

Standard Terms & Conditions

1 APPLICATION

- 1.1 These conditions apply to the Services we perform for you, or a Subcontractor performs for you. They also apply to any work we must do, or reasonably do, in addition to the work we quote for.
- 1.2 These Conditions continue to apply despite any breach by us or a Subcontractor, even if the breach is of a fundamental term.
- 1.3 You warrant that when you give us or a Subcontractor Goods for carriage, storage or the provision of Services, you are acting as an agent for each person who has an interest in the Goods. Each of them is a party to the contract and is bound by these Conditions in the same way as you are.
- 1.4 You also warrant that, when you engage us to provide Services, you or any person who signs any document on your behalf has the authority to accept these Conditions.
- 1.5 You cannot vary or waive these Conditions without our prior written consent.
- 1.6 If there is any inconsistency between these Conditions and the terms and conditions contained in any other document issued by or on behalf of us in connection with the provision of Services, including a bill of lading, waybill, consignment note, or other transport documents then these Standard Terms and Conditions of Service shall prevail.

2 DEFINITIONS:

- “Company” means Kenter Logistics Pty Ltd (ACN 125 093 398) any of our servants, agents, or subcontractors, and any related body corporate of Kenter Logistics Pty Ltd.
- “Customer” means the person with whom we contract, whether a natural person, company, trust, partnership, joint venture, association or other corporate form. Any reference to you includes your employees, agents, contractors, subcontractors, assignees, or representatives.
- “Dangerous Goods” means cargo that is volatile or explosive or which is or may become dangerous, inflammable, or offensive (including radioactive materials) or which may become liable to damage any person or property whatsoever. “Goods” means the cargo accepted by us together with any container, packaging, or pallet(s) supplied by or on your behalf.
- “GST” means the goods and services tax imposed by or under a GST Law.
- “GST Law” means the same as in the A New Tax System (Goods and Services Tax) Act 1999.
- “GST Rate” means the rate of GST under the GST Law.
- “Invoice” means the tax invoice under the GST Law.
- “Parties” means the Company and the Customer.
- “Services” means services of any kind relating to the carriage, consolidation, storage, handling, packing, or distribution of the Goods as well as ancillary and advisory services in connection therewith, including but not limited to customs and fiscal matters, declaring the Goods for official purposes, procuring insurance for the Goods, and collecting or procuring payment or documents relating to the Goods and the provision of credit services.
- “Subcontractor” means any person (including a person operating a railway) we use to perform all or part of the Services instead of us, and any person who is an employee, agent, or subcontractor of such a person. “Supply” means the same as in the GST Law.
- “Taxable Supply” means any Supply under these Conditions in respect of which the Company is or may become liable to pay GST.
- “Us” or “we” or “our” means the Company.
- “You” or “your” means the Customer.

3 OUR SERVICES AND RIGHTS

- 3.1 We are not a common carrier. We do not accept liability as a common carrier. We reserve the right to accept or refuse the provision of Services in respect of the Goods at our sole discretion.
- 3.2 We will use reasonable endeavour to perform the Services promptly and carefully and to follow any instructions you have given us in relation to the Services. However, we are entitled to depart from those instructions (including deviating from the usual method of service or route of carriage or changing the place of storage) if we think it necessary in the circumstances.
- 3.3 We intend to perform the Services promptly and carefully. We intend to follow any instructions you give us in relation to the Services. However, we are entitled to depart from those instructions to comply with any directive or instruction given to us by a relevant government authority.
- 3.4 We are entitled to use a Subcontractor to perform all or part of the Services instead of us. We enter into this contract as agent or trustee for any Subcontractor used. Each of them is a party to each contract we enter into with you. This contract applies as if the Subcontractor were us. We, or a Subcontractor, may agree with a Subcontractor to any terms that the Subcontractor requires. Those terms will be binding on you. However, the Subcontractor may choose whether to rely on the terms of this contract or the terms on which it agrees to perform the Services or part of them.
- 3.5 If we are engaged to store or arrange storage of Goods, we do not have to make the Goods available for collection or removal from the place of storage unless all charges have been paid and unless you have completed and provided all documents that we reasonably require you to complete or provide.
- 3.6 Insurance will not be arranged by us except with the express written instructions of you and then only at your expense and on lodgement of a declaration as to value prior to our acceptance of the Goods. Should an insurer dispute its liability for any reason, the insured shall have recourse against the insurer only.



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4 YOUR WARRANTIES

4.1 You warrant that, when you engage us to provide Services or give us or a Subcontractor Goods for carriage or storage, you are acting as agent for each person who has an interest in the Goods, each of them is a party to the contract and is bound by these conditions in the same way as you are. You also warrant that, when you give us or a Subcontractor Goods for carriage, the person who signs any document containing these conditions has the authority to accept these conditions on your behalf.

4.2 Where you have packed the Goods, you warrant that those Goods are packed in a manner adequate to withstand carriage, having regard to their nature, and in compliance with all applicable laws or regulations and you indemnify the Company for all liability and for all costs incurred because of or arising out of a breach of this warranty. Further, you shall provide us with all such assistance, information, and documentation that may be necessary to enable us to comply with such laws and regulations.

5 DANGEROUS GOODS

5.1 You shall not tender for the provision of Services by the Company any Dangerous Goods without presenting to us a full description disclosing their nature and in any event, you shall be liable for all death, bodily injury, loss, and/or damage thereby caused and shall indemnify us for such liability.

5.2 If, in our opinion, the Goods are or are liable to become of a dangerous, inflammable, explosive, volatile, offensive, or a damaging nature, they may at any time be destroyed, disposed of or abandoned or rendered harmless by us without compensation to you and at your cost.

6 YOUR PAYMENTS

6.1 Every special instruction to the effect that charges shall be paid by a person other than by you shall be deemed to include a stipulation that if that nominated person does not pay those charges within seven (7) days of delivery or attempted delivery of the Goods, then the customer shall pay those charges to the Company within seven (7) days of being notified of that person's failure to pay. You must pay us whatever happens to the Goods - even if they are lost, damaged, or destroyed.

6.2 You must pay us an additional reasonable charge in each of the following cases:

6.2.1 We or a Subcontractor must perform Services, or reasonably perform Services, in addition to the Services we quote for.

6.2.2 The carriage is delayed for a reason that is not our fault or the fault of the relevant Subcontractor.

6.3 All customs and/or excise duties, costs, fines or penalties which the Company becomes liable to pay for any reason whatsoever in respect of the Goods and any documentation relating to the Goods pursuant to any applicable laws or regulations (whether resulting from or arising out of the negligence of the Company) shall be paid by you.

7 OUR LIABILITY

7.1 When we perform Services involving transportation or storage of Goods for the purpose of a business, trade, profession or occupation carried on or engaged in by you, we do so entirely at your risk. No matter what the cause may be, we are not liable under any circumstances for delay in delivery of the Goods, misdelivery of them, or a total failure to deliver them; or for loss of the Goods or damage to them. We are not liable for negligence or wilful misconduct by us or by a Subcontractor we use in relation to the carriage. Nor are we liable for an act or omission that is not contemplated by our contract with you, or for any indirect, economic or consequential loss or damage.

7.2 When we perform Services in any other case, to the extent permitted by law our liability is completely excluded, and Services are provided entirely at your risk, no matter what the cause may be. We are not liable under any circumstances for the delay, misdelivery, failure to deliver, or for any other form of loss or damage to the Goods or otherwise, howsoever it arises. We are not liable for negligence by us or a Subcontractor, for any breach of duties, of bailment or any statutory breach, or for wilful misconduct by us or any of our employees or agents or Subcontractors.

7.3 (not used)

7.4 Where we have not packed Goods or supplied the container in which Goods are packed, we are not liable for any loss or damage caused by the manner in which Goods have been packed, the unsuitability of the Goods for carriage in the container supplied or the unsuitability or defective condition of a container.

7.5 Where any handling, installation, removal, assembly, or erection of any kind whatsoever is required to be undertaken by us, we shall not be liable for any death, injury, loss, or damage which may result from or arise out of what we undertake. Further, you shall indemnify us in respect of any such liability whether or not that liability arises from negligence or breach of contract or wilful act or default of the Company or the Company's servants, agents, or Subcontractors.

7.6 In all cases where the liability of the Company has not been excluded, whether by these Conditions, by statute, or by international convention or otherwise, the liability of the Company whatsoever and howsoever arising is limited to:

7.6.1 Australian \$100 or the value of the Goods the subject of the Contract at the time the Goods were received by the Company, whichever is the lesser; or

7.6.2 In the case of proven breach of a guarantee implied by the Competition and Consumer Act 2012 and The Australian Consumer Law in respect of any transport of Goods, the Carrier's liability to the Customer will be limited to the payment of the cost of having the Services supplied again.



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7.7 You agree that our employees, agents and subcontractors and their employees, agents and subcontractors:

7.7.1 have the benefit of these conditions; and

7.7.2 We hold that benefit on trust for them and can, if requested by them, enforce it on their behalf.

7.8 Notwithstanding anything herein contained we shall continue to be subject to any guarantee provided by the Competition and Consumer Act 2010 and The Australian Consumer law as amended if and to the extent that that Act is applicable to this Contract and prevents the exclusion, restriction and modification of such guarantee.

8 CLAIMS

8.1 Any claim against us or a Subcontractor must be presented to it in writing within 90 days after the provision of the Services or delivery of the Goods or when the Services should have been provided or the Goods should have been delivered.

8.2 We will be discharged from all liability whatsoever in connection with the provision of the Services and/or the Goods unless a suit is brought in the proper forum within six (6) months of the provision of the Services or delivery of the Goods or when the Services should have been provided or the Goods should have been delivered.

9 YOUR INDEMNITY TO US

9.1 You must continually indemnify us against any liability or expense we incur as a result of:

9.1.1 a breach of these conditions by you;

9.1.2 any breach or failure by you of an applicable road or transport law;

9.1.3 our acceptance of Goods for carriage or storage that you inform us are, or may become, dangerous or offensive;

9.1.4 any loss or damage another person incurs which arises out of the performance of the Services by us.

10 INSPECTIONS BY AUTHORITIES

10.1 If by order of the authorities at any place, a container has to be opened for the Goods to be inspected, we will not be liable for any loss, Damage, or delay incurred as a result of any opening, unpacking inspection or repackaging. We will be entitled to recover the cost of such opening, unpacking, inspection, and repackaging from you.

11 LIEN

11.1 We have a lien over the Goods and any related documents, and over any other Goods and related documents of yours in our possession, as security for payment of any money, you owe us.

11.2 We may charge for storage and/or remove to a warehouse or bond store any Goods subject to a lien, at your risk and expense.

11.3 We may sell the Goods or documents without giving you notice. If we do, we are entitled to offset the amount we receive against the money you owe us. This does not affect any other rights we may have.

12 GST

12.1 This Clause 12 applies if the Company is or may become liable to pay GST in relation to any Services under these Conditions:

12.1.1 Unless otherwise stated, all charges quoted are exclusive of GST. In addition to such charges, you must pay GST on the Taxable Supply to the Company of an amount equal to the GST exclusive consideration multiplied by the GST Rate. GST shall be payable by you without any deduction or set off for any other amount at the same time as the GST exclusive consideration is payable. In all other respects, GST shall be payable by the Customer to the Company on the same basis as the GST exclusive consideration is payable by the Customer under these Conditions.

12.1.2 The Company must issue an Invoice or Invoices to the Customer for the amount of GST referable to the Taxable Supply. The Company must include in any such Invoice such particulars as are required by the GST Law in order that the Customer may obtain an input tax credit for the amount of GST payable on the Taxable Supply.

12.1.3 If any part of the consideration is referable to both a Taxable Supply and anything that is not a Taxable Supply, the amount of GST payable by the Customer shall be determined by the Company and shall be the same amount of GST that would be payable if the Taxable Supply were the only Supply made to the Customer.

12.1.4 If the Customer makes a default in the payment on the due date of any amount payable pursuant to Clause 12.1.1 then without prejudice to any other remedies of the Company, the Customer shall pay to the Company upon demand an amount equal to the amount of any damages or interest or additional GST that may become payable by the Company arising out of the default of the Customer.

13 INTERNATIONAL CARRIAGE

13.1 The Parties acknowledge that Goods moving by ocean freight are subject to the applicable international treaties including the International Convention for the Unification of Certain Rules relating to Bills of Lading signed at Brussels on August 25, 1924 (the Hague Rules), or those rules as amended by the Protocol signed at Brussels on February 23, 1968 (the Hague Visby Rules) and the SDR Protocol (1979) and including any applicable amendments as from time to time may be made. Your recovery of any loss or damage is against the ocean freight carrier and is limited in accordance with these or any other conventions that may be applicable



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13.2 The Parties acknowledge that Goods moving by ocean freight may necessarily involve a part of transportation undertaken by other means in order to comply with the terms of carriage under this or any contract between the parties. Where this is so, and no international treaty is applicable which covers the additional transport, your recovery of any loss or damage is against the carrier and is limited in accordance with the convention applicable for the majority of the transport, even where that convention does not envisage liability for the kind of transport concerned.

14. QUOTATIONS

Quotations for the Services are made on an immediate acceptance basis and are subject to withdrawal or revision without notice at the Company's discretion.

15 JURISDICTION

15.1 The contract between the Parties is governed by the law of Queensland, Australia regardless of where it was entered into. A proceeding in respect of any matter or thing dealt with by these conditions must only be instituted in Queensland.

16 MISCELLANEOUS

16.1 These conditions have effect, whether or not you have signed an acknowledgment of their application.

16.2 If you commence or continue to engage in any dealings with us, these conditions will be deemed to apply to our dealings, whether or not you have signed an acknowledgment of their application.

16.3 If a clause or part of a clause of these conditions can be read in a way that makes it illegal, unenforceable, or invalid, but can also be read in a way that makes it legal, enforceable, and valid, it must be read in the latter way. If any clause or part of a clause is illegal, unenforceable or invalid, that clause or part is to be treated as removed from these conditions, but the rest of this agreement is not affected.

16.4 In these conditions, a reference to any law or legislation or legislative provision includes any statutory modification, amendment or re-enactment, and any subordinate legislation or regulations issued under that legislation or legislative provision

16.5 To the extent and as required by law, the Parties will comply with the Privacy Act 1988 (Cth). Any personal information obtained or supplied in connection with the Services will be collected, used, stored, disclosed, transferred, and destroyed in accordance with the National Privacy Principles and the law.

