

Standard Trading Conditions

Transtar International Freight (Aust) Pty Ltd ABN 85 113 186 280

These Standard Trading Conditions ("Conditions") apply to the services provided by Transtar International Freight (Aust) Pty Ltd ACN 113 186 280 and any of its affiliates, subsidiaries and/or parent companies as notified to the Customer from time to time (collectively referred to as "Transtar"). No modification, amendment or other variation of these Conditions shall be valid and binding on Transtar unless made in writing and duly executed by or on behalf of Transtar. To the extent permitted by law, where there is any inconsistency between these Conditions and any other document, the terms of these Conditions shall prevail to the extent of such inconsistency. For the avoidance of doubt, any use of the Customer's own forms does not in any way serve to modify, amend or vary these Conditions, nor does any letter of authority provided by the Customer.

1. DEFINITIONS

In these Conditions, the following terms have the meaning set out in this clause:

"Confidential Information" means any information (existing or future) of a confidential nature created by a party or relating to a party, its business or affairs including without limitation any manuals, proposals, price lists, agreements, computer source or object code and all communications including emails, fax or correspondence dealing with the Conditions, Goods or Services or either parties business whether disclosed intentionally or not.

"Customer" means the person or entity at whose request or on whose behalf Transtar provides the Services. For the avoidance of doubt, in the case of an entity, "Customer" includes any of its affiliates, subsidiaries and/or parent companies.

"Dangerous Goods" means Goods that are or may become noxious, hazardous, flammable, radioactive, explosive, damaging to the environment or that may harbour or encourage vermin or other pests or that may by their nature cause damage to persons or property.

"Fees" means all fees, charges, brokerages, commissions or allowances charged by Transtar for providing the Services and includes fuel surcharges, levies, duties, taxes and any disbursements or other charges or other costs incurred in performing the Services.

"Force Majeure" means:

- war, hostilities, blockade, insurrection, invasion, act of foreign enemies;
 - rebellion, terrorism, sabotage, strikes, revolution, insurrection, military or usurped power, or civil disturbance; and
 - breakdown of machinery, flood, bushfire, washout, earthquake, landslide, cyclone, hurricane, typhoon, tidal wave or volcanic activity;
- or any other cause whether similar or dissimilar to any of the causes or categories described above and which is beyond the reasonable control of the party experiencing the event.

"Goods" means cargo and any relevant container, packaging or pallets in respect of which Transtar provides Services.

"GST" means the goods and services tax levied under the *A New Tax System (Goods and Services Tax) Act 1999* (Cth) together with any related interest, penalties, fines or other charges. If that Act does not exist for any reason, means any Act imposing or relating to the imposition or administration of a goods and services tax in Australia and any regulation made under that Act.

"Insolvency Event" means any circumstance in which the Customer is unable to pay any amounts that have become due and payable and includes without limitation, liquidation, official management, administration, compromise arrangements, mergers, amalgamation, reconstruction, winding up, dissolution, deregistration, assignment for the benefit of creditors, schemes, compositions or arrangements with creditors, insolvency, bankruptcy, or a similar procedure, or changes to the constitution of any partnership or person, or death.

"Perishable Goods" means any Goods which are subject to waste or deterioration or spoilage over a period of time or through contact with other Goods including, but not limited to, chilled, frozen and refrigerated Goods.

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

"Services" means the services undertaken by Transtar which include the carriage, movement, transport or storage of Goods, freight forwarding, customs broking, credit facilities, shipping agency and any other services to be performed by Transtar pursuant to or ancillary to these Conditions.

2. COMPANY NOT A COMMON CARRIER

Transtar is not a common carrier and will not accept any liability as such. Transtar reserves the right, at all times and its absolute discretion, to refuse the carriage of any Goods or storage of any Goods or the provision of any other Services.

3. INSTRUCTIONS

- The role of Transtar is to provide Services which facilitate the transportation and shipment of the Goods and includes (without limiting the definition of Services above) all ancillary services such as logistics, storage, warehousing and repackaging. The Customer must provide Transtar with all relevant instructions to enable the proper carrying out of the Services and the Customer must at all times maintain all due care and responsibility in relation to the Goods.
- Instructions given to Transtar to provide Services shall only be valid if given in writing and are accepted by Transtar in writing and Transtar has a reasonable period of time to carry out those instructions.
- Any special instructions concerning the Goods such as temperature control requirements or release of Goods against payment or against surrender of documents must be in writing and the Customer shall indemnify Transtar against any claims arising out of or in connection with such special instructions.
- Unless agreed by Transtar in writing, Transtar shall not be obliged to make any declaration for the purposes of any statute, convention or contract as to the nature or value of any Goods or as to any special interest in delivery or to make any declaration as to specific storage requirements of any Goods.

4. FEES AND PAYMENT

- Transtar is entitled to be paid all fees, charges, brokerages, commissions and allowances customarily paid to freight forwarders, customs brokers and shipping agents.
- Unless otherwise specified, all Fees shall be levied on a GST-exclusive basis.
- Unless otherwise agreed by Transtar in writing, all Fees are due for payment in accordance with the terms of any invoice issued by Transtar.
- The Fees of Transtar shall be considered to be earned as soon as the Goods are delivered into Transtar's control and such Fees will not be refunded. Any disputes concerning an invoice must be notified to Transtar within 14 days of the date of the invoice, failing which the Customer is deemed to have accepted the full amount of the invoice.
- Transtar may charge by weight, measurement, volume or value and may, at any time, re-weight, re-measure or re-value the same and charge additional Fees accordingly.
- Subject to g) of this clause 4, quotations as to Fees and other charges may be revised by Transtar at any time prior to acceptance and unless otherwise specified, shall remain open for acceptance for 30 days. Where a particular method of carriage or service is specified in quotation, the quotation is only valid for that specified method. A Customer is deemed to have accepted any quotation where the Goods in respect of that quotation are delivered into Transtar's control or where acceptance is otherwise communicated in writing.
- The Customer acknowledges and agrees that:
 - if there are any changes to rates for freight, warehousing, cartage, insurance, customs duty or any other charges incurred during the course of Transtar providing the Services Transtar shall have the right to increase its quotations and Fees; and
 - the quotations for Fees given by Transtar are based on the information provided by the Customer and that the final Fees may vary based on the Goods actually tendered to Transtar. Transtar will not be liable for, nor will any refund or credit of any kind be made to a Customer as a result of, any discrepancy in respect of any quotation for Fees made prior to the actual tender of the Goods to Transtar.
- Unless otherwise agreed by Transtar in writing, all amounts due to Transtar are payable in Australian dollars and Transtar shall be entitled to charge a currency conversion premium when converting foreign currency into Australian dollars.
- The Customer shall pay to Transtar all amounts due and payable without any deduction, counterclaim or set-off. Transtar reserves the right to set-off any amounts payable by the Customer against any amounts payable to the Customer. This right exists irrespective of the date the debt or liability was incurred by the Customer.
- The Customer shall remain responsible for payment of all fees, charges, brokerages, commissions, allowances and duties, irrespective of whether Transtar has been instructed to collect Goods from, deliver Goods to collect any fees, charges or duties from, any other person or entity.
- Transtar may, in its absolute discretion, refuse instructions to collect cash or other payment on delivery of Goods. If deliveries are undertaken by Transtar in which cash or other payment is to be collected on delivery of Goods, the Customer remains responsible for ensuring that such payments will be tendered and Transtar will have no responsibility to recover payment other than to request the same.
- Where any amount payable to Transtar under these Conditions is not received by Transtar within 7 days of the due date, Transtar shall be entitled to charge interest from the date of the breach on all overdue amounts at the rate of 2 per cent more than the amount prescribed by the *Penalty Interest Rates Act* (Vic) 1983 as amended from time to time until the outstanding amount and all accrued interest has been paid in full. The parties agree that this amount represents a genuine pre-estimate of Transtar's damages and is not a penalty. Transtar is also entitled to recover on a full indemnity basis all legal costs or debt recovery fees and expenses incurred in recovering amounts due.
- Transtar may, at any time and in its absolute discretion, revoke any credit or other facilities extended to the Customer.

5. SUB-CONTRACTORS

The Customer authorises Transtar to act as agent for the Customer and contract either in its own name or as agent for the Customer with any sub-contractors on sub terms for the performance of all or any part of the Services. The Customer shall be bound without notice to any sub-contractor's terms and conditions and shall indemnify Transtar against any claims arising out of or in connection with such sub-contracting arrangements.

6. METHOD OF CARRIAGE

Unless otherwise agreed in writing, Transtar shall be entitled to enter into contracts directly, or on the Customer's behalf, without notice to the Customer:

- for the carriage of Goods by any route, means or persons, provided that if the Customer has instructed Transtar to use a particular method or route for movement of the Goods, Transtar will give priority to such method or route to the extent that it is reasonable and convenient for Transtar to do so;
 - for the storage, packaging, transshipment, loading, unloading or handling of Goods by any person at any place and for any length of time; and
 - for the carriage or storage of goods in containers or with other Goods of whatever nature;
- and to do such other acts as Transtar reasonably considers necessary for, or incidental to, the performance of Transtar's Services.

7. STORAGE OF GOODS

Pending forwarding and delivery, or in exercising any Company lien under clause 11, the Goods may be warehoused or otherwise held at any place at the sole discretion of Transtar and at the Customer's risk and expense.

8. DANGEROUS GOODS, PERISHABLE GOODS AND OTHER GOODS

- Except as specifically agreed to in writing by Transtar, Transtar will not accept or deal with any Dangerous Goods. If Transtar has agreed to accept or deal with any Dangerous Goods, the Customer shall be liable for all loss or damage caused as a result and shall indemnify, defend and hold Transtar harmless against all liability, loss (including on a solicitor and own client basis), damages, costs and expenses arising out of or in connection with such Dangerous Goods and the Dangerous Goods may be destroyed, disposed of, abandoned or rendered harmless in the absolute discretion of Transtar or its sub-contractors without compensation to the Customer and at the Customer's expense.
- Perishable Goods which are not taken up immediately upon arrival or which are insufficiently addressed or marked or otherwise not identifiable, may be sold or otherwise disposed of without any notice to the Customer and payment or tender of the net proceeds of any sale after deduction of Fees shall be equivalent to delivery. All charges and expenses arising out of or in connection with the sale of disposable of the Perishable Goods shall be paid by the Customer.
- Except as specifically agreed to in writing by Transtar, Transtar will not accept or deal with any bullion, coins, precious stones, jewellery, valuables, antiques, pictures, livestock or plants and the Customer shall hold Transtar harmless against all penalties, claims, damages, costs and expenses arising out of or in connection with such Goods.

9. INSURANCE

Transtar shall not arrange insurance of any kind, except upon the express instructions given in writing by the Customer and the provision of a written declaration as to the value of the Goods. All insurances arranged are as agent for the Customer and all insurances are subject to the usual exceptions and conditions of the policies of the insurer. Transtar shall have no liability or responsibility in relation to any disputes under such insurance policies.

10. CONTAINERS

- The Customer warrants that it will use its best endeavours to return or procure the return of any containers used by Transtar in connection with the Services in a timely fashion and prior to any demurrage or detention charges being imposed.
- The Customer shall permit Transtar to enter onto its premises or shall procure permission for Transtar to enter onto any other premises where the Goods are located in order to collect any containers in circumstances where demurrage or detention charges are accruing in respect of the containers.
- The Customer shall defend, indemnify and hold harmless Transtar against all liability, loss (including on a solicitor and own client basis), damages, costs and expenses arising out of or in connection with:
 - demurrage or detention charges being imposed in respect of any container;
 - any damage caused to any containers; or
 - the loss of any containers.

11. LIEN

In addition to Transtar's rights under the *Warehouseman's Lien Act 1958* (Vic) or any other applicable legislation, Transtar shall have and the Customer hereby grants a special and general lien over all or any Goods and documents for all fees, charges, expenses, freight, demurrage, detention charges, duty, fines, penalties, salvage and any other amounts owing by the Customer to Transtar or Transtar's principals, servants, agents or sub-contractors. Transtar shall have the right to sell all or any of Goods or documents, whether by public auction or private sale, without notice to the Customer in order to recover all outstanding amounts referred to in this clause. The lien shall cover the costs and expenses of exercising the lien on a full indemnity basis, including advertising, auctioneer's fees and legal fees.

12. PPSA

- The Customer acknowledges that from the time Transtar, or its servants or agents, receive the Goods into its custody, the Goods and all of the Customer's present and future rights in relation to the Goods and any documents relating to those Goods, are subject to a continuing security interest in favour of Transtar for the payment of all the amounts owed for freight, demurrage, container detention charges, duty, fines, penalties, salvage, average of any kind whatsoever and without limitation and for any at all debts, charges, expenses or any other sums due and owing by the Customer or the Customer's principals, servants or agents. Further, the continuing security interest shall cover all the costs and expenses of exercising a lien in accordance with clause 11, including the costs of a public or private sale or auction, including legal and administration costs.
- The Customer acknowledges that Transtar may, at the Customer's cost, register its security interests granted by the Customer under these Conditions, and all of the Customer's present and future rights in relation to the Goods, on the Personal Property Securities Register established under the PPSA.
- For the purpose of these Conditions, Transtar shall be deemed to have custody and possession of the Goods whether the Goods are in the actual physical custody and possession of Transtar or any subcontractors, servants or agents, and whether or not Transtar is in possession of any documents of title relating to the Goods. The Customer and Transtar agree that Transtar has possession of the Goods within the meaning of section 24 of the PPSA even if the Goods are in possession of Transtar's subcontractor's servants or agents.
- In addition to any rights that Transtar has under the PPSA, Transtar shall have the right, as the Customer's agent, at any time while any amount owing by the Customer to Transtar under the Contract remains outstanding, to enter into the premises where the Goods are stored and remove them without being responsible for any damage caused in exercising this right. The Customer shall indemnify Transtar for all such monies and all such costs, charges and expenses in repossessing the Goods.
- The Customer will not:
 - permit to subsist any other security interest in relation to the Goods which would rank ahead of Transtar's interests or;
 - except in the normal course of business, sell, lease or dispose of, or permit the sale, lease or disposal of the Goods.
- The Customer will immediately inform Transtar if an Insolvency Event occurs with respect to the Customer. The Customer shall not change its name or other details without first notifying Transtar in writing with at least 14 days' notice before such change takes effect.
- The Customer and Company agree pursuant to section 115 of the PPSA to contract out of sections 95, 96, 120, 121, 123 and 125 and, to the extent permitted by law, Divisions 3 and 4 of the PPSA.

13. CUSTOMER WARRANTIES

The Customer warrants to Transtar that:

- it is either the owner of the Goods, an authorised agent of the Goods or acts with the consent of the owner of the Goods and accepts these Conditions in its own right and as agent on behalf of the owner;
- the Goods are packed to withstand ordinary risks of handling, storage and carriage having regard to their nature;
- it has complied with all laws and regulations relating to the nature, condition, packaging, labelling, handling, storage and carriage of the Goods;
- it will provide to Transtar all documents, information and assistance to enable compliance with government authorities and will retain all documents or records as required by law;

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- e) the Goods are not Dangerous Goods unless Transtar is first provided with a full description of any Dangerous Goods (including their nature and their properties) and has given its written acceptance; and
f) it will comply with Transtar's reasonable instructions in connection with the provision of the Services.
- 14. LIMITATION OF LIABILITY AND INDEMNITY**
- a) To the full extent permitted by law, Transtar, its servants and agents will not be responsible for any loss or damage of any kind whatsoever arising out of or in connection with Transtar's provision of the Services (unless caused by the wilful or negligent act or omission of Transtar, its servants or agents).
- b) Without limiting a) of this clause 14 and notwithstanding any other clause in these Conditions, to the full extent permitted by law Transtar will not be liable to the Customer nor will the Customer be entitled to claim against Transtar in respect of specific, incidental, or consequential loss (including, but not limited to, loss of profits, income, utility, interest, or loss of market and whether or not Transtar had knowledge that such damage might be incurred) arising out of or in connection with Transtar's provision of the Services or otherwise at law or in equity.
- c) In all cases where the liability of Transtar has not been excluded, whether by these Conditions or by statute, the liability of Transtar whatsoever and howsoever arising is limited to:
- the amount specified by statute; and
 - in the case of a proven breach of an implied warranty or condition under the *Competition and Consumer Act 2010* (Cth) (as amended from time to time) which cannot be excluded or modified, at Transtar's option:
 - re-supply of the Services by Transtar;
 - payment of the cost of having the Services supplied again; or
 - refunding to the Customer any payments made by the Customer to Transtar in respect of the Services.
- d) The Customer further acknowledges that:
- any liability of Transtar on any grounds whatsoever shall in each case be limited to \$20 in respect of all Goods, whether or not any value of the Goods has been declared by the Customer for the purpose of carriage or otherwise;
 - in the case of carriage by sea, where the value of the Goods exceed \$200 per package or unit or the equivalent of that sum in other currency, the value will not be declared or inserted in the bill of lading for the purpose extending the shipowner's liability under Article IV, Rule 5 of the First Schedule of the *Carriage Of Goods By Sea Act 1991* (Cth), except upon express instructions giving in writing by the Customer;
 - in the case of carriage by air, no optional declaration of value to increase the air carrier's liability under Article 22(2) of the First Schedule of the *Civil Aviation (Carriers Liability) Act 1959* (Cth) will be made except on express instructions by the Customer; and
 - in all other cases where there is a choice of tariff rates according to the extent of the liability assumed by carriers, warehousemen or others, no declaration of value (where optional) will be made for the purpose of extending liability and goods will be forwarded or dealt with at the owner's risk and cost unless express instructions in writing to the contrary are given by the Customer.
- e) The Customer indemnifies and agrees to keep Transtar indemnified from any and all claims, liabilities, losses, expenses, responsibility and damages (including legal fees and costs on a solicitor and own client basis) arising directly or indirectly out of or in connection with Transtar's provision of the Services including, but not limited to, in respect of:
- customs duty, GST, penalties or other fees and charges imposed by government authorities;
 - any liability arising out of or in connection with loss, mis-delivery, deterioration, non-delivery, contamination, evaporation of or damage to the Goods;
 - any loss or depreciation of market value attributable to delay in forwarding the Goods;
 - any loss, damage, expense or cost arising out of or in connection with marks or brands on, weight, numbers, content, quality or description of the Goods;
 - loss or damage resulting from fire, water, explosion or theft;
 - loss, damage or delay caused by treatment or examination of the Goods by government authorities and any related investigations by such government authorities;
 - any costs incurred by Transtar on behalf of the Customer to any other person in relation to the carriage, handling or storage of the Goods;
 - any loss, damage or delay arising out of or in connection with the handling of the Goods or any delay in the carriage of the Goods;
 - any demurrage or detention charges in respect of containers;
 - any loss or damage to the Goods while the Goods are in the Customer's possession or control or caused by any act or omission by the Customer or any other party with an interest in the Goods; and
 - any advice, recommendation, information or representation provided by Transtar as to the quality or performance of the Services.
- f) Subject to g) of this clause 14 but without limiting the indemnity given by the Customer under e) of this clause 14, the Customer indemnifies and agrees to keep Transtar indemnified from any and all claims, liabilities, losses, expenses, responsibility and damages (including legal fees and costs on a solicitor and own client basis) arising directly or indirectly out of or in connection with:
- any claim, proceedings, action, liability or injury in relation to Transtar's performance of its obligations pursuant to these Conditions;
 - any breach of these Conditions by the Customer; and
 - any breach of the warranties provided by the Customer under these Conditions.
- g) The Customer is not liable to Transtar to the extent that any claims, liabilities, losses, expenses, responsibility and damages described in e) of this clause 14 result from the negligent acts or omissions of Transtar.
- h) This clause shall survive termination of these Conditions.
- 15. AIR AND SEA CARRIAGE LIMITATIONS**
- The Customer acknowledges that Goods moving by airfreight and sea freight are subject to applicable international treaties and amendments thereto, including the Convention for the Unification of Certain Rules relating to International Carriage by Air (Montreal Convention) and the International Convention for the Unification of Certain Rules relating to Bills of Lading (Hague or Hague-Visby Rules). The Customer therefore acknowledges that its recovery for any loss or damage against the applicable sea or airfreight carrier may be limited in accordance with the terms of these Conventions that might apply.
- a) All freight moved by air is subject to volumetric conversion on the basis of one kilo being the equivalent of six thousand cubic centimetres. Freight moved by other means is subject to volumetric conversion on the basis of relevant industry standards or as modified by the carrier's standard trading conditions.
- 16. INTELLECTUAL PROPERTY**
- The Customer acknowledges that Transtar shall retain all copyright and other intellectual property in any documents or things created by Transtar in the course of providing the Services.
- 17. CONFIDENTIALITY**
- a) Each of the parties acknowledges that a party may disclose Confidential Information which shall always remain the exclusive property of that party.
- b) Each party will regard the Confidential Information as confidential and will not, without the prior written consent of the information owner or unless required by law, disclose or allow the disclosure of any of the Confidential Information to any person except its authorized representatives and employees who have need of any of the Confidential Information for the purposes of assisting in the performance of its obligations or exercising any of its rights pursuant to these Conditions.
- c) This clause shall survive termination of these Conditions and/or the Services.
- 18. FORCE MAJEURE**
- a) Transtar will not be in default in the performance of its obligations, or be liable to the Customer for any failure or delay in the performance of its obligations, to the extent that such failure or delay is caused by an event of Force Majeure, provided that Transtar promptly advises the Customer of the circumstances constituting the Force Majeure.
- b) In the event of a delay arising from an event of Force Majeure, the time of the performance of the obligation shall be extended by a period of time reasonably necessary to overcome the effect of the delay.
- c) If a Force Majeure event continues for 60 consecutive days, the Customer or Transtar may terminate the Services by giving written notice to the other party, without incurring any liability to the other party by reason of such termination.
- 19. NOTIFICATION OF CLAIMS AND TIME BAR**
- Any claim for damage to Goods must be notified in writing to Transtar within 2 days of delivery of the Goods.
 - Any claim for loss or non-delivery of Goods must be notified in writing to Transtar within 90 days of the date upon which the Goods should have been delivered.
 - Transtar shall be discharged from all liability whatsoever in connection with the Services and/or the Goods unless legal proceedings are served upon Transtar within 9 months from delivery of the Goods or from the date upon which the Goods should have been delivered or the date of any other relevant event.
- 20. DATA PROTECTION**
- The parties must at all times comply with applicable data protection laws and regulations, including the requirements of the *Australian Privacy Act 1988* (Cth), all associated regulations or guidelines, and any other associated or relevant State or national privacy legislation, regulations or guidelines, and where applicable the General Data Protection Regulation (Regulation (EU) 2016/679), in the collection, storage, use and disclosure of any personal or sensitive information and data they collect, use or otherwise access in connection with the services under these Conditions, and shall oblige their personnel to observe those data secrecy requirements pursuant to the relevant regulations.
- 21. NON-WAIVER**
- The failure of Transtar, at any time, to require performance by the Customer of any provision of these Conditions shall not be deemed to be a waiver of any of Transtar's rights unless it is expressly agreed to by Transtar in writing and it shall not affect the right of Transtar to require such performance by the Customer at any time thereafter.
- 22. TERMINATION**
- Transtar may terminate the Services at any time before the Services are provided by giving written notice to the Customer.
 - Without prejudice to any other remedies Transtar may have, if at any time:
 - the Customer is in breach of any obligation to Transtar (including those relating to payment); or
 - in Transtar's opinion, the Customer will be unable to meet its payments as they fall due; or
 - an Insolvency Event occurs,
Transtar may suspend or terminate the performance of Services to the Customer and of any other obligation of Transtar under these terms.
- 23. SEVERABILITY**
- All or part of any provision of this Agreement that is held to be illegal, invalid or unenforceable by a Court of competent jurisdiction shall be severed from these Conditions and the remaining provisions (and parts of provisions) shall continue in full force and effect to the maximum extent permitted by law.
- 24. GOVERNING LAW AND JURISDICTION**
- These Conditions are governed by the laws of the State of Victoria and each party expressly submits to the non-exclusive jurisdiction of the courts of the State of Victoria and of all courts competent to hear appeals from those courts.