

Transport Logistics

The following special terms are in addition to (but form part of) our General Terms of Supply. To the extent of any inconsistency between these special terms and our General Terms of Supply, these special terms will apply:

1. NOT A COMMON CARRIER

- 1.1 WE ARE **NOT A COMMON CARRIER** AND WE ACCEPT NO LIABILITY AS SUCH.
- 1.2 We may in our discretion open any document, envelope, package or other container in which your Products are placed or packaged, or your Products, to inspect and to determine the nature or condition of your Products or, where any consignment note or identifying document or mark is lost, damaged or destroyed, to ascertain the ownership or destination of your Products.
- 1.3 You warrant:
- (a) that you have complied with all laws and regulations relating to the nature, packaging, labelling and carriage of your Products, and that your Products are packed in a manner adequate to withstand the ordinary risks associated with the services having regard to the nature of your Products, and
 - (b) the accuracy of all markings and brandings of your Products, descriptions, value and other particulars furnished to us for carriage, customs, consular or any other purpose.

and you agree to indemnify and keep us indemnified against all loss, damage, expense and fines arising from any inaccuracy or omission in this respect.

2. ADDITIONAL LIMITATIONS OF LIABILITY

- 2.1 SUBJECT TO CLAUSES YOU WARRANT THAT YOU WILL ARRANGE FOR APPROPRIATE INSURANCE FOR YOUR PRODUCT IN TRANSIT, THE COST OF WHICH SHALL BE BORNE BY YOU., THE TRANSPORTATION LOGISTICS SERVICES ARE PROVIDED BY US ENTIRELY AT YOUR RISK AND WE SHALL NOT BE LIABLE FOR:
- (a) DAMAGE TO OR DESTRUCTION OR LOSS OF YOUR PRODUCTS OR ANY OTHER PROPERTY ARISING OUT OF OR INCIDENTAL TO OR IN CONNECTION WITH OR OCCURRING DURING THE PROVISION OF THE TRANSPORTATION LOGISTICS SERVICES; OR
 - (b) THE MIS-DELIVERY OR NON-DELIVERY OF YOUR PRODUCTS

WHETHER OR NOT CAUSED OR CONTRIBUTED TO BY OUR DEFAULT (INCLUDING OUR NEGLIGENCE) OR THE DEFAULT (INCLUDING NEGLIGENCE) OF ANY OF OUR AGENTS, SERVANTS OR OFFICERS OR ANY OTHER PERSON ENTITLED TO THE BENEFIT OF THESE TERMS.

- 2.2 YOU WARRANT THAT YOU WILL ARRANGE FOR APPROPRIATE INSURANCE FOR YOUR PRODUCT IN TRANSIT, THE COST OF WHICH SHALL BE BORNE BY YOU.
- 2.3 Any relief from liability in these Terms are to be read subject to any restriction on contracting out of liability provided in any legislation (including the Trade Practices Act 1974 (Cth)) binding on us so that the provisions for relief in these terms are limited or rendered ineffective only to the extent required to give effect to that legislation.
- 2.4 Your Products are accepted by us on the condition that we accept no responsibility for the collection of cash or any other payment on delivery of your Products, and we are not bound by any instruction or agreement to that effect.

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4. TRANSPORT LOGISTICS SERVICES

- 4.1 These conditions shall apply to all Transportation Logistics Services provided to you, and all other incidental services.
- 4.2 We shall arrange for and carry out the Transportation Services associated with the shipment of your Product from and to each Location. However, we reserve the right to refuse carriage of any of your Product in our absolute discretion.
- 4.3 We shall perform specialized services for you, including, but not limited to, expedited transit, expedited processing and/or the use of specialized equipment such as refrigerated trucks. A separate charge will apply for these services.
- 4.4 If you instruct us in writing to provide the Transportation Services in a particular way (whether as to means of carriage, place of storage or otherwise) we shall give priority to that way, but in any event the way of providing the Transportation Services shall be in our sole discretion. You authorise us to adopt any way of providing the Transportation Services in our absolute discretion, other than the way instructed or agreed. You authorise any deliveries from the usual route of carriage or place of storage (if any) as we may in its absolute discretion deem desirable or necessary.
- 5.2 If the nominated place of delivery is unattended at the time delivery is attempted or if delivery cannot otherwise be effected we may:
- (a) leave your Products at the nominated place which shall be conclusively presumed to be delivery of your Products in accordance with these terms, or
 - (b) without being obliged to do so, store your Products at your risk and expense so that:
 - (i) you shall pay on demand to us all costs and expenses incurred in or in relation to storage, and
 - (ii) we may re-deliver your Products to you from the place of storage at your further expense.
- 5.3 Where your Products are collected or consigned for collection, we may release your Products to any person who presents himself to us as the consignee or its agent, servant or officer and we shall be conclusively presumed to have delivered your Products in accordance with these conditions if we obtain from that person a receipt or signed delivery run sheet for the goods.

5. DELIVERY

- 5.1 We are authorised to deliver your Products to the consignee at the address nominated by you, or the consignee or agent, or either of

6. CHARGES

- 6.1 Our rates and charges will be based on the units of measurement and subject to the rules and conditions published in our rate tariffs from time to time.
- 6.2 You shall be liable to us for all charges incurred for any reason in the provision of the Transportation Services.
- 6.3 Our charges shall be deemed fully earned as soon as your Products are received by or on behalf of us and shall be immediately payable then and non-refundable.
- 6.4 We shall have a lien on your Products (and any associated documents) and on any other of your cargo in our possession for all amounts unpaid. In the event of non-payment by you, we shall have the right to sell your cargo by public auction or private sale, provided that prior to such sale we shall have given notice to you by facsimile or mail to your last known address, and to pay us out of the proceeds of such sale. No such auction or sale shall discharge your liability to pay any deficiency, for which you shall remain liable.
- 6.5 You agree that we may retain any allowances, brokerages and commissions paid by shipping and forwarding agents, insurance brokers, airlines and any other person in relation to the provision of the Transportation Services.

7. FUEL SURCHARGE/FUEL REBATE

- 7.1 In addition to our standard Supply Charges, you shall pay or receive a Fuel Surcharge/Fuel Rebate applied and calculated on the basis agreed by us. The Fuel Surcharge/Fuel Rebate will be applied on each relevant invoice.
- 7.2 Notwithstanding the Fuel Surcharge/Fuel Rebate provided for in Clause Fuel Surcharge/Fuel Rebate and the periodic rate setting provided for in these Terms, we may each seek an adjustment over and above that already provided for by written request to the other party due to unusual, unavoidable and unanticipated occurrences. Such adjustments to the rates shall be allowed once per calendar quarter, and shall be retroactive to the date of the occurrence necessitating the adjustment. We shall use our best efforts to agree upon such mutually accepted rate adjustments.

8. FREIGHT COLLECT

- 8.1 If we transport your Product on a "freight collect" basis, you will guarantee payment of such freight charges in the event that the

consignee fails to remit payment to us within thirty (30) days, provided that we have provided you with documentation regarding loading and delivery of such your Product to consignee.

9. OPERATING AUTHORITIES

- 9.1 The services rendered by us shall be consistent with the operating authorities held by us (and/or our subcontractors), and any extensions or additions thereto.

10. USE OF TRADEMARKS

- 10.1 We are granted the right to use your trademarks, trade names, service marks, or logos (collectively, the **Trademarks**), solely to the extent required specifically in the performance of our duties under these Terms, including the right to permit carriers to affix Trademarks to vehicles when carrying your Product. However, such use of Trademarks shall specifically exclude use which might in any way represent any derogatory connotations.
- 10.2 You warrant and covenant that you have and will maintain the right to use the Trademarks and will indemnify and hold us harmless against any claim of alleged infringement brought by any party against us, including, but not limited to, our reasonable legal expenses.

11. DEFINITIONS

- 11.1 In these Terms unless the context indicates a contrary intention:
 - (a) **Location** means any of the locations as agreed by us from time to time to be a Location for the purposes of these Terms;
 - (b) **Product** means goods, products and any other items (such as pallets and packaging materials) agreed to be transported by us on your behalf;
 - (c) **Transportation Logistics Services** means both the Transportation Services and the arranging of the Transportation Services (and other associated services agreed by us from time to time); and
 - (d) **Transportation Services** means the physical carriage of your Product.