

DHL Global Forwarding (Australia) Pty Ltd (ABN 62 002 636 124)

Standard Trading Conditions

1. The following terms and conditions alone shall apply to and govern all Carriage performed or undertaken by the Company in connection with any contract whatsoever entered into by the Company for the Carriage of Goods. These terms cannot be waived or varied except by DHL Global Forwarding (Australia) Pty Ltd provided however that:
 - (a) if there is any inconsistency between the Standard Trading Conditions and the terms and conditions contained in any other document issued by or on behalf of the Company in connection with the particular Carriage of Goods (which terms and conditions are hereby incorporated into these Standard Trading Conditions for the purposes of that particular contract of Carriage), then the Standard Trading Conditions shall prevail; and
 - (b) if any such other document referred to in paragraph (a) above deals with any matter not dealt with in these Standard Trading Conditions, then the provisions of that other document dealing with those matters not dealt with in these Standard Trading Conditions shall apply to and govern the Carriage performed or undertaken by the Company in the case of that particular contract of Carriage.
2. In these Standard Trading Conditions:

Assembly of Orders means the re-packing and packaging of Goods in preparation of their dispatch from any Premises.

Associated Entities has the meaning given to it by section 50AAA of the Corporations Act (Cth).

Carriage means the carriage, Storage Service, Transit Store Service, packaging or handling of Goods, the packing or loading of containers, the provision of any Container Deconsolidation Service, consultancy services, and any other service by the Company as forwarding, transport, customs or shipping agent of the Client or Customs Consignee, and any services ancillary to or connected with any of the above including the provision of credit facilities.

Client means any person who personally contracts (either as principal or agent for another) with the Company for the performance of Carriage of or in respect of the Goods.

Company means DHL Global Forwarding (Australia) Pty Ltd (ABN 62 002 636 124), its officers, employees, agents and Subcontractors and includes any or all Related Body Corporate and/or Associated Entity of DHL Global Forwarding (Australia) Pty Ltd and their officers, employees, agents and subcontractors .

Container Deconsolidation Service means any activity in relation to the unpacking/unloading of the Goods from the container/transport upon their arrival at the Premises and includes all services incidental to the receipt thereof.

Customs Consignee in relation to any Goods means a person deemed by the Company to be a person to whom those Goods are consigned at a place where it is necessary to make customs entry of the Goods.

Dangerous Goods means Goods which are volatile or explosive or which are or may become dangerous, noxious, hazardous, inflammable or offensive (including radioactive materials) or which may become liable to damage any person or property whatsoever and includes all Goods which are likely to fall within the definition of hazardous, noxious, dangerous, explosive, inflammable or radioactive goods in any legislation, regulations, code or convention (whether or not legally enforceable) relevant to the Carriage of the Goods.

Goods means the goods including their packaging or anything supplied with them which are the subject of Carriage pursuant to these Standard Trading Conditions.

GST has the meaning given in section 195-1 of the *A New Tax System (Goods and Services Tax) Act 1999*.

Input Tax Credit has the meaning given in section 195-1 of the *A New Tax System (Goods and Services Tax) Act 1999*.

Privacy Laws means the *Privacy Act 1988 (Cth)*.

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

Premises means any place or places nominated or used by the Company where Goods are handled, held, packaged, packed, repacked, unpacked, unloaded, despatched. warehoused, stored, or removed from time to time.

Related Body Corporate has the meaning given to it by section 50 of the *Corporations Act (Cth)*.

Storage Service means the warehousing and storage of the Goods by the Company at the Premises.

Sub contractor means –

 - (a) any railway operated by the Commonwealth, any State or Territory of Australia, or any other person;
 - (b) any other person, firm or corporation with whom the Company may arrange for the Carriage or any part thereof of any Goods; and
 - (c) any employee, agent or sub contractor of any of the persons in paragraphs (a) or in (b) above.

Taxable Supply has the meaning given in section 195-1 of the *A New Tax System (Goods and Services Tax) Act 1999*.

Transit Store Service means services associated with the receipt, storage and dispatch of Goods, including Container Deconsolidation Services, Storage Service and Assembly of Orders, provided by the Company.

Work Health and Safety laws means the *Work Health and Safety Act 2011 (Cth)*, all associated regulations or guidelines and any other relevant State or Commonwealth work, health and safety legislation, regulations or guidelines.
3. Interpretation

Headings are for convenience only and do not affect interpretation. The following rules apply unless the context requires otherwise.

 - (a) The singular includes the plural and conversely.
 - (b) A gender includes all genders.
 - (c) If a word or phrase is defined, its other grammatical forms have a corresponding meaning.
 - (d) A reference to a person, corporation, trust, partnership, unincorporated body or other entity includes any of them.
 - (e) A reference to a clause is a reference to a clause of these Standard Trading Conditions.
 - (f) A reference to legislation or to a provision of legislation includes a modification or re-enactment of it, a legislative provision substituted for it and a regulation or statutory instrument issued under it.
 - (g) A reference to conduct includes an omission, statement and undertaking, whether or not in writing.
 - (h) A reference to dollars and \$ is to Australian currency.
 - (i) A reference to a right or obligation of any two or more persons confers that right, or imposes that obligation, as the case may be, jointly and severally.
 - (j) The meaning of general words is not limited by specific examples introduced by including, or for example, or similar expressions.
4. The Company carries on business as a customs, forwarding, transport, and shipping agent and enters into all contracts as agent only for the Client. To the extent the Carriage involves consultancy services only, the Company enters into all such contracts as an independent contractor and not an employee or agent of the Client. It is not a common carrier and will accept no liability as such. The Company reserves the right in its absolute discretion to refuse Carriage for any person.
5. The Company is authorised at its own discretion to arrange on any terms for the Carriage of the Goods by any Subcontractor. Any such arrangement shall be deemed to be ratified by the Client upon the Goods being delivered to or collected by such Subcontractor who shall thereupon be entitled to the full benefit of these Standard Trading Conditions to the same extent as the Company. Insofar as it may be necessary to ensure that such Subcontractor and also its and the Company's officers, employees, agents and representatives shall be entitled to the benefit of these Standard Trading Conditions applying to the Carriage, the Company shall be deemed to enter into any contract for the Carriage of the Goods for its own benefit and also for the benefit of and as agent and trustee for any Subcontractor and its and the Company's officers, employees, agents and representatives. The Client undertakes to indemnify the Company against any claim or allegation made against either the Company or the Client by any person in connection with any liability, arising out of or relating to the Goods.
6. The Goods may at any time and from time to time be held at any Premises and may at any time and from time to time be removed from any Premises at which they are being held to be held at any other Premises at the sole discretion of the Company and in every case at the Client's risk and expense.
7. To the maximum extent permitted by law:
 - (a) the Company shall not be liable whether in negligence, any other tort, in bailment or in contract or on any other basis whatsoever for:
 - (i) any loss or destruction of or damage to the Goods (including, without limitation, any deterioration, contamination or evaporation of any chilled, frozen, refrigerated or perishable Goods either in transit or storage); or
 - (ii) any non-delivery, mis-delivery, delay in delivery of, or failure to produce the Goods; or
 - (iii) any advice, representation, information (not being a quotation, advice, etc to which paragraph (c) of this clause applies), any assistance, or any service of any kind provided in any form by or on behalf of the Company in the course of or in connection with the Carriage; or
 - (iv) any consequential or indirect loss whatsoever arising from or in connection with any of the matters or things referred to in (i), (ii) or (iii) above (including, without limitation, loss of profit or loss of market),in any circumstances and for any reason whatsoever and whether or not occurring in the course of events which are at any time in the contemplation of or foreseeable by the Client and/or the Company, and whether or not caused by the negligence, default or misconduct of the Company or by any other cause (whether known or unknown) whatsoever.
 - (b) Provisions of paragraphs (a) of this clause shall apply whether or not any such loss, destruction, damage, non-delivery, mis-delivery, delay in delivery or failure to produce arises out of or in connection with any breach of contract by the Company which would constitute a fundamental breach of contract or a breach of a fundamental term of a contract and, except as provided in these Standard Trading Conditions, the Company's liability is excluded or limited accordingly.
 - (c) The Company shall not under any circumstances be liable in any way for any loss, damage, cost or penalty sustained or incurred by the Client, the owner of the Goods or any other person resulting from or in connection with any quotation, advice, prediction, forecast, statement, representation or information given or made by or on behalf of the Company (whether negligently or otherwise and whether verbally or otherwise and howsoever, wheresoever and to whomsoever) as to liability of the Goods for customs duty, excise duty or any other impost or tax or as to the particular tariff or classification applicable thereto under any legislation imposing or concerning customs duties, excise duties, tariffs or any other impost or tax. In giving or making any such quotation, advice, prediction, forecast, statement, representation or information, the Company relies solely on the information provided by the Client who warrants that the information provided by it to the Company accurately and completely describes all aspects of the Goods and the transaction or transactions relating to the acquisition, sale, importation and/or export of the Goods.

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- (d) In all cases where liability has not been effectively excluded, whether by this agreement or by statute, convention or otherwise, the total liability of the Company is limited to the lesser of:
- (i) \$100;
 - (ii) the value of the Goods at the time the Goods were received by the Company; or
 - (iii) a resupply of the Goods or payment of the cost of resupplying the Goods,
- although to the extent the Company's liability arose in the conduct of Storage Service due to the Company's negligence or wilful default, the liability of the Company is limited to the lesser of:
- (iv) a sum calculated at the rate of two SDRs per kilo of gross weight of any Goods lost or damaged; or
 - (v) 75,000 SDRs.
8. The Company and Client acknowledge that Goods moving by airfreight are subject to the applicable international treaties including the Convention for the Unification of Certain Rules relating to International Carriage by Air, signed at Warsaw on October 12, 1929, or that Convention as amended by the Hague Protocol 1955 and including any applicable amendments as from time to time may be made. The Client's recovery of any loss or damage is against the airline carrier and is limited in accordance with these or any other conventions that may be applicable.
9. The Company and Client acknowledge that Goods moving by oceanfreight are subject to the applicable international treaties including the International Convention for the Unification of Certain Rules relating to Bills of Lading signed at Brussels on August 25, 1924 (the Hague Rules), or those rules as amended by the Protocol signed at Brussels on February 23, 1968 (the Hague Visby Rules) and the SDR Protocol (1979) and including any applicable amendments as from time to time may be made. The Client's recovery of any loss or damage is against the oceanfreight carrier and is limited in accordance with these or any other conventions that may be applicable.
10. The Company and Client acknowledge that Goods moving by airfreight or oceanfreight may necessarily involve a part of transportation undertaken by other means in order to comply with the terms of carriage under this or any contract between the parties. Where this is so, and no international treaty is applicable which covers the additional transport, the Client's recovery of any loss or damage is against the carrier and is limited in accordance with the convention applicable for the majority of the transport, even where that convention does not envisage liability of the kind of transport concerned.
11. All customs duty, excise duty, costs, expenses and penalties which the Company pays or becomes liable to pay for any reason whatsoever in respect of or in connection with the Goods and any documents relating to the Goods pursuant to any legislation governing customs and/or excise or the importation, export or Carriage of Goods shall be paid by the Client (whether or not such customs duty, excise duty, costs, expenses or penalties arise directly or indirectly from or in connection with the negligence of the Company or otherwise). If it is necessary to make customs entry of Goods at any place, the Goods shall be deemed to be consigned at that place to the Client, the Company or any person the Company designates as Customs Consignee.
12. The Company may adopt any means, mode, route or procedure whatsoever for the Carriage of Goods, whether by sea, land, air or a combination thereof, without any requirement for notice to the Client. If the Client instructs the Company to use a particular means, mode, route or procedure of Carriage the Company will give priority thereto, but if that means, mode, route or procedure cannot, in the reasonable opinion of the Company be conveniently adopted by the Company, the Client shall be deemed to authorise the Company to conduct the Carriage of the Goods by such other means, mode, route or procedure as the Company determines in its discretion.
13. The Company shall not be liable for any accident, injury, death, damage or loss to any Goods, machinery, persons or property arising from the use of any vehicle, cargo handling appliances or other equipment and will use such vehicle, appliances and equipment at the sole risk of the Client. The Client shall hold harmless and indemnify the Company against all claims, loss, damages and expenses arising from or in connection with the use of such vehicle, appliances and equipment whether due to the negligence, misconduct or wilful default of or by any officer, employee, agent or Sub-contractor of the Company or otherwise. This indemnity shall not however apply in respect of any claim, loss, damage or expense of or by any officer, employee, agent or Sub-contractor of the Company where such claim, loss, damage or expense arises from the negligence, misconduct or wilful default of or by that officer, employee, agent or Sub-contractor of the Company.
14. The Client expressly warrants to the Company that the Client is either the owner or authorised agent of the owner of the Goods and by entering into this contract the Client accepts these Standard Trading Conditions for and on behalf of itself and all other persons having an interest in the Goods and hereby expressly holds harmless and indemnifies the Company against any delay in delivery, failure to produce, mis-delivery or non-delivery by the Company arising out of or incidental to the Carriage of the Goods or any consequential or indirect loss arising in connection therewith.
15. The person giving instructions to the Company for the performance of the Carriage, and entering into this Contract on behalf of the Client, warrants that he or she is authorised by the Client to do so and is further authorised by the Client to sign any contract on its behalf.
16. Subject to the provisions of this clause the Goods shall be and remain at the risk of the Client or owner of the Goods. The Company shall not insure the Goods for the benefit of the Client or the owner of the Goods except upon receipt of express written instructions from the Client or the owner of the goods (including a signed declaration as to the value and nature of the Goods) and at the expense of the Client or owner and any such insurance effected by the Company shall be subject to such exceptions and conditions as may be required by the insurance company or underwriter accepting the risk. The Company may make an additional charge for arranging such insurance but shall have no liability or responsibility whatsoever (whether in negligence, contract or otherwise) in respect of any insurance policy or insurance arrangements. The Company is not the insurer and no deduction or set-off may be made from any charges or other moneys due to the Company on any account pending settlement by the insurance company.
17. The Client warrants that it has complied with and undertakes that it will continue to comply with all applicable laws, customs, conventions, codes and other regulations, including those in any way relating to the Carriage of the Goods. Further, the Client shall provide to the Company all such assistance, information, descriptions, valuations and documents as may be necessary or prudent to comply with such laws, customs, conventions, codes and regulations in a timely manner and otherwise for the safe Carriage of the Goods (including as may be necessitated by the nature, weight or condition of the Goods). The expenses and charges of the Company in complying therewith and with the requirements of any harbour, dock, airport, railway, shipping, customs, warehouse or other authority shall be paid by the Client.
18. The Client warrants that it will comply with all Work Health and Safety laws in relation to these Standard Trading Conditions, the Goods and the Carriage at all times, and will notify the Company of any issues or requirements under such laws in relation to these Standard Trading Conditions or the Carriage of which the Client should be aware, or which may affect the Company's ability to comply with Work Health and Safety laws.
19. The Client warrants to the Company that the Goods are packed to withstand ordinary risks of handling, storage and carriage, having regard to their nature. The Client warrants to the Company that any description of the Goods is accurate including any description in relation to any quotation. The Client holds harmless and indemnifies the Company for all claims whatsoever arising from the Carriage and the Goods including from defects in the Goods themselves.
20. The Client warrants that it shall ensure compliance with all applicable export control and sanctions laws and regulations ("Export Laws") and warrants in particular that:
- (a) neither it, any holding company, agents, consignee or any other third party directly contracted by it for the delivery of the Goods are listed on any applicable sanctions lists as a denied or restricted party;
 - (b) the delivery of the Goods to their final destination, any known end-user and end-use do not constitute a breach of any applicable Export Laws;
 - (c) it will inform the Company should the Goods be subject to any applicable sanction and/or export/re-export restrictions under applicable Export Laws;
 - (d) it has obtained all necessary permits, licenses or other government authorizations required for the delivery of the Goods to their final destination and end-use; and
 - (e) it shall provide the Company with all information, including permits and licenses, required by applicable Export Laws to permit the Company to further the delivery of the Goods to the final destination country.
21. The Client shall not tender for Carriage any Dangerous Goods without first presenting a full written description of the Goods and the nature and degree of their volatility so as to enable the Goods to be properly classified, described, packaged and labelled for Carriage in accordance with the provision of all relevant laws, regulations, codes, customs and conventions. In default of so doing, the Client shall be liable for any loss or damage caused thereby or in connection therewith and shall indemnify the Company against all claims, liability, loss, damage, penalties and expense which the Company may suffer or incur thereby or in connection therewith. In the event that the Goods are found to be explosive, inflammable, noxious, radioactive or otherwise dangerous, hazardous or likely to cause damage without having been so described to the Company (as hereby required), then the Goods may be destroyed or otherwise dealt with by, and at the sole discretion of, the Company or any other person in whose custody they may be at the relevant time without compensation to the Client and without prejudice to the Company's right to freight and charges and rights to indemnity. If such Goods are accepted under the arrangements previously made in writing, they may nevertheless be destroyed or otherwise dealt with if they become dangerous to any person, other goods or property.
22. Notwithstanding any other provision of the Standard Trading Conditions, the Company may, in its discretion, make an additional charge in respect of any delay in or in connection with loading or unloading which delay, in the opinion of the Company, is of unreasonable duration in light of the nature and position of the Goods and other relevant circumstances and which delay arises otherwise than from the default of the Company, such delay period commencing upon the Company reporting for loading or unloading. Labour for loading and unloading shall be the responsibility, and at the expense of, the Client.
23. The Company shall have a general possessory lien upon all Goods whatsoever (which in this clause shall include any documents relating to those Goods) of the Client which are in the possession, come into the possession or are under the control of the Company until all accounts or any other monies, costs or expenses due to the Company by the Client, consignee or owner of such Goods are paid in full (including, without limitation, all costs and expenses incurred by the Company in recovering or enforcing payment thereof). Where such payment is not made before such Goods (whether or not they are the subject of an overdue account) would be delivered in the ordinary course then such Goods may be detained by the Company subject to the terms and conditions of these Standard Trading Conditions and the Company shall have the right to sell all or any of the Goods by public auction or private treaty without notice to the Client and to apply such part of the proceeds of the sale as are necessary to satisfy the unpaid accounts (including all costs of detaining and selling the Goods).
24. (a) If a term used in this clause has a particular meaning in the PPSA, it has the same meaning in this clause.
(b) This clause applies to the extent that the Company's interest in any Goods and documents relating to Goods is a security interest.
(c) The Client agrees that the security interest is over the Goods, documents relating to the Goods and any proceeds of the Goods. The Goods, documents and proceeds are referred to in this clause collectively as the "Collateral".

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- (d) The Client acknowledges that the Company may register a financing statement in relation to its security interest. The Client waives its right under section 157 of the PPSA to receive notice of any verification statement relating to the registration of any such financing statement or any related financing change statement.
 - (e) The Client and the Company agree not to disclose information of the kind mentioned in section 275(1) of the PPSA, except in the circumstances required by sections 275(7)(b) to (e) of the PPS Act. The Client agrees that it will only authorise the disclosure of information under section 275(7)(c) or request information under section 275(7)(d) if the Company approves. Nothing in this clause will prevent any disclosure by the Company that it believes is necessary to comply with its other obligations under the PPSA.
 - (f) To the extent that it is not inconsistent with clause 24(c) constituting a "confidentiality agreement" for the purposes of section 275(6)(a) of the PPSA, the Client agrees that the Company may disclose information of the kind mentioned in section 275(1) of the PPSA to the extent that the Company is not doing so in response to a request made by an "interested person" (as defined in section 275(9) of the PPSA) pursuant to section 275(1) of the PPSA.
 - (g) If the Client defaults in the timely performance of any obligation owed to the Company, the Company may enforce its security interest in any Collateral by exercising all or any of its rights under these Standard Trading Conditions, the general law and/or the PPSA. To the extent that Chapter 4 of the PPSA would otherwise apply to an enforcement by the Company of its security interest in the Collateral, the Client and the Company agree that the following provisions of the PPSA do not apply:
 - (i) to the extent that section 115(1) of the PPSA allows them to be excluded: ss 95, 118, 121(4), 125, 130, 132(3)(d), 132(4), 135, 138B(4), 142 and 143; and
 - (ii) in addition, to the extent that section 115(7) of the PPSA allows them to be excluded: ss 127, 129(2) and (3), 132, 134(2), 135, 136(5) and 137.
 - (h) The Client must promptly do anything the Company requires to ensure that its security interest is a perfected security interest and has priority over all other security interests.
 - (i) Nothing in this clause is limited by any other provision of these Standard Trading Conditions or any other agreement between the Company and the Client. Nothing in this clause limits the Company's rights or the Client's obligations apart from under this clause.
 - (j) The Client:
 - (i) acknowledges and agrees that these Standard Trading Conditions and the Carriage of Goods do not create or provide for any security interest in favour of the Client;
 - (ii) must not register any financing statement against the Company in relation to these Standard Trading Conditions or the Carriage of Goods; and
 - (iii) must immediately upon the Company's request register a financing change statement to remove any registration against the Company made by or on behalf of the Client in relation to these Standard Trading Conditions or the Carriage of Goods.
25. Freight shall be deemed earned upon delivery of the Goods to the Company or upon collection of the Goods by the Company from the address nominated by the Client whether or not the Goods are delivered to the addressee and whether damaged in any way or otherwise. Under no circumstances will any freight be refunded.
26. The Company may at any time reassess, reweigh, remeasure or revalue or require the Goods to be reassessed, reweighed, remeasured or revalued and charge proportional charges accordingly.
27. Any dates or times specified, including for example departure or arrival at the point of collection or delivery, are estimates only and shall not bind the Company.
28. Payment shall be net cash within seven (7) days from the date of invoice but the Company reserves the right, upon notification to the Client, to vary the terms of payment in any case at its discretion. If any payment is not made within seven (7) days of the due date, the Client shall be in default and, whether or not any demand has been made by or on behalf of the Company, the Client shall pay to the Company interest on the amount outstanding at a rate of 1.5% per month calculated at the daily rate from the due date of the payment until payment is made in full. The Company's right to receive interest is in addition to all other rights which it has in respect of the Client's default. The Company is entitled to charge a currency conversion premium when converting receivables into Australian Dollars.
29. Notwithstanding any indication that any payment or charge is made by another person, the Client shall remain responsible for all payments and charges whatsoever which may be or become ascertained and payable in connection with the Carriage of the Goods including without limitation all freight, insurance premiums (if insurance is requested), surcharges and further all additional expenses, charges and disbursements (including interest and expenses incurred by the Company in recovering or enforcing such payment and including charges for salvage and storage). Any special rates quoted shall be available to the person receiving the quotation and are not transferable. The Company is authorised to accept at the Client's or Customs Consignee's risk cheques in payment of 'Cash On Delivery' collections and accepts no responsibility or liability in respect of such acceptance.
30. The Client hereby agrees to hold harmless and indemnify the Company for any fees, charges, damage and all other liabilities including liabilities to third parties arising from the use of any container that is released into the Client's custody or care.
31. Any claim for loss, damage or delay or any other claim arising from the Carriage must be notified in writing to the Company within seven (7) days of delivery of the Goods or the date upon which the Goods should have been delivered, failing which the Company shall be discharged of all liability whatsoever, howsoever arising. Time shall be of the essence of this clause. An endorsement on a freight note, delivery docket or other note or document in respect of that Carriage does not constitute notice in writing for the purposes of this clause.
32. The Company reserves the right to decide whether any site or roadway is accessible to its vehicles or equipment and no claim shall be made upon the Company as a result of the inability of the Company to complete or carry out the work in pursuance of a decision by it that any such site or road is inaccessible as aforesaid. The Company may, at its option, require the Client to pay to the Company all proper costs and expenses incurred by the Company up to the time that it decides that such site or road is inaccessible as aforesaid.
33. (a) Quotations do not constitute a binding offer by the Company and lapse forthwith, without notice to the person to whom they are given if, in the opinion of the Company, there has been a change in the circumstances in which the quotation was given. All quotations shall lapse in any event unless accepted by the Client and confirmed by the Company within twenty one (21) days. All quotations may be revised by the Company and shall be deemed to apply to all work performed by the Company in respect of the particular Carriage of Goods (except for any additional advice, assistance and services not reasonably foreseen or contemplated by the Company as required for the purposes of that Carriage at the time the quotation was made) unless otherwise notified from time to time and subject further to the condition that the Goods have been fully and properly and not mistakenly, misleadingly or deceptively described to the Company. In the event that the Goods are in any way mis-described to the Company, the Company may at any time withdraw the quotation and terminate any contract which may have arisen from it.
- (b) Unless otherwise stated, the price quoted does not include the cost of crane hire, road tax, permits, toll, escort and detention, demurrage and storage charges and any other additional costs and expenses incurred by the Company in the course of or in connection with the Carriage of the Goods (including, without limitation, additional charges in respect of providing any additional advice, assistance or services not reasonably foreseen or contemplated by the Company as required for the purposes of that Carriage at the time the quotation was made) and where the same are applicable they will be added to the Client's account.
- (c) Freight and any other ascertained charges are payable upon delivery of the Goods to the Company or collection of the Goods by the Company whether or not the Goods are lost, damaged, or delayed.
34. Notwithstanding any other provision of these Standard Trading Conditions, in the event that the Company is requested by the Client to perform or undertake Carriage but that request for Carriage is cancelled by the Client prior to that Carriage being substantially performed by the Company then the Company may, at its option, require the Client to pay to the Company all costs incurred by the Company prior to the cancellation of the Carriage request or incurred or arising as a result of such cancellation.
35. All contracts of Carriage shall be governed by and interpreted in accordance with the laws of the State of Victoria, Australia and any claim or dispute arising in connection therewith or otherwise arising under these Standard Trading Conditions shall be solely determined by the Courts of Victoria (and any Courts of appeal therefrom) or such other Courts as the Company may in any particular case, in its sole discretion, stipulate in writing.
36. The Company shall not be bound by any agreement purporting to waive or vary these Conditions unless agreement to so waive or vary shall be in writing and signed by a Director for the time being of the Company.
37. (a) Unless otherwise specifically stated, all amounts payable under these Standard Trading Conditions are expressed on a GST exclusive basis. If GST is payable on a Taxable Supply, then the amount payable for the Taxable Supply will be the amount plus GST.
- (b) If an amount payable under these Standard Trading Conditions is calculated by reference to or otherwise relates to a cost, expense or other liability incurred by the Client, then the liability shall be reduced by the amount of any Input Tax Credit which the Client is entitled to claim in respect of that liability. The Client will be assumed to be entitled to claim a full Input Tax Credit unless it demonstrates that its entitlement is otherwise prior to the date on which the payment must be made.
38. The Company shall be discharged from all liability unless suit is filed and served on the Company within nine months after completion of the Services, delivery of the Goods or the date when the Goods should have been delivered, whichever occurs first.
39. The Client 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 carrying out its obligations pursuant to these Standard Trading Conditions.
40. Each term of this document is severable from the other, and if for any reason a term is invalid or unenforceable it shall not prejudice or affect the validity or enforceability of any other term. These Standard Trading Conditions and each clause and provision hereof shall be read and construed so as to give thereto the full effect thereof subject only to any mandatory contrary provision of law to the intent that where these Standard Trading Conditions or the whole or any part of any clause or provision hereof would but for the provisions of this clause have been read and construed as being void or unenforceable it shall nevertheless be valid and enforceable as the case may be to the full extent to which the law shall permit.
41. These Standard Trading Conditions, and where applicable, the Company's General Conditions and Credit Terms shall apply to every contract of Carriage entered into by the Company to the exclusion of any other terms, conditions or warranties, expressed or implied, including any terms and conditions contained in any form submitted to the Company by the Client provided that notwithstanding anything herein contained the Company shall continue to be subject to any implied term, condition or warranty provided by any Commonwealth or State legislation if and to the extent that such legislation is applicable to any such contract and prevents the exclusion, restriction or modification of that term, condition or warranty.
42. The Client warrants to the Company that it will comply with all Privacy Laws in relation to these Standard Trading Conditions, the Goods and the Services at all times and will notify the Company of any issues or requirements under such laws in relation to these Standard Trading Conditions of which the Client should be aware.
43. The Client agrees that the Company is not obliged to advise or assist the Client or any other party to prepare or make a claim against a Subcontractor. The Company may agree in writing to provide advice or assistance and may make an additional charge for doing so.