



Terms and Conditions

Title: Terms and Conditions	
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- 1) In these conditions "the Carrier" shall mean Allpoint Nominees Pty Ltd (an 083731257) trading as K Trans (herein called the Carrier) carrying on business in its own name or under any Business name and unless the context otherwise requires its officers, servants, agents and subcontractors. THE CARRIER IS NOT A COMMON CARRIER and will accept no liability as such whether arising through the act, neglect or default of the company, its servants, principals or agents, or otherwise howsoever. The Carrier reserves the right to refuse the carriage, storage or transport of goods for any person, corporation or company and the carriage, storage or transport of goods at its discretion.
 - 2) The Consignor agrees that whenever it uses the Carrier to provide freight services (which includes, but is not limited to, the carriage, forwarding and storage of goods) that the provision of those services will be governed by these conditions.
 - 3) Under no circumstances whatsoever shall the company be liable in respect of loss or damage to goods or in respect of any delay in delivery thereof, whether arising through the act neglect or default of the company, its servants or agents or principals.
 - 4) The goods are accepted by the Carrier subject to the following conditions:
 - a) That they comply with the requirement of any applicable law relating to the nature, condition and packaging of the goods and the expenses and charges of the Carrier, in complying with the provisions of any such law or with any order or requirement thereunder or with the requirement of any harbor, dock, railway, shipping, customs, warehouse or other authority or Company shall be paid by the Consignor.
 - b) If any of the goods are subject to the Control of Customs all customs duty, excise duty and other cost which the Carrier becomes liable to pay and shall pay in respect of such goods pursuant to any law relating to customs or excise shall be paid by the Consignor.
 - c) That the goods are fully described in writing in the space provided hereon the name and the nature and the value of all goods subject to special rates of carriage of a noxious, dangerous, hazardous or flammable nature or capable of causing damage or injury to any other goods or to any persons or animals with which, or to any store, vessel, vehicle, wagon, van, aircraft or other conveyance of any kind whatsoever in which they may be loaded, carried, packed or stored, or which are liquid or partly liquid and that additional freight charges shall be paid on such goods if deemed necessary by the Carrier.
 - d) The Carrier 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 Carrier by a Senior Officer of the Carrier.
 - e) Terms of payment: Fees are calculated per the agreed quote between the Carrier and the Consignor. All charges are quoted GST exclusive. The Consignor agrees to pay The Carrier no later than 30 days from the date of issue of the tax invoice/adjustment note, unless agreed in writing by a Senior Officer. Payment of the amount specified in the tax invoice will be in Australian Dollars (AUD). Tax invoices/adjustment notes are sent via email to the Consignor at the email address specified by the Consignor for that purpose in the credit account application set up. This is sufficient notice of the amount due under the Account. Where the Consignor has defaulted in its payment obligations under this Contract, any amounts owing by the Consignor to The Carrier in connection with this Contract may be sent to debt collection agencies with fees payable by the Consignor as stipulated in clause 19(iii). Any queries relating to invoices must be raised in writing by the Consignor within 14 days from the date of the invoice. If no query is raised by the Consignor within this period it will be deemed as having been accepted in full.
 - 5)
 - a) SUBJECT TO CLAUSE 37) HEREOF THE CARRIER SHALL NOT BE UNDER ANY LIABILITY whether in tort or in contract for any loss or damage to or mis delivery, delay in delivery, concealed damage, deterioration, evaporation, non-delivery of goods held in its care, custody or control, or any consequential loss arising here from howsoever caused including but not limited to any negligence or breach of contract by the Carrier.
 - b) In the event of this contract of carriage including any handling, installation, removal, assembly or erection of any kind whatsoever, it is undertaken on the strict basis that the Carrier accepts no liability for any loss, damage or injury of any kind whatsoever however arising (including but not limited to any negligence or breach of contract by the Carrier) caused or incurred or occurring during any part of the movement. The disclaimer extends to include not only loss of or damage to itemised equipment itself, but loss, damage or injury to any person, property or thing damaged during the movement and to include any loss consequent or otherwise arising from any loss, damage or injury aforesaid including but not limited to any negligence or breach of contract by the Carrier.
 - c) Unless otherwise nominated, the Carrier allows one (1) hour per trailer for loading and one (1) hour per trailer for unloading. Additional demurrage charges would apply at \$150 per hour if applicable.
 - d) If the Consignor goes into liquidation or administration or becomes bankrupt, the fees and charges become immediately payable.
 - e) The Carrier reserves the right to charge interest on overdue invoices at the rate of 10% per annum. Interest will accrue until the invoice is paid in full.
 - f) If the Consignor wishes to dispute an invoice the Consignor must document in full, and notify the Carrier in writing the reason why an adjustment to the invoice is required. The Carrier has 14 days to review and respond to the Consignor after which an agreement will be entered into.
 - g) The terms and conditions between the Carrier and the Consignor can only be altered in writing, otherwise these terms and conditions are deemed to be the entire agreement between the parties.
 - 6) The provisions of these Conditions of carriage shall apply to the container or containers or other packaging containing the goods and to any pallet or pallets delivered with the goods to the Carrier. The Consignor shall be responsible for the conformity of such containers packaging and pallets with any requirements of the Consignor and for any expense incurred by the Carrier arising from any failure to conform.
 - 7) Freight shall be considered earned whether the goods are delivered to the Consignor or not, and whether damaged or otherwise. Under no circumstances will any payment for freight be refunded.
 - 8) Every special instruction to the effect that charges shall be paid by the Consignor shall be deemed to include a stipulation that if the Consignor does not pay the said charges within fourteen (14) days of the set date for payment or, if no date is set for payment within fourteen (14) days of delivery or tendered delivery of the goods then the Consignor shall pay the said charges.
 - 9) The Carrier may charge freight by weight, measurement or value, and may at any time re-weight or re-value or re-measure or require the goods to be re-weighted, re-valued or re-measured and charge proportional additional freight accordingly.
 - 10) These conditions shall be governed and construed in accordance with the laws of Western Australia and any proceedings against the Carrier shall be brought in that State and not elsewhere within twelve (12) months from date of contract.
 - 11) A clear delivery address must be received by The Carrier. The Consignor must at all times have a representative willing and able to sign delivery receipt, for the proposed goods. Should the Consignor of the goods described on the consignment note not be in attendance at the address given during normal trading hours or at the time specified when
- 12) delivery is attempted the goods may be taken to storage and goods must be collected from The Carrier or their nominated address. Additional charges may apply. Should the Consignor require for the goods to be left without a representative, an authority to leave request must be received by The Carrier prior to the goods delivery.
 - 13) The Carrier may carry all goods or have them carried or on forwarded by any method which the Carrier in its absolute discretion deems fit and notwithstanding any instructions verbal or otherwise that the goods are to be carried by a certain mode. The Carrier reserves the right to charge for demurrage at the rate charged to the Carrier directly or indirectly by any Railway or Shipping Authority or by any other person, firm or company.
 - 14) The Carrier may arrange for the carriage of the goods by any independent contractor or subcontractor of the Carrier. In respect of any clause herein which excludes or in any way limits the liability of the Carrier in respect of the carriage of goods, the Carrier in addition to acting for himself is acting as agent of and trustee for each of his servants and also any other person or company with whom the Carrier may arrange for the carriage for the goods and the servants of such person or company so that his servant and such person or company and his or its servants are parties to this contract so far as the said clause or clauses containing exclusions or limitations of liability are concerned and if insofar as may be necessary to give effect to this clause the Carrier shall hold the benefit of these conditions for his servants and for any such person or company and his or its servants.
 - 15) The Consignor hereby indemnifies the Carrier against any liability, loss, damage, costs or expenses incurred or suffered by the Carrier arising directly or indirectly out of or in connection with:
 - a) A breach of these conditions by the Consignor;
 - b) Any act by or omission of the Consignor;
 - c) Any act by or omission of any officer, employee or agent of the Consignor; and
 - d) Any act by or omission of any third party which the Carrier deals with at the direction of the Consignor.
 - 16) All the rights, immunities and limitation of liability in the above conditions of carriage shall continue to have their full force and effect in all circumstances and notwithstanding any breach of contract or of any conditions hereof by the Carrier.
 - 17)
 - a) PACKING. In regard to goods which the Carrier has been requested by the Consignor to pack and which are described on the face hereof the Carrier shall not be liable for any damage or loss whatsoever whether in the course of packing or in transit or otherwise and howsoever occasioned to the said goods or any of them. The Consignor is responsible for packing their goods to be compliantly safe in transport. The Carrier reserves the right to inspect goods / packages. If repackaging is required, additional charges may apply.
 - b) When the Carrier is required to load or unload any liquids, partly liquids, substances or any commodities or products into bulk tanks or vessels, drums or containers, he shall not be liable for any loss, damage or contamination of the products during any such loading or unloading operation or packing whilst such product is in transit by any means of transportation or whilst such product held in store or bulk storage tanks for any reason whatsoever.
 - 18) The goods are accepted subject to a general lien for all charges now due or which may hereafter become due to the Carrier by the Consignor on any account whether in respect of the goods comprised herein or in respect of any other goods for which the Carrier provides transport or any other service. If the lien is not satisfied and or the goods are not collected, the Carrier may at its option and without any notice either:
 - a) Remove such goods or part thereof and store them in such a place and manner as the Carrier shall think proper and at the risk and expense of the Consignor or as the case may be; or
 - b) Open any package and sell such products or part thereof upon such terms as it shall think fit and apply the proceeds in or towards discharge of the lie and costs of sale without being liable to any person of any loss or damage thereby caused.
 - c) Any legal costs and any other expenses whatsoever incurred by the Carrier in respect of applications, agreements or other documentation required by the Carrier or other costs reasonably incurred by the Carrier in respect of opening and maintaining any account in the name of the Consignor, together with any debt collection costs, dishonoured cheque(s) fees, legal costs, whether charged on scale or any other basis incurred, shall be paid by the Consignor on demand.
 - 19) The Consignor hereby charges all goods that it consigns to the Carrier in favour of the Carrier with all of the Consignor's obligations under these conditions in order to secure the performance of the Consignor's obligations under these conditions.
 - 20) If the Consignor fails to pay to the Carrier any amounts due to the Carrier in accordance with these condition in respect of any service rendered by the Carrier on reasonable demand being made, the Carrier may without prejudice to any of the Carrier's other rights and subject to the provisions of the Personal Property Securities Act 2009 (Cth) ("the PPSA") retain and sell any such goods and out of the proceeds of such sale, retain an amount sufficient to pay the charges owing to the Carrier and all charges and expenses incurred in the course of the detention and sale of the goods and shall render the surplus monies (if any) and any portion of the goods as remain unsold (if any) to the Consignor or as the Consignor may, in writing to the Carrier, direct. Any such detention and/or sale shall not prejudice or affect the liability of the Consignor to pay the charges due and payable to the Carrier and the cost of the said detention and sale.
 - 21) The Customer guarantees to comply with and abide by the Retention of Title Terms and Conditions of Trading contained in this document as set by the W.A. Supreme Court 1990.
 - 22) Initial Credit Terms are C.O.D.: Standard Thirty Day Credit terms will be offered on acceptance of a completed and signed Credit Application Form which is available on request.
 - 23) Until payment of the invoice price the title to any Goods or Services supplied shall NOT pass to the Customer, but the customer shall remain responsible for the care of said Goods and/or Services until payment is made in full, and upon non-payment within the trade Terms, the Supplier shall have the right, and is hereby authorised by the Customer, to enter into and upon any premises or vehicle, where the Goods and/or Services may be stored or in use from time to time, and even if they are considered fixtures, under control of a third party, with or without others, with such force as is necessary, and to **re-take possession of and remove the same**, and the Customer hereby indemnifies the Supplier against any claim, action or damages arising out of any such action, and against the cost of the same.
 - 24) If the Customer defaults in payment of any monthly account, then ALL monies owing to the Supplier shall be immediately due and payable and, "A" the debt will be subject to collection charges which will Ipso Facto be added to the account, and Interest at the rate under The Magistrates Court (Civil Proceedings) Act 2004 and Civil Judgements Enforcements Act 2004 will be claimed up to and including the date on which the debt is paid in full and; "B" All expenses incurred by the Supplier in recovering the monies due, including Solicitors charges, All Debt Collectors Fees up to and including Forty percent of the amount owing, Court Costs, Process serving Costs, Disbursements, any costs in relation to Security documents, and any Fees on Dishonour, shall be a debt due and owing to the supplier by the customer, payment of which is hereby and herein **guaranteed** under any and all circumstances.
- 25) The Supplier will make every reasonable effort to ensure the best quality available at the time, correct operation of the Goods and/or Services provided, and any or all device or devices supplied, fitted or repaired, but is hereby indemnified from any responsibility for any damage, caused in any way, by any other device or devices which may be operating in conjunction, which may not be in a sound operating condition, that may have been provided by the Client for use in conjunction.
 - 26) In the case of a Trust, the Customer guarantees that the assets of the Trust will be available to pay any amounts of money due and owing by the Customer to settle the Suppliers' accounts.
 - 27) Regardless of any application to the contrary, the operations of the Supplier are governed by the Laws of Western Australia, and any action instituted by the Supplier against the Customer, and/or any action instituted by the Customer against the Supplier, will take place under the Laws of Western Australia, and in the Courts, (regardless of the amount) which are located in the City of Perth.
 - 28) The Consignor acknowledges that the charge set out in clause 20 and the rights set out in clause 21 amount to a security interest over all goods consigned to the Carrier by the Consignor for the purposes of the PPSA. The Consignor agrees that, in the event that the Carrier elects to register its security interest over any such goods, the Consignor shall be liable for all fees and charges associated with such registration.
 - 29) The Consignor agrees to comply with the provisions of the PPSA in relation to the perfection of the Carrier's security interests over all goods consigned to the Carrier by the Consignor and further agrees, at its own cost and expense, to do anything that the Carrier requests the Consignor to do from time to time (including but not limited to obtaining consents, signing and producing documents, arranging for documents to be appropriately completed and signed, supplying information and operating within timeframes stipulated by the PPSA) to ensure that the Carrier:
 - a) Holds a security interest that is perfected, enforceable and otherwise effective over all goods consigned to the Carrier by the Consignor;
 - b) Is able to apply for registration and/or give all required notifications in connection with all the security interests so that all security interests have the highest possible priority including but not limited to being registered as purchase money security interests (where applicable); and
 - c) Is able to exercise its rights in connection with all security interests.
 - 30) The Consignor hereby waives its entitlement to receive any notices under the PPSA (including a notice of verification statement) unless the PPSA prevents the Consignor from doing so.
 - 31) If Chapter 4 of the PPSA applies to the enforcement of a security interest of the Carrier them to the extent permitted by the PPSA, the Consignor agrees that the following provisions of the PPSA will not apply to the enforcement of the security interest: sections 95, 96, 117, 118, 120, 121(4), 123, 125, 126, 128, 29, 130, 132(2), 135, 142, 143 and Division 6 of Part 4.1.
 - 32) To the extent permitted by the PPSA these terms and conditions exclude any provisions of the PPSA which may be excluded in the Carrier's discretion and which would otherwise confer rights on the Consignor and the Consignor agrees that where the Carrier has rights in addition to those under Part 4 of the PPSA, those rights shall continue to apply.
 - 33) Subject to the provisions relating to insurance appearing on the face of the Carrier's consignment note insurance will not be arranged by the Carrier except with the express instructions in writing of the Consignor and then only at his expense and upon lodgement of a declaration as to the value prior to collection. When insurance cover has been arranged by the Carrier transit damage must be notified within 48 hours otherwise claims will not be recognised. In the case of a claim for goods lost in transit all claims shall be notified within 14 days or claims will not be recognised.
 - 34) In respect of contracts made in Queensland these conditions shall be read subject to the Carriage of Goods by Land (Carrier's Liability) Act 1967 of that State but except where repugnant to the provisions of that Act shall continue to apply.
 - 35) The Consignor authorises the Carrier (if the Carrier should think fit so to do) to contract either in the Carrier's name as principal or as agent for the carriage of goods or for leasing or using any container in which the goods may be placed or packed and to give any receipt for the goods or any container whether subject to any terms and conditions or not and any such contract will be made upon the terms and subject to the conditions of any Bill of Lading or other forms or terms of contract for carriage whether by sea, rail, road or air or by any lease agreement or equipment hand-over agreement interchange receipt or any other document as the case may require.
 - 36) Notwithstanding the provision hereof they shall be read subject to any implied terms, conditions or warranties imposed by the Australian consumer law which is contained in schedule 2 of the competition and consumer act 2010 (cth) or any other commonwealth or state legislation insofar as such may be applicable and prevents either expressly or impliedly the exclusion or modification of any such terms condition or warranty.
 - 37) The Consignor should seek its own insurance cover. No insurance will be effected by the Carrier for any freight or linehaul operations. Allpoint Nominees Pty Ltd operate highly secure, modern warehousing and site facilities. These facilities are equipped with alarms, regular patrols, and limited security access to all personnel. Whilst every precaution is taken to ensure the safety of goods under our care, Allpoint Nominees Pty Ltd cannot accept any liability for loss, damage or theft from the warehouse or during any freight services. Insurance of goods in storage will be solely the responsibility of the client / owner of the goods.
 - 38) Consignor must declare all Dangerous Goods prior to freight services or storage at any Allpoint Nominees Pty Ltd warehouses. Allpoint Nominees Pty Ltd reserves the right to refuse any and all Consignors Dangerous Goods for storage. Further to this all Dangerous Goods must be declared in accordance with the relevant legislation.

Signed -----