

Terms and Conditions of Carriage

1. Application of Conditions

- 1.1 These Conditions cover the whole, or any part of, the Services performed by the Carrier for the Customer. All rights, immunities and limitations of liability in these Conditions shall continue to have full force and effect notwithstanding any breach of this contract by the Carrier or any other person entitled to the benefit of such provisions.
- 1.2 The Carrier shall not be bound by any agreement purporting to vary these Conditions unless such agreement is in writing and signed on behalf of the Carrier by an authorised officer.

2. Not a Common Carrier

- 2.1 The Carrier is not a common carrier and accepts no liability as such. The Carrier 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 Carrier's absolute discretion.

3. Warranties and Undertakings

- 3.1 The Customer warrants that:

- 3.1.1 It has complied with all applicable laws and regulations relating to the nature, condition, packaging or carriage of the goods (including the Australian Code for the Transport of Dangerous Goods by Road and Rail, Civil Aviation Regulations and the International Maritime Dangerous Goods Code) about the notification, classification, description, labelling, transport and packaging of the goods and that, given their nature, the goods are packed in a manner, having regard to their nature, adequate to withstand the ordinary risks of carriage;
- 3.1.2 The goods are accurately described on the consignment note or in the Carrier's electronic freight system;
- 3.1.3 It is either the owner of the goods and/or the authorised agent of the person(s) owning or having any interest in the goods and it enters into the contract on its own behalf and/or as authorised agent of that person or persons.

- 3.2 The Customer shall indemnify the Carrier against any expenses, charges or losses sustained by the Carrier in complying with the requirements of any law or otherwise incurred as a result of a breach of the warranties in clause 3.1.

4. Performance of Services

- 4.1 The method(s) of undertaking the Services shall be at the sole discretion of the Carrier and the Customer hereby authorises the Carrier to adopt any method(s) other than any method which may have been instructed or agreed.
- 4.2 The Customer authorises any deviation from the usual route of carriage.

5. Delivery

- 5.1 The Carrier shall not be bound to deliver the goods except to the consignee shown on the consignment note or in the Carrier's electronic freight system or to such other person(s) as may be authorised in writing by the Customer to receive the goods.
- 5.2 If the Carrier is unable to deliver the goods for any reason (including failure on the part of a receiver to take delivery within a reasonable time) the Carrier shall be entitled to handle and store the goods at the Customer's risk and in such a 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 additional charges for each call until delivery is accomplished.
- 5.3 The Carrier shall be deemed to have delivered the goods to the consignee if the Carrier obtains from any person present at the place of delivery confirmation of receipt of the goods (including the delivery driver's manifest of delivery or a consignment note) which proof shall be binding on the Customer or any other person liable to pay the freight charges.

6. Responsibility for Charges

- 6.1 The Customer shall pay to the Carrier all sums for the Services immediately when due without deduction or deferment on account of any claim, counterclaim or set-off. The Carrier's freight and charges are earned as soon as the goods are picked up or accepted for storage and the Customer must, within 7 (seven) days from the date of the invoice issued by the Carrier, pay all freight and charges, irrespective of whether the goods are delivered or not and whether damaged or not. The Carrier is not obliged to refund any payment for freight and charges under any circumstance. If the goods are at any time re-weighed and/or re-measured, the Customer shall pay any proportional additional freight as determined by the Carrier. The Customer shall pay any charge for demurrage at the rate charged to the Carrier directly or indirectly by any railway or other person or company.

6.2 When the Carrier is instructed to collect freight, duties, charges or other expenses from any person other than the Customer, the Customer shall remain responsible for the amounts and they shall pay these amounts to the Carrier on demand where these amounts have become due and have not been paid by such other person.

6.3 On all accounts overdue to the Carrier, the Carrier shall be entitled to charge a late payment fee, as well as all legal and other costs incurred by the Carrier in recovering the due amounts on an indemnity basis.

7. Carrier's Liability

7.1 The goods shall at all times be at the risk of the Customer and the Carrier shall not be liable in tort (including negligence), contract (including a fundamental breach of contract) or for any act or omission of the Carrier that is outside the authorised scope of its activities under this contract, for breach of duty as bailee, for contravention of any statute or breach of statutory duty or otherwise for any loss of, or damage to, failure to deliver, delay in delivery of, or misdelivery of the goods whatsoever, howsoever caused.

7.2 The exclusion of liability in Clause 7.1 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 Carrier providing the Services under this contract and to any indirect or consequential loss or damage whatsoever arising from such loss, damage or injury or from failure to deliver, delay in delivery or misdelivery, howsoever caused.

7.3 The Customer acknowledges that loss or damage are insurable risks and that obtaining insurance is the responsibility of the Customer and if they fail or choose not to do so it is at their risk.

8. Notice of Loss and Time Bar

8.1 Any claim for loss or damage to the goods or relating to the provision of the services under this contract must be notified in writing to the Carrier 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 Carrier shall be forever discharged from any and all liability to any person (including the Customer) in respect of the goods and/or the Services. In any event whatsoever, the Carrier shall be discharged from any and all liability whatsoever unless suit is brought within nine (9) months of the provision of the Services, delivery of the goods or when the Services should have been provided or when the goods should have been delivered.

9. Lien

9.1 If, on demand, the Customer fails to pay charges due to the Carrier in respect of any Services rendered by the Carrier, the Carrier will have a general lien over the goods and/or any other cargo or items held in possession which are the property of the Customer, and without notice to the Customer, may sell all or part of the goods and/or any other cargo or items that are the property of the Customer which are in its possession 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.

10. Dangerous Goods

10.1 The Customer or his authorised agent shall not tender for carriage any explosive, flammable 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 caused thereby.

10.2 The Carrier may at any time cause any dangerous goods or any goods which the Carrier believes are liable to become dangerous goods to be destroyed, disposed of, abandoned or rendered harmless by the Carrier without compensation to the Customer and without prejudicing the Carrier's right to any charges payable by the Customer to the Carrier.

11. Subcontractors

11.1 The Carrier is authorised to subcontract the whole or any part of the Services and such authorisation extends to any subcontractor.

11.2 Any clause herein excluding or limiting the liability of the Carrier or providing any right or exemption from liability to the Carrier shall also be available and shall extend to protect all subcontractors and every servant or agent of the Carrier and of any subcontractor. The Carrier 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 to this extent be or be deemed to be parties to this contract.

11.3 The Customer undertakes that no claim will be made against any servant, sub-contractor or agent of the Carrier which imposes or attempts to impose upon any of them any liability whatsoever in connection with the goods or services under this contract. If any such claim should nevertheless be made, the Customer shall indemnify the Carrier against the consequences thereof.

12. GST

12.1 Words and expressions used in this clause 12.1 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 document 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.

13. Law and Jurisdiction

13.1 These Conditions shall be governed by and construed in accordance with the laws of the State of South Australia and the parties submit to the non-exclusive jurisdiction of the Courts of South Australia.

14. Definitions

14.1 In these conditions:

14.1.1 "Carrier" shall mean Peter Cochrane Management Pty Ltd (22 007 883 669), their servants, officers, agents and subcontractors and any subcontractors of subcontractors;

14.1.2 "Conditions" shall mean these terms and conditions;

14.1.3 "Customer" shall mean the party entering into the contract of carriage with the Carrier being either the shipper, consignor, the owner of the goods, consignee, receiver or their respective authorised agent;

14.1.4 "Services" shall mean the whole of the operations undertaken by the Carrier in relation to the goods, including the carriage, storage, loading, unloading, packing, unpacking, freight forwarding, customs clearance, consolidation and deconsolidation.