

Wynovale Pty Ltd T/As Roadwise Transport Group Terms & Conditions

1. Wynovale Pty Ltd (hereinafter referred to as “the Carrier” which expression shall include its servants agents, subcontractors and sub-contractors) is not a Common Carrier and will accept no liability as such. “Goods” means the cargo or item in relation to which any part of any Services have been or are to be performed and any receptacle, container, package, packaging, or item in or which they are contained: “services” means the whole of the operations provided by the carrier in respect of the goods. All goods carried or other services performed by the carrier shall be subject only to these terms and conditions and the carrier reserves the right to refuse the carriage of any class of goods at its discretion.

2. i. The consignor warrants that the person delivering the goods to the carrier for carriage or forwarding is authorized to sign the consignment note for the consignor.
ii. The consignor warrants that in agreeing to the terms and conditions hereof he is, or has the authority of the person or persons owning or having any interest in the goods or any part thereof.
iii. Without prejudice to the generality of the foregoing, the consignor undertakes to indemnify the carrier in respect of any liability whatsoever in respect of the goods to any person (other than the consignor) who claims to have, who has or who may hereafter have any interest in the goods or any part thereof.

3. i. The carrier and any subcontractor shall be entitled to subcontract on any terms the whole or any part of the services.
ii. The consignor undertakes that no claim or allegation shall be made, whether by the consignor or any other person who is or may hereafter be interested in the goods against any person (other than the carrier) by whom (whether as subcontractor, sub-contractor, principal, employer, servant, agent or otherwise) the services or any part thereof are performed or undertaken which imposes or attempts to impose upon such person any liability whatsoever in connection with the goods or services whether or not arising out of negligence on the part of such person and if such claim or allegation should nevertheless be made to indemnify the carrier and the person against whom such claim or allegation is made against the consequences thereof. Without prejudice to the foregoing and for the purpose of this clause the carrier is or shall be deemed to be acting as agent or trustee on behalf of and for the benefit of all such persons and each of them shall to this extent be or be deemed to be parties to this agreement.

4. Every exemption, limitation, condition and liberty herein contained and every right exemption from liability, defense and immunity of whatsoever nature applicable to the carrier or to which the carrier is entitled hereunder shall also be available and shall extend to protect (a) All subcontractors and sub-contractors (b) every servant or agent of the carrier or of a subcontractor or sub-contractor (c) every other person (other than the carrier) by whom the carriage or any part thereof is performed or undertaken and (d) all persons who are or who might be vicariously liable for the acts of omissions or any person falling within (a) (b) or (c) here of and for the purpose of this clause the carrier is or shall be deemed to be acting as agent or trustee on behalf of and for the benefit of all 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.

5. i. Subject only to clause 21 hereof the goods are at the risk of the consignor and not the carrier and the carrier shall not be responsible in tort, contract, bailment or otherwise for any loss, damage, costs or expenses incurred by the consignor or any other person arising out of or in connection with the provision of the services and for any loss or damage to or deterioration of goods or misdelivery or failure to deliver or deliver or delay in delivery or goods including chilled, frozen, refrigerated or perishable goods either in transit or in storage for any reason whatsoever including without limiting the foregoing the negligence, breach of contract, breach of bailment or willful act or default of the carrier or others and this clause shall apply to all such loss of or damage to or deterioration of goods or misdelivery or failure to deliver or delay in delivery of goods as aforesaid and to any loss, damage, costs or expenses incurred by the consignor or any other person arising out of or in connection with the provision of the services whether or not the same occurs in the course of performance of the services by or on behalf of the carrier of the contract or in events which are in the contemplation of the carrier and/or the consignor or in events which are foreseeable by them or either of

them in events which could constitute a fundamental breach of the contract or breach of a fundamental term thereof.

6. If the consignor expressly or impliedly instructs the carrier to use or it is expressly or impliedly agreed that the carrier shall use a particular method of handling or storing the goods or a particular method of carriage whether by road, rail, sea or air the carrier shall give priority to that method but in any event the method or methods of handling, storing and/or carriage adopted by the carrier shall remain at the sole discretion of the carrier and the consignor hereby authorizes the carrier to adopt any method or methods other than the method instructed or agreed.

7. The consignor hereby authorizes any deviation from the usual route or manner of carriage of goods, which may in the absolute discretion of the carrier be deemed desirable or necessary in the circumstances.

8. i. The carrier is authorized to deliver the goods at the address nominated to the carrier by the consignor for that purpose and without prejudice to the foregoing it is expressly agreed that the carrier shall be conclusively presumed to have delivered the goods in accordance with this contract if at that address he obtains from any person a receipt or signed delivery docket for the goods.

ii. If the nominated place of delivery should be unattended or if delivery cannot otherwise be effected by the carrier the carrier may at its option deposit the goods at that place (which shall be conclusively presumed to be due delivery hereunder) or store the goods and if the goods are stored by the carrier the consignor shall pay or indemnify the carrier for all costs and expenses incurred in or about 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 consignor for the place of storage at the consignor's expense.

9. The consignor shall be and remain responsible to the carrier for all its proper charges incurred for any reason. A charge may be made by the carrier in respect of any delay in excess of thirty minutes in loading or unloading occurring other than from the default of the carrier. Such permissible delay period shall commence upon the carrier reporting for loading or unloading. Labour to load or unload goods shall be the responsibility and expense of the consignor or consignee.

10. The carrier's charges shall be deemed fully earned as soon as the goods are loaded and dispatched from the premises nominated by the consignor and shall be payable and non-refundable in any event.

11. The carrier shall have a lien on the goods and any documents relating thereto and any other goods of the consignor in the possession or control of the carrier or any documents relating thereto for all sums payable by the consignor to the carrier and for that purpose shall have the right to sell any such goods by public auction or private treaty without notice to the consignor.

12. i. The consignor shall not tender for carrier any volatile spirits or explosive goods or goods which are or may become dangerous, inflammable or offensive (including radio active materials) or which thereby and if in the opinion of the carrier the goods are or are liable to become of a dangerous inflammable, explosive, volatile, offensive or damaging nature the same may at any time be destroyed, disposed of, abandoned or rendered harmless by the carrier without compensation to the consignor and without prejudice to the carrier's right to any charges hereunder.

ii. The consignor warrants that it has complied with all laws and regulations (including the Australian Dangerous Goods Code) relating to the nature, packaging, labeling or carriage of goods and that the goods are packed in a manner adequate to withstand the ordinary risks of carriage having regard to their nature and hereby indemnifies the carrier for any liability whatsoever as a result of or arising out of the consignor's failure to comply with each of these warranties.

13. It is agreed that the consignor shall be responsible for the conformity of any containers, packaging or pallets with any requirements of the consignee and for any expense incurred by the carrier arising from any failure to so conform.

14. It is agreed that no servant or agent of the carrier nor any other person has any power to waive or vary any of the terms hereof unless such waiver or variation is in writing signed by an executive officer of the carrier.
15. If the carrier is liable for damage to or loss of the goods or any part thereof no claim in respect of such loss or damage may be made unless notice of the claim is lodged in writing at an office of the carrier within seven (7) days after delivery was effected or would in the ordinary course of business have been effected.
16. Notwithstanding any other provision hereof other than clause 21 hereof the carrier shall in any event be discharged from all liability whatsoever in respect of the goods and services unless suit is brought within six (6) months from provision of the services, delivery of the goods or from the date on which in the ordinary course of business delivery would have been effected.
17. All goods received by the carrier for carriage forwarding or storage are accepted subject to the condition that the carrier shall accept no responsibility for the collection of cash on delivery or any other payments on behalf of the consignor or any other person. When goods are tendered by any person with instructions for the carrier to collect any such payments the carrier shall not be bound by such instructions notwithstanding that the carrier may accept the goods as tendered and perform other services of carriage forwarding or storage in relation to those goods.
18. Every special instruction to the effect that charges shall be paid by the consignee shall be deemed to include a stipulation that if the consignee does not pay the said charges within 7 days of the date set for payment or if no date is set for payment within 7 days of delivery of the goods then the consignor shall pay the said charges.
19. All rights, immunities and limitations of liability in the above terms shall continue to have their full force and effect in all circumstances and notwithstanding any breach of the contract or any of these terms and conditions hereof by the carrier or any other person entitled to the benefit of such provisions.
20. It is hereby agreed that if any provision or part of any provision of this contract is or any other provision hereof.
21. Notwithstanding anything herein contained the carrier shall continue to be subject to any implied warranty provided by the Trade Practices Act 1974 (as amended) if and to the extent that the said Act is applicable to this contract and prevents the exclusion, restriction or modification of any such warranty.
22. The carrier does not hold an Australian financial services license and, in accordance with the Corporations Act 2001 (Cth.), shall not arrange or provide insurance for the consignor. The consignor must obtain its own insurance in respect of the goods and/or services.
23. This agreement shall be governed by and construed in accordance with the laws of the State of New South Wales and the parties submit to the non-exclusive jurisdiction of the courts of that State.