



TERMS AND CONDITIONS

1. Definitions

- 1.1 "Carrier" shall mean Warren District Transport Pty Ltd and its successors and assigns.
- 1.2 "Sub-Contractor" shall mean and include;
 - (a) Railways or Airways operated by the Commonwealth or any State or any other country or by any corporation; or
 - (b) Any other person, firm or Carrier with whom the Carrier may arrange for the carriage of any Goods the subject of the contract; or
 - (c) And any person who is now or hereafter a servant, agent, employee or sub-contractor of any of the persons referred to in clause 1.2(a) and 1.2(b).
- 1.3 "Consignor" shall mean the Consignor or any person or persons acting on behalf of and with the authority of the Consignor. Where more than one Consignor has entered into this agreement, the Consignors shall be jointly and severally liable for all payments of the Price.
- 1.4 "Guarantor" means that person (or persons), or entity who agrees herein to be liable for the debts of the Consignor on a principal debtor basis.
- 1.5 "Goods" shall mean cargo together with any container, packaging, or pallet(s) supplied by the Consignor to the Carrier for the purposes of movement from one place to another by way of the Carrier's Services (and where the context so permits shall include any supply of Services as hereinafter defined).
- 1.6 "Services" shall mean all services supplied by the Carrier to the Consignor and includes any advice or recommendations (and where the context so permits shall include any supply of Goods as defined supra).
- 1.7 "Price" shall mean the cost of the Services as agreed between the Carrier and the Consignor subject to clause 4 of this contract, excludes GST and other applicable taxes and duties.

2. Acceptance

- 2.1 Any instructions received by the Carrier from the Consignor for the supply of Services shall constitute acceptance of the terms and conditions contained herein.
- 2.2 Upon acceptance of these terms and conditions by the Consignor the terms and conditions are irrevocable and can only be rescinded in accordance with these terms and conditions or with the written consent of the manager of the Carrier.
- 2.3 None of the Carrier's agents, contractors or representatives are authorised to make any representations, statements, conditions or agreements not expressed by the manager of the Carrier in writing nor is the Carrier bound by any such unauthorised statements.
- 2.4 These terms and conditions are to be read in conjunction with the Carrier's consignment note, agreement, airway bills, manifests, or any other forms as provided by the Carrier to the Consignor.

3. Services

- 3.1 The Services shall be as described on the invoices, consignment Note, airway bills, manifests, sales order or any other forms as provided by the Carrier to the Consignor.

4. Price And Payment

- 4.1 At the Carrier's sole discretion;
 - a) The Price shall be as indicated on invoices provided by the Carrier to the Consignor in respect of Services supplied; or
 - b) The Price shall be the Carrier's current price at the date of delivery of the Goods according to the Carrier's current Price list; or
 - c) The Price as per Carrier's official quote and are valid for 28 days from the date of issue. After this period, we reserve the right to adjust the pricing.
- 4.2 The Carrier reserves the right to adjust pricing for the services due to factors such as fuel costs, regulatory changes, seasonal demand and operational expenses. Any price changes will be communicated with reasonable notice. For Consignors with ongoing contracts or schedule services, revised rates will take effect from the next billing cycle or as per terms of the agreement. Continued use of our transport services after a price change constitutes acceptance of the new rates.
- 4.3 Due date for payment of the Services will be stated on the invoice, consignment note, airway bills, manifests or any other order forms. If no due date is stated, then payment shall be on delivery of the Goods ("Cash on Delivery").
- 4.4 At the Carrier's sole discretion, payment for approved Consignors shall be due 14 days after issue of an invoice, or by prior terms specifically agreed to.
- 4.5 If payment is not received by the due date, we reserve the right to charge interest on the overdue amount at the current business overdraft rate (subject to change), calculated daily, until the full payment is received. Any costs incurred in recovering overdue payments, including legal fees, collection agency charges, will be payable by the Consignor.

5. Carrier Not Common Carrier

- 5.1 The Carrier is not a Common Carrier and will accept no liability as such. All articles are carried or transported, and all storage and other services are performed by the Carrier subject only to these conditions and the Carrier reserves the right to refuse the carriage or transport of articles for any person corporation or Carrier and the carriage or transport of any class of articles at its discretion.

6. Consignor-Loaded Containers and Trailers

- 6.1 If a container or trailer has not been loaded by or on behalf of the Carrier, the Carrier shall not be liable for loss of or damage to the goods caused by;
 - (a) the manner in which the container or trailer has been loaded; or



TERMS AND CONDITIONS

- (b) the unsuitability of the goods, the goods packaging or the utilised load restraint of the goods in loading, for carriage in the container or trailer; or
- (c) the unsuitability or defective condition of an allocated non-carrier owned and maintained container or trailer.

7. Nomination Of Sub-Contractor

- 7.1 The Consignor hereby authorises the Carrier (if it should think fit to do so) to arrange with a Sub-Contractor for the carriage of any Goods the subject of the contract. Any such arrangement shall be deemed to be ratified by the Consignor upon delivery of the said Goods to such Sub-Contractor, who shall thereupon be entitled to the full benefit of these terms and conditions to the same extent as the Carrier. In so far as it may be necessary to ensure that such Sub-Contractor shall be so entitled the Carrier shall be deemed to enter into this contract for its own benefit and also as agent for the Sub-Contractor.

8. Method Of Transport

- 8.1 If the Consignor instructs the Carrier to use a particular method of carriage whether by road, rail, sea or air the Carrier will give priority to the method designated but if that method cannot conveniently be adopted by the Carrier the Consignor shall be deemed to authorise him to carry or have the Goods carried by another method or methods.

9. Route Deviation

- 9.1 The Consignor shall be deemed to authorise any deviation from the usual route or manner of carriage of Goods that may in the absolute discretion of the Carrier be deemed reasonable or necessary in the circumstances.

10. Delivery

- 10.1 The Carrier is authorised to deliver the Goods at the address given to the Carrier by the Consignor for that purpose and it is expressly agreed that the Carrier shall be taken to have delivered the Goods in accordance with this contract if at that address the Carrier obtains from any person a receipt or a signed delivery docket for the Goods.
- 10.2 Unless otherwise expressly agreed in writing no responsibility in tort or contract or otherwise will be accepted by the Carrier for any loss of or damage to or deterioration of Goods or mis delivery or failure to deliver or delay in delivery of Goods including chilled, frozen refrigerated or perishable Goods either in transit or in storage for any reason whatsoever. The Carrier is authorised to deliver the Goods at the address given to the Carrier by the Consignor for that purpose and it is expressly agreed that the Carrier shall be taken to have delivered the Goods in accordance with this contract if at that address he obtains from any person a receipt or signed delivery docket for the Goods.
- 10.3 The failure of the Carrier to deliver shall not entitle either party to treat this contract as repudiated.
- 10.4 The Carrier shall not be liable for any loss or damage whatever due to failure by the Carrier to deliver the Goods (or any of them) promptly or at all.

11. Loss Or Damage

- 11.1 The Carrier shall be under no liability whatsoever unless:
 - (a) the consignor provides written notice to the Carrier detailing the alleged damage, and that such written notice shall be received by the Carrier seven (7) days after the delivery of the Goods; or
 - (b) In the case where the Goods have been lost in transit then the Consignor shall be required to provide written notice detailing the alleged loss within fourteen (14) days of the date of dispatch of the Goods.

12. Insurance

- 12.1 The Carrier will effect Insurance of goods as the Consignor's agents and at the Consignor's expense if the Consignor instructs the Carrier in writing to do so, and where the Consignor does not specify what class of insurance is to be affected the Carrier may effect that class of insurance which the Carrier considers to be most appropriate to the goods.

13. Charges Earned

- 13.1 The Carrier's charges shall be considered earned as soon as the Goods are loaded and despatched from the Consignor's premises.

14. Demurrage

- 14.1 The Consignor will be and remain responsible to the Carrier for all its proper charges incurred for any reason. A charge may be made by the Carrier in respect of any delay in excess of thirty (30) minutes in loading or unloading occurring other than from the default of the Carrier. Such permissible delay period shall commence upon the Carrier reporting for loading or unloading. Labour to load or unload the vehicle shall be the responsibility and expense of the Consignor or Consignee.

15. Dangerous Goods

- 15.1 The Consignor or his authorised agent shall not tender for carriage any explosive, inflammable or otherwise dangerous Goods without presenting a full description of those Goods and in default of so doing shall be liable for all loss and damage caused thereby.



TERMS AND CONDITIONS

16. Consignment Note

- 16.1 It is agreed that the person delivering any Goods to the Carrier for carriage or forwarding is authorised to sign the consignment note for the Consignor.

17. Consignors Responsibility

- 17.1 The Consignor expressly warrants with the Carrier that the Consignor is either the owner or the authorised agent of the owner of any Goods or property the subject matter of this contract of cartage and by entering into this contract the Consignor accepts these conditions of contract for the Consignee as well as for all other persons on whose behalf the Consignor is acting.

18. Disclaimer

- 18.1 By entering into any agreement to which these conditions apply, the Consignor on his own behalf and as agent of the owner, sender and consignee agrees and further offers to limit the liability of all servants, employees and agents of the Carrier in respect to the Goods and subject to the agreement to the extent that each such servant, employee and agent shall be protected by and entitled to the full benefit of all provisions in these conditions excluding or restricting tortious liability of any kind;
- (a) The offer hereinbefore referred to shall be accepted by the act of each such servant employee or agent in performing any function in relation to or affecting the Goods the subject of the agreement;
- (b) For the purposes of the foregoing provisions of this clause the Carrier is and shall be deemed to be acting as agent on behalf of the trustee for the benefit of all persons who are or become its servants, employees or agents from time to time and all such persons shall to this extent be and be deemed to be parties to the agreement concerned.
- 18.2 In addition to and without prejudice to the foregoing Conditions the Consignor undertakes that it shall in any event indemnify the Carrier against all liabilities suffered or incurred by the Carrier arising directly or indirectly from or in connection with the Consignor's instructions or their implementation or the Goods, and in particular the Consignor shall indemnify the Carrier in respect of any liability it may be under to any servant, agent or subcontractor, or any haulier, carrier, warehouseman, or other person whatsoever at any time involved with the Goods arising out of any claim made directly or indirectly against any such party by the Consignor or by any sender, consignee or owner of the Goods or by any person interested in the Goods or by any other person whatsoever.

19. Default & Consequences Of Default

- 19.1 Interest on overdue invoices shall accrue from the date when payment becomes due daily until the date of payment at a rate of 2.5% per calendar month and shall accrue at such a rate after as well as before any judgement.
- 19.2 If the Consignor defaults in payment of any invoice when due, the Consignor shall indemnify the Carrier from and against all the Carrier's costs and disbursements including on a solicitor and own client basis and in addition all of the Carrier's nominees' costs of collection.
- 19.3 Without prejudice to any other remedies the Carrier may have, if at any time the Consignor is in breach of any obligation (including those relating to payment), the Carrier may suspend or terminate the supply of Services to the Consignor and any of its other obligations under the terms and conditions. The Carrier will not be liable to the Consignor for any loss or damage the Consignor suffers because the Carrier exercised its rights under this clause.
- 19.4 All unpaid charges shall be paid in full and without any offset, counter claim, or deduction, in the currency of the place of receipt of the Goods or at the Carrier's option, in the currency of the place of delivery at the TT selling rate in effect on the day of payment. If the date determined above falls on a day which banks are closed for business, the rate ruling on the next succeeding business day shall govern.
- 19.5 If any account remains unpaid at the end of the second month after a statement has been issued the following shall apply: An immediate amount of the greater of \$20.00 or 10.00% of the amount overdue shall be levied for administration fees which sum shall become immediately due and payable.

20. In the event that:

- (a) any money payable to the Carrier becomes overdue, or in the Carrier's opinion the Consignor will be unable to meet its payments as they fall due, Or;
- (b) the Consignor becomes insolvent, convenes a meeting with its creditors or proposes or enters into an arrangement with creditors, or makes an assignment for the benefit of its creditors, Or;
- (c) a receiver, manager, liquidator (provisional or otherwise) or similar person is appointed in respect of the Consignor or any asset of the Consignor,
- then without prejudice to the Consignor's other remedies at law;
- (i) the Carrier shall be entitled to cancel all or any part of any order of the Consignor which remains unperformed in addition to and without prejudice to any other remedies; and
- (ii) all amounts owing to the Carrier shall, whether or not due for payment, immediately become payable.

21. Privacy Act 1988

- 21.1 Consignor and/or the Guarantor/s agree for the Carrier to obtain from an EDR registered credit reporting agency a credit report containing personal credit information about the Consignor and Guarantor/s in relation to credit provided by the Carrier.
- 21.2 The Consignor and/or the Guarantor/s agree that the Carrier may exchange information about Consignor and Guarantor/s with those credit providers named in the Application for Credit account or named in a consumer credit report issued by a reporting agency for the following purposes:
- (a) To assess an application by Consignor;



TERMS AND CONDITIONS

- (b) To notify other credit providers of a default by the Consignor;
- (c) To exchange information with other credit providers as to the status of this credit account, where the Consignor is in default with other credit providers; and
- (d) To assess the credit worthiness of Consignor and/or Guarantor/s.

21.3 The Consignor consents to the Carrier being given a consumer credit report to collect overdue payment on commercial credit (Section 18K(1)(h) Privacy Act 1988).

21.4 The Consignor agrees that Personal Data provided may be used and retained by the Carrier for the following purposes and for other purposes as shall be agreed between the Consignor and Carrier or required by law from time to time:

- (a) Provision of Services;
- (b) Marketing of Services by the Carrier, its agents or distributors in relation to the Goods and Services;
- (c) Analysing, verifying and/or checking the Consignor's credit, payment and/or status in relation to the provision of Services;
- (d) Processing of any payment instructions, direct debit facilities and/or credit facilities requested by Consignor; and
- (e) Enabling the daily operation of Consignor's account and/or the collection of amounts outstanding in the Consignor's account in relation to the Services.

21.5 The Carrier may give, information about the Consignor to a credit reporting agency for the following purposes:

- (a) to obtain a consumer credit report about the Consignor; and or
- (b) Allow the credit reporting agency to create or maintain a credit information file containing information about the Consignor.

22. General

22.1 If any provision of these terms and conditions shall be invalid, void or illegal or unenforceable the validity existence, legality and enforceability of the remaining provisions shall not be affected, prejudiced or impaired.

22.2 All Services supplied by the Carrier are subject to the laws of Western Australia and the Carrier takes no responsibility for changes in the law which affect the Goods supplied.

22.3 The Carrier shall be under no liability whatever to the Consignor for any indirect loss and/or expense (including loss of profit) suffered by the Consignor arising out of a breach by the Carrier of these terms and conditions except if due to carrier negligence.

22.3 In the event of any breach of this contract by the Carrier the remedies of the Consignor shall be limited to damages. Under no circumstances shall the liability of the Carrier exceed the Price of the Services.

22.4 The Carrier reserves the right to review these terms and conditions at any time and from time to time. If, following any such review, there is to be any change in such terms and conditions, that change will take effect from the date on which the Carrier notifies the Consignor of such change.

22.5 Neither party shall be liable for any default due to any act of God, war, terrorism, strike, lock out, industrial action, fire, flood, drought, storm or other event beyond the reasonable control of either party.