

## WRL Shipping Pty Ltd

ABN: 42 133 244 943

### STANDARD TERMS AND CONDITIONS OF SERVICE

#### 1 Application

1.1 These 'Standard Terms and Conditions of Service' apply to all services performed for you by WRL Shipping Australia Pty Ltd including all services performed for you by our appointed subcontractors. These conditions also apply to any work we are required to do, or reasonably do, in addition to the work we quote for.

1.2 These 'Standard Terms and Conditions of Service' will continue to apply despite any breach by us, including any breach by a subcontractor appointed by us, even if the breach is of a fundamental term.

1.3 You warrant that, when you give us or a subcontractor goods for carriage, storage or the provision of services, you are acting as agent for each person who has an interest in the goods. Each person who has an interest in the goods is a party to this contract and is bound by this contract with the same terms and conditions that apply to you (the Customer).

1.4 You also warrant that, when you engage us to provide services, you or any person who signs any document on your behalf has authority to accept these 'Standard Terms and Conditions of Service'.

1.5 You cannot vary or waive these 'Standard Terms and Conditions of Service' without our prior written consent and our approval.

1.6 In the event of any inconsistency between these 'Standard Terms and Conditions of Service' and the conditions contained in any other document issued by or on behalf of us in connection with the provision of services (including a bill of lading, waybill, consignment note or other transport document), then these 'Standard Terms and Conditions of Service' will prevail over the other document.

#### 2 Definitions:

**"Company"** means WRL Shipping Australia Pty Ltd (ACN 133 244 943), any of our servants, agents or subcontractors, and any related body corporate of WRL Shipping Australia Pty Ltd.

**"Customer"** means the person with whom we contract, whether a natural person, company, trust, partnership, joint venture, association or other corporate form. Any reference to the Customer includes the employees, agents, contractors, sub-contractors, assignees or representatives of the Customer.

**"Dangerous Goods"** means cargo which is or may become volatile, explosive, dangerous, inflammable, offensive (including radioactive materials) or which may form a risk of injury to any person or a risk of damage to any property of any kind.

**"Goods"** means the cargo accepted by us including any container, packaging or pallet(s) supplied by you or on your behalf.

**"GST"** means the goods and services tax imposed by or under a GST Law.

**"GST Law"** has the same meaning as within the *A New Tax System (Goods and Services Tax) Act 1999*.

**"GST Rate"** means the rate of GST under the GST Law.

**"Invoice"** means the tax invoice under the GST Law.

**"Parties"** means the Company and the Customer.

**"Services"** means services of any kind relating to the carriage, consolidation, storage, handling, packing or distribution of the Goods as well as ancillary and advisory services in connection therewith, including but not limited to customs and fiscal matters, declaring the goods for official purposes, procuring insurance of the goods and collecting or procuring payment or documents relating to the goods and the provision of credit services.

**"Subcontractor"** means any person/s (including a person operating a railway) that we appoint to perform all or part of the services as an agent on our behalf, and any person/s who is an employee, agent or subcontractor of such a person.

**"Supply"** means the same as in the GST Law.

**"Taxable Supply"** means any supply under these 'Standard Terms and Conditions of Service' for which the Company is or may become liable to pay GST.

**"Us"** or **"we"** or **"our"** means the Company.

**"You"** or **"your"** means the Customer.

#### 3 Our services and rights

3.1 We are not a common carrier. We do not accept liability as a common carrier. We reserve the right to accept or refuse the provision of services in relation to any goods at our sole discretion.

3.2 We will use reasonable endeavour to perform the services promptly and carefully and to follow any instructions you have given us in relation to the services. However, we are entitled to depart from those instructions (including deviating from the usual method of service or route of carriage or changing the place of storage) at our discretion if we think it reasonably necessary in the circumstances.

3.3 We intend to perform the services promptly and carefully and to follow any instructions you give us in relation to the services. However, we are entitled to depart from those instructions in order to comply with any directive or instruction given to us by a relevant government authority.

3.4 Any subcontractor that we choose to engage acts as our agent in services performed for you. Where we engage the services of a subcontractor, we, or a subcontractor, may agree with a subcontractor to any reasonable terms that subcontractor requires, particularly where goods are moved by ocean or air freight. Those terms will also be binding on you. If we are engaged to store or arrange storage of goods, we are not obligated to make the goods available for collection or removal from the place of storage unless all charges have been paid and unless you have completed and provided all documents that we reasonably require you to complete or provide.

3.6 Insurance will not be arranged by us except when we agree to your express written instructions and when a lodgement of a

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declaration as to value has been received by us. Where we agree to your instructions, insurance will be arranged at your expense. Should an insurer dispute its liability for any reason, the insured will have recourse against the insurer only.

### 4 Your warranties

4.1 When you engage us to provide services or give us or a subcontractor goods for carriage or storage, you warrant that:

4.1.1 You are acting as agent for each person who has an interest in the goods.

4.1.2 Each person who has interest in the goods is a party to this contract and is bound by these conditions in the same way as you are (the Customer).

4.1.3 When you give us or a Subcontractor Goods for carriage, the person who signs any document containing these conditions has authority to accept these conditions on your behalf.

4.2 Where you have packed the goods, you warrant that those goods are packed in a manner adequate to withstand carriage, having regard to their nature, and in compliance with all applicable laws and regulations. You warrant that you will indemnify the Company for all liability and for all costs incurred as a result of or arising out of a breach of this warranty. Further, you will provide us with all the assistance, information and documentation that may be necessary to enable us to comply with all laws and regulations.

### 5 Dangerous goods

5.1 You will not tender for the provision of services by the Company in relation to any 'Dangerous Goods' without presenting to us a full description disclosing their nature. In the event of any death, bodily injury, loss and/or damage caused by 'Dangerous Goods', you will be liable and will indemnify us for such liability.

5.2 If, in our opinion, the goods are or are liable to become of a dangerous, inflammable, explosive, volatile, offensive or a damaging nature, they may at any time be destroyed, disposed of or abandoned or rendered harmless by us without compensation to you and at your expense.

### 6 Your payments

6.1 Every special instruction to the effect that charges will be paid by a person other than by you will be deemed to include a stipulation that if that nominated person does not pay those charges within seven (7) days of delivery or attempted delivery of the goods, then the Customer will pay those charges to the Company within seven (7) days of being notified of that person's failure to pay.

6.2 You must pay us for services performed— even if goods are lost, damaged or destroyed. You must pay us an additional reasonable charge in each of the following cases:

6.2.1 we or a subcontractor perform services, in addition to the services we quote for, due to the Customers request or reasonable necessity;

6.2.2 the carriage is delayed for a reason that is not our fault or the fault of the relevant subcontractor.

6.2.3 the Company becomes liable to pay customs and/or excise duties, costs, fines or penalties for any reason. Where such costs arise, you will be liable to pay the cost in full. In addition, any documentation relating to the goods pursuant to any applicable laws or regulations (whether or not resulting from or arising out of the negligence of the Company) will be your liability and related costs will be paid by you.

6.3 Payment of all monies owed is to be made in full by the due date stated on the invoice unless otherwise agreed in writing by WRL Shipping Australia Pty Ltd.

### 7 Our liability

7.1 When we perform services involving the transportation or storage of goods for the purpose of a business, trade, profession or occupation carried on or engaged in by you, we do so entirely at your risk. When we perform services in any other case, our services are provided entirely at your risk and to the extent permitted by law our liability is completely excluded, regardless of the cause. We are not liable under any circumstances for delay in delivery of goods, misdelivery of goods, a total failure to deliver goods, loss of goods or damage to goods, regardless of the cause. We are not liable for negligence, wilful misconduct or breach of duties, of bailment or any statutory breach by us or any of our employees, agents or subcontractors. We are not liable for an act or omission that is not contemplated by our contract with you, or for any indirect, economic or consequential loss or damage.

7.2 Where we have not packed goods or supplied the container in which goods are packed, we are not liable for any loss or damage caused by the manner in which goods have been packed, the unsuitability of the goods for carriage in the container supplied or the unsuitability or defective condition of a container.

7.3 Where any handling, installation, removal, assembly or erection of any kind whatsoever is required to be undertaken by us, we will not be liable for any death, injury, loss or damage which may result from or arise out of the work we undertake. Further, you will indemnify us in respect of any such liability whether or not that liability arises from negligence, breach of contract or wilful act or default of the Company or the Company's servants, agents or Subcontractors.

7.4 In all cases where liability of the Company has not been excluded, whether by these Conditions, by statute or by international convention or otherwise, the liability of the Company whatsoever and howsoever arising is limited to:

7.4.1 Australian \$100 per unit or the value of the Goods the subject of the Contract at the time the Goods were received by the Company, whichever is the lesser; or

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7.4.2 In the case of proven breach of a guarantee implied by the Competition and Consumer Act 2010 (Cth) in respect of any transport of goods, the Carrier's liability to the Customer will be limited to the payment of the cost of having the relevant services continued or re-supplied as required under law.

7.5 You agree that:

7.5.1 our employees, agents and subcontractors and their employees, agents and subcontractors have the benefit of these 'Standard Terms and Conditions of Service'; and

7.5.2 We hold that benefit on trust for all employees, agents and contractors and can, if requested by them, enforce it on their behalf.

### 8 Claims

8.1 Any claim against us or a subcontractor must be presented to the subject in writing within 90 days after the provision of the services or delivery of the goods or when the services should have been provided or the goods should have been delivered.

8.2 We will be discharged from all liability whatsoever in connection with the provision of the services and/or the goods unless suit is brought in the proper forum within six (6) months of the provision of the services or delivery of the goods or when the services should have been provided or the goods should have been delivered.

### 9 Your indemnity to us

9.1 You must continually indemnify us against any liability or expense that we incur as a result of:

9.1.1 A breach of these conditions by you;

9.1.2 Any failure by you to adhere to applicable laws including road and transport laws;

9.1.3 Our carriage or storage of goods that are, or may become dangerous or offensive (whether or not this has been disclosed to us);

9.1.4 Any loss or damage incurred by another person which arises out of our performance of Services.

### 10 Inspection by authorities

10.1 If by order of the authorities at any place, a container has to be opened for the goods to be inspected, we will not be liable for any loss, damage or delay incurred as a result of any opening, unpacking, inspection or repackaging. We will be entitled to recover the cost of any such opening, unpacking, inspection and repackaging from you.

### 11 Lien

11.1 We have a general lien on all the goods and any related documents, and over any other goods and related documents of yours that are in our possession, custody and control as security for payment of any money due at any time to the Company from the Customer on any account whatsoever, whether relating to goods belonging to, or services provided by or on behalf of the Company to the Customer.

11.2 We may charge for storage and/or remove to a warehouse or bond store any goods subject to a lien, at your risk and expense. Storage charges shall continue to accrue on any detained goods under lien.

11.3 Where payment is not received from you the Company's right to sell or dispose of or deal with the Goods shall arise immediately upon any sum becoming due to the Company. We may sell the goods or documents without giving you notice. Where we sell the goods, we are entitled to offset the amount we receive as payment against the money owed by you. We may deduct the costs of sale or disposal of the Goods from the amount we receive. This does not affect any other rights held by us.

### 12 GST

12.1 This clause 12 applies if the Company is or becomes liable to pay GST in relation to any services under these 'Standard Terms and Conditions of Service':

12.1.1 Unless otherwise stated, all charges quoted are exclusive of GST. The Customer must pay GST to the Company on the Taxable Supply in addition any charges that are exclusive of GST. The amount of GST payable will be calculated by multiplying the charges by the GST rate. GST will be payable by you at the same time that the charges are payable. No deduction or set off will be made against the GST amount. The payment of GST is subject to these 'Standard Terms and Conditions of Service' and payable on the same basis as the payment of other charges.

12.1.2 The Company must issue an invoice or invoices to the Customer for the amount of GST applicable to the Taxable Supply. The Company must include within any such invoice such particulars as are required by the GST Law in order that the Customer may obtain an input tax credit for the amount of GST payable on the Taxable Supply.

12.1.3 If any part of the consideration is referable to both a Taxable Supply and anything that is not a Taxable Supply, the amount of GST payable by the Customer will be determined by the Company and will be the same amount of GST that would be payable if the Taxable Supply were the only supply made to the Customer.

12.1.4 If the Customer makes default in the payment of the due date of any amount payable pursuant to Clause 12.1.1 then without prejudice to any other remedies of the Company, the Customer will pay to the Company upon demand an



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amount equal to the amount of any damages or interest or additional GST that may become payable by the Company arising out of the default of the Customer.

### 13 International Carriage

13.1 The Parties acknowledge that Goods moving by ocean freight are subject to the applicable international treaties including:

- 13.1.1 The International Convention for the Unification of Certain Rules relating to Bills of Lading signed at Brussels on August 25, 1924 (the Hague Rules); and
- 13.1.2 Those rules as amended by the Protocol signed at Brussels on February 23, 1968 (the Hague Visby Rules); and
- 13.1.3 The SDR Protocol (1979); and
- 13.1.4 The Montreal Convention for airfreight (1999); and
- 13.1.5 Any applicable amendments that may be made from time to time.

13.2 Your recovery of any loss or damage will be against the ocean freight carrier and will be limited in accordance with the above rules and any other conventions that may be applicable.

13.3 The parties acknowledge that goods moving by ocean freight may be required to 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 alternate mode of transport is applicable, and no international treaty is applicable which covers the additional transport, your recovery of any loss or damage will be against the carrier and is will be limited in accordance with the convention applicable for the majority of the transport, even where that convention does not envisage liability for the kind of transport concerned.

### 14 Jurisdiction

14.1 The contract between the parties is governed by the law of Queensland, Australia regardless of the location where it was entered into. A proceeding in relation to any matter governed by these 'Standard Terms and Conditions of Service' must only be instituted in Queensland.

### 15 Miscellaneous

15.1 When you commence or continue to engage in any dealings with us, these conditions will be deemed to apply to our dealings, whether or not you have signed an acknowledgment of their application.

15.2 These conditions are to be interpreted as legal, enforceable and valid. If any clause or part of a clause is illegal, unenforceable or invalid (and unable to be interpreted in a way that will render such part or clause legal, enforceable and valid), that clause or part is to be treated as removed from these conditions, but the remainder of this agreement will not be affected.

15.3 In these conditions, a reference to any law or legislation or legislative provision includes any statutory modification, amendment or re-enactment, and any subordinate legislation or regulations issued under that legislation or legislative provision.

15.4 To the extent and as required by law, the parties will comply with the *Privacy Act 1988* (Cth). Any personal information obtained or supplied in connection with the services will be collected, used, stored, disclosed, transferred and destroyed in accordance with the National Privacy Principles and the law.