

Standard Trading Conditions

1.1. Definitions

In these conditions:

- (a) 'Company' means **KEE Transport Australia Pty Ltd**, its servants and agents.
- (b) 'Consignor' means the party entering into the contract of Services with the Company, being either the shipper, the owner of the goods or their authorised agent.
- (c) "Services" means the whole of the operations undertaken by the Company in respect of the goods, including but not limited to packing, unpacking, road, rail, sea or air carriage, storage, freight forwarding, customs clearance and de-consolidation of any goods on behalf of the Consignor and any other services provided by the Company.
- 1.2 The Company is not a common carrier and accepts no liability as such. The Company may refuse the carriage or transport of goods for any person or corporation and the carriage or transport of any class of goods is at the Company's absolute discretion.
- 1.3 These Standard Trading Conditions cover the whole of, or any part of, the Services provided from time to time by the Company to the Consignor.
- 1.4 The Consignor warrants that:
- the Consignor has complied with all applicable laws and regulations relating to the nature, condition, packaging or carriage of the goods and that the goods are packed in a manner, having regard to their nature, adequate to withstand the ordinary risks of, handling, storage or carriage;
 - the goods are accurately described in writing.
 - the Consignor is either the owner of the goods and/or the authorised agent of the person or persons owning or having any interest in the goods or any part thereof and enters into this contract on its own behalf and/or as authorised agent of that person or persons.
- 1.5 The Consignor indemnifies the Company for any liability of the Company, expenses, charges or losses sustained or incurred by the as a result of a breach of the warranties in Clause 1.4.
- 1.6 The method or methods of undertaking the Services shall be at the sole discretion of the Company and the Consignor hereby authorises the Company to adopt any method or methods other than any method which may have been instructed or agreed.
- 1.7 The Consignor authorises any deviation from the usual route of carriage.
- 1.8 The Company shall not be bound to deliver the goods except to the consignee shown on the consignment note or to such other persons as may be authorised in writing by the Consignor to receive the goods.
- 1.9 If the Company is unable to deliver the goods for any reason (including failure on the part of the consignee to take delivery within a reasonable time) the Company shall be entitled to handle and store the goods in such manner as it may in its discretion determine and shall be entitled to make a reasonable charge in respect of such handling and/or storage and subsequent delivery of the goods.
- 1.10 The Consignor or his authorised agent shall not tender for carriage any explosive, inflammable or otherwise dangerous or damaging goods without presenting a full description of those goods and in default of so doing shall be liable for all loss and damage, injury and death caused thereby.
- 1.11 The goods shall at all times be at the risk of the Consignor and the Company shall not be liable in tort (including negligence), contract (including a fundamental breach of contract), bailment, contravention of any statute or breach of statutory duty or otherwise for any loss of or damage to or failure to deliver or delay in delivery or misdelivery of the goods whatsoever howsoever caused.
- 1.12 The exclusion of liability in Clause 1.11 extends to include not only loss of or damage to the goods themselves, but loss damage or injury to any person, property or thing damaged arising from the Company providing the Services under this contract and to any indirect or consequential loss arising from such loss, damage or injury or from failure to deliver, delay in delivery or misdelivery of goods or documentation.
- 1.13 Notwithstanding any other provision in these conditions of carriage, but subject always to Clause 1.11 and 1.12, if any liability whatsoever, howsoever arising, is found to attach to the Company or any subcontractor, the Company's liability shall be limited to the lesser of:
- in the case of Services supplied under this contract:
 - the supplying of the Services again;
 - the payment of the cost of supplying the Services again; or
 - the amount of AUD\$500.00.
 - in the case of goods:
 - the replacement of the goods or the supply of equivalent goods;
 - the repair of the goods;
 - the payment of the cost of replacing the goods or of acquiring equivalent goods;
 - the payment of the cost of repairing the goods; or
 - the amount of AUD\$500.00.
- 1.14 All the rights, immunities and limitations of liability in these Standard Trading Conditions shall continue to have full force and effect notwithstanding any breach of this contract by the Company or any other person entitled to the benefit of such provisions.
- 1.15 The Consignor shall pay to the Company in cash, or as agreed, all sums immediately when due without deduction or deferment on account of any claim, counterclaim or set-off. Words and expressions used in this clause 1.15 which have a defined meaning in the A New Tax System (Goods and Services Tax) Act (GST Act) have the same meaning in this clause as in the GST Act. Unless expressly stated otherwise, all consideration to be provided under this contract is expressed as exclusive of GST. If GST is payable by a supplier on any supply made under this document, the recipient will, upon receiving a tax invoice from the supplier, pay to the supplier an amount equal to the GST payable on the supply.
- 1.16 When the Company is instructed to collect freight, duties, charges or other expenses from any person other than the Consignor, the Consignor shall remain responsible for the amounts; and shall pay these amounts to the Company on demand where these amounts have become due and have not been paid by such other person.
- 1.17 On all accounts overdue to the Company, the Company shall be entitled to interest calculated at 4 per cent above base rate of the Company's bank applicable during the periods that such amounts are overdue.
- 1.18 If on demand any person fails to pay charges due to the Company in respect of Services rendered by the Company, the Company will have a general lien over the goods and/or any other cargo and/or documents and/or items the property of the Consignor, and may sell all or any part of the goods and/or any other cargo or items the property of the Consignor by public auction or private treaty without notice to the Consignor and out of the moneys arising from the sale retain the charges so payable together with all charges and expenses of the detention and sale, and shall render the surplus if any of the moneys arising from the sale and such of the goods as remain unsold to the person entitled thereto.
- 1.19 The Company is authorised (if it should think fit to do so) to subcontract the whole or any part of the Services on any terms and such authorisation extends to any subcontractor and sub-subcontractor.
- 1.20 Any clause herein excluding or limiting the liability of the Company or providing any right or exemption from liability to the Company shall also be available and shall extend to protect all subcontractors and every servant or agent of the Company and of any subcontractor's subcontractor. The Company is or shall be deemed to be acting as agent or trustee on behalf of and for the benefit of such persons and each of them and all such persons and each of them shall be deemed to be parties to this contract.
- 1.21 The Consignor undertakes that no claim will be made against any servant, sub-contractor or agent of the Company which imposes or attempts to impose upon any of them any liability whatsoever in connection with the goods or the Services under this contract. If any such claim should nevertheless be made, the Consignor shall indemnify the Company against the consequences thereof.
- 1.22 Despite anything contained in this contract, the Company shall continue to be subject to any guarantee provided for in the *Competition and Consumer Act 2010 (Cth)*, as amended, if and to the extent that the Act is applicable to this contract.
- 1.23 These Standard Trading Conditions shall be governed and construed in accordance with the laws of the State of New South Wales and the parties submit to the non-exclusive jurisdiction of the Courts of New South Wales.
- 1.24 Any claim for loss of or damage to the goods or relating to the provision of the Services under this contract must be notified in writing to the Company within seven (7) days of delivery of the goods or the date by which the goods should have been delivered, failing receipt of which notice the Company shall be forever discharged from any and all liability to any person (including the Consignor) in respect of the goods and/or the Services under this contract. In any event whatsoever, the Company shall be discharged from any and all liability whatsoever unless suit is brought within nine (9) months of the provision of the Services under this contract, delivery of the goods or when the Services should have been provided, or when the goods should have been delivered, whichever is the earlier.