



TERMS AND CONDITIONS OF CONTRACT

Interpretation

In these terms and conditions:

- (a) "Carrier" means Star Track Express Pty Limited ABN 44 001 227 890 trading as Star Track Express and shall be deemed to include any employee, agent, servant or sub-contractor of the Carrier;
- (b) "Carriage" means the whole of the operations and services undertaken by the Carrier in respect of the Goods, including but not limited to the transportation and storage of Goods;
- (c) "Customer" means any person, organisation, business or company who requests Carriage services from the Carrier or otherwise has an account with the Carrier and if more than one in relation to any Carriage, whoever the Carrier designates is responsible for the request of Carriage services;
- (d) "Dangerous Goods" means any goods deemed dangerous in terms of International Air Travel Association Regulations ("IATA Regulations") including but not limited to Goods which are or may become dangerous, inflammable, explosive, volatile or offensive (including radioactive materials) or Goods which are or may become liable to damage or injure any property or person;
- (e) "Dangerous Goods Declaration" means a written form of declaration which complies with the IATA Regulations;
- (f) "Delivery Address" means the address on the Consignment Note to which the Goods must be delivered by the Carrier to the Receiver;
- (g) "Excluded Goods" means Dangerous Goods and each of the following items: currency; negotiable instruments; jewellery; gemstones; wrought or unwrought metals; antiques; works of art; securities; drugs; weapons; living animals or plants; refrigerated/perishable goods; household and personal effects; second hand goods, cigarettes, tobacco and tobacco products; and any valuable documents;
- (h) "Freight Charges" means the fee payable to the Carrier for the Carriage which includes the provision of Risk Warranty unless the Customer elects otherwise;
- (i) "Goods" means freight together with any Packaging picked-up by the Carrier from the Sender for Carriage;
- (j) "Packaging" means any container, packaging or pallet used for the purpose of containing and protecting the Goods for Carriage;
- (k) "Receiver (Consignee)" means the person, organisation, business or company who receives the Goods upon delivery by the Carrier;
- (l) "Risk Warranty" means the warranty in clause 0;
- (m) "Sender (Consignor)" means the person, organisation, business or company who consigns Goods to the Carrier for the Carriage of those Goods to the Delivery Address;

- (n) "Sub-Contractor" means and includes any person who pursuant to a contract or arrangement with any other person (whether or not the Carrier) performs or agrees to perform the Carriage or any part thereof.

Carriage of Goods

2. THE CARRIER IS NOT A COMMON CARRIER and will accept no liability as such. The Carrier reserves the right, at its sole discretion, to refuse the Carriage of any Goods or any class of Goods. The Carriage will be performed by the Carrier subject to these Terms and Conditions of contract.
3. Notwithstanding anything to the contrary contained in these Terms and Conditions, the Carrier shall not be liable for any indirect or consequential loss arising from any act or omission or statement by the Carrier.
4. The Carrier is authorised by the Customer to handle or to store or to carry or to have the Goods carried by any means at the absolute discretion of the Carrier.
5. The Carrier is authorised by the Customer to make any deviation from the usual route or manner of Carriage which may in the absolute discretion of the Carrier be deemed desirable or necessary in the circumstances.

Customer Warranties

6. (a) The Customer warrants:
 - (i) that all laws and regulations relating to the nature, condition, Packaging, labelling or Carriage of the Goods have been complied with;
 - (ii) that the Goods have been packed in a manner that is adequate to withstand the ordinary risks of Carriage, having regard to the nature of the Goods;
 - (iii) that the person delivering the Goods to the Carrier for Carriage is authorised to sign the consignment note for and on behalf of the Customer;
 - (iv) that the Customer has the authority of the person owning or having an interest in the Goods or any part of the Goods to send the Goods to the Receiver.
- (b) Where the Customer is not the Sender, the Customer must satisfy itself that the Sender has done everything necessary to ensure that the Customer does not breach any of the warranties set out in clause 6(a).
7. (a) The Customer hereby indemnifies and agrees to keep indemnified the Carrier for any liability whatsoever as a result of or arising out of the breach by the Customer of any of the warranties in clause 6(a).
- (b) The Customer hereby agrees to indemnify and keep indemnified the Carrier in respect of any liability whatsoever in respect of the Goods which the Carrier may owe to any person (other than the Customer) who claims to have or who has or who may have at anytime, any interest in the Goods or part of the Goods.

Goods and Packaging

8. (a) The Customer must not tender to the Carrier for Carriage any Dangerous Goods unless the Customer has first provided to the Carrier a Dangerous

Goods Declaration and has complied with all requirements under the IATA Regulations.

- (b) The Customer shall be liable for all loss, damage or injury caused by the Dangerous Goods tendered by the Customer for Carriage.
 - (c) 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 for the Carriage.
9. Unless the Carrier and the Customer otherwise agree in writing:
- (a) the Carrier shall accept the Goods for Carriage at the sole risk of the Customer and not the Carrier, subject only to the Risk Warranty (if applicable), and the Carrier shall not be responsible in tort or contract or otherwise for any loss or damage to, or misdelivery, delay in delivery, concealed damage, deterioration, contamination, evaporation or non-delivery of the Goods held in the care, custody or control of the Carrier or any consequential loss arising therefrom howsoever caused.
 - (b) the Customer shall be responsible for ensuring that all Packaging conforms with the requirements of the Receiver. If the Carrier incurs any expense or liability as a result of the Packaging not conforming with the requirements of the Receiver, the Customer must immediately upon demand by the Carrier, reimburse and indemnify the Carrier for all expense or liability incurred by the Carrier.
 - (c) in the event that the Carriage involves a requirement for the Carrier to undertake any form of handling, installation, removal, assembly or erection of Goods, the Carrier shall not be liable for any loss, damage or injury of any kind to any person or property howsoever arising or occurring during any part of the Carriage. The Carrier's disclaimer pursuant to this clause 9(c) shall extend to and include:
 - (i) any loss of or damage to the Goods or any other equipment belonging to or provided by the Customer; and
 - (ii) any consequential, direct or indirect loss or damage arising from any loss, damage or injury caused to any person or property during the Carriage.

Freight Charges

- 10. Freight Charges will be determined by the Carrier by reference to the Carrier's current published rate schedule and/or the current special quoted rates offered by the Carrier to the Customer and may include any additional charges for other services performed by the Carrier as specified in the Carrier's current published rate schedule.
- 11. (a) The Carrier may determine the amount of Freight Charges by reference to the weight, cubic size or value of the Goods consigned. If the Customer provides information regarding the weight, cubic size or value of the Goods, the Carrier may use that estimate to determine the Freight Charges or, in its absolute discretion, may at any time weigh, measure or value the Goods to determine the Freight Charges. If the Customer does not provide information regarding the weight, cubic size or, value of each of the Goods, the Carrier will

determine the weight and/or cubic size and/or value to be used in calculating the Freight Charges. In doing so, the Carrier may determine the total weight and/or total cubic size and/or total value of all Goods that are consigned (whether on pallets or as mixed loose freight or a combination of the two) on the same day (whether in one or more locations and regardless of the destination of individual consignments), and use whatever method it regards as the most practical at that time to attribute a weight, cubic size or value to the particular Goods for the purpose of calculating the Freight Charges.

- (b) When calculating the Freight Charges for a consignment by reference to weight (however calculated) in circumstances where the weight of the consignment includes a fraction of a kilogram, the Carrier will round up the weight of the consignment to the nearest whole kilogram (for example, where a consignment weighs 12.4 kilograms, the Freight Charges would be calculated on the basis of 13 kilograms).
12. The Carrier's charges shall be considered fully earned as soon as the Goods are loaded and dispatched from the Sender's premises and the Customer must, within seven (7) days from the date of invoice issued by the Carrier to the Customer, pay the Freight Charges to the Carrier, irrespective of whether the Goods have been delivered to the Receiver or whether goods which have been delivered are damaged or otherwise, and in all circumstances the Freight Charges paid by the Customer to the Carrier shall be absolutely non-refundable.
 13. If the Customer fails to pay the Freight Charges to the Carrier within seven (7) days from the date of invoice issued by the Carrier to the Customer, then the Carrier reserves the right to charge interest on the unpaid Freight Charges at the rate which is two per cent (2%) per annum above the highest overdraft rate charged as at the due date for payment of the Freight Charges by the Carrier's bank for commercial loans in excess of one hundred thousand dollars (\$100,000.00).
 14. If any of the Goods are subject to any duties, excises and costs charged by any governmental, non-governmental or administrative authority which the Carrier becomes liable to pay in respect of the Goods, then the Customer must reimburse the Carrier upon demand by the Carrier any such duties, excises and costs paid by the Carrier.
 15. The Carrier may charge an additional charge to the Customer for the cost of any labour charges incurred by the Carrier as a result of any delay (where such delay has occurred other than from the default of the Carrier) in excess of thirty (30) minutes in loading or unloading the Goods or in the event that the Receiver is not in attendance at the Delivery Address during normal hours when delivery is attempted.
 16. The Carrier shall not be bound by any instructions by the Customer to collect any Freight Charges from any other party (the "Third Party"), notwithstanding that the Carrier may accept the Goods as tendered for Carriage. In the event that the Third Party does not pay the Freight Charges to the Carrier within seven (7) days from the date of invoice issued by the Carrier to the Third Party, then the Customer must pay to the Carrier the Freight Charges as specified in the original invoice issued to the Third Party, within seven (7) days after an invoice has been issued by the Carrier to the Customer.

17. The Carrier shall have a lien on the Goods and any documents relating thereto and on any other Goods of the Customer in the possession of the Carrier or any documents relating thereto for all amounts payable by the Customer to the Carrier, and if any amounts owing by the Customer to the Carrier remain unpaid for a period of thirty (30) days from the date of invoice issued by the Carrier to the Customer, the Carrier shall have the right to sell any such Goods by public auction or private treaty without notice to the Customer.

Goods and Services Tax (GST)

18. (a) In this clause:
- "GST" means the tax imposed or sought to be imposed by the GST Acts;
- "GST Acts" means A New Tax System (Goods and Services Tax) Act 1999 and the related imposition Acts of the Commonwealth;
- Any term used in this clause which has a defined meaning in the GST Acts shall have the same meaning in this clause as is ascribed to that term in the GST Acts.
- (b) The Customer acknowledges that the charges listed in the Carrier's published rate schedule and any special rates, ancillary charges and charges for the Risk Warranty quoted by the Carrier to the Customer do not include GST.
- (c) If GST is imposed on any supply made by the Carrier pursuant to this contract, the Customer must pay to the Carrier, in addition to any other consideration for that supply, an amount not greater than an amount equal to the GST payable by the Carrier in connection with that supply (as determined by the Carrier in good faith and not in contravention of the law).

Sub-contracting

19. The Carrier and any Sub-Contractor of the Carrier shall be entitled to sub-contract, on any terms, the whole or any part of the Carriage.
20. The Customer authorises the Carrier, either in the name of the Customer as principal or in the name of the Carrier as agent for the Customer, at the sole cost and expense of the Customer:
- (a) to sub-contract the whole or any part of the Carriage of Goods with a Sub-Contractor;
- (b) to lease or use any Packaging in which the Goods may be placed or packed;
- (c) to give any receipt for the Goods or any Packaging, whether subject to any Terms and Conditions;
- and any such contracts made for or on behalf of the Customer may be made subject to the Terms and Conditions of any bill of lading, any form or contract of carriage, whether by sea, rail, road or air, any lease arrangement and handover agreement or any receipt or other document, as the case may be.

Delivery of Goods

21. The Carrier shall be conclusively presumed to have delivered the Goods to the Receiver if the Carrier obtains from any person present at the Delivery Address, confirmation of receipt of the Goods by way of signature on the Consignment Note or any other acknowledgment of receipt of the Goods (including electronic proof of

delivery) which proof shall be binding on the Customer or any other person liable to pay Freight Charges.

22. If the Delivery Address is unattended or if delivery cannot otherwise be effected by the Carrier the Carrier may at its option deposit the Goods at the Delivery Address (which shall be conclusively presumed to be due delivery hereunder) or store the Goods whereupon the Customer shall indemnify and keep indemnified the Carrier for all costs and expenses incurred in relation to such storage. In the event that the Goods are stored by the Carrier the Carrier shall be at liberty to re-deliver them to the Sender or Receiver from the place of storage at the sole cost and expense of the Customer.
23. The Carrier will deliver Goods at intermediate points rather than at the Delivery Address only where special arrangements have been made between the Customer and the Carrier.
24. The Customer must indemnify and keep indemnified the Carrier against any liability for any claims made against the Carrier by any person who is or may at any time in the future be interested in the Goods, irrespective of whether any such liability has arisen in connection with the Goods or has arisen as a result of negligence on the part of the Carrier.
25. All the rights, immunities and limitations of liability of the Carrier contained in these Terms and Conditions of contract shall continue to have full force and effect in all circumstances and notwithstanding any breach by the Carrier of the Terms and Conditions of contract.

Governing Law

26. These conditions shall be governed and construed in accordance with the laws of New South Wales. Any proceedings against the Carrier must be brought in the State of New South Wales and not elsewhere, within six (6) months from the date of delivery of Goods to the Receiver. No proceedings can be commenced against the Carrier unless notice of the substance of the claim has previously been lodged in writing to the Carrier within fourteen (14) days after the Goods have been delivered or were due to be delivered to the Delivery Address.
27. It is hereby agreed that if any provision or part of any provision of this contract is unenforceable such unenforceability shall not affect any other part of such provision or any other provision thereof.
28.
 - (a) The Carrier gives no warranty in relation to the Carriage.
 - (b) The Customer acknowledges that the Customer has not relied upon any representation or warranty made by or on behalf of the Carrier in relation to the Carriage.
 - (c) The Trade Practices Act 1974 and certain State and Territory legislation may imply certain conditions and warranties into this contract for the benefit of the Sender. To the extent permitted by law:
 - (i) such conditions and warranties are expressly excluded; and
 - (ii) the liability of the Carrier, if any, arising from the breach of such conditions and warranties is limited to the re-supply of the Carriage.
 - (d) Subject to the terms and conditions of the Risk Warranty, if applicable, the Carrier does not accept any liability for any loss or damage of any nature caused to the Goods during the Carriage or for any amount as a result, direct or

indirect, of any damage or deficiency in the Goods while the Goods are in the possession and control of the Carrier.

- (e) Subject to the warranties implied by statute which cannot be negated, it is the responsibility of the Customer to ensure that the Carriage is sufficient and suitable for the Customer's purpose.
- (f) Unless the Customer has elected prior to commencement of the Carriage, that Risk Warranty is not to apply to the consignment, the terms of this clause 0 will be subject to the terms of the Risk Warranty.

Risk Warranty

- 29. Unless the Customer has elected that Risk Warranty is not to apply to the consignment, the Carrier will provide to the Customer a warranty against loss or damage to Goods during the Carriage and while the Goods are in the possession of the Carrier, subject to the limitations and exclusions set out hereunder (the "Risk Warranty").
- 30. In this document, "Risk Warranty Limitation Amount" means the maximum amount that can be claimed under the Risk Warranty pursuant to the level of Risk Warranty selected by the Customer before commencement of the Carriage, being any one of the following:
 - (a) \$500.00 (which will apply unless the Customer declines Risk Warranty or selects another amount);
 - (b) \$1,000.00 or
 - (c) a value declared by the Customer on the consignment note or on the Star Track Dispatch System (where the Customer uses Paperless Dispatch pursuant to clause 0).
- 31. The Customer must pay to the Carrier the applicable Risk Warranty charge for the level of Risk Warranty selected.

Risk Warranty Claims

- 32. Any claim under the Risk Warranty for damage to or loss of Goods ("Claim") must be made in writing on a claim form supplied by the Carrier. Claims must be sent to "Risk Warranty Department, Star Track Express, Locked Bag 7, Gordon, NSW, 2072".
- 33. The Customer must notify the Carrier in writing of any Claim within the following time limits:
 - (a) where the Receiver has indicated in writing on the Consignment Note that loss or damage has occurred in respect of the Goods, within fourteen (14) days from the date of delivery of the Goods to the Delivery Address;
 - (b) where the Receiver has acknowledged that the Goods have been delivered and received in good order and condition, within twenty four (24) hours from the date of delivery of the Goods to the Delivery Address;
 - (c) in respect of Claims for non-delivery, within fourteen (14) days after the date of dispatch specified on the consignment note.
- 34. The Customer may only make one (1) Claim per consignment.

- 35 The Customer must provide to the Carrier with any Claim, documentary evidence acceptable to the Carrier (for example, receipt, valuation or tax invoice) as proof of value of the Goods.
36. Where the Customer makes a valid Claim and there are outstanding amounts owed by the Customer to the Carrier, the Carrier reserves the right to pay the Claim either directly to the Customer or as a credit to the Customer's account.
37. Claims will only be paid by the Carrier in respect of any consignment after the Customer has paid all outstanding Freight Charges in respect of that consignment.

Risk Warranty Limitations

38. The Risk Warranty is subject to the following limitations:
- (a) Claims are limited to loss of or damage to the Goods only. For the avoidance of doubt, the Risk Warranty does not cover any consequential loss or damage suffered by the Customer as a result of loss or damage to the Goods.
 - (b) The maximum amount that may be claimed from the Carrier under the Risk Warranty is the lesser of:
 - (i) the Risk Warranty Limitation Amount (for the avoidance of doubt, where no Risk Warranty has been selected by the Customer the Risk Warranty Limitation Amount shall be zero); and
 - (ii) the cost price of the Goods, as supported by documentary evidence acceptable to the Carrier (for example receipt, valuation or tax invoice from the seller of the Goods).
 - (c) where the Customer has declared a value on the Consignment Note for the purposes of the Risk Warranty, and such value is less than the full value or cost price of the Goods and the Customer subsequently makes a Claim, the maximum amount that will be paid by the Carrier under the Risk Warranty will be the amount calculated in accordance with the following formula:

$$A = \frac{DV}{AV} \times DV$$

where:

A means the amount to be paid by the Carrier to the Customer under the Risk Warranty;

DV means the declared value of the Goods as advised by the Customer to the Carrier at the time of selecting the level of Risk Warranty cover;

AV means the actual value or cost price of the Goods as determined by documentary evidence acceptable to the Carrier.

- (d) GST, and freight charges relating to the consignment covered by the Risk Warranty shall not be included in the calculation of any amount payable under the Risk Warranty in respect of the Goods and any payment by the Carrier arising out of any Claim made by the Customer will be exclusive of GST.

Risk Warranty Exclusions

39. The Carrier will not be liable for any Claims made by Customers in any of the following circumstances:

- (a) where the Customer has not selected a level of Risk Warranty to apply to the consignment or has not paid the Risk Warranty charge;
- (b) where the Customer fails to submit the Claim to the Carrier within the relevant time limits set out in clause 0;
- (c) where the Carrier is in possession of an unendorsed proof of delivery form for the consignment;
- (d) where the Goods consigned are Excluded Goods;
- (e) where the Carrier in its reasonable opinion considers the Packaging of the Goods to be inadequate for road transportation;
- (f) where the Goods are determined by the Carrier to have been defective prior to the Carriage;
- (g) where damage, mechanical failure or other operational defect in the Goods could not, in the reasonable opinion of the Carrier, have been caused by the Carriage;
- (h) where the Carrier fails, delays or is unable to carry out its obligations under this contract due to strikes and/or lockouts (whether of the Carrier's own employees or those of others and whether or not the Carrier could have avoided the same by acceding to the demands of the employees responsible for such action), acts of God, war, terrorism, fire, flood, embargo, litigation, acts of government or any agency instrumentality or any political subdivision thereof or any other cause beyond the control of the Carrier;
- (i) where the Goods have been returned to the Carrier without a bar-coded consignment note and label from the Carrier or otherwise than in accordance with the controlled returns procedure of the Carrier;
- (j) where the Goods returned to the Carrier have not been scanned into the pick-up depot of the Carrier;
- (k) where the Carrier has not been responsible for the total Carriage of the Goods to the Delivery Address;
- (l) where the Goods have not been packed in the original manufacturer's packaging or the equivalent;
- (m) where the Delivery Address is a post office box, a roadside drop or postal mail box;
- (n) where the Goods have been consigned by way of a prepaid satchel provided by the Carrier, unless prior written arrangements have been made between the Carrier and the Customer.

Paperless Dispatch

- 40. The following Terms and Conditions will also apply where the Carrier has agreed to allow the Customer to dispatch freight to the Carrier without the need to generate Consignment Notes at the point of dispatch ("Paperless Dispatch").
- 41. All Paperless Dispatch consignments must be dispatched utilising the "Star Track Dispatch System" or a modified system approved by the Carrier.

42. All Paperless Dispatch consignments must be verified by an electronic transfer of data to the Carrier that matches the items sent on the same day. Failure to do so will render the Carrier's "Money Back Guarantee" for late deliveries void.
43. The Carrier will charge the Customer's account for all Paperless Dispatch consignments, in accordance with the electronic data supplied by the Customer. If, for any reason data is not received by the Carrier, the Carrier reserves the right to charge the Customer from sub-dockets raised to effect delivery.
44. The Customer understands and agrees that, the Carrier reserves the right to measure the cubic size and weight of the Goods at any time (including but not limited to where there is a discrepancy between the data provided by the Customer, and the physical properties of the Goods dispatched) and to use the measurements so determined for the purpose of calculating the Freight Charges.
45. Where consignments sent by Paperless Dispatch contain Dangerous Goods, the customer must comply with all requirements under the IATA Regulations and provide to the carrier a Dangerous Goods Declaration.
46. The Customer must, for each freight pick-up, prepare an Electronic Dispatch Summary Report in the form provided by the Carrier ("Dispatch Summary Report").
47. The Customer must, for each freight pick-up, provide to the Carrier's pick-up driver at the time of pick-up:
 - (a) evidence of a successful download of data from the Customer to the Carrier in respect of the Goods dispatched on that day using Paperless Dispatch (unless other arrangements have been made between the Customer and the Carrier, a completed Dispatch Summary Report will be sufficient evidence);
 - (b) consignment notes for those consignments which still require paperwork;
 - (c) Dangerous Goods Declaration (where applicable).
48. The Carrier will produce hard copy delivery dockets from the electronic data provided by the Customer each day.
49. The Customer must use its best endeavours to control and monitor the transfer of accurate data to the Carrier on a daily basis and understands that the failure to do so may result in late delivery of the Goods.
50. The Customer must provide the Carrier with after hours contact numbers and authorise the Carrier to access those numbers in the event that data is not received by the Carrier and corrective action is required to be taken.

Amendments to Terms and Conditions of Contract

51. The Carrier reserves the right to amend these Terms and Conditions of contract from time to time, without prior notice to the Customer.