



Terms and Conditions

Conditions of Carriage

1. Definitions

'Carriage' means the whole of the services undertaken by the Carrier including but not limited to, storage, packaging or handling.

'Carrier' means on whose behalf this Consignment Note has been signed.

'Customer' includes the sender, shipper, Consignor, Consignee, receiver of the Goods, any person owning or entitled to the possession of the Goods and anyone acting on behalf of such persons.

'Freight' includes all charges payable to the Carrier.

'Goods' means the Goods accepted from the Customer and includes any container not supplied by or on behalf of the carrier.

'Loss' includes any fine, statutory duty, charge or any consequential loss including financial or market loss suffered from the sale of the Goods.

'Place of Receipt' means the place designated by this Consignment Note.

'Place of Delivery' means the place designated by this Consignment Note.

'Storage' means the whole of the services undertaken by the Carrier in receiving, storing and subsequently making the Goods available for collection.

'Sub-contractor' means any sub-contractor of the Carrier and the sub-contractor's servants, agents or sub-contractors, indirect and direct sub-contractors and the term includes railways operated by the Commonwealth, any State or private railway operator, any airline or sea carrier.

2. Governing Laws

This Consignment Note is governed by the laws of Australia wide.

3. Carriage/Demise

The Carrier undertakes to procure the Carriage of the Goods from Place of Receipt to the Place of Delivery. The Carrier at its discretion may sub-contract on any terms all or any part of its obligations contained within this Consignment Note.

4. Customer's Warranties Acknowledgments and Indemnities

The Customer warrants that:

4.1 The Goods are suitable for Carriage and Storage and have been packed and prepared by the Customer so as to withstand the rigours of Carriage and Storage.

4.2 The Customer has the authority of all persons owning or interested in the Goods to enter into this Consignment Note on their behalf.

4.3 Where the Customer is not the owner of some or all of the Goods the Customer will be deemed for all purposes to be the agent of the owner of the Goods.

4.4 The person delivering any Goods to the Carrier for Carriage and/or Storage is authorised to sign this Consignment Note for the Customer and by such signature or by the signature of any other person acting for the Customer, the Customer accepts the terms and conditions contained in this Consignment Note

4.5 The Customer acknowledges that:

(a) No agent or employee of the Carrier is permitted to alter or vary this Consignment Note.

(b) No representations have been made by any employee or agent of the Carrier to the Customer in respect of the Carriage of the Goods.

(c) The Carrier enters into this Consignment Note for and on behalf of itself and its servants, agents and sub-contractors.

4.6 The Customer will indemnify the Carrier against:

(a) All claims and demands whatsoever by whomsoever made in respect of any loss, damage or injury however caused, whether or not by the negligence or wilful act or omission of the Carrier, its servants, agents or sub-contractors.

(b) Any loss or damage which may be suffered by the Carrier as a result of any breach by the Customer of this Agreement.

(c) Any loss or damage to the Carrier's Container/s or other equipment which occurs while in the procession or control of the Customer or which occurs due to the nature or condition of the Goods in such Container/s, including loss resulting from the Customer's detention of any containers or any other equipment.

(d) All costs, demands, claims or expenses whatsoever and by whomsoever made arising as a result of the Customer making an incorrect description or advising of incorrect weight of the Goods.

(e) All loss (including consequential loss), damage or injury however caused arising out of the carriage of any Dangerous Goods, whether declared as such or not and whether or not the Customer was aware of the nature of the Goods.

5. Himalaya Clause

Every servant, agent, and sub-contractor of the Carrier will have the benefit of all provisions of this Agreement benefitting the Carrier, as if such provisions were expressly for their benefit. The Customer undertakes that no claim or allegation will be made against any servant, agent or sub-contractor of the Carrier which imposes or attempts to impose upon any of them any liability whatsoever in connection with the Goods, whether or not arising out of negligence or a wilful act or omission on the part of any of them and if any such claim or allegation should nevertheless be made the Customer agrees to indemnify the Carrier against all claims made.

6. Route/Deviation and Delay

The Customer will take delivery of the Goods as soon as the Carrier is ready to deliver them.

If the Consignee fails to take delivery of the Goods, the Carrier will be deemed to have delivered the Goods in accordance with this Consignment Note if the Goods are delivered to the person, entity, place or address specified for delivery by the Customer and in that event the Carrier may without notice unload the Goods and/or store them in the open or under cover and with or without refrigeration. If the Carrier is for any reason unable to deliver the Goods, the Carrier may without notice return the Goods to the Customer at the Customer's expense or store the Goods and that return of, or storage of Goods will be deemed to constitute delivery and any responsibility that the Carrier has in respect of the Goods will cease and the Customer will be liable to reimburse the Carrier for any additional carriage and/or storage costs incurred.

The customer agrees and authorises the Carrier at its discretion and at any time without notice to the Customer to:

6.1 Use any route, means of transport or storage whatsoever.

6.2 Adopt any specialist Carriage which may require the use of the services of other organisations or bodies necessary to ensure the safety of others (such as other road users) and to comply with all government requirements.

6.3 The Carrier will be under no liability whatsoever for any loss or damage to the Goods arising from delay in performing the Carriage or storage of the Goods.

7. Liability

At all times and in all circumstances and for all purposes the Goods will be and remain at the sole risk of the Customer and the Carrier will be under no liability whatsoever for any loss, or misdelivery or of damage to Goods occasioned during carriage and/or storage arising from any reason whatsoever, including without limiting the foregoing, any negligence or breach of contract or wilful act or default on the part of the Carrier, its servants and agents, or otherwise. The defences and exclusions of liability provided for in this Agreement will apply in any action against the Carrier for loss or damage to the Goods whether the action is founded in contract or in tort or otherwise.

The Carrier will be entitled to the benefit of the exclusions of liability provided for in this Agreement even if it is proved that the loss or damage resulted from an act or omission of the Carrier done with intent to cause damage or recklessly and with knowledge that damage would probably result.

No conduct by the Carrier in breach of this Agreement or otherwise, whether lawful or unlawful, will under any circumstances constitute a breach going to the root of this Agreement, or a repudiation so as to have the effect of disentitling the Carrier from obtaining the benefit of and enforcing all rights, defences, exceptions, immunities and limitation of liability and other like protections of the Carrier contained in this Agreement and all such rights, defences, exceptions, immunities, limitations of liability and like protections will continue to have full force and effect in any event.

8. Trade Practices Liability

If the Carrier is liable to the Customer for any reason, including negligence or breach of guarantee condition or Warranty implied by the Competition and Consumer Act 2010 and The Australian Consumer Law (ACL) in respect of any transport of Goods, the Carrier's liability to the Customer will be limited to:

8.1 The resupplying of the service of transporting the Goods; or

8.2 The costs of having the service of transporting the Goods resupplied.

This clause applies only insofar as the service to be provided by the Carrier under this Agreement is a service of a kind not ordinarily acquired for personal, domestic or household use. Regardless of any other consignment note, the Carrier will continue to be subject to any condition or warranty implied by the ACL, and if applicable the ACL will prevent the exclusion restriction or modification of any such guarantee.

9. General Lien

Goods are received and held by the Carrier subject to:

9.1 alien for money due to the Carrier for the carriage and/or storage of and any charges or expenses incurred in connection with the Goods

9.2 a general lien for all money or charges due to the Carrier from the Customer and the owner of such Goods for any services rendered or accommodation provided by the Carrier to the Customer or owner. Where any lien remains unsatisfied within seven (7) days form the date on which the Carrier gives notice of the exercises of a lien to the Customer (or owner as the case may be) the Goods may at the Carrier's discretion be sold by public auction or private treaty and the proceeds of sale applied in or towards the satisfaction of every such lien and all charges and expenses in relation to it (including the expenses of the sale) and the Carrier will account to the Customer or the owner of the Goods for any surplus.

10. Force Majeure

Where a party is unable, wholly or in part, by reason of any fact or circumstances beyond the control of the party affected (force majeure) to carry out any obligation under this Agreement and that party:

10.1 gives the other party prompt notice of such force majeure with reasonable full particulars and if known the probable extent to which it will be unable to perform or be delayed in performing that obligation; and

10.2 use all possible diligence to remove that force majeure as quickly as possible;

That obligation is suspended so far as it is affected by force majeure but any obligation to pay money under this Agreement is not excused by force majeure.

11. Dangerous Goods

If the Customer delivers to the Carrier dangerous Goods for carriage then the Customer must prior to delivery of the Goods to the Carrier:

11.1 provide to the Carrier a full declaration of the nature, character and content of the Goods; and

11.2 safely pack and properly prepare the Goods for carriage in accordance with all applicable standards for the carriage of such Goods;

And failing this the Carrier will not be responsible for the loss of the Goods and may at the expense of the Customer abandon, dispose of or destroy the Goods if the Carrier considers that the Goods have deteriorated or become a source of danger of contamination.

12. Refrigerated Goods

The Customer warrants that refrigerated Goods are supplied to the Carrier at a temperature suitable for transport and/or storage. The Carrier will be under no liability whatsoever for any loss, including financial and market loss, or damage to the Goods arising from the Customer's failure to deliver the Goods to the Carrier at the proper temperature.

13. Storage

At the Carrier's discretion the Goods may be stored at any place and at any time be removed and stored at any other place. Where the Customer requires the Carrier to store the Goods the Customer will provide an inventory of the Goods to the Carrier prior to storage. The Carrier will be entitled to check the inventory and provide its own inventory of the Goods received at the time of receipt. The Carrier will provide the Customer with a copy of the inventory. Should the Customer sign the inventory, the inventory will be conclusive evidence of the Goods received by the Carrier. Such inventory will disclose a visible item but not any contents unless the Customer requires in which case the Carrier will be entitled to make a reasonable charge for preparation of such further inventory. Inspection of Goods will be at the Customer's risk.

14. Carrier's charges

Freight is payable by the Customer without prejudice to the Carrier's rights against any other person. Responsibility for payment of Goods sent 'freight on delivery' will remain with the Customer at all times whether or not the Customer is consignor or consignee. Where the consignee fails to pay within 30 days the freight will be paid by the consignor. Freight will be deemed fully earned on receipt of the Goods by the Carrier and is non-refundable in any event. Freight is due and payable by the Customer seven (7) days after receipt of the Carrier's invoice. The Customer will pay interest at the weighted average interest rate on credit outstanding for small business as published by the Reserve Bank of Australia from time to time in respect of unpaid Freight or any other charge incurred by the Carrier pursuant to this Agreement. Should the Carrier be delayed by the Customer for a period in excess of 30 minutes in loading, unloading or for any other reason beyond the control of the Carrier, the Customer will pay to the Carrier the Carrier's reasonable costs and losses incurred by the Carrier due to such delay. The Customer will be liable for and will pay for (in addition to Freight and storage charges and any other charges):

14.1 all other charges in relation to the Carriage of the Goods and/or any other services by the Carrier and/or any third party whether payable to the Carrier and/or third parties including excise and customs duties, shipping, customs, railway, port fees and other charges;

14.2 all taxes including sales tax and any tax in the nature of goods and services tax levied on all or any part of the Goods and/or the Carriage of any other services. Unless otherwise specified, sales tax, goods and services tax and any other applicable tax, duties or charges imposed by any government or statutory authority are additional to the price quoted and invoiced.

Where sales tax or goods and services tax (including any other tax, duties or charges) are included in a quote, it is based on the rate applicable at the time of the quote and any subsequent variation is to the Customer's account.

15. Insurance

The Carrier will not affect any insurance of the Goods for the benefit of the Customer or otherwise.

16. Pallets

If the Carrier accepts pallets or other packing devices from the Customer the Carrier will do so on the basis that all charges pertaining to the pallets, packing devices or other material will be paid by the Customer. In the event of the Carrier acknowledging receipt of the pallets, packing devices or material the Carrier will do so on behalf of the Customer provided the Customer accepts full responsibility for them and any freight charges.

17. Loading/unloading

The Customer will provide to the Carrier equipment suitable for the loading and unloading of the Goods in a safe or reasonably safe manner and in compliance with all applicable standards including road transport and occupational health and safety acts and regulations.

The Carrier will not be liable for loss, damage or delay in respect of the Goods caused by matters beyond its control, including:

17.1 The Manner in which the Goods have been prepared or packed by anyone on behalf of the Customer for the carriage of the Goods by the Carrier;

17.2 The suitability of the Goods for the carriage by the Carrier (including the height, width or weight of the Goods);

17.3 The defective condition of the Goods.

18. Not a Common Carrier

PATLIN TRANSPORT SERVICES PTY LTD IS NOT A COMMON CARRIER and accepts no liability as such, and it is agreed that the Carrier shall not be liable to be sued as, or as if it had undertaken the liability of, a common carrier. The Carrier reserves the right to refuse the Carriage of goods for any person and the Carriage of any goods or classes of goods at its discretion.

The Carriage of any goods by the Carrier is performed by the Carrier upon and subject to these conditions only.

19. Term of limitation

The Carrier shall be discharged of all liability whatsoever unless a suit is brought in the proper forum within nine months of the date of delivery or the date the Goods should have been delivered.