

CONDITIONS OF CONTRACT

1. Carrier definition - L. Arthur Pty Ltd of 640 Footscray Road, West Melbourne (“the carrier”) means and includes its employees, agents and sub-contractors. The carrier is not a common carrier and will accept no liability as such. The carrier reserves the right to accept or refuse to carry, store, or perform any other service at its discretion.

2. Carrier may arrange third party services - The carrier may arrange the carriage, storage, erection, dismantling, packing, unpacking, moving or the performance of any other service with any other person and such person shall be entitled to the benefit of these conditions to the same extent as the carrier.

3. Dangerous goods

(a) No person shall tender for carriage or storage any explosive, inflammable or otherwise dangerous or damaging goods without presenting a full description of the goods in writing to the carrier. The carrier shall not be liable for all damage of any nature whatsoever caused by such goods.

(b) **The cosignor warrants that: -**

(i) It has complied with all laws and regulations to the nature of packaging, labeling and cartage of the goods.

(ii) The goods are packaged to withstand ordinary risk of carriage and hereby indemnifies the carrier for any liability whatsoever as a result of or arising out of the cosignor's failure to comply with each of these warranties.

4. Exclusion of liability- The carrier shall not be liable for any damage or for any subsequent loss of any nature which may occur at any time after any plant, machinery, chattels or goods have been entrusted to the carrier whether due or alleged to be due to misconduct or negligence of the carrier or not. Damage includes either partial or total damage to any plant, machinery, chattels or goods, or damage arising from any non-delivery, misdelivery, late delivery or early delivery.

5. Method of carrying goods- The carrier is authorised to carry by any method and/or by any route and to retain at any place or places which the carrier in its absolute discretion deems fit, any plant, machinery, chattels or goods entrusted to it.

6. Freight - shall be considered earned whether plant, machinery, chattels or goods are delivered to the consignee or not and whether damaged or otherwise. Under no circumstance will any payment of freight be refunded.

7. Charges

(a) The carrier's charges shall be paid by the consignor without prejudice to the carrier's rights against the consignee or any other person provided that if any special instruction states that charges are payable by the consignee, the consignor shall not be required to pay such charges unless the consignee fails to pay after a reasonable demand has been made by the carrier for payment thereof.

(b) The carrier's charge shall be deemed fully earned as soon as the goods are loaded and dispatched from the consignor's premises and shall be payable and non-refundable in any event.

8. Delay in delivery- A charge will be made by the carrier for any delay in excess of 30 minutes in loading or unloading occurring other than through the fault of the carrier, such period of 30 minutes commencing after the carrier has reported for loading or unloading and labour for such purposes being the responsibility and the expense of the consignor or consignee.

9. Compliance with request of Authority - All plant, machinery, chattels or goods accepted for carriage or storage by the carrier are accepted on the condition that they comply in every respect with all terms, conditions or requirements which may be imposed by any highway, customs, port, harbour, dock, railway, shipping, airways, warehouse or any other public authority or government department or officer thereof and any additional expenses or charges arising by reason of such terms, conditions or requirements shall be paid by the consignor.

10. Insurance - The carrier will not arrange insurance on behalf of any person over any plant, machinery, chattels or goods entrusted to it except upon express instructions in writing and then only at the expense of such person so instructing and without any liability to the carrier. In any other case it is the responsibility of the cosignor to ensure that adequate insurance cover is arranged.

11. Indemnity from Principal Contractor- Where any person (the "principal contractor") contracts with the carrier for the performance of any act or service of any part thereof which the principal contractor shall accept liability for and will indemnify and keep indemnified the carrier against any liability, claim, proceedings, losses, damages, costs and expenses which the carrier may suffer or incur or which may be brought or claimed by third parties against the carrier in respect of any damage or loss to any property or injury to any person arising out of or in connection with the head contract or this contract whatsoever or howsoever arising.

12. Lien

- (a) The carrier shall have a lien on the goods and any documents, relating thereto and on any other goods of the cosignor in the possession of the carrier for all sums payable by the cosignor and for that purpose shall have the right to sell any such goods by public auction or private sale without notice to the cosignor.
- (b) No claims levied against the carrier will be considered unless all freight charges have been paid in full.

13. Delivery –

- (a) The carrier is authorised to deliver the goods at the address nominated to the carrier by the cosignor for that purpose. It is expressly agreed that the carrier shall be conclusively presumed to have delivered the goods in accordance with this contract if at the address obtains from any person a receipt or signed delivery docket for the goods.
- (b) 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 cosignor shall pay or indemnify the carrier for all costs and expenses incurred in or about such storage. If the goods are stored by the carrier, the carrier shall be at liberty to redeliver them to the cosignor from the place of storage at the cosignor's expense.

14. Trade Practises Act- Applicable - Notwithstanding anything herein contained the carrier shall be subject to implied warranties provided under the Trade Practices Act 1974 (as amended) to the extent that the said Act is applicable and prevents an exclusion restriction or modification of any such warranties.

15. Quarantine Services-

- (a) Where L Arthur Pty Ltd carries out wash services, whether under directions from the Australian Quarantine Inspection Service (AQIS) or from a client directly L Arthur Pty Ltd will remain "the carrier" as defined in clause 1 hereof.
- (b) All terms and conditions in relation to the carrier expressed in clauses 2 to 14 will be enforceable for any services carried out under clause 15 (a).

16. Acceptance- The placing of an order or any other direction to perform work or provide services either directly or through an agent will be deemed to be acceptance of all Conditions of Contract.