

SOUTHERN CROSS BOAT TRANSPORT PTY LTD
TERMS AND CONDITIONS

DEFINITIONS

1. 'Agreement' means this document.
2. 'Carriage' means the whole of the operation and services undertaken by the carrier as specified, including storage packing and handling where applicable. Loading and unloading by crane, forklift, travel lift or by any other means is excluded.
3. 'container' means any container, trailer, flat pallet transportable tank, or any other load device used to consolidate goods.
4. 'Customers' includes: sender, shipper, consignee, consignor, receiver of goods, any person owning or entitled to the possession of the goods, or anyone acting on behalf of such persons.
5. 'Dangerous Goods' means goods that are or could become inflammable, or damaging including radioactive, or which are or may become liable to damage of property whatsoever.
6. 'Goods' means goods accepted from the customer, and include any container not supplied by or on behalf of the carrier.
7. 'Place of receipt' means the place designated.
8. 'Place of delivery' means the place designated
9. 'Storage' means the whole of the operations undertaken by the carriers in respect of the goods
10. 'Storage period' means the storage period if any indicated upon agreement.
11. 'Sub-contractor' means any sub-contractor of the carriers, and that sub-contractors, servants, agents, in-direct and direct sub-contractors.

INTERPRETATION

1. Headings are inserted for ease of reference and should be disregarded in the interpretation of the agreement.
2. The parties know and agree that.....
3. All the provisions of the agreement are reasonable in all the circumstances and that each provision and circumstances shall be deemed severable and independent.
4. Notwithstanding anything herein contained the carrier shall continue to be subject to any condition or warranty implied by the trade practices 1974 (Cth) or the fair trading act 1989 (Qld) if and to the extent that the said acts are applicable to this agreement and prevent the exclusions restriction or modification of any such condition or warranty.
5. This agreement contains the entire understanding of the parties as to the subject matter. There is no other understanding agreement, warranty or representation whether express or implied in anyway defining or extending or otherwise relating to these provisions or binding on the parties with respect to storage or carriage or the matters to which this agreement relates.

6.This agreement is governed by and is to be constructed in accordance with the laws of the state of Queensland.

7.Each party irrevocably and unconditionally submits to the non-exclusions, jurisdiction of the courts of Queensland and Courts entitled to hear appeals from those courts.

8.No action arising out of this agreement may be brought by a party more than 1 One month after the cause or such action has arising, accepting in the case of non-payment where the appropriate statutory limitations to an action to recover of a simple contractual debt will apply.

9.Where discretion is given to the carrier by any provision thereof, the exercise of that discretion by the carrier shall be absolute and unfettered. Such an exercise of discretion may be unreasonable or arbitrary.

CARRIAGE

1.The carrier is not a common carrier and does not accept the obligations or liabilities of a common carrier and may at its discretion refuse to carry any vessel or goods.

2.Vessels and goods are accepted by the carrier upon and subject to these conditions.

3.The carrier undertakes to:

4.Procure the carriage of the goods from the place of receipt to the place of delivery and forward/or –

5.Procure the storage of the goods or the storage period. The carrier at its discretion may sub-contract or any terms all or any part of its undertaking herein.

CUSTOMERS WARRANTIES ACKNOWLEDGEMENTS AND INDEMNITIES.

1.The customers warrants that:

2.The goods are fit for carriage and storage.

3.The customer has the authority of all the persons owning or interested in the goods, to enter into the contract on their behalf.

4.The person delivering any goods to the carrier for carriage and/or storage is authorised to sign this document for the customer and by such signature or by the signature of any other person acting for the customer the customer accepts these terms and conditions.

5.The customer acknowledges that –

6.No agent or employee of the carrier is permitted to alter or vary these conditions.

7.No representations have been made by any employee or agent of the carrier to the customer.

8.The carrier enters into this agreement for/or on behalf of itself and its servants, agents and sub-contractors, all of whom shall be entitled to the benefit of the agreement and shall be under no liability whatsoever to the customer of anyone claiming through him in respects of the goods, in addition to or separately from that of the carrier under this agreement.

9.The customer shall indemnify the carrier against:

10. Any loss or damage which may be suffered by the carrier as a result of any breach by the customer of the warranties and acknowledgement herein.

11. Any loss or damage to the carriers containers or other equipment which occurs while in procession of control of the customer or which occurs due to the nature or condition of the goods in such containers.

12. For the purpose of this clause, "loss" expressly includes:-

13. Consequential loss: and

14. Any fine, levy, charge or other monetary imposition to which the carrier may become liable as an incident to the carriage, and resultant of any breach by the customer of this agreement.

DANGEROUS GOODS

1.If the carrier accepts dangerous goods for carriage such goods must be accompanied by a full declaration of their nature and contents and be properly and safely packed in accordance with statutory regulations applicable to the carriage of those goods.

2.The customer shall indemnify the carrier against all loss (including consequential loss), damage or injury however caused arising out of the carriage of any dangerous goods whether declared as such or not and whether or not the customer was aware of the nature of the goods.

3.Where dangerous goods are delivered to the carrier without written consent or whether or not distinctly marked to indicate the nature and character of the goods or if in the opinion of the carrier the articles are or are liable to become of dangerous and inflammable or damaging nature, the same may at any time be destroyed, disposed of, abandoned, or rendered harmless without compensation to the customer and without prejudice to the carriers right to freight.

4.The customer undertakes that the goods are packed in a manner adequate to withstand the ordinary risk or carriage having regard to their nature and incompliance with all laws and regulations which maybe applicable during carriage.

ROUTE

1.The customer authorities any deviation from the carrier's usual route or manner of carriage, which may in the carrier's discretion, be necessary.

2.The customer shall take delivery of the goods as soon as the carrier is ready to deliver them and if the customer fails to take delivery of the goods the carrier may without notice unload the goods and forward/or store the same in the open or under cover, and with/or without refrigeration. Such storage shall constitute delivery and thereupon all liability whatsoever of the carrier in respect of the goods shall cease.

LIABILITY

1.At all times and in all circumstances and for all purposes the goods shall be and remain at the soul risk of the customer, and the carrier shall be under no liability whatsoever for any loss, or mis-delivery of or damage to goods occasioned during

carriage and/or storage arising from any reason whatsoever, including without limiting the foregoing, any negligence or breach of contract or wilful act or default or the part of the carrier, its servants and agents, or otherwise.

2.The defences and exclusions or liability provided for in this clause and throughout this agreement generally shall apply in any action against the carrier for loss or damage to the goods whether the action be grounded in contract or intort or otherwise.

3.The carrier shall be entitled to the benefit of the exclusions of liability provided for here even if its proved that the loss or damage resulted from an act of omission of the carrier done with intent to cause damage or recklessly and with knowledge that damage will probably result.

4.Nothing whatsoever done or omitted to be done or other conduct by the carrier in breach of contract or otherwise how so ever lawfully or unlawfully, shall under any circumstances constitute a breach going to the route of this agreement, or deviation or departure there from or repudiation there of such as to have the effect of disentitling the carrier from obtaining the benefit of and enforcing all rights, defences, exceptions, immunities and limitations of liability and other like protections on the carrier contain in those conditions and all such rights, defences, exceptions, immunities, limitations of liability and like protections shall continue to have full force and effect in any event whatsoever.

STORAGE

1.Any storage of goods shall be as agents of the customer and solely at the customers risk and expense, but the provisions of clause 7 thereof shall neverthe less apply.

2.At the carriers discretion the goods maybe stored at any place and at any time and be removed from any place at which they maybe stored or otherwise held to any other place to be stored.

CARRIERS CHARGES

1.Freight is payable by the customer without prejudice to the carriers rights against any other persons.

2.Freight shall be deemed fully earned on receipt of the goods by the carrier and is non-refundable in any event.

3.Costs of loading./unloading and escort charges (if applicable) shall be the responsibility of the customer.

GENERAL LIEN

1.Goods received and held by the carrier subject to:

2.A lien for monies due to the carrier for the carriage and/or storage of and other proper charges or expenses upon or in connection of the goods: and,

3.A general lien for all monies or charges due to the carrier from the customer and the owner of such goods for any services rendered or accommodation provided by the carrier to the customer or owner.

4. Where any lien remains unsatisfied within seven (7) days from the date on which the carrier gave notice of the exercise of this lien to the customer (or owner as the case may be), the goods may at the carrier's discretion be sold by public auction or private treaty and the proceeds of sale applied in or toward the satisfaction of every such lien and all proper charges and expenses in relation hereto (including the expense of the sale), and the carrier shall account to the customer or the owner of the goods for any surplus.

5. Neither such lien or liens nor any such sale shall prejudice or effect the right of the carrier at any time to recover from any person liable, any such amount which at that time remains unpaid.

SUB-CONTRACTING

1. Where the customer is not the owner of some or all of the goods the customer shall be deemed for all purposes to be the agent of the owner.

2. The customer undertakes that no claim or allegation shall be made against any servant, agent or sub-contractor of the carrier which imposes or attempts to impose upon any of them any liability whatsoever in connection with the goods, whether or not arising out of negligence or wilful act or omission on the part of any of them, and if any such claim or allegation should nevertheless be made to indemnify the carrier against all consequences thereof.

3. Every such servant, agent and sub-contractor, shall have the benefit of all provisions herein benefiting the carrier as if such provisions were expressly for their benefit.

4. The customer shall safe harmless and keep the carrier indemnified against all claims or demands whatsoever by whom so ever made in excess of the liability of the carrier under these conditions in respect of any loss, damage or injury however caused, whether or not by negligence or wilful act or omission of the carrier, his servants, agents or sub-contractors.

FORCE MAJEURE

1. Where a party is unable, wholly or in part, by reason of any fact, circumstance, matter or thing beyond the reasonable control of the party effected ("force majeure"), to carry out any obligation under this agreement, and that party:

2. Gives the other party prompt notice of such force majeure with reasonable full particulars thereof, and in so far as known, the probable extent to which it would be unable to perform or be delayed in performing that obligation: and

3. Uses all possible diligence to remove that force majeure as quickly as possible that obligation is suspended, so far as it is effected by force majeure, during the continuance thereof,

4. Where the customer is unable to make the goods available to the carrier at the place of receipt then, at the option of the carrier, this agreement shall be null and void or another agreement replacing this agreement shall be entered into between the parties.

5. Any obligation to pay money under this agreement shall not be excused by force majeure.

6. The requirement that any force majeure shall be removed with all possible diligence shall not require the settlement of strikes, lock outs or other labour disputes, or claims or demands by any government on terms contrary to the wishes of the party effected.