

TRADING TERMS AND CONDITIONS



1. The Company carries on business as a clearing and forwarding agent and its carriage of goods is merely incidental thereto. The Company is not a common carrier and will accept no liability as such. The Company may refuse as its sole and absolute discretion to accept any goods for carriage without assigning any reason therefore.
2. Subject to express instructions in writing given by the Customer and accepted by the Company in writing, the Company reserves to itself complete freedom to decide upon the means, route and procedure to be followed in the handling, storage and transportation of the Goods and shall be entitled and authorised to engage independent third parties to perform all or any of the functions required of the Company upon such terms and conditions as the Company in its absolute discretion may deem appropriate.
3. The Company is entitled to retain and be paid all brokerages, commissions, allowances and other remunerations customarily retained by or paid to shipping and forwarding agents and insurance brokers and no such brokerage, commission, allowance or other remuneration shall be payable or allowable to the Customer or its principal (if any).
4. Quotations are given on the basis of immediate acceptance and subject to the right of withdrawal or revision by the Company. If any changes occur in the rates of freight, insurance premiums, warehousing, statutory fees or any other charges applicable to the Goods, quotations and charges shall be subject to revision accordingly with or without notice to the Customer.
5. The Customer, consignor and consignee of the Goods, and their respective agents, if any, shall be bound by and be deemed to warrant the accuracy of all descriptions, values and other particulars furnished by any one or more of them to the Company for customs, consular and other purposes and shall be liable for any duty, tax, import or outlay of whatsoever nature levied by the authorities at any port or place for or in connection with the Goods and for any payment, fine, expense, loss or damage made, incurred or sustained by the Company in connection therewith, whether or not arising by reason of any inaccuracy or omission of any such description, value or other particular and, notwithstanding any negligence on the part of the Company, to indemnify the Company against any such loss, damage, expense or fine arising from any such inaccuracy or omission.
6. The Company shall not effect insurance on the Goods accepted by it except upon receipt of express instructions given in writing by the Customer and the Customer's written declaration as to the value of the Goods and any such insurance effected by the Company may be subject to such exceptions and conditions as may be required by the insurance company or underwriter accepting the risk. In the event of any dispute in regard to liability under any such insurance policy for any reason whatsoever the insured shall have recourse against the insurer or underwriter only and the Company shall have no liability or responsibility in relations to any such insurance policy.
7. The Company shall not be liable for:
 - (1) any loss, mis-delivery, delay in delivery, deterioration, contamination, evaporation or non-delivery of or damage to the Goods or consequential loss arising therefrom howsoever caused or for any reason whatsoever other than (subject to Sub-paragraph (2) of this clause and Clause 9 hereof) loss or damage to the Goods occurring whilst the Goods are in the actual custody of the Company and under its actual control and where such loss or damage is due to the willful act or negligence on the part of the Company, its servants or agents;
 - (2) damages arising out of a loss or depreciation of market attributable to delay in forwarding or in transit of the Goods or failure to carry out instructions given to it by the Customer; loss, damage, expense or additional cost arising from or in any way connected with marks or brands on, weight, numbers, contents, quality or description of the Goods, or loss or damage resulting from fire, water, explosion or theft, whether or not caused in any such case by the willful act or negligence on the part of the Company, its servants or agents.
8.
 - (1) In the case of goods with value exceeding Two hundred dollars (\$200.00) per packaged or unit or the equivalent of that sum in other currency, the value will not be declared or inserted in a Bill of Lading for the purpose of extending the Shipowner's liability under Article (IV), Rule 5 of the Sea-Carriage of Goods Act 1924 except upon express instructions given in writing by the Customer
 - (2) In the case of carriage by air, no option or declaration of value to increase air-carrier's liability under the Civil Aviation (Carrier's Liability) Act 1959, Article 22 (2) of the first schedule will be made except on express instruction given in writing by the Customer.
 - (3) 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 the Goods will be forwarded or dealt with at the Customer's risk for minimum charges, unless express instructions in writing to the contrary are given by the Customer.
9. Notwithstanding the terms of Clause 7 (1) and any other provision hereof the liability of the Company shall not in any circumstances exceed Twenty dollars (\$20.00) per package. If the Customer requires that the liability of the Company should not be governed by that limit written notice thereof must be given to the Company before any goods or documents are entrusted to the Company, together with a statement of the value of the Goods and, upon receipt of such notice, the Company may in its entire discretion agree to its liability being increased to a maximum amount equivalent to the amount stated in the notice, in which case it shall be entitled to effect special insurance to cover its maximum liability and the party giving the notice shall be deemed by so doing to have agreed and undertake to pay for the Company for such insurance. Should the Company not give its agreement to such increase in its liability in writing prior to receiving the goods or documents pertaining thereto its liability shall remain limited as if such had not been given.
10. Instructions to collect on delivery (C.O.D.) in cash or otherwise are accepted by the Company upon the condition that the Company in the matter of such collection will be liable for the exercise of reasonable diligence and care only.
11. Where the Goods are perishable and are not taken up immediately upon arrival or are insufficiently or incorrectly addressed or marked or otherwise not identifiable, they may be sold or otherwise disposed of with or without notice to the Customer, consignor, owner or consignee of the Goods and payment or tender of the net proceeds of any sale after deduction of all costs, expenses and charges incurred by the Company in effecting such sale or disposal shall be equivalent to delivery.
12. Where the Goods are non-perishable and cannot be delivered either because they are insufficiently or incorrectly addressed or marked or otherwise not identifiable or because they are not collected or accepted by the consignee they may be sold or returned at the Company's option at any time after the expiration of 21 days from a notice in writing sent to the address which the Customer gave to the Company on delivery of the Goods. All costs, charges and expenses incurred by the Company and arising in connection with the sale or return of the Goods shall be paid by the Customer. A communication from the Company or its agent to the effect that the Goods cannot be delivered for any reason shall be conclusive evidence of that fact.
13. The Customer warrants that the Goods are not noxious, dangerous, hazardous, inflammable, explosive or likely to cause damage. In the event of breach of this warranty the Customer and any person delivery the Goods to the Company of causing the Company to handle or deal with the Goods (except under special arrangements previously made in writing) shall be liable for any loss or damage caused thereby and shall indemnify and keep indemnified the Company against all damages, loss, penalties, claims, costs and expenses incurred by the Company in connection therewith. IN the event that the Goods are found to be noxious, dangerous hazardous, inflammable, explosive or likely to cause damage they may be destroyed or otherwise dealt with at the sole discretion of the Company or any other person in whose custody they may be at the relevant time. If such goods are accepted under arrangements previously made in writing they may nevertheless be destroyed or otherwise dealt with if they become dangerous to other goods or property. The expression "goods likely to cause damage" includes goods likely to harbor or encourage vermin or other pests and all such goods as fall within the definition of hazardous and dangerous goods in the legislation governing carriage by rail in the States and Territories of Australia.
14. Pending forwarding and delivery, the Goods may be warehoused or otherwise held at any place or places at the sole discretion of the Company at the Customer's risk and expense.
15. Notwithstanding any prior dealings between the Company and the Customer or any rule of law or equity or provision of any statute or regulation to the contrary, contracts, documents and other matter (including cash, cheques, bank drafts and other remittances) sent to the Company through the post shall be deemed not to have been received by the Company unless and until they are actually delivered to the Company by the postal authorities, or places in the Company's post office box, if so addressed.
16. The Company shall be under no obligation to make any declaration to, or to seek any special protection or cover from, the Department of Railways or railways authority in any State of the Commonwealth of Australia or any airline or road transport authority in respect of any goods falling within the definition by that body:
 - (i) of dangerous or hazardous goods or
 - (ii) of goods liable to be stored in the openunless written instructions to that effect are given to the Company by the Customer.
17. The Company shall have no obligation to take any action in respect of any goods which may be recognizable as belonging to the Customer unless it has received suitable instructions relating to such goods together with all necessary documents. In particular the Company shall not be obliged to notify the Customer of the existence or whereabouts of the Goods or to examine them or to take any other steps for their identification, protection or preservation or for the preservation of any claim by the Customer or any other party against the carrier, insurer of any third party.
18. In the event that the Goods are landed from any vessel in a damaged or pillaged condition and it is necessary for an examination to be held or other action to be taken by the Company in respect thereof no responsibility shall attach to the Company for any failure to hold such examination or take such other action unless the Company has been given sufficient notice to enable it to arrange for such examination or for the taking of such other action as the case may be.
19.
 - (1) In the absence of special instructions, it shall be in the entire discretion of the Company to decide at what time to perform any or all of the various acts which may be necessary for the completion of its services in relation to any particular matter. The Company shall have no liability or responsibility by virtue of the fact that there may be a change in the rates of duty, wharfage, freight, railage or cartage, or any other tariff, before or after the performance by the Company of any act involving a less favorable rate or tariff, or by virtue of the fact that a saving may have been effected in some other way had any act been performed at a different time and whether its performance of any of the acts aforesaid is delayed or precipitated through the negligence of the Company, its servants or agents or howsoever caused.
 - (2) In the event of any advice being requested by the Customer and given by the Company in respect of the rate of customs duty applicable to the Goods (being imported goods) or as to the particular tariff or classification applicable thereto under any Act whether State or Federal affecting customs duties or customs tariffs or any ordinances or regulations made thereunder and in force from time to time, the Company expressly disclaims any liability in respect of any loss arising directly or indirectly from such advice or as a result of any action taken pursuant to it whether based upon the negligence of the Company its servants or agents or upon any other cause of action whatsoever and the Customer shall be deemed to have released the Company from any such liability and shall indemnify the Company against any claim, action, suit or proceeding whether at law or in equity made, commenced or instituted by any person against the Company in respect of such advice and action taken pursuant thereto.
20. The Company shall under no circumstances be precluded from raising a debit in respect of any fee or disbursement lawfully due to it, notwithstanding the fact that a previous debit or debits (whether excluding or partly including the items now sought to be charged) had been raised and whether or not any notice was given that further debits were to follow.
21. Wherever it is necessary, for the purpose of these conditions or any other purpose whatsoever, for instructions to be given to the Company, such instruction shall only be recognised by the Company as valid if given in sufficient time in the light of the circumstances in relation to the matter in question; standing or general instruction, or instruction given late, even if received by the Company without comment, shall not be binding upon the Company.
22. Without prejudice to the rights of the Company at common law the Goods (and all documents relating thereto) which come into the possession or under the control of the Company shall be subject to a special and general lien and pledge for monies due to the Company in respect of services and/or disbursements relating to the Goods; and for any other indebtedness to the Company from whatever cause by the Customer, consignor, owner or consignee of the Goods. If such indebtedness is not paid in full by the respective debtor within fourteen days of receipt of notice from the Company that it intends disposing of the Goods, the Company may sell the Goods either by public auction or private treaty at its entire discretion and apply the net proceeds of sale towards the said debtor's indebtedness.
23. It is expressly agreed that no servant or agent of the Company shall be under any liability to the Customer, consignor, owner and/or consignee for any loss, damage or delay of whatsoever kind arising directly or indirectly from any act, neglect or default on his part while acting in the course of or in connection with his employment in relation to the Goods and without prejudice to the generality of the foregoing provisions in this clause ever exemption, limitation, condition and liberty herein contained and every right, exemption from liability, defence and immunity of whatsoever nature applicable to the Company shall also be available and shall extend to protect each and every such servant or agent of the Company as aforesaid and for the purpose of this clause the Company is or shall be deemed to be acting as agent or trustee on behalf of and for the benefit of all persons who are or might be its servants or agents from time to time and all such persons shall to this extent be or be deemed to be parties to this agreement.
24.
 - (1) This agreement and any collateral agreements made by the Company with the Customer wherever made shall be governed and construed according to the laws of the State of Australia in which this agreement is entered into and shall be subject to the exclusive jurisdiction of the Courts of the said state.
 - (2) In the event that this or any other such agreement shall be held to be subject to the laws of the Commonwealth of Australia or of any particular State of the Commonwealth or any other legislature then, except where repugnant to the provisions of those laws, these conditions shall continue to apply and shall be void only to the extent that they are inconsistent with or repugnant to those laws and no further.
 - (3) All the rights, immunities and limitations of liability contained herein shall continue to have their full force and effect in all circumstances notwithstanding any breach of any term or condition hereof or any collateral agreement by the Company.
 - (4) Unless written notification to the contrary is given by the Customer to the Company at or prior to entering this agreement the Customer expressly warrants and represents that all or any services to be supplied by the Company and acquired by the Customer pursuant to this agreement are so supplied and acquired for the purposes of a business, trade, profession or occupation carries on or engaged in by the Customer.
25. No agent or employee of the Company has the authority to alter or vary these trading conditions unless such alteration or variation is approved in writing by the Company.