

General Terms and Conditions for CTI Records Management Pty Ltd (ABN 71 083 767 999)
DEFINITIONS

As used in this Agreement, the following terms shall have the meaning assigned to them below. Singular words include the plural and vice versa.

"Affiliate" means any company, corporation or other entity controlled by, in control of or under common control with one of the parties to the Agreement.

"Agreement" means this Master Services Agreement and all Annexures and Schedules that may be amended in Writing by mutual agreement of the parties from time to time.

"Annexure" means an Annexure forming part of this Agreement.

"Business Day" means a day other than Saturday, Sunday or gazetted public Holiday in WA.

"Business Hours" means between the hours of 8.00am and 4.00pm on any Business Day.

"Customer" means and includes the Person or entity from whom or on whose account Goods have been received by Supplier and includes agents, Employees and sub-contractors acting on behalf of the Customer in respect of those Goods.

"Dangerous Goods" are those Goods defined as hazardous or dangerous in the Dangerous Goods Act 2004 (WA), Dangerous Goods Safety Regulations 2007 (WA) and associated regulations. CTI reserves the right to refuse to accept Dangerous Goods and strict conditions will apply.

"Delivery" means the act of unloading of the Goods in the consignee's premises as evidenced by a signed waybill or similar document which confirms Delivery and the acceptance of Delivery.

"Destruction" means the shredding or pulping of paper Records or other approved means for non-paper Records in a secure environment.

"Employees" shall mean all employees, third party labour hires, sub-contractors or agents of the parties.

"Force Majeure" shall mean war, whether declared or not, civil rebellion, strike, fire, storm or other severe action of the elements, accident, government or statutory restriction or from other similar causes which are unavoidable or beyond the reasonable control of the defaulting party.

"Goods" shall mean the Customer's Goods or Records which are the subject of the Services provided by the Supplier under this Agreement, and includes containers and packaging.

"GST" means any tax, levy, impost generally imposed pursuant to A New Tax System (Goods and Services Tax) Act 1999 (or any other Bill or Act of the

Parliament of the Commonwealth of Australia) pursuant to which, the Supplier is obliged to pay in respect of the supply of the Product.

"Insolvency Event" means in respect of a party (other than for the purpose of solvent reconstruction or amalgamation):

(a) a receiver, receiver and manager, liquidator, provisional liquidator, trustee, administrator, controller, inspector appointed under any companies or securities legislation, or another similar official, is appointed in respect of that party or any of its property, or any security is enforced over any substantial part of its assets;

(b) the party ceases to carry on all or substantially all of its business, is unable to pay its debts when due, or is deemed unable to pay its debts under any law, or makes an assignment for the benefit of, or enters into or makes any arrangement or compromise with, that party's creditors or threatens to do so, or stops payments to its creditors generally;

(c) The party is, becomes, or is deemed to be insolvent or bankrupt;

(d) A distress, attachment or other execution is levied or enforced upon or commenced against any substantial part of its assets and is not stayed within 14 days; or

(e) Anything having a similar effect to any of the events specified above happens under the law of any applicable jurisdiction.

"Person" means and includes a person, partnership, firm, company, corporation, government instrumentality or public authority.

"Rates" means the applicable rates and charges as defined in this Agreement.

"Records" means a Customer document including any written or printed material or object including a sound recording, coded storage device, magnetic tape or disk, microfilm, photograph, plan model or painting or other pictorial or graphic work which has been kept or stored electronically or otherwise by the Customer in connection with the Customer's activities.

"Records Management Services" means the storage of Records in a Storage Facility and the management of those stored Records and associated Services including collection and Delivery, tracking and retrieval,

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and the destruction of Records when instructed by the Customer.

“Schedules” means a Schedule forming part of this Agreement.

“Services” shall mean the Services specified in this Agreement to be performed by the Supplier which may comprise Warehousing Services and Transport Services.

“Standard Operating Procedures” shall mean a written document defining the operating procedures that will be used for a specific Customer.

“Supplier’s Premises” shall mean any warehouse or other Storage Facilities under the Supplier’s management and control, where the Supplier provides Services in respect of the Customer’s Goods and/or Records.

“Storage Facility” means any one of the Storage Facilities maintained by the Supplier for the storage of Goods and/or Records.

“Transport Services” includes all Services that are part of the carriage of Goods and/or Records from one point to another, acting on instructions from the Customer, including loading and unloading, order and dispatch processing and associated IT Services.

“Writing” means any representation of words, figures or symbols capable of being rendered in visible form.

1 SERVICES PROVIDED

The Supplier shall provide Records Management Services subject to the terms of this Agreement and in accordance with procedures agreed to with the Customer.

2 CUSTOMER WARRANTIES

The Customer warrants that:

- I. The Customer is the owner, or the authorised agent of the owner, of the stored Records and has full authority to store such Records and give directions to the Supplier in relation to them in accordance with the terms of this Agreement.
- II. The stored Records comprise only boxes, cartons files, journals, binders, documents, correspondence, magnetic tapes, computer media, printed materials, audio tape, film or other material of a like or related nature.
- III. Unless disclosed to the Supplier in Writing the stored Records do not contain any materials which are or may become of a dangerous, corrosive, highly combustible, explosive, damaging or noxious nature; and are not likely to encourage any vermin or pest.
- IV. The Supplier is not liable for any natural deterioration in any Records in its possession.

The Customer hereby indemnifies the Supplier against all actions, suits, claims proceedings, damages and costs arising out of or in consequence of a breach of these warranties.

3 DANGEROUS GOODS

The Supplier will not accept or store any Records which are defined as Dangerous Goods by the Dangerous Goods Act 2004 (WA) and associated regulations or that are otherwise of a dangerous, hazardous or noxious nature.

4 SUPPLIER WARRANTIES

The Supplier warrants:

- I. That it will perform all Services in a competent and professional manner and in accordance with procedures agreed to with the Customer.
- II. That it will keep confidential all information acquired by the Supplier as a consequence of providing the Services in this Agreement.
- III. That it shall inform each of its Employees of the confidentiality obligation under this Agreement and take all reasonable steps to ensure strict compliance with same.
- IV. That it will ensure that its operations comply with all relevant laws and regulations and all licenses and insurances necessary for the provision of Services pursuant to this Agreement are current.
- V. That it is responsible for the health and safety performance of its Employees in the performance of any Services pursuant to this Agreement.
- VI. That the obligations under this clause will survive the termination of this Agreement.

5 FORCE MAJEURE

Obligations suspended: Where either the Customer or the Supplier is unable, wholly or in part, by reason of a Force Majeure event, to carry out any obligation under this Agreement and:

- I. That party gives the other party immediate written notice of the nature and expected duration of, and the obligation affected by, the Force Majeure event; and
- II. That party uses all reasonable endeavours to:
 - (a) Mitigate the effects of the Force Majeure event on that party’s obligations under this Agreement; and

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(b) Perform that party's obligations under this Agreement despite the Force Majeure event;

that obligation is suspended so far as it is affected by the Force Majeure event during its continuance.

Termination: If by reason of a Force Majeure event, the delay or non-performance of either the Customer's or the Supplier's obligations will continue for more than 20 consecutive days, or for an aggregate of 20 days in any 12 month period, either the Customer or the Supplier may terminate this Agreement by written notice to the other party.

6 NOTICES

Any correspondence or notice given by either party to the other is served, if delivered in person or if delivered in the mail, properly stamped and addressed to that party's registered or last notified business address. Either party may change its address by giving the other party at least 10 days written notice.

7 ASSIGNMENT AND SUB-CONTRACTORS

This Agreement may not be assigned by either party without the prior written consent of the other party, which consent must not be unreasonably withheld.

The Supplier is permitted to engage sub-contractors to undertake the whole or any part of the Services at its discretion.

The Supplier must fully and properly inform any sub-contractors of the contents of this Agreement.

Notwithstanding anything to the contrary in this Agreement, the Supplier indemnifies and holds the Customer harmless from any loss, damage costs, or claims suffered by the Customer, its employees, officers or agents as a result of the act or omission of a sub-contractor of the Supplier.

8 DISPUTE RESOLUTION

In the event of a dispute arising between the two parties the following Disputes Resolution Procedure will be referred to:

- I. Step One: A solution to the dispute will be sought from where it originated, at the local operational level.
- II. Step Two: Should the dispute remain unresolved by the end of a further two-week period, then it will be elevated to the attention of the Supplier's business unit Manager.
- III. Step Three: Should the dispute remain unresolved by the end of a further week, then it will be elevated to

the attention of the General Managers of each party.
IV. Step Four: Should the dispute remain unresolved by the end of a further one week period the parties will refer the matter to the mediation of a mediator to be agreed by the parties or, failing such agreement, by a mediator appointed by the Chairman of the Perth branch of LEADR ("the Mediator"):

- a. The parties must jointly appoint a Mediator;
- b. The parties must observe the instructions of the Mediator about the conduct of the mediation;
- c. If the dispute is not resolved in 21 days after Mediator is appointed or any other time that the parties agree to in writing, the mediation will cease;
- d. The parties agree to share the cost equally of any mediation as described above.

V. Both parties must continue to observe this Agreement during the currency of any dispute resolution procedure.

9 ACCEPTANCE, DELIVERY AND COLLECTION

The Supplier reserves the right to refuse to accept Records of any Person for storage or destruction at its discretion.

The Supplier will be deemed to have duly:

- I. Delivered Records to an address if a Person there signs a delivery docket for the Records; and
- II. Collected Records from an address if the Supplier gives a Person there a receipt for the Records.

10 TITLE

I. The title to all Records shall at all times remain with the Customer and survive the term of this Agreement, subject to Clause 10 (II). However, in the event that the Customer fails to meet its payment obligations under this Agreement, then without prejudice to any other rights available to either party under this Agreement, the Supplier shall have the right to withhold access to Records and suspend Services until such time as such breach is remedied by the Customer. This clause will be applied in accordance with the Warehousemen's Liens Act 1952 (WA) and the Personal Property Securities Act 2009 (Commonwealth).

II. Where the Service involves the destruction of Records, the title to the Record passes to the Supplier upon the Supplier receiving written notice from the Customer authorising the Supplier to destroy the Record or upon Delivery to the Storage Facility of the Records for the purpose of destruction or to the

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Supplier's mobile record destruction units, whichever is the earlier.

11 TERMINATION

I. Termination With Cause: Without prejudice to any other right or remedy, whether under this Agreement, under statute or otherwise, either the Customer or the Supplier may terminate this Agreement immediately by giving written notice to the other party if:

- a. The other party breaches any material obligation under this Agreement and the breach is not capable of being remedied, where the latter is to be determined by the non-defaulting party. If the breach is capable of being remedied and the defaulting party fails to remedy the breach to the non-defaulting party's satisfaction within 30 days after notice in Writing has been given to the defaulting party requiring such breach to be remedied, then this Agreement may be terminated immediately by the non-defaulting party after the expiry of the 30-day notice period.
- b. An Insolvency Event occurs in respect of the other party.

II. Termination Without Cause: Either party can terminate this Agreement without cause by giving 90 days written notice. During the termination period, the Supplier will continue to provide the Services to the standards defined in this Agreement.

III. Where the Supplier terminates this Agreement, the Supplier may deliver the stored Records to the registered or last notified address of the Customer.

IV. Where the Agreement is terminated due to an Insolvency Event affecting the Customer the Supplier may deliver the stored Records to the receiver, administrator or liquidator of the Customer at the Supplier's scheduled Rates and charges applicable from time to time.

V. After termination, the Customer may collect its Records from the Supplier's pickup area during normal Business Hours and after allowing the Supplier a minimum of 3 days to prepare the Records for collection. The Customer must ensure that all outstanding invoices are settled prior to collecting the Records.

VI. The Customer may request Delivery of the stored Records but the Supplier is not required to comply with

such request until the Customer has paid in full all fees and charges due to the Supplier.

VII. The Supplier has no liability to the Customer in respect of theft, loss, damage or destruction of the Records once they have been delivered to the appropriate address.

VIII. Where the Customer terminates this Agreement, the Supplier may recover from the Customer the fees for the balance of the term and interest on any unpaid fees.

IX. If the Customer fails pay all outstanding charges to the Supplier within 6 months of the date of termination of this Agreement and no response is received from the Customer in relation to demand for payment, the Supplier may destroy the Records remaining in its possession without further notice to the Customer.

12 INSURANCE

I. The Supplier does not insure Records on the Customer's behalf against Loss or Damage, however caused.

II. It is the responsibility of the Customer to arrange suitable and adequate insurance cover for its Records stored at the facility and the Customer acknowledges and agrees that the Supplier has no obligation to insure the Records.

13 LIABILITIES AND INDEMNITIES

I. To the extent permitted by law, the Supplier shall not be liable for any Loss or Damage to Records, however caused, unless such Loss or Damage resulted from CTI's proven gross negligence. If liable, the amount of the Supplier's liability is limited as provided for in this Agreement.

II. With respect to Records stored pursuant to this Agreement the value of such stored items is \$1.00 per carton or equivalent measure of open shelf files, container or other hard copy storage unit. With respect to media the value of such stored items is limited to the cost of replacing the physical media itself. The Supplier's total liability to the Customer is limited to the value of the Records as defined in this clause or the amount of all fees paid by the Customer in the preceding 12 month period whichever is the lesser amount.

III. The Supplier shall not be liable for any loss, injury or damage suffered (and whether by the Customer or not) by failure to deliver or delay in Delivery of the stored Records or any of them and the Customer will

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indemnify the Supplier and save it harmless against any and all claims, demands, actions, suits, proceedings and costs made or brought by any Person in respect thereof.

IV. Notwithstanding any other term of this Agreement, the Customer indemnifies the Supplier against all loss, costs, expenses, claims, demands or liability of any nature arising as a consequence of:

- a. The Customer's breach of any term of this Agreement; and
- b. Any action taken by the Supplier in accordance with the terms of this Agreement, where such action is taken as a consequence of the Customer's breach.

V. Provided that requested Records are ultimately delivered, the Supplier shall not be liable for any loss, injury or damage suffered (and whether by the Customer or not) by delay in Delivery of the stored Records or any of them.

VI. For the avoidance of doubt, to the extent permitted by law, neither party will be liable to the other party in any circumstances for any special, consequential, or exemplary damages or loss arising out of or in connection with the Agreement.

VII. Notwithstanding anything herein purporting to limit or exclude the liability of the Supplier; the Supplier shall be subject to any condition, warranty or guarantee implied or arising under the Australian Consumer Law (ACL) and the Competition and Consumer Act 2010 (CCA) in so far as the same is applicable and to the extent that it is not able to be excluded or modified through the Supplier's liability in respect of any claim under contract or in tort or otherwise.

14 DETERIORATED GOODS

The Supplier may at any time without notice and at the Customer's expense remove and if thought fit dispose of or destroy all or any of the Records which in the opinion of the Supplier shall be or become deteriorated objectionable or unwholesome, a source of danger or contamination or hazardous as defined from time to time by the Insurance Council of Australia.

15 LIEN

The Supplier shall have a general lien on all of the Customer's Records in its Storage Facility for all claims for charges or expenses incurred by the Supplier in connection with providing the Services. If such claim remains unsatisfied for 30 days after demand for its payment is made, the Supplier may sell

at public auction or private sales, upon 10 days written notice by registered mail, the Goods or other property or so much as is necessary to satisfy such lien, and apply the net proceeds of the sale to the payment of the amount due to the Supplier.

This clause will be applied in accordance with the Warehousemen's Liens Act 1952 (WA) and the Personal Property Securities Act 2009 (Commonwealth).

16 STANDARD OPERATING PROCEDURES

A Standard Operating Procedures ("SOP") document may be prepared that defines and details the procedures to be carried out in performing the Records Management Services for this Agreement.

17 TERM

I. This Agreement commences on the Commencement Date and continues at all times while the Supplier is providing the Services to the Customer until terminated in accordance with the provisions of this Agreement.

II. The initial term is for 3 years from the Commencement Date, unless mutually agreed in Writing.

III. Upon the expiry of the initial term this Agreement is automatically extended for successive periods each of 12 months unless the Customer gives notice to the Supplier at least 30 days prior to the term expiry date that it does not wish the term to be extended. Where such notice is given this Agreement is to terminate 90 days from the date of the Customer's notice.

18 INVOICES AND PAYMENT

I. The Customer will be invoiced on a monthly basis unless otherwise agreed in Writing.

II. The Customer must pay the Supplier the fees and charges for the Services within 30 days of invoice date.

III. The Supplier's Rates represent the exclusive value of the supply for GST purposes, unless specifically stated to include GST. Any GST payable must be paid by the Customer to the Supplier in the same manner and at the same time as the consideration for the supply is required to be paid by the Customer under these terms and conditions.

IV. If payment of the charges is overdue, the Supplier may in addition to its rights and remedies at law or equity, do any one or more of the following:

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- a. Charge the Customer interest on the outstanding amount at the rate of 3% above the then base lending rate of Westpac Banking Corporation from and including the due date to the actual date of the payment.
- b. Recover from the Customer all reasonable costs which the Supplier may incur in recovering any such outstanding amounts including legal costs on a full indemnity basis.
- c. Suspend the Services as it sees fit with or without returning the Records to the Customer's last notified address.
- d. Exercise its rights under its lien until the outstanding amount is paid in full;
- e. Return the Customer's Records to the Customer's last notified address at the Customer's cost.

19 RATES AND CHARGES

- I. All Rates and charges for storage and other Services shall be calculated in accordance with the Schedule of Rates and charges agreed between the parties.
- II. All charges for Services shall accrue from day to day and all charges for other Services are deemed to be earned as soon as the Services have been performed.

20 GENERAL

Entire Agreement: This Agreement shall constitute the entire Agreement between the parties. All prior agreements, contracts, terms and conditions executed by the parties are hereby revoked and deemed null and void.

Amendment: No amendment to this Agreement will be effective or binding upon the parties unless set forth in Writing and duly executed by each of the parties.
Previous Conditions Superseded: These conditions supersede all previous storage conditions published or issued by the Supplier and other terms inconsistent herewith which may previously have been agreed to between the Supplier and the Customer or which may have formed part of any other counter offer or instruction from the Customer.

Survival: In the event that any one or more of the provisions of this Agreement shall be found to be illegal or unenforceable, then notwithstanding, this Agreement shall remain in full force and effect and such term or provision shall be deemed stricken. Any terms of this Agreement which appear on a reasonable interpretation to be intended to survive the termination or expiration of this Agreement, shall accordingly survive.

Governing Law: This Agreement is governed by the laws of the state of Western Australia, Australia and the parties agree to submit to the jurisdiction of the courts of Western Australia.

This Agreement is entered into by and on behalf of **CTI Records Management Pty Ltd** (ABN 71083 767 999) and the Customer named below and is a binding agreement on the date on which it is executed by the Customer.

EXECUTED by the **Customer** named below by the Customer's officer who has authority to do so and to bind the Customer in accordance with its constitutional documents and the laws applying in the place of its incorporation:

Customer full name (please print)

Customer ABN

Signature of Officer

Full name of Officer (please print)

Officer title or capacity

Date

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