

TERMS & CONDITIONS OF CREDIT

1. In these terms and conditions:
 - 1.1 "Account" means each account of the Applicant with the Carrier for moneys owing in relation to the supply of Services;
"Applicant" means the person referred to in Section B of the Application. If the applicant is more than one person "Applicant" means those persons collectively and each of them individually and the obligations and liabilities on the part of the Applicant in these terms and conditions bind all of them jointly and each of them severally.
"Application" means the application in which these terms and conditions are incorporated;
"Carrier" means M & J Mitchell Pty Ltd and/or Mitchell's Livestock Transport and/or Esperance Livestock Transport (ABN 25 009 343 659) its officers, employees, agents and where applicable, subcontractors, and the subcontractor's officers, agents and employees. "Person" includes a natural person, firm, corporation, government authority or other body or organisation;
"Credit Limit" means the credit limit notified by the Carrier to the Applicant on acceptance of the Application as varied from time to time;
"Default Event" means an event specified as a Default Event in clause 6;
"Due Date" means in relation to Moneys owing for Services the fourteenth (14th) day after the date of invoice unless otherwise agreed;
"Moneys" means all moneys now or in the future owing by the Applicant to the Carrier on any Account;
"Rate" means published RBA Cash rate as at 1st January each year + 8% per annum or such other rate as the Carrier nominates by notice to the Applicant;
"Services" means all services and goods supplied or to be supplied by the Carrier to the Applicant; and
 - 1.2 (a) words and expressions importing the singular include the plural and vice versa; and
(b) words and expressions importing one gender include all genders.
2. If this Application is approved the Carrier will notify the Applicant of the applicable Credit Limit and any conditions of approval. Any conditions of approval are deemed incorporated into these terms and conditions.
3. The Applicant must pay for all Services supplied on or before the Due Date notwithstanding:
 - (a) the date on which any invoices or statement in respect of the Services is received; or
 - (b) any dispute in respect of the Services.
4. The debit balance of the Account must not at any time exceed the Credit Limit.
5. Overdue Moneys may at the sole discretion of the Carrier bear interest which accrues from day to day on the balance of overdue Moneys at the Rate. Payments received by the Carrier must be applied in payment of interest first and then to the balance of overdue Moneys.
6. A Default Event occurs if:
 - (a) the Applicant commits an act of bankruptcy or is declared bankrupt;
 - (b) a petition for the Applicant's winding up is presented;
 - (c) the Applicant is placed in receivership or an administrator is appointed to the Applicant;
 - (d) the Applicant enters into any arrangement, composition or compromise (formal or informal) with its creditors
 - (e) a cheque is drawn for the payment of Moneys payable to the Carrier by the Applicant and the cheque is dishonoured;
 - (f) any Moneys owing by the Applicant to the Carrier remain outstanding 30 days after the Due Date;
 - (g) the Applicant is otherwise in breach of these terms and conditions; or
 - (h) the Applicant ceases to trade or carry on business in the usual manner.
7. If a Default Event occurs:
 - (a) the Carrier may terminate the supply of Services on credit; and
 - (b) all Moneys in respect of Services become immediately due and payable;
8. the Carrier may at any time and from time to time in respect of the future supply of Services:
 - (a) by notice to the Applicant vary these terms and conditions; or
 - (b) without notice to the Applicant vary the Credit Limit;in each case without assigning any reason.
9. the Carrier may from time to time require further security on terms and conditions which the Carrier in its absolute discretion thinks fit as a condition of continuing the supply of Services on credit.
10. For the purposes of clause 9 further security includes without limitation:
 - (a) guarantees by third persons nominated by the Carrier in its absolute discretion; and
 - (b) security over the whole or any part of the assets or undertaking of the Applicant or a Guarantor.
11. If the Applicant is a trustee of any trust:
 - (a) it is bound by these terms and conditions and charges its freehold property which it holds as trustee for the trust; and
 - (b) it warrants that it has power to trade with the Carrier and to charge its land in accordance with these terms and conditions under the trust instrument and by operation of law and the exercise of that power is proper.
12. The Applicant shall no later than 14 days prior to any proposed change of ownership, shareholding, effective control or directors of the Applicant notify the Carrier of the proposed change.
13. All reasonable costs, expenses and disbursements incurred by the Carrier (including debt collection agency fees and legal costs on a full indemnity basis) arising from or incidental to the Carrier exercising a right under these terms and conditions or arising from a Default Event, are payable by the Applicant upon demand.
14. These terms and conditions:

- (a) may only be varied as provided herein or in writing signed on behalf of the Applicant and the Carrier; and
 - (b) prevail in the event of any inconsistency with other terms and conditions relating to the supply of Services.
- 15.** If any part of these terms and conditions or any related document is or becomes void or unenforceable that part is severed so that all parts which are not or do not become void or unenforceable remain in full force and effect and are unaffected by the severance.
- 16.** The Applicant charges all of its real and personal property with payment of all monies due to the Carrier from time to time.
- 17.** The Applicant accepts the Carrier's Terms and Conditions of Consignment current at the time of any Consignment and the Applicant acknowledges having read and accepted the current Terms and Conditions of Consignment as issued by the Carrier.
- 18.** Any agreed discount, rebate or allowance to the Applicant will be paid after full payment has been received from the Applicant by the Carrier.
- 19.** The Applicant must pay the Carrier within 14 days after the date of invoice regardless of whether there is a delay in provision of the Services or a dispute as to the Services.
- 20.** If the Applicant is a company, the directors of that company agree to:
- (a) provide guarantees and indemnities to the Carrier in the form of the deed attached to the Application and these terms and conditions; and
 - (b) to sign that deed at the same time as signing the Application by or on behalf of the company.