Terms and Conditions

Effective March 2026

1. Definitions

Agreement means these Terms and Conditions, together with any Authority and Customer credit application.

Authority means any authority by which the Customer appointed Navia to act on its behalf.

Carriage means carriage by vehicles and conveyances of all kind including acts in furtherance of an act of carriage by another or a specific means, whether by air, sea or land transport, or any combination of such transport modes

Carrier means any party involved in the Carriage of Goods whether by airfreight, sea freight or land transport

Connected Party means in relation to the Goods the Owner, exporter, importer, supplier, purchaser, Carrier or any agent of any of the aforementioned parties, other than Navia.

Consequential Loss means any loss or damage which:

(a) does not arise naturally or in the usual course of things; or

(b) constitutes, or arises from or in connection with, a loss in revenue, profit or opportunity or a loss of goodwill or business reputation, even if such loss or damage arises naturally or in the usual course of things.

Container means any container, flexitank, trailer, transportable tank, flat, pallet or any equipment used to carry or consolidate goods and any equipment of or connected thereto.

Customer means:

(a) Where there is an Authority, the customer named in the Authority, including its employees, officers, agents and contractors.

(b) Where there is no Authority, the person instructing Navia to provide the Services; and for the avoidance of doubt, the Customer may also be the Owner.

Dangerous Goods means any Goods which are, or may become, hazardous, volatile, explosive, flammable, radioactive, likely to harbour or encourage vermin or pests, or capable of posing a risk or causing damage to any person or property.

Fees means Navia's fees for the Services as set out in any quotation, rates schedule, tariff or as otherwise notified to the Customer or a Connected Party and any other amounts payable under these Terms and Conditions.

Force Majeure Event means anything outside of the reasonable control of Navia including, without limitation, fire, flood, drought, storm (or other adverse weather conditions), lightening, act of God, peril of sea or air, explosion, radioactive or chemical contamination, sabotage, accident, embargo or trade restriction, blockade, labour dispute, strike or shortage, civil commotion, curfew, act of war, actual or threatened act of terrorism, pressure waves caused by aircraft or other devices, meteorites, epidemic, pandemic, the act of an Authority or Law to contain a pandemic or epidemic, plague, quarantine.

Goods means the goods, including packaging, pallets or containers, the subject of the Services.

Government Authority means any government agency, authority, department or body, exercising jurisdiction in any nation, state, port or airport.

Heavy Vehicle National Law means the *Heavy Vehicle National Law Act 2012 (QLD)* including all regulations made under that act, the respective Australian state and territory laws adopting the schedule to that act and any other laws regulating the road transport of goods by heavy vehicles.

Law means any law, regulation, rule or international convention.

Loss means any loss, cost, damage, expense, claim, demand, action, proceeding or liability of any kind, (including legal costs on an indemnity basis) and whether actual, prospective or contingent and whether ascertained or unascertained.

Navia means Navia Pty Ltd ABN 85 105 752 921 and its nominees, agents and employees.

Owner means the owner, importer or exporter of the Goods, or a person authorised to act on behalf of the owner or importer of the Goods.

Perishable Goods means any Goods liable to waste, deterioration or spoilage, and includes without limitation fruit, vegetables, dairy products, meat, and animals.

PPSA means the *Personal Property Securities Act 2009* (Cth).

Related Company means a related body corporate within the meaning of section 50 of the *Corporations Act 2001*.

Services means the work performed by Navia in relation to the Goods, whether as agent or principal, including facilitating the import, export, transport, or storage of the Goods; and any ancillary acts for those purposes, including preparing any documentation or providing any information to a Government Authority.

SBC contract means a contract that is either a "small business contract" or a "consumer contract" as defined in section 23(3) of Schedule 2 to the *Competition and Consumer Act 2010* (Cth), but does not include:

(c) a contract of marine salvage or towage; a charter party of a ship;

(d) a contract for the carriage of goods by ship;

(e) a contract that is not a standard form contract; or

(f) a "small business contract" where the Customer does not employ fewer than 20 persons

Subcontractor means a third party (and their employees, agents and contractors) engaged to provide all or part of the Services.

Terms and Conditions means these terms and conditions.

Transport Document includes a bill of lading, waybill, consignment note, or similar carriage document.

2. General

2.1 Navia is not a common carrier. Navia will not be liable as a common carrier.

2.2 These Terms and Conditions take priority over and will prevail to the extent of any inconsistency with the Authority, any credit application made by the Customer, the Customer's terms and conditions or other document issued by the Customer. Any terms and conditions set out in any Transport Document issued by Navia take priority over these Terms and Conditions.

2.3 The Agreement is governed by the laws of Victoria, Australia. Navia and the Customer submit to the jurisdiction of the courts of Victoria and of the Federal Court of Australia.

2.4 A variation of these Terms and Conditions will only be valid if in writing and signed by each party or signed by a person with the authority to bind each party.

2.5 Neither party may assign its rights and obligations under the Agreement without the other party's written consent, such consent not to be unreasonable withheld.

2.6 Any notices under these Terms and Conditions must be in English and in writing.

2.7 Subject to clause 16, all rights, indemnities and limitations of liability contained in these Terms and Conditions will have their full force and effect, despite:

(a) any breach of term or condition of these Terms and Conditions, the Agreement, or any collateral agreement by Navia;

(b) the performance of the Services;

(c) the delivery of the Goods; or

(d) the expiry or termination of the Authority.

2.8 Without limiting the effect of clause 2.7, clauses 2.5, 2.12, 3.13, 4.3, 6.11, 6.12, 10, 11, 13, 14 and 15 of these Terms and Conditions will survive termination.

2.9 If a condition or part of a condition of this Agreement is unenforceable, it must be severed from and does not affect the rest of the Agreement.

2.10 Navia is not bound by any waiver, discharge or release of a condition or any agreement which purports to change this Agreement, unless it is in writing and signed by or for Navia.

2.11 A reference in this Agreement to any law includes any statutory modification, substitution or re-enactment of it.

2.12 If the Customer is a trustee of a trust, the Customer:

(a) will provide Navia with a copy of the trust deed and any documents amending that trust deed;

(b) will notify Navia of any change in trustee of the trust;

(c) agrees that these Terms and Conditions apply to, and all requests for Services placed by the Customer with Navia are placed by, the Customer in its personal capacity and as trustee of the trust.

2.13 Any party that enters this Agreement as a disclosed or undisclosed agent agrees to be joint and severally liable for the debts, liabilities and obligations of the principal under this Agreement.

3. Services

3.1 Services are provided by Navia subject to these Terms and Conditions.

3.2 Without limitation to other methods of acceptance, by instructing Navia to provide the Services the Customer agrees to be bound by the Terms and Conditions.

3.3 The Goods are at the risk of the Customer at all times.

3.4 Navia is authorised by the Customer to choose the method for performance of the Services at Navia's reasonable discretion.

3.5 To the extent reasonable required to perform the Services, the Customer authorises Navia to open any package containing Goods, and do any other thing in order to inspect or weigh the Goods.

3.6 The Customer agrees that:

(a) the value of the Goods will not be declared or inserted into a Transport Document or contract for the purpose of extending a Carrier's liability unless the Customer provides express written instructions to Navia to do so, and if required, the Carrier agrees; and

(b) where a Subcontractor's or Carrier's charges may be determined by the extent of liability assumed by the Subcontractor or Carrier, no declaration of value will be made for the purpose of extending the liability of the Subcontractor or Carrier, and the Goods will be dealt with at the Customer's risk for minimum charges, unless the Customer provides written instructions to the contrary to Navia.

3.7 At any time, Navia may, acting reasonably, deem that certain Goods are Dangerous Goods.

3.8 Where reasonably possible, Navia will contact the Customer and seek instructions regarding the treatment of Dangerous Goods. Where such Dangerous Goods present an imminent danger to any person or property, Navia at its reasonable discretion may destroy or otherwise deal with the Dangerous Goods, without notice or compensation to the Customer.

3.9 Navia's delivery obligations are satisfied if Navia delivers the Goods to the delivery address instructed by the Customer, and a person at that address provides a receipt or signs a delivery docket, or if authorised by the Customer, the Goods are left at the delivery address without obtaining a receipt or signed delivery docket.

3.10 If a person at the delivery address cannot or refuses to take delivery of the Goods, or the Goods cannot be delivered for any other reason, the Customer authorises Navia to deal with the Goods at Navia's reasonable discretion, including storing, or returning the Goods.

3.11 Where required as part of performing the Services, the Goods may be stored at any reasonable place at the discretion of Navia at the Customers' expense.

3.12 If Navia stores the Goods, Navia may require that the Customer remove the Goods from storage by giving reasonable notice delivered to an address provided by the Customer to Navia.

3.13 Where the Customer, Owner or consignee of the Goods is insolvent, placed under external administration, bankrupt or deceased and Navia has not received authority from the Shipper, exporter or Supplier of the Goods to release the Goods to the Customer, Owner or consignee, Navia is authorised to return any Goods to the Shipper, exporter or supplier of those Goods.

3.14 To the extent necessary to perform the Services, the Customer appoints Navia with the power and authority to take any action and execute any document in the name of and on behalf of the Customer as required by Navia. Where reasonably possible, Navia will seek the Customer's consent prior to acting in the name of the Customer.

The Customer agrees that Navia may receive and retain for its own account renumeration, allowances, brokerages and commissions from shipping and forwarding agents, shipping lines, insurance brokers, airlines and any other persons with whom Navia deals that are payments of the nature commonly received by freight forwarders and that Navia is not require to disclose the receipt and retention of such amounts to the Customer, even, without limitation, if acting as agent for the Customer.

4. Customer Obligations

4.1 The Customer will provide Navia with all assistance, information and documentation necessary to enable Navia to provide the Services, and punctually comply with any Law or request from a Government Authority.

4.2 The Customer is under a continuing obligation to provide any information which may materially affect the capacity of the Customer or Navia to perform its obligations under the Agreement.

4.3 The Customer will keep confidential Navia's Fees or charges and any waiver, discount, release or indulgence provided by Navia in relation to the provision of the Services.

5. Instructions

5.1 Any instructions given by the Customer must be in writing in English and be legible.

5.2 Sufficient notice of instructions must be given by the Customer to Navia to enable Navia to follow those instructions. If insufficient notice is given and Navia attempts to adopt the Customer's instructions, Navia is not deemed to have accepted the instructions.

5.3 If Navia accepts the Customer's instructions to perform the Services in a particular way, it will give priority to that method, but may depart from that method at its reasonable discretion. Where reasonably possible, notice will be given to the Customer of any intended departure from the Customer's instructions.

6. Fees

6.1 Navia's Fees are earned on the earlier of the commencement of the performance of the Services (or part thereof), or when the Goods are delivered to Navia or its subcontractors.

6.2 Navia's Fees may include any disbursements and other amounts that Navia is required to pay third parties in connection with the Services. Navia at its discretion may vary its Fees by the amount by which any such disbursements change. Where reasonably practicable, Navia will provide notice of any material change in the Fees.

6.3 Navia's Fees must be paid within 7 days of an invoice or as otherwise agreed in writing (the Due Date). Time is of the essence in respect of the Customer's obligations to make any payment to Navia in connection with this Agreement.

6.4 Navia at its discretion may determine its Fees, including by weight, measurement or value, including without limitation, by volumetric conversion.

6.5 Navia may re-weigh, re-measure or re-value the Goods at any time, and amend its Fees at its reasonable discretion.

6.6 Any information contained in a quotation provided by Navia in relation to the Fees applies to the specific item, weight and volume quoted, designated Services and standard of Services, and is only valid until the earlier of 14 days after being provided, the quote being withdrawn or the quote expiring.

6.7 A quotation is not an offer and is not binding on Navia. A quotation may change based on changes to freight, insurance, warehousing, fees, and any other charges, with or without notice to the Customer.

6.8 Unless otherwise stated, Navia's Fees are exclusive of goods and services tax.

6.9 The Customer remains responsible for the payment of Fees:

(a) even where an arrangement is made for the Fees to be paid by another person;

(b) whether or not the Goods are delivered or damaged or the Services performed as instructed.

6.10 If the Fees are not paid in full within 7 days of the Due Date then, without limitation to its rights, Navia may charge interest on the late payment at the published business overdraft rate of the Commonwealth Bank of Australia.

6.11 The Customer will not defer, set-off or withhold payment of any amount payable to Navia by reason of any claim the Customer has, or claims it has, against Navia.

6.12 Any credit terms provided by Navia may be terminated at any time by Navia.

7. Subcontractors and agency

7.1 The Customer authorises Navia to:

(a) subcontract all or part of the Services to a Subcontractor; and / or

(b) as the agent of the Customer, contract with a third party service provider on behalf of the Customer on any terms whatsoever, including terms that limit or exclude the liability of the third party service provider.

7.2 The Customer authorises a Subcontractor to subcontract all or part of the Services.

7.3 All exclusions or limitations on the liability of Navia in these Terms and Conditions extend to protect:

(a) all Subcontractors;

(b) the agents, employees and servants of any Subcontractor or Navia; and

(c) any person engaged to provide all or part of the Services.

7.4 For the purpose of clause 7.3, Navia acts as trustee on behalf of and for the benefit of any Subcontractor, and to this extent each Subcontractor is deemed to be a party to this Agreement.

8. Intellectual Property

8.1 The Customer agrees that Navia retains all copyright and intellectual property subsisting in all documents and thigs created by, or for, Navia in connection with the performance of the Services, including copyright and intellectual property that now exists or that later comes into existence.

9. Warranties

9.1 The Customer (on behalf of itself, the Owner, and any Connected Parties) warrants to Navia that:

(a) it is the owner of the Goods, or is the authorised agent of the owner of the Goods and is authorised to complete and sign documentation related to the Goods and the Services;

(b) it enters into the Agreement on its own behalf, or in its capacity as the authorised agent of the owner of the Goods;

(c) it and all Connected Parties have complied with all Laws relating to the Goods, including the nature, condition, packaging, handling, storage and Carriage of the Goods;

(d) in engaging the Services from Navia, it will not procure Navia to perform any act in breach of any Laws;

(e) it and all Connected Parties will observe all Laws and requirements of Government Authorities;

(f) all information and documentation provided by the Customer and Connected Parties to Navia is accurate and complete, and neither it nor a Connected Party has omitted to provide any requested or material information;

(g) the Goods are packed to endure the ordinary risks of handling, storage and the Services, having regard to the nature of the Goods including without limitation, that in respect of temperature controlled goods, the Container has been properly pre-cooled or pre-heated and the Container's thermostatic controls have been correctly set;

(h) the Goods are not Dangerous Goods, unless Navia has agreed in writing to provide the Services in respect of those particular Dangerous Goods, and in which case, warrants that it has made full disclosure of Dangerous Goods and such Goods are distinctly marked; and

(i) all Goods are adequately and accurately marked, labelled or branded; and

(j) it will ensure, so far as is reasonably practicable, the safety of any road transport performed for or on behalf of the Customer and it will meet its obligations under the Heavy Vehicle National Law where the Customer is the consignor, consignee, packet or loader of the Goods.

10. Liability

10.1 Despite any other clause in these Terms and Conditions, where the Services involve the international Carriage of Goods, the liability limits of Navia will not exceed the maximum liability limit of Navia or the Carrier as determined under any international convention applying to relevant Carriage of the Goods.

10.2 Without limitation, Navia excludes all liability for loss, damage or delay to the Goods that occurs while the Goods are in the physical custody of a third party, including a Subcontractor.

10.3 To the extent permitted by Law, Navia excludes all liability in respect of any claim made against Navia, its employees, agents and Subcontractors, including without limitation, liability for fundamental breach of contract, or a negligent, unlawful, reckless or wilful act or omission.

10.4 Navia is not liable for Consequential Loss suffered by the Customer, regardless of whether or not Navia had knowledge that such damage may be incurred.

10.5 Navia excludes from this Agreement all conditions, warranties, terms and consumer guarantees implied by Laws, general law or custom except any the exclusion of which would contravene any Laws or cause this condition to be void (Non-Excludable Condition).

10.6 Navia's liability for any breach of a Non-Excludable Condition is limited, at Navia's option, to supplying the particular Services again, or the cost of supplying the particular Services again.

10.7 Navia will not be liable for omitting to inspect or take any other action in respect of Goods where Goods have been damaged or pillaged, unless the Customer provides Navia with written instructions to take that action in relation to those Goods and Navia accepts those instructions.

10.8 Where the liability of Navia is not fully excluded by the Agreement, Law or otherwise, the liability of Navia is limited to the lesser of Australian $100 or the value of the Goods at the time the Goods were received by Navia.

10.9 Navia will not be in breach of any of its obligations to the Customer or liable for any Loss (including Consequential Loss) suffered by the Customer arising from or connected with Navia's compliance with any Law, including without limitation disclosing confidential information to a Government Authority.

10.10 Without limitation to any other clause of the Agreement, Navia will be discharged from all liability in connection with the performance of the Services or the Goods unless:

(a) notice of any claim is received by Navia within 7 days of the earlier of the delivery of Goods, the date the Goods should have been delivered, or where the claim does not relate to loss or damage to Goods, the event giving rise to the claim; and

(b) suit is brought and written notice is received by Navia within 9 months of the earlier of the delivery of the Goods, the date the Goods should have been delivered, or where the claim does not relate to loss or damage to Goods, the event giving rise to the claim.

10.11 Navia will not be liable for any delay, failure to perform an obligation under the Agreement or Loss suffered by the Customer to the extent caused by a Force Majeure Event.

10.12 If a Force Majeure Event prevents or causes a delay in the performance of a Company's obligation exceeding 10 days, Navia may terminate the provision of the Services by notice to the Customer.

11. Indemnity

11.1 The Customer indemnifies Navia from and against (and must pay on demand for) all Loss arising directly or indirectly from or in connection with the Goods or the performance of the Services (including Consequential Loss), other than directly caused by a breach of contract, or a negligent, unlawful, reckless or wilful act or omission by Navia or its employees, agents and contractors.

11.2 Without limitation to clause 11.1 the Customer indemnifies Navia from and against (and must pay on demand for) any Loss arising from

(a) the Customer's or Owner's failure to return, return by the due date, return within the "free" period and/or return empty, clean, or undamaged any Container or transport equipment involved in the performance of the Services;

(b) any claim against Navia by a person who claims to have an interest in the Goods;

(c) breach of this Agreement, including any warranty provided by the Customer;

(d) any Loss, cost or liability incurred or suffered by Navia as a result of releasing or delivering the Goods to the Customer or at the direction of the Customer;

(e) any claim for general average and will provide any security requested by Navia for the release of any Goods that are the subject of a claim for general average;

(f) any inspection of, or treatment of, the Goods by, or directed by, a Government Authority.

11.3 The Customer indemnifies Navia from and against (and must pay on demand the amount of) all duty, GST, and any other fees and taxes incurred in connection with the Goods payable to a Government Authority.

11.4 The Customer indemnifies Navia from and against (and must pay on demand for) all costs payable to third parties in relation to the

Carriage, storage, treatment or entry of the Goods.

11.5 The indemnities in this clause 11 continue whether or not the Goods are pillaged, stolen, lost or destroyed.

12. Insurance

12.1 The Customer is responsible for arranging insurance in respect of the Goods.

12.2 If requested, and at its discretion, Navia may assist the Customer with arranging insurance. If Navia does provide this assistance, it is entitled to charge a fee for its services and any insurance will be at the expense of the Customer.

12.3 If Navia refers the Customer to an insurance company or broker, Navia makes no warranty or representation in respect of the insurer or broker or the insurance offered.

12.4 Any insurance arranged by Navia is subject to the exceptions and conditions of the insurer or underwriter taking the risk.

12.5 If a dispute arises relating to liability under an insurance policy arranged by Navia, the Customer will have recourse against the insurer or underwriter only and Navia will not be liable for any insurance arranged in relation to the Goods.

13. Lien

13.1 Navia has:

(a) a particular and general lien on all Goods and documents relating to the Goods; and

(b) a right to sell those Goods and documents by public auction or private sale (at Navia's discretion) on the giving of at least 21 days' notice to the Customer and apply the proceeds of sale;

in respect of all sums due and owing from the Customer or a Related Company of the Customer.

13.2 The lien will also cover Navia's reasonable costs and expenses relating to the exercise of its lien and right of sale, including Navia's reasonable legal fees.

13.3 For the purposes of the lien, Navia will retain constructive possession of the Goods and the lien and rights granted by this clause will survive delivery of the Goods. Navia is entitled to retain the proceeds of sale of the Goods in respect of all sums due and owing from the Customer.

14. PPSA

14.1 Terms used in clause 14 that are defined in the PPSA have the same meaning as in the PPSA.

14.2 Without limitation to other rights of Navia, from the time the Goods are in the possession of Navia or a Subcontractor, the Goods are subject to a continuing security interest in favour of Navia for the payment of all amounts due and owing by the Customer under the Agreement.

14.3 The Customer acknowledges and consents to Navia's registration and perfection of Navia's security interest under the Agreement for the purposes of the PPSA.

14.4 The Customer will not grant a security interest to another person, or allow any encumbrance to arise, in respect of the Goods other than in the ordinary course of business.

14.5 To the extent permitted by law, the Customer irrevocably waives any right it may have to:

(a) receive notices or statements under sections 95, 118, 121(4), 125, 130, 132(3)(d) 132(4) and 135 of the PPSA; and

(b) redeem the Goods under section 142 of the PPSA;

(c) reinstate this Agreement under section 143 of the PPSA; and

(d) receive a verification statement.

14.6 The Customer will do all things and execute all documents reasonably necessary to give effect to the security interest created under this Agreement or comply with any reasonable request by Navia in connection with the PPSA.

15. Uncollected goods

15.1 Navia may at its reasonable discretion sell or otherwise dispose of Perishable Goods without notice to the Customer where the Goods are not collected immediately upon arrival, are insufficiently or incorrectly addressed or are not identifiable. However, where reasonably possible, Navia will attempt to give notice to the Customer before selling or disposing of any Goods.

15.2 Without limitation to clause 15.1, Navia may at its discretion sell or return Goods that cannot be delivered because they are insufficiently or incorrectly addressed, are not identifiable, are uncollected or not accepted after 21 days' notice to the Customer or where the Customer fails to pay any cost or do any action reasonably necessary for Navia to deliver the Goods.

15.3 Where Navia sells Goods under clauses 13, 15.1 or 15.2;

(a) it does so as principal, not as agent, and is not the trustee of the power of sale;

(b) the Customer must pay all reasonable costs, charges and expenses incurred by Navia in connection with the storage, sale or return of the Goods, which may be deducted from the proceeds of the sale of the Goods;

(c) Navia is entitled to recover any deficit from the Customer where the proceeds of sale of the Goods do not satisfy the amounts payable to Navia.

16. SBC Contracts

Navia does not exclude or limit the application of any compulsory applicable Laws, including Schedule 2 of the *Competition and Consumer Act 2010* (Cth), where to do so would contravene those Laws or cause any part of this Agreement to be void.

If the Agreement is a SBC Contract, then:

16.1 The definition of "Loss" is amended to mean any actual or ascertainable loss, cost, damage, expense, claim, demand, action, proceeding or liability of any kind (including legal costs on an indemnity basis).

16.2 Clause 6.1 is modified, so that the Fees are earned when the corresponding Service is performed or attempted to be performed, or where applicable, the corresponding disbursement is incurred.

16.3 If a variation to a quote or Fee under clauses 6.5 or 6.7 is material, where it is reasonably practical, Navia shall give notice to the Customer of that variation.

16.4 If the Customer objects to a variation to a quote or Fee under clauses 6.5 or 6.7, but does not provide Navia with acceptable alternative directions in respect of the goods, Navia in its discretion may, deliver, return, store or otherwise deal with the Goods, and the Customer shall be liable for all Fees earned and costs incurred by Navia in doing so.

16.5 Clauses 10.3 and 10.5 are modified so that Navia's liability is not excluded to the extent that it was directly caused by or in connection with a negligent, unlawful, or wilful act or omission by Navia or its employees, agents and contractors.

16.6 Clause 10.8 is modified so that Navia's liability is limited to the lesser of the actual loss suffered by the Customer or the value of the Goods at the time the Goods were received by Navia.

16.7 Clause 10.10 does not apply, and, without limitation to any other clause of the Agreement, Navia will be discharged from liability in relation to any claim:

(a) where the loss to the Customer results from the act of a Subcontractor; and

(1) Navia's right to make a claim against that Subcontractor is subject to time limitations; and

(2) the Customer does not make its claim against Navia within a period reasonably sufficient to allow Navia to make a corresponding claim against the Subcontractor within any applicable time limitation period, or

(b) in all other cases, where the Customer does not make its claim within 2 years from the earlier of the delivery of the Goods, if the Goods are not delivered, the date the Goods should have been delivered or where the claim does not relate to loss or damage to Goods, the time of the event giving rise to the claim.

16.8 If requested by the Customer, Navia will inform the Customer of any time limitation referred to in clause 16.7(a)(1).

16.9 The Customer is not required to indemnify Navia under clauses 11.1 or 11.2(a) or (b) where the Loss was caused by or in connection with a breach of contract, or a negligent, unlawful reckless or wilful act or omission by Navia or its employees, agents and contractors.

16.10 Despite clause 16, the Customer remains liable to indemnify Navia where Navia was following a specific direction provided by the Customer.