

## **IMPORTANT NOTE**

In accepting the following you have limited your rights. You may think that it is desirable that you effect insurance over the goods. If so you should advise your insurance company that your goods are being transported and/or should pursuant to these terms. The carrier also offers to endeavour to procure for your insurance. Your charges have been calculated in part on the basis that you carry insurance and that the risks mentioned below are accepted by you and not by the carrier.

## **CONDITIONS OF CONTRACT**

In these conditions: "the carrier" shall mean the company the name of which is printed on the face of this consignment note and its successors, assigns, servants and agents, and "subcontractor" shall mean any person, firm or company with whom the carrier may arrange the carriage, handling or storage of any goods subject to this contract and any of the subcontractors, successors, assigns, employee, agents or subcontractors, "the sender" shall mean the company or the companies (as appropriate) specified as "the sender" on the front page hereof, or in any credit application, consignment note or other relevant document and any other entity that has engaged the carrier's services and has expressly or impliedly agreed to accept these terms and conditions.

### **1. NOT A COMMON CARRIER**

- 1.1 The carrier is not a common carrier and will accept no liability as such.
- 1.2 All goods are carried and all storage and other services are performed by the carrier subject only to these conditions.
- 1.3 The carrier reserves the right to refuse the carriage or storage of goods at its discretion.

### **2. RIGHT TO SUBCONTRACT**

- 2.1 The carrier may arrange with a subcontractor for the carriage, handling or storage of any goods subject to this contract.
- 2.2 The sender undertakes that no claim or allegation shall be made against any subcontractor, but if a claim or allegations is nonetheless made, the sender absolutely without exception agrees to free, release, hold harmless, indemnify and keep indemnified the carrier against all consequences thereof.

### **3. NO LIABILITY OF CARRIERS & NO WARRANTIES**

- 3.1 The goods are in all things and at all times at the risk of the sender and not the carrier.
- 3.2 The carrier shall not be responsible in negligence, tort, contract or otherwise howsoever for any loss, damage, deterioration or injury of any kind or for misdelivery or failure to deliver or delay in delivery of the goods or failure to store or incorrect or defective storage of the goods including without limiting the foregoing chilled, frozen, refrigerated or perishable goods.
- 3.3 This clause shall apply whether or not such loss, damage, deterioration or injury or misdelivery, or failure to deliver or delay in delivery of the goods or failure to store or incorrect or defective storage of the goods occurs by negligent, reckless or wilful acts or default of the carrier, or occurs in the course of the performance or purported performance by the carrier of this contract or whether or not the events or omissions are in the contemplation of the carrier and/or the sender or whether or not such events or omissions are foreseeable by them or either of them.
- 3.4 The disclaimer extends to include not only loss for damage to or deterioration of the goods but also loss, damage or injury to any person, property or thing during or resulting from the performance or purported performance of or want of performance or breach of the contract howsoever caused including but not limited to any negligence, recklessness or wilfulness of the carrier.
- 3.5 If the carrier agrees to unpack, install, assemble or otherwise deal with goods:
  - 3.5.1 The sender agrees to free, release, hold harmless, indemnify and keep indemnified the carrier from all claims, liabilities, damages, costs and expenses arising out of or in connection with such unpacking, installation and assembly; and
  - 3.5.2 It is the responsibility of the sender to ascertain and verify that such goods have been appropriately unpacked, installed and assembled.
- 3.6 The sender agrees to free, release, hold harmless, indemnify and keep indemnified the carrier from all claims, liabilities, damages, costs and expenses arising out of any matter whatsoever about any aspect of the goods or the carriage or purported carriage of or storage or purported storage of or failure to carry or store the goods or in any way arising out of any act or omission of the carrier to perform any of the its obligations hereunder, any breach of or failure by the sender to comply with any of its obligations hereunder and otherwise howsoever whether such claims, liabilities, damages, costs and expenses be direct or indirect consequential or inconsequential past, present or future.
- 3.7 All the rights, immunities, benefits and limitations of liability granted to the carrier by these conditions shall continue to have their full force and effect in all circumstances and notwithstanding any breach of the contract or any of the conditions hereof by the carrier.

- 3.8 Every exemption, limitation, condition and liberty herein contained and every right, exemption from liability, defence and immunity of whatsoever nature applicable to the carrier or to which the carrier is entitled hereunder shall also be available and shall extend to protect (a) all subcontractors (b) every servant or agent of the carrier or of a subcontractor, (c) every other person by whom the carriage or any part thereof is performed or undertaken (d) all persons who are or might be vicariously liable for the acts or omissions of any person falling with (a) to (d) inclusive: and for the purpose of this clause the carrier is or shall be deemed to be acting as agent or trustee on behalf of and for the benefit of all such persons and each of them shall to this extent be or be deemed to be parties to this contract.
- 3.9 All warranties upon the carrier whether they be statutory or otherwise imposed or implied by law are to the fullest extent possible hereby expressly negated.
- 3.10 In entering into this contract the sender warrants that it has conducted its own enquires and relied on its own judgement and not on any representation made by or on behalf of the carrier and all such representations are hereby excluded.

#### **4. CARRIER'S CHARGES AND LIEN**

- 4.1 The carrier's charges shall be considered fully earned and due and payable as soon as the goods are loaded and despatched and they are payable and non-refundable in any event including without limitation thereof loss of or damage to or non delivery of goods.
- 4.2 The sender will be and remain responsible to the carrier for all of its charges and all other monies due to the carrier.
- 4.3 No set-off or abatement or deduction is permitted in respect of any of the charges or other monies due to the carrier hereunder.
- 4.4 The carrier shall have the right of lien over the goods or any other goods of the sender and any documents relating thereto in respect of all unpaid charges and other monies due to the carrier whether pursuant to the terms hereof or otherwise and whether such goods have at any time left the possession of the carrier.
- 4.5 For the purposes of the lien hereby given the carrier may detain and sell by public auction or private treaty without notice to the sender all or any of the goods of the sender and out of the proceeds of sale retain the charges or other monies payable and all expenses and charges of the detention and sale.

#### **5. HANDLING OF GOODS AND DELIVERIES**

- 5.1 The sender hereby authorises the carrier to:
- 5.1.1 Handle carry or store the goods or cause the same to be handled carried or stored by any method, and
- 5.1.2 Carry or cause to be carried the goods by any route in the absolute discretion of the carrier, and the carriers shall be entitled to ignore any instructions in relation thereto.
- 5.2 The carrier is authorised to deliver the goods at the address nominated to the carrier by the sender for that purpose and without prejudice to the foregoing it is expressly agreed that the carrier shall be conclusively presumed to have delivered the goods in accordance with this contract if it obtains from the receiver a signature hereon or a receipt.
- 5.3 If the nominated place of delivery should be unattended or if delivery cannot otherwise be effected by the carrier, the carrier may at its option deposit the goods at that place (which shall be conclusively presumed to be due delivery hereunder) and store the goods and if the goods are stored by the carrier the sender shall pay or indemnify the carrier for all cost and expenses incurred in or about such storage. In the event that the goods are stored by the carrier the carrier shall be at liberty to redeliver them to the sender from the place of storage at the sender's cost at the then applicable rates of carriage and storage.
- 5.4 If the sender expressly or implicitly permits the carrier to deliver the goods to a location that is unattended, then, by so specifying, the sender thereby waives its right to make any claim or institute any legal proceedings in respect of the manner of delivery or any issues that arise that could have been avoided had the delivery address been attended by or on behalf of the sender.
- 5.5 If an electronic signature is provided at the point of delivery by or on behalf of the sender at the point of delivery, then the sender acknowledges that such signature constitutes an acknowledgement that the goods have been delivered in full and in all respects in accordance with the sender's requirements.

#### **6. AUTHORITY**

- 6.1 The person delivering any goods to the carrier for carriage or storage is authorised to sign the consignment note for the sender.
- 6.2 The sender warrants to the carrier that the sender is either the owner or a person having an interest in the goods or sender is doing so for itself as well as for all other persons on whose behalf the sender is acting.
- 6.3 Any person who executes a consignment note, credit application or any other document that incorporates or refers to these terms and conditions purportedly on behalf of a company or any other entity warrants that they have authority to do so and to bind that entity to these terms and conditions.

#### **7. SENDER'S WARRANTIES**

- 7.1 The sender warrants to the carrier that it has complied with all applicable laws in relation to notification, description, carriage and packaging of the goods and without limitation thereof that all applicable duties excises, taxes or costs in relation thereto have been fully paid.
- 7.2 The sender has fully, adequately and accurately described the goods on the consignment note.
- 7.3 The sender shall be responsible for the conformity of packaging, containerisation or palleting to the requirements of the receiver and for any costs or expense incurred by the carrier in relation thereto.

7.4 The sender warrants to the carrier that that all goods the subject of these conditions of contract or that are provided, supplied or given to the carrier by or on behalf of the sender, whether for carriage, storage or otherwise:

7.4.1 Do not include "dangerous goods" as that term is defined in the Dangerous Goods (Road and Rail Transport) Act 2008;

7.4.2 Do not include "dangerous goods", in the ordinary meaning of those words;

7.4.3 Do not include any goods that are prohibited, explosive, incendiary or that otherwise may pose a safety risk to the carrier, the public or any third party.

7.5 If any warranty specified in this clause 7 is breached in any respect by the sender, the sender shall indemnify the carrier in all respects in relation to any liabilities, claims, actions, suits, proceedings, demands, losses, damages, costs, fees or expenses howsoever incurred that arise directly or indirectly from such breach.

## **8. CONSTRUCTION**

8.1 The law governing the interpretation of these conditions and for all matters between the parties pursuant to these conditions shall be the law of the State in which the products are stored or consignment notes are raised.

8.2 No waiver by the carrier of any breach of any term of any agreement with the sender from time to time shall be deemed to be a waiver of any subsequent breach of any kind.

8.3 Singular words shall include plural and vice versa.

8.4 The portion entitled "Important Note" is to be taken as a warning only and the provisions thereof shall not be taken as limiting of any of their provisions herein.

8.5 If any provision herein is of becomes void or illegal or unenforceable for any reason then such provisions shall be rectified and written down is so far as may be possible so as to be valid and enforceable and to such extent that it is not valid and enforceable shall be severed and omitted from these conditions which shall otherwise remain in full force and effect.

8.6 No one provision herein shall limit the generality of any other provision herein.

8.7 In the event that the sender uses or attempts to use or issues or attempts to issue at any time any letters, writings, instructions, forms or delivery notes or the like containing any term or provisions inconsistent with these conditions then they shall not form part of any agreement with the sender and these conditions shall prevail.

8.8 In the event that the carrier specifies different conditions on any subsequent consignment documentation then those conditions shall prevail in to over these conditions from that time.

8.9 These conditions bind the sender and its executors, administrators, successors and assigns as the case may be.

8.10 The carrier may amend the terms and conditions specified on its website at any time, and should the sender contract with or in any other respect engage or continue the services of the carrier after any such change on the website, then these terms and conditions shall hence forth be deemed to have been amended to reflect those amended terms and conditions.

8.11 Without limiting the foregoing, these terms and conditions, as amended on the carrier's website, shall prevail in all respects over any purported terms and conditions or contractual terms submitted by or on behalf of the sender unless the carrier specifically agrees in writing to adopt same.

## **9. CREDIT CARD TRANSACTION CANCELLATION POLICY**

9.1 Credit card transactions that relate to deliveries that are cancelled by the customer will not be refunded via the credit card transaction machine.

9.2 All credit card transactions relating to a delivery that is cancelled by the customer will be refunded by Cheque only.

9.3 The refund of a credit card transaction relating to a delivery cancelled by the customer will incur a **\$75 Cancellation Fee plus GST**; this amount will be deducted from the original charge prior to the issuing of the refund cheque.

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NT VIC Pty Ltd ACN 110 845 120

NT Queensland Pty Ltd ACN 128 810 622

NT SouthAus Pty Ltd ACN 117 283 093

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NT ACT Pty Ltd ACN 128 810 300