



Standard Trading Conditions

These Standard Trading Conditions ("Conditions") apply to the services provided by Transtar International Freight (Aust) Pty Ltd and any of its affiliates, subsidiaries and/or parent companies notified to the Customer from time to time (collectively referred to as the "Company"). No modification, amendment or other variation of these Conditions shall be valid and binding on the Company unless made in writing and duly executed by or on behalf of the Company. 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:

"Customer" means the person or entity at whose request or on whose behalf the Company 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.

"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 the Company 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.

"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.

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

2. COMPANY NOT A COMMON CARRIER

The Company is not a common carrier and will not accept any liability as such. The Company 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 the Company 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 the Company 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 the Company to provide Services shall only be valid if given in writing and are accepted by the Company in writing and the Company 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 the Company against any claims arising out of or in connection with such special instructions.
- Unless agreed by the Company in writing, the Company 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

- The Company 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, charges and expenses shall be levied on a GST-exclusive basis.
- Unless otherwise agreed by the Company in writing, all fees, charges and expenses are due for payment in accordance with the terms of any invoice issued by the Company.
- The charges of the Company shall be considered to be earned as soon as the Goods are delivered into the Company's control and such charges will not be refunded. Any disputes concerning an invoice must be notified to the Company within 14 days of the date of the invoice, failing which the Customer is deemed to have accepted the full amount of the invoice.
- The Company 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 the Company 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.
- 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 the Company providing the Services the Company shall have the right to increase its quotations and charges; and
 - the quotations for rates and charges given by the Company are based on the information provided by the Customer and that the final rates and charges may vary based on the Goods actually tendered to the Company. The Company will not be liable for, nor will any adjustment, refund or credit of any kind be made as a result of, any discrepancy in respect of any quotation for rates and charges made prior to the actual tender of the Goods to the Company.
- Unless otherwise agreed by the Company in writing, all amounts due to the Company are payable in Australian dollars and the Company shall be entitled to charge a currency conversion premium when converting foreign currency into Australian dollars.
- The Customer shall pay to the Company all amounts due and payable without any deduction, counterclaim or set-off. The Company 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 the Company has been instructed to collect Goods from, deliver Goods to collect any fees, charges or duties from, any other person or entity.
- The Company may, in its absolute discretion, refuse instructions to collect cash or other payment on delivery of Goods. If C.O.D. deliveries are undertaken, the Customer remains responsible for ensuring that payments will be tendered and the Company will have no responsibility to recover payment other than to request the same.
- Where any amount payable to the Company under these Conditions is not received by the Company within 7 days of the due date, the Company shall be entitled to charge interest from the date of the breach on all overdue amounts at the rate of 24 per cent per annum until the outstanding amount and all accrued interest has been paid in full. The Company is also entitled to recover on a full indemnity basis all legal costs or debt recovery fees and expenses incurred in recovering amounts due.
- The Company 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 the Company 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 any 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 the Company against any claims arising out of or in connection with such sub-contracting arrangements.

6. METHOD OF CARRIAGE

Unless otherwise agreed in writing, the Company 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 the Company to use a particular method or route for movement of the Goods, the Company will give priority to such method or route to the extent that it is reasonable and convenient for the Company to do so;
- for the storage, packaging, transhipment, 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 the Company reasonably considers necessary for, or incidental to, the performance of the Company's obligations.

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 the Company and at the Customer's risk and expense.

8. DANGEROUS GOODS, PERISHABLE GOODS AND OTHER GOODS

- Except as specifically agreed to in writing by the Company, the Company will not accept or deal with any Dangerous Goods. If the Company has agreed to accept or deal with any Dangerous Goods, the Customer shall be liable for all loss or damage caused thereby and shall indemnify, defend and hold the Company 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 the Company 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 charges 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 the Company, the Company will not accept or deal with any bullion, coins, precious stones, jewellery, valuables, antiques, pictures, livestock or plants and the Customer shall hold the Company harmless against all penalties claims damages costs and expenses arising out of or in connection with such Goods.

9. INSURANCE

The Company 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. The Company 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 the Company in connection with the Services in a timely fashion and prior to any demurrage or detention charges being imposed.
- The Customer shall permit the Company to enter onto its premises or shall procure permission for the Company to enter onto any other premises where the Good 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 the Company 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 the Company's rights under the *Warehouseman's Lien Act 1958* (Vic) or any other applicable legislation, the Company 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 the Company or the Company's principals, servants, agents or sub-contractors. The Company 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. CUSTOMER WARRANTIES

The Customer warrants to the Company 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 the Company all documents, information and assistance to enable compliance with government authorities and will retain all documents or records as required by law;
- the Goods are not Dangerous Goods unless the Company is first provided with a full description of any Dangerous Goods (including their nature and their properties) and has given its written acceptance; and
- it will comply with the Company's reasonable instructions in connection with the provision of the Services.

13. LIMITATION OF LIABILITY AND INDEMNITY

- To the full extent permitted by law, the Company, its servants and agents will not be responsible for any loss or damage of any kind whatsoever arising out of or in connection with the Company's provision of the Services (unless caused by the willful or negligent act or omission of Company, its servants or agents).
- Without limiting a) of this clause 13 and notwithstanding any other clause in these Conditions, to the full extent permitted by law the Company will not be liable to the Customer nor will the Customer be entitled to claim against the Company 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 the Company had knowledge that such damage might be incurred) arising out of or in connection with the Company's provision of the Services or otherwise at law or in equity.
- In all cases where the liability of the Company has not been excluded, whether by these Conditions or by statute, the liability of the Company 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 the Company's option:
 - re-supply of the Services;
 - payment of the cost of having the Services supplied again; or
 - refunding to the Customer any payments made in respect of the Services.
- The Customer further acknowledges that:
 - any liability of the Company 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 exceeding \$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 given 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.
- The Customer indemnifies and agrees to keep the Company 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 the Company's provision of the Services including, but not limited to, in respect of:
 - any claims, 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 liability 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 the Company 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; and
 - 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.
- Subject to g) of this clause 13 but without limiting the indemnity given by the Customer under e) of this clause 13, the Customer indemnifies and agrees to keep the Company 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 the Company'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.
- The Customer is not liable to the Company to the extent that any claims, liabilities, losses, expenses, responsibility and damages described in e) of this clause 13 result from the negligent acts or omissions of the Company.
- This clause shall survive termination of these Conditions.

14. AIR AND SEA CARRIAGE LIMITATIONS

The Customer acknowledges that Goods moving by airfreight and sea freight are subject to applicable international treaties and amendments there to, 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.

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.

15. INTELLECTUAL PROPERTY

The Customer acknowledges that the Company shall retain all copyright and other intellectual property in any documents or things created by the Company in the course of providing the Services.

16. FORCE MAJEURE

- The Company 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 the Company promptly advises the Customer of the circumstances constituting the Force Majeure.
- 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.
- If a Force Majeure event continues for 60 consecutive days, the Customer or the Company 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.

17. NOTIFICATION OF CLAIMS AND TIME BAR

- Any claim for damage to Goods must be notified in writing to the Company within 2 days of delivery of the Goods.
- Any claim for loss or non-delivery of Goods must be notified in writing to the Company within 90 days of the date upon which the Goods should have been delivered.
- The Company shall be discharged from all liability whatsoever in connection with the Services and/or the Goods unless legal proceedings are served upon the Company 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.

18. NON-WAIVER

The failure of the Company, 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 the Company's rights unless it is expressly agreed to by the Company in writing and it shall not affect the right of the Company to require such performance by the Customer at any time thereafter.

19. SEVERABILITY

If part of any provision of these Conditions or its application to any person or circumstance is held to be illegal or enforceable, the provision will be interpreted so as to ensure it is not illegal or unenforceable. If any provision or part of it cannot be so interpreted, the provision or relevant part of it will be severed from these Conditions and the remaining provisions of these Conditions will continue in force.

20. 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.

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