

CONDITIONS OF CARRIAGE AND STORAGE

1. Leocata's Transport (hereinafter referred to as the "Contractor" which expression shall be deemed to include their servants, agents, employees and sub-contractors) offers to supply the carriage of goods and/or the storage of goods detailed on the reverse side of these conditions or as otherwise agreed or requested ("Services") for the charges determined hereunder and subject to the conditions hereunder ("Conditions") and the person, company or firm so named on the reverse side of these conditions (hereinafter referred to as the "Customer" which expression shall be deemed to include its servants, agents, employees and sub-contractors) accepts the provision of the Services by the Contractor subject to the Conditions ("Contract").
2. The Contractor is NOT A COMMON CARRIER and will accept no liability as such.
3. THE CONTRACTOR RESERVES THE RIGHT AT ITS DISCRETION TO REFUSE THE CARRIAGE, TRANSPORTATION OR STORAGE OF ARTICLES FOR ANY PERSON WHATSOEVER OR ANY CLASS OF ARTICLES.
4. The Customer authorises the Contractor to sub-contract with any other person, firm or company ("Sub-Contractor") to perform the Services or part thereof ("Sub-Contract") on the same conditions (including all conditions as to exclusion of liability) of the Sub-Contractor as apply to the Contractor under these Conditions.
5. The Contractor shall indemnify the Customer against the payment of charges for the performance of the Services by the Sub-Contractor under the Sub-Contract and shall pay such charges to the Sub-Contractor on behalf of the Customer whether they exceed the amount charged for the Services under this Contract or not. The Contractor shall be entitled to retain for its own benefit, without accounting to the Customer, any difference between charges payable by the Sub-Contractor and charges payable under the Contract by the Customer.
6. The Customer's goods are deemed to be carried when such goods are loaded onto the Contractor's vehicles and despatched from the place of loading.
7. The Contractor shall be deemed to have delivered the goods in accordance with this Contract if the goods are delivered at:
 - a. the delivery address so detailed on the reverse side of these Conditions and the Contractor obtains from any person at that address a receipt or signed delivery docket for the goods; or
 - b. any other place at the express instructions of the Customer.
8. The Customer will be and remain responsible to the Contractor for all charges incurred by the Customer in relation to the provision of the Services, including charges made by the Contractor in respect of any delay in the loading or unloading of the Customer's goods other than delays arising solely from the default of the Contractor. Such delay period shall be deemed to have commenced upon the Contractor reporting for loading or unloading. Labour to load or unload the vehicle shall be the responsibility of, and at the expense of, the Customer or the Customer's consignee.
9. Other than as stated on the reverse side of these Conditions, any list of charges or indications as to amount to be charged given by the Contractor to the Customer in respect of the provision of the Services are estimates only and the charge to the Customer shall be determined by the Contractor prior to the performance of the Services.
10. Unless already included in the charge of any Services, the Contractor may increase its charge where:
 - a. the Contractor's cost of providing the Services increases due to increases in the cost of labour, materials and other overheads and delivery costs;
 - b. additional costs are incurred by the Contractor as a result of a variation to the Services specified by the Customer;
 - c. the Contractor is required to pay any amount on account of any duties (including excise duty, customs duty or stamp duty) or other taxes or charges which may be levied by any government or authority (whether Commonwealth, State or local), including Goods and Services Tax ("GST") payable on Taxable Supplies (as defined in A New Tax System (Goods and Services Tax) Act 1999 and any related Act imposing such tax or legislation that is enacted to validate, recapture or recoup GST); and
 - d. the Contractor agrees to provide Services at the Contractor's special rates in respect of goods which are potentially hazardous and/or fragile as disclosed by the Customer under clause 19(b) and which require special treatment or conditions of carriage and/or storage.
11. The Contractor reserves the right to require the Customer to pay all or part of the charge for the Services upon placing an order.
12. Unless otherwise agreed in writing between the Contractor and the Customer, the Contractor will invoice the Customer for the charge for the Services and the Customer must pay the amount due by the date of the invoice.
13. In the event that the Customer fails to make any payment when due ("Default"), then, without prejudice to any other rights which the Contractor may have in accordance with these Conditions or otherwise:
 - a. interest shall accrue on the amount of the overdue payment at a rate equal to 2% per annum over and above the overdue rate charged to the Contractor by its principal bank from time to time, calculated from the date payment was due until payment in full is received by the Contractor;
 - b. any and all payments to the Contractor which are not yet due shall immediately become due and payable by the Customer; and
 - c. the Customer shall be liable to the Contractor for any costs or damage incurred by the Contractor as a result of the Customer's default including any legal and other costs associated with recovering any moneys owed by the Customer to the Contractor.
14. The Contractor shall have a general lien on goods deposited with the Contractor for storage and/or provided to the Contractor for carriage. The lien shall secure all amounts owing (whether in respect of the goods or otherwise) including:
 - a. all charges for storage and preservation of goods;
 - b. all charges for pick up, carriage and delivery of goods;
 - c. all claims for insurance, transportation, labour, weighing, packing and other expenses in relation to goods;
 - d. all reasonable expenses incurred by the Contractor in default to the Contractor exercising its rights under its lien ("Lien Charges").
15. Without prejudice to any of the Contractor's other rights, if the Customer is in Default the Contractor may without further notice to the Customer detain, open any package and sell all or any of the goods of the Customer as the Contractor thinks fit to apply the proceeds to discharge the lien and the Lien Charges.
16. Unless otherwise expressly agreed in writing, and except as expressly provided in clause 22, no liability or responsibility in tort or contract or otherwise will be accepted by the Contractor for any loss and/or damage suffered by any person arising out of or in relation to the carriage and/or storage of any explosive, hazardous, poisonous, inflammable, corrosive or otherwise dangerous or damaging goods, articles, liquids or substances or foodstuffs that are likely to attract vermin or other pests ("Dangerous Goods"). The Customer will indemnify and keep indemnified the Contractor against all losses, liabilities, claims, demands, actions, suits, proceedings, costs, damages and expenses suffered or incurred by the Contractor arising out of or in relation to the carriage and/or storage of Dangerous Goods however caused (whether by negligence of the Contractor or any person or otherwise).
17. The person delivering any goods to the Contractor for carriage and/or storage represents and warrants that he or she is authorised to sign this Contract for and on behalf of the Customer.
18. The Customer expressly warrants that the Customer is either the owner or the authorised agent of the owner of any goods or property the subject matter of this Contract and by signing this Contract the Customer accepts these Conditions for all other persons whose behalf the Customer is acting.
19. Dangerous Goods will not be accepted for carriage and/or storage by the Contractor unless the Customer has made full disclosure to the Contractor of such goods and the Contractor has in writing agreed to carry and/or store such goods. The goods are accepted by the Contractor for carriage and/or storage subject to the following conditions:
 - a. The goods are compliant in all respects with the requirement of any applicable law relating to the transportation, storage, condition and packaging of such goods and that any expenses incurred by the Contractor in complying with the provisions of any such law or with any order or requirement of any government or authority in relation to such law (including any harbour, dock, railway, shipping, customs, warehouse or other authority) shall be at the cost of the Customer.
 - b. The Customer fully discloses to the Contractor in writing in the space provided hereon:
 - i. the name, nature, description and the value of all goods of carriage and/or storage;
 - ii. details of goods of a noxious, dangerous, hazardous, poisonous, corrosive or inflammable nature;
 - iii. goods which are capable of causing damage or injury to any other property, persons or animals or to any store, warehouse, vessel, wagon, van, aircraft or other store or conveyance of any kind whatsoever in which they may be loaded, carried, packed or stored; and
 - iv. goods which are liquid or partly liquid.
20. If Dangerous Goods not previously disclosed by the Customer are discovered by the Contractor in carriage or storage, the Contractor may, at its discretion, remove, seal, destroy or otherwise dispose of the same, and shall not be responsible or accountable for the value thereof.
21. The Contractor shall not be bound by any agreement purporting to vary these Conditions unless such agreement shall be in writing and signed on behalf of the Contractor by an officer of the Contractor.
22. Where any applicable legislation implies any term, condition or warranty into the relationship between the Contractor and the Customer or into these Conditions or otherwise gives the Customer a particular remedy against the Contractor, and that legislation or any legislation avoids or prohibits provisions excluding or modifying the application of, or exercise of, or liability under, such term, condition, warranty or remedy, then that term, condition, warranty or remedy shall be deemed to be included in these Conditions, or, as the case may be, apply to that relationship. However, the Contractor's liability for any breach of such term, condition or warranty or under such remedy shall be limited, at the Contractor's option, in any one or more of the ways permitted by that legislation including, where so permitted if the breach relates to any Services, to:
 - a. the supplying of those Services again; or
 - b. the payment of the cost of having those Services supplied again.
23. Except as expressly provided in clause 22, all terms, conditions, warranties, undertakings, inducements and representations, whether express or implied, statutory or otherwise, relating in any way to any Services performed by the Contractor are excluded. Without limiting the generality of the preceding clause:
 - a. the Contractor will not be under any other liability in respect of any loss or damage (including consequential loss or damage) however caused (whether by negligence of the Contractor or any person or otherwise) which may be suffered or incurred or which may arise directly or indirectly in respect of the Services supplied by the Contractor and the Customer will indemnify the Contractor and keep indemnified the Contractor against all liabilities, claims, demands, action, suits, proceedings, costs, damages and expenses arising out of or in relation to the Services supplied by the Contractor however caused (whether by negligence of the Contractor or any person or otherwise);
 - b. the Contractor shall not be under any liability for any loss of, damage to or:
 - i. misdelivery, delay in delivery or non-delivery; or
 - ii. concealed damage, deterioration, contamination or evaporation, of goods held in its care, custody or control, or any consequential loss arising therefrom however caused (whether by negligence of the Contractor or any person or otherwise).
24. Should the consignee of the goods described on the reverse of these Conditions not be in attendance during normal trading hours or at the time specified or if the Contractor arrives to effect delivery at the Customer's consignee's premises and is delayed in effecting prompt delivery at those premises for any reason whatsoever which is outside the Contractor's control then the Contractor reserves the right to make an additional charge to every call made or for the amount of time of any delay until delivery is effected.
25. In respect of any clause herein which excludes or in any way limits the liability of the Contractor in respect of the carriage and/or storage of goods, the Contractor is its own capacity and as trustee for each of its servants and Sub-Contractors and the servants of such Sub-Contractors shall hold the benefit of such exclusions and limitations of liability for itself, its employees, its Sub-Contractors and the employees of its Sub-Contractors.
26. All the rights, immunities and limitations of liability in these Conditions shall continue to have their full force and effect notwithstanding any breach of these Conditions by the Contractor.
27. For the purposes of assessing the credit worthiness of the Customer from the time to time and the collection of payments, the Customer hereby irrevocably authorises the Contractor to make such enquiries as it deems necessary, including, but not limited to making enquiries for obtaining reports (as may be allowed by law) from persons nominated by the Customer as trade referees, the Customer's creditors, bankers and financial credit providers, mortgage and trade insurers and credit reporting agencies (hereinafter called "the Information Sources") and the Customer agrees and consents to the Information Sources providing to the Contractor such information, and to the Contractor disclosing the contents of any credit report or personal information to a credit reporting agency for the purpose of the credit reporting agency creating or adding to any credit information file in the relation to the Customer.
28. The Customer expressly agrees that it will not:
 - a. hire any of the Contractor's drivers; or
 - b. let, solicit, interfere with or endeavour to entice such drivers from the Contractor either whilst the drivers are engaged by the Contractor or within 6 months of the termination of their engagement by the Contractor.The Customer further agrees with the Contractor that in the event that this clause is breached by the Customer that the sum of \$10,000 represents fair and reasonable compensation to the Contractor for the Contractor's loss and damage sustained as a result of the breach.
29. Pallets on which goods or Customer's goods are delivered, carried or stored are not the responsibility of the Contractor and the Customer shall indemnify and keep indemnified the Contractor for any loss or damage however caused (whether by negligence of the Contractor or any person or otherwise) arising out of or in relation to lost or damaged pallets.
30. The Customer at its own cost and expense will effect and maintain such policies of insurance as are necessary to ensure full cover for any damage to or loss of all the Customer's goods carried and/or stored by the Contractor.
31. These Conditions shall be governed by and construed in accordance with the laws in force in Victoria.