforceable against Geraldton Cranes.
- General lien**
74. Geraldton Cranes shall have a general lien on the Goods (and any documents in respect of the Goods) in respect of all unpaid charges and other monies due to Geraldton Cranes whether under this agreement or otherwise and whether such Goods have at any time left the possession of Geraldton Cranes until such time as the Client has made payment in full.
75. Without prejudice to any other rights or remedies Geraldton Cranes may have, whether under these terms and conditions or at law, Geraldton Cranes may:
- store the Goods as Geraldton Cranes sees fit and at the Client's risk and expense;
 - sell the Goods (or any part thereof) with notice to the Client by way of public auction or private treaty and apply the proceeds to discharge the lien, together with all charges, costs and expenses in respect of the detention, storage, and sale of the Goods (or any part thereof), and shall render the surplus (if any) of the proceeds of sale and Goods that remain unsold to the Client.
- Exclusion of bailment**
76. To the extent permitted by law, the obligations of a bailor are excluded. Geraldton Cranes will not be responsible for any loss of, or damage to, or incorrect delivery of, or delay in the delivery of, any Goods. This applies when such loss, damage, incorrect delivery, delay in delivery or non-delivery may be occasioned by the negligence or wrongful act of Geraldton Cranes or its sub-contractors (whether intentional or not).
77. To the extent permitted by law, every exemption, exclusion or limitation of liability, and condition contained in these terms and conditions applicable to Geraldton Cranes shall also be available to, and shall extend to protect, Geraldton Cranes' sub-contractors.
- Security interest**
78. The Client acknowledges that by assenting to these terms and conditions, the Client grants a security interest to Geraldton Cranes in all Equipment (and their proceeds) now or in the future hired by Geraldton Cranes to the Client.
79. The Client hereby consents to Geraldton Cranes recording the details of this agreement on the PPSR (in any manner Geraldton Cranes considers appropriate) and the Client undertakes to do anything that is required by Geraldton Cranes:
- so that Geraldton Cranes can acquire and maintain one or more perfected security interests under the PPSA;
 - to register a financing statement or financing change statement; and
 - to ensure that Geraldton Cranes' security position, and rights and obligations, are not adversely affected by the PPSA.
80. Unless the Client has obtained Geraldton Cranes' prior written consent, the Client undertakes not to:
- register a financing change statement in respect of a security interest contemplated or constituted by this agreement; and
 - create or purport to create any security interest in the Equipment, nor register, or permit to be registered, a financing statement or a financing change statement in relation to the Equipment in favour of a third party.
81. The Client:
- waives its right under section 157 of the PPSA to receive a copy of the verification statement relating to a security interest created under this agreement;
 - agrees that to the extent permitted by the PPSA, the following provisions of the PPSA will not apply and are contracted out of: section 95 (to the extent that it requires the secured party to give notices to the grantor); section 96; section 118 (to the extent that it allows a secured party to give notices to the grantor); section 121(4); section 125; section 130; section 132(3)(d); section 132(4); section 135; section 142 and section 143; and
 - agrees that the following provisions of the PPSA will not apply and the Client will have no rights under them: section 127; section 129(2) and (3); section 130(1); section 132; section 134(2); section 135; section 136(3), (4) and (5) and section 137.
82. The Client agrees that it will, if requested by Geraldton Cranes, sign any documents, provide any information or do anything else Geraldton Cranes requests, to ensure that any security interest created in Geraldton Cranes' favour is, to the fullest extent possible under the PPSA, perfected in accordance with Part 2.2 of the PPSA.
83. Notwithstanding section 275 of the PPSA, the parties agree to keep confidential all information of the kind referred to in section 275 of the PPSA, unless compelled by law to disclose such information.
84. The Client irrevocably grants to Geraldton Cranes the right to enter upon the Client's property or premises, with notice, and without being in any way liable to the Client or to any third party, if Geraldton Cranes has cause to exercise any of its rights under sections 123 and/or 128 of the PPSA, and the Client shall reasonably indemnify Geraldton Cranes from any claims made by any third party as a result of such exercise.
85. The Client will be responsible for Geraldton Cranes' reasonable costs and expenses in exercising its rights under clause 84 where the Client is otherwise in default of these terms and conditions. Where Geraldton Cranes 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 Client against Geraldton Cranes, its employees, servants or agents.
86. The Client agrees to accept service of any document required to be served, including any notice under the PPSA or any originating process, by prepaid post at any address nominated in this application or any other address later notified to Geraldton Cranes by the Client or the Client's authorised representative.
- Security/Charges**
87. The Client charges in favour of Geraldton Cranes all of its estate and interest in any real property, whether held in its own right or as capacity as trustee, the Client owns at present and in the future with payment of all monies which are now or in the future become owing to Geraldton Cranes whether pursuant to these terms and conditions or otherwise until all such monies are paid in full by the Client.
88. The Client charges in favour of Geraldton Cranes all of its estate and interest in any personal property, whether held in its own right or as capacity as trustee, the Client owns at present and in the future with payment of all monies which are now or in the future become owing to Geraldton Cranes whether pursuant to these terms and conditions or otherwise until all such monies are paid in full by the Client.
89. As security for the payment of the amount of its indebtedness to Geraldton Cranes from time to time, the Client irrevocably appoints as its duly constituted attorney Geraldton Cranes' company secretary from time to time to execute in the Client's name and as the Client's act and deed any real property mortgage, bill of sale or consent to any caveat Geraldton Cranes may choose to lodge against real property that the Client may own in any Land Titles Office in any state or territory of Australia, even though the Client may not have defaulted in carrying out its obligations hereunder upon written notice and demand to the Client (in the event that there is no default by the Client in carrying out its obligations hereunder).
90. Where the Client has previously entered into an agreement with Geraldton Cranes by which the Client has granted a charge, mortgage or other security interest (including a security interest as defined in the 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 these terms and conditions and will secure all indebtedness and obligations of the Client under these terms and conditions. Geraldton Cranes may, at its election and upon the provision of written notice, vary the terms of such previous charges, mortgages or other securities to reflect the terms herein.
- Indemnities**
91. The Client agrees to indemnify Geraldton Cranes in respect of all liability, claims, damage, loss, costs and expenses (including collection costs, debt recovery fees, and legal costs on an indemnity basis) that Geraldton Cranes may suffer or incur at any time, directly or indirectly, as a result of:
- loss of, or damage to, the Equipment by any cause (including lawful confiscation);
 - damage to property or death of, or injury to, any person caused directly or indirectly by the Equipment during the Risk Period;
 - any claim against Geraldton Cranes in relation to any incident concerning the Equipment or its use, operation, transportation or storage where such incident occurs during the Risk Period;
 - any other thing in relation to which the Client has assumed the risk or liability under these terms and conditions; or
 - any default by the Client in the performance or observance of the Client's obligations under this agreement.
92. The Client's liability to indemnify Geraldton Cranes will be reduced proportionally to the extent only that:
- any negligent act or omission by Geraldton Cranes or a breach of Geraldton Cranes' obligations under these terms and conditions has contributed to the liability, claim, damage, loss, cost or expense which is the subject of the indemnity; or
 - these terms and conditions make Geraldton Cranes specifically liable for any cost or expense or rectifying or repairing any defect in, malfunction of or damage to the Equipment.
93. The Client's liability to indemnify Geraldton Cranes is a continuing obligation separate and independent from the Client's other obligations and survives termination of this agreement.
94. It is not necessary for Geraldton Cranes to incur expense or make any payment before enforcing its rights of indemnity conferred by these terms and conditions.
- Insolvency**
95. If the Client becomes insolvent, to the extent permitted by law, the Client remains liable under these terms and conditions for payment of all liabilities incurred. The Client remains liable even if Geraldton Cranes receives a dividend or payment as a result of the Client being insolvent.
- Waiver**
96. A waiver of any provision or breach of this agreement by Geraldton Cranes shall only be effective if made by an authorised officer of Geraldton Cranes in writing. A waiver of any provision or breach of this agreement by the Client shall only be effective if made by the Client's authorised officer in writing. If Geraldton Cranes or the Client elects not to enforce its rights arising as a result of a breach of this agreement, that will not constitute a waiver of any rights relating to any subsequent or other breach.
- Costs**
97. The Client must pay for its own legal, accounting and business costs and all costs incurred by Geraldton Cranes relating to any default by the Client under this agreement. The Client must also pay for all stamp duty and other taxes payable in respect of this agreement (if any).
98. The Client will pay Geraldton Cranes' costs and disbursements incurred in pursuing any recovery action, or any other claim or remedy, against the Client, including collection costs, debt recovery fees and legal costs on an indemnity basis.
99. Subject to clauses 100 and 101, payments by, or on behalf of, the Client will be applied by Geraldton Cranes as follows:
- Firstly, in payment of any and all collection costs and legal costs in accordance with clauses 85, 91, and 98.
 - Secondly, in payment of any interest incurred in accordance with clause 104.
 - Thirdly, in payment of the outstanding invoice(s), or part thereof, in an order determined by Geraldton Cranes in its absolute discretion.
100. To the extent that payments have been allocated to invoices by Geraldton Cranes in its business records, Geraldton Cranes may, at its sole and unfettered discretion, allocate and/or retrospectively reallocate payments in any manner whatsoever at Geraldton Cranes' absolute discretion, including in a manner inconsistent with clause 99 herein.
101. Payments allocated (and/or reallocated) under clause 99 and/or 100 will be treated as though they were allocated (and/or reallocated) in the manner determined by Geraldton Cranes on the date of receipt of payment.
- Taxes and duty**
102. The Client must pay GST on any taxable supply made by Geraldton Cranes to the Client under any agreement. The payment of GST is in addition to any other consideration payable by the Client for a taxable supply.
103. If as a result of:
- any legislation becoming applicable to the subject matter of these terms and conditions; or
 - any changes in legislation or its interpretation by a court of competent jurisdiction or by any authority charged with its administration;
- Geraldton Cranes becomes liable to pay any tax, duty, excise or levy in respect of the amounts received from the Client, then the Client must pay Geraldton Cranes these additional amounts on 48 hours' written demand.
- Interest rates**
104. The interest rate on any outstanding debts is a fixed rate of ten (10) percent per annum, which interest will accrue and be recoverable each day or part thereof that the debt remains outstanding.
- Set-off**
105. All payments required to be made by the Client under these terms and conditions will be made free of any set-off, or counterclaim and without deduction or withholding, unless agreed to otherwise by Geraldton Cranes and the Client in writing or as required by law.
106. Any amount due to Geraldton Cranes from time to time may be deducted from any monies which may be or may become payable to the Client by Geraldton Cranes.
- Limitation of liability**
107. In relation to the supply of Equipment on Dry Hire, to the extent permitted by law, Geraldton Cranes' liability to the Client whether under contract, in tort, pursuant to statute or otherwise for any loss, damage or injury is limited to, at Geraldton Cranes' discretion, to any one or more of the following:
- replacing the Equipment or supplying similar Equipment;
 - repairing the Equipment;
 - providing the cost for acquiring equivalent Equipment; or
 - providing the cost for having the Equipment repaired.
108. In relation to the supply of Services, to the extent permitted by law, Geraldton Cranes' liability to the Client whether under contract, in tort, pursuant to statute or otherwise for any loss, damage or injury is limited to, at Geraldton Cranes' discretion, to any one or more of the following:
- supplying the Services again; or
 - providing for the cost of having the Services supplied again.
109. Geraldton Cranes is not liable for loss of profit, economic or financial loss, damages, consequential loss, loss of opportunity or benefit, business interruption, loss of a right or any other indirect loss suffered by the Client as a result of the Services and/or Equipment supplied by Geraldton Cranes.
110. All terms, conditions, warranties, indemnities and statements (whether express, implied, written, oral, collateral, statutory or otherwise) which are not expressly set out in these terms and conditions are hereby expressly excluded and, to the extent they cannot be excluded, Geraldton Cranes disclaims all liability in relation to them.
- Liability of parties**
111. If two or more parties are included within the same defined term in these terms and conditions:
- these terms and conditions have separate operation in relation to each of them;
 - a liability or obligation of those persons under these terms and conditions is a joint liability or obligation of all of them and a several liability or obligation of each of them; and

- (c) a right given to those parties under these terms and conditions is a right given severally to each of them.

Subcontracting and assignment

112. Geraldton Cranes may engage a subcontractor without the approval of the Client to perform all or any of its obligations under the Contract.
113. Neither party shall assign its benefits or obligation under these terms and conditions without the written consent of the other (which consent shall not be unreasonably withheld).

Force majeure

114. Geraldton Cranes is not liable to the Client for any delay or failure to perform its obligations pursuant to these terms and conditions if such delay or failure to perform is due to force majeure being a circumstance beyond its reasonable control, including strikes, lockouts, fires, floods, storm, riots, war, embargoes, civil commotions, supplier shortages, plant or mechanical breakdown, disease or pandemic, government intervention or regulation, acts of God or any other activity beyond Geraldton Cranes' control.

Severance

115. If any provision of these terms and conditions 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.
116. If any part of these terms and conditions is invalid or unenforceable, that part is deleted and the remainder of these terms and conditions remains effective.

Variation of agreement

117. The Client agrees that these terms and conditions may be varied, added to, or amended by an authorised officer of Geraldton Cranes at any time by written notice to the Client. Subject to clause 118, after fourteen (14) days, or receipt of the written notice of the variation, the variation will be deemed agreed by the Client.
118. If the Client does not agree with the variation proposed by Geraldton Cranes, it must notify Geraldton Cranes in writing within fourteen (14) days from receipt of the written notice that the variation is not agreed to. Clerical errors (such as spelling mistakes or grammatical errors) may be subject to correction by Geraldton Cranes without notification.
119. Any proposed variation to these terms and conditions by the Client must be requested in writing. Geraldton Cranes may refuse any such request without providing reasons either orally or in writing.
120. Variations requested by the Client will only be binding upon Geraldton Cranes if they are in writing signed by an authorised officer of Geraldton Cranes.

Jurisdiction

121. The Client acknowledges and agrees that this agreement will be governed by the laws of Western Australia, and the laws of the Commonwealth of Australia which are in force in Western Australia.

122. The parties to this agreement submit to the non-exclusive jurisdiction of the courts of Western Australia and the relevant federal courts and courts competent to hear appeals from those courts.

Entire agreement

123. This agreement constitutes the entire agreement between the parties relating in any way to its subject matter, unless agreed to otherwise by Geraldton Cranes and the Client in writing. All previous negotiations, understandings, representations, warranties, memoranda or commitments about the subject matter of these terms and conditions 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.

124. Notwithstanding clause 123, in circumstances where there is a pre-existing written credit agreement (**Original Agreement**) between the Client and Geraldton Cranes, 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.

125. These terms and conditions shall apply to every Contract between Geraldton Cranes and the Client. Any terms and conditions of Client's Order, or of any other document deviating from or inconsistent with these terms and conditions, are expressly rejected by Geraldton Cranes. For the avoidance of doubt, the Client understands and agrees that these terms and conditions will prevail over, and Geraldton Cranes will not be bound by, any terms or conditions (express or implied) added or provided by the Client subsequent to the execution of this agreement, whether in an Order or otherwise, unless otherwise agreed in writing by Geraldton Cranes.

Privacy Act

126. The Client agrees to the terms of the Privacy Statement pursuant to the *Privacy Act 1988* contained in this document.

The Client 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 Client and the information given is true and correct to the best of my/our knowledge.

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

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

OFFICE USE ONLY - FOR COMPLETION BY GERALDTON CRANES

The Client's credit application is accepted. Signed for and on behalf of Geraldton Cranes.

Signature		Position	
Name (print)		Date	

ACCOUNT APPROVED FOR CASH ON DELIVERY / 7 DAYS / 14 DAYS / 30 DAYS / OTHER: _____
(Geraldton Cranes to nominate)

PRIVACY STATEMENT

1. This privacy statement encompasses consents, notifications and disclosures under or in relation to the *Privacy Act 1988* (**Act**).
2. 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.
3. 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.
4. Geraldton Cranes may collect personal information about the Client and/or Guarantor(s) for Geraldton Cranes' 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.
5. The Client and/or Guarantor(s) consent to Geraldton Cranes 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.
6. Geraldton Cranes may collect, and may already have collected, Information from the Client 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 Geraldton Cranes it may restrict or impede upon Geraldton Cranes trading with, extending credit to, continuing to extend credit to or extending further credit to the Client and/or Guarantor(s) or their related bodies corporate.
7. The Client and/or Guarantor(s) consent to Geraldton Cranes obtaining and making disclosure of Information about the Client 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. Geraldton Cranes notifies the Client and/or Guarantor(s) that it may use and/or disclose credit eligibility information under section 21G of the Act.
8. Geraldton Cranes may provide personal information about the Client and/or Guarantor(s) to any or all of the credit reporting bodies nominated below. Geraldton Cranes intends to disclose default information to any or all of the credit reporting bodies listed below. The Client and/or Guarantor(s) consent to such disclosure. Geraldton Cranes' 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 Geraldton Cranes may disclose and the Client's and/or Guarantor(s)' right to request limitations to the use of their information.

Equifax Australia
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

Illion
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

9. Geraldton Cranes may disclose Information to, and about them and the Client and/or Guarantor(s) hereby acknowledge that they consent to the disclosure of such information to Geraldton Cranes' employees, subsidiaries, employees, agents and related bodies corporate, past, present or prospective credit providers of the Client 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. A full copy of Geraldton Cranes' privacy policy and credit reporting policy can be obtained from Geraldton Cranes' website (details above) or by making a request in writing directed to Geraldton Cranes' privacy officer. Geraldton Cranes' 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 Geraldton Cranes will deal with any such complaint.
11. The Client 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 Geraldton Cranes within fourteen (14) days of receipt of this statement that its terms are not accepted, continuing to trade with Geraldton Cranes after receipt of this Statement or, if the Client and/or Guarantor(s) are directors or guarantors of a customer, by not taking steps to prevent the customer from continuing to trade with Geraldton Cranes after receipt of this statement.

DEED OF GUARANTEE & INDEMNITY

To	Geraldton Cranes Pty Ltd ACN 164 558 543 and its related bodies corporate			(Geraldton Cranes)
Name of Guarantor		Address		
Name of Guarantor		Address		

(Guarantors) hereby covenant and undertake and if more than one, jointly and severally, as follows.

Jurisdiction

- The Guarantors acknowledge and agree that this guarantee and indemnity is governed by the laws of Western Australia, and the laws of the Commonwealth of Australia which are in force Western Australia.
- The parties to this guarantee and indemnity submit to the non-exclusive jurisdiction of the courts of Western Australia and the relevant federal courts and courts competent to hear appeals from those courts.

Consideration

- In consideration of Geraldton Cranes extending or agreeing to extend credit or further credit to the Client at the Guarantors' request (testified by the Guarantors' execution of this agreement) for goods sold or to be sold from time to time or services provided or to be provided, the Guarantors guarantee payment to Geraldton Cranes of all money which is now or at any time in the future becomes due and payable to Geraldton Cranes by the Client on any account or accounts whether now existing or which may in the future be opened or in any manner whatsoever, including but not limited to amounts payable by the Client to Geraldton Cranes arising out of a relationship of trustee and beneficiary.

Guarantee and indemnity

- The Guarantors agree to guarantee and indemnify Geraldton Cranes against all losses damages or expenses that Geraldton Cranes may suffer as a result, either directly or indirectly, of any failure by the Client to make due payment of any money owing to Geraldton Cranes whether for goods sold, services provided or otherwise or to observe the terms of any agreement between the Client and Geraldton Cranes, including costs on an indemnity basis of any attempt or attempts to recover from the Client or any Guarantor and whether successful or not or whether frustrated by the Client or Guarantor or by operation of law and including costs ordered by a court to be paid by Geraldton Cranes to the Client or to any Guarantor including the costs of lodging and withdrawing caveats and/or obtaining injunctions and enforcing any security over real and personal property given to Geraldton Cranes.
- This guarantee and indemnity will be a continuing guarantee and indemnity and will not be considered as wholly or partially satisfied or discharged by any money which may at any time or times in the future be received or applied by Geraldton Cranes to the credit of any account of the Client or the Guarantors, or deemed to be held on trust by the Client for Geraldton Cranes, and will be available as a Guarantee and Indemnity for the whole of the sums referred to in clauses 3 and 4 of this guarantee and indemnity.
- Where two or more persons execute this guarantee and indemnity, the guarantors, covenants and obligations in this guarantee and indemnity given or undertaken by the Guarantors will be deemed to bind the Guarantors jointly and each of the Guarantors severally and Geraldton Cranes will be entitled to seek payment in full from any one or more of the Guarantors without seeking payment from the other Guarantors.
- Geraldton Cranes will have the right to enforce this guarantee and indemnity, irrespective of whether Geraldton Cranes has sought to recover the amounts guaranteed from the Client and with or without notice to the Client, as if the primary liability for any money owing was the Guarantors' own. Further, Geraldton Cranes may proceed against the Guarantors (or any one of them) notwithstanding any other rights it may have in relation to the recovery of the amounts hereby guaranteed.
- This guarantee and indemnity will continue in force until such time as Geraldton Cranes releases all of the Guarantors in writing, and notwithstanding the fact that the Guarantors are no longer directors, shareholders or owners of the Client.
- This guarantee and indemnity is without prejudice to and will not be affected by nor will the rights or remedies of Geraldton Cranes against the Guarantors or any of the Guarantors be in any way prejudiced or affected by:
 - any other security taken by Geraldton Cranes from the Client or from any other person;
 - any waiver or indulgence, whether as to time or otherwise, given to the Client or to the Guarantors or any one or more of the Guarantors;
 - by any other act, matter or thing which under the law relating to sureties would or might but for this provision release the Guarantors or any of the Guarantors from all or any part of the Guarantors obligations contained in this guarantee and indemnity; or
 - any person named in this guarantee and indemnity as Guarantor failing to execute this guarantee and indemnity or failing or ceasing to be bound by the terms of this guarantee and indemnity.

Right of subrogation

- In the event of a Guarantor making any payment in respect to an obligation of the Client whether under a guarantee or indemnity or otherwise, the Guarantors will not exercise any rights of subrogation against any other Guarantors or the Client unless and until Geraldton Cranes has been paid in full.
- In the event of the Client going into liquidation, the Guarantors will be prohibited from proving in competition with the Client unless and until Geraldton Cranes has been paid in full.

Insolvency of Client

- No sum of money which the Client pays to Geraldton Cranes and Geraldton Cranes later pays, is obliged to pay, allows in account or is obliged to allow in account to a liquidator, administrator,

receiver or trustee in bankruptcy of the Client by reason of the *Corporations Act 2001*, *Bankruptcy Act 1966* or otherwise will, for the purpose of this guarantee and indemnity, be considered as discharging or diminishing the Guarantors' liability and this guarantee and indemnity will continue to apply as if the said sum(s) had at all times remained owing by the Client.

Costs

- Geraldton Cranes is at liberty from time to time to charge the account of the Client with all costs, charges and expenses, legal or otherwise that Geraldton Cranes incurs in connection with:
 - the account of the Client;
 - this guarantee and indemnity;
 - any other security in respect of the indebtedness of the Client to Geraldton Cranes;
 - the preparation, completion and stamping of this deed; or
 - the exercise or attempted exercise of any right, power or remedy conferred on Geraldton Cranes under or by virtue of this deed;and the same will be part of the monies secured by this deed.
- The Guarantors agree to pay Geraldton Cranes's costs and disbursements incurred in recovering monies secured by this deed, including debt recovery agency fees and legal costs on an indemnity basis.
- As security for the payment of the amount of the indebtedness to Geraldton Cranes from time to time, the Guarantors irrevocably appoint as their duly constituted attorney Geraldton Cranes's company secretary from time to time to execute in the Guarantors' names and as the Guarantors' act and deed any real property mortgage, bill of sale or consent to any caveat Geraldton Cranes may choose to lodge against real property that the Guarantors may own in any Land Titles Office in any state or territory of Australia, even though the Guarantors may not have defaulted in carrying out their obligations hereunder.

Variation

- The Guarantors authorise Geraldton Cranes to give time or any other indulgence or consideration to the Client in respect of compliance with its obligations to Geraldton Cranes, even if giving time or any other indulgence or consideration has the effect of increasing the Guarantors' liability under this guarantee and indemnity.
- The Guarantors agree that this guarantee and indemnity will not be avoided, released or affected by Geraldton Cranes making any variation or alteration in the terms of its agreement(s) with the Client, even if such variation or alteration has the effect of increasing the Guarantors' liability under this guarantee and indemnity.

Severance

- If any provision of this guarantee and indemnity 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.

Security/charge

- The Guarantors charge in favour of Geraldton Cranes all of their estate and interest in any real property, whether held in its own right or as capacity as trustee, the Guarantors own at present and in the future with all monies which are now or in the future become owing by the Guarantors to Geraldton Cranes, including all amounts referred to in clauses 3 and 4.
- The Guarantors charge in favour of Geraldton Cranes all of their estate and interest in any personal property, whether held in its own right or as capacity as trustee, the Guarantors own at present and in the future with all monies which are now or in the future become owing by the Guarantors to Geraldton Cranes, including all amounts referred to in clauses 3 and 4.
- This guarantee and indemnity secures the repayment of all monies owed by the Client whatsoever, and this deed constitutes the entire guarantee.
- Where the Guarantors have previously entered into an agreement with Geraldton Cranes by which the Guarantors have granted a charge, mortgage or other security over real or personal property, those charges, mortgages or other security interests will continue and co-exist with the obligations and security interests created in this deed and will secure all indebtedness and obligations of the Guarantors under this deed. Geraldton Cranes may, at its election, vary the terms of such previous charges, mortgages or other securities to reflect the terms herein.

Personal Property Securities Act

- For the avoidance of any doubt, the security interest(s) created by this instrument in favour of Geraldton Cranes constitutes security interests pursuant to the *Personal Property Securities Act 2009*.
- The Guarantors waive 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.

Service of notices

- The Guarantors agree 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 Geraldton Cranes by the Guarantors or the Guarantors' authorised representative.

Privacy Act

- The Guarantors agree to the terms of the Privacy Statement pursuant to the *Privacy Act 1988* contained in this document.

Executed as a deed on (date)

Signed, sealed and delivered by the Guarantor	Signature	
	Name (print)	
	Position	
	Witness signature	
	Witness name (print)	
Signed, sealed and delivered by the Guarantor	Signature	
	Name (print)	
	Position	
	Witness signature	
	Witness name (print)	