

TERMS & CONDITIONS OF TRADE

1. DEFINITIONS

- 1.1 "Profreight" shall mean Profreight International Limited, or any agents or employees thereof.
- 1.2 "Client" shall mean the Client, any person acting on behalf of and with the authority of the Client, or any person purchasing products and services from Profreight.
- 1.3 "Services" shall mean all freight forwarding services arranged by Profreight for the Client and shall include without limitation all freight, storage and distribution services and charges for labour, hire charges, insurance charges, or any fee or charge associated with the supply of Services by Profreight to the Client.
- 1.4 "Price" shall mean the cost of the Services as agreed between Profreight and the Client and includes all disbursements eg charges Profreight pay to others on the Client's behalf subject to clause 4 of this contract.

2. ACCEPTANCE

- 2.1 Any instructions received by Profreight from the Client for the supply of Services shall constitute a binding contract and acceptance of the terms and conditions contained herein.

3. COLLECTION AND USE OF INFORMATION

- 3.1 The Client authorises Profreight to collect, retain and use any information about the Client, for the purpose of assessing the Client's credit worthiness, enforcing any rights under this contract, or marketing any Services provided by Profreight to any other party.
- 3.2 The Client authorises Profreight to disclose any information obtained to any person for the purposes set out in clause 3.1.
- 3.3 Where the Client is a natural person the authorities under clauses 3.1 and 3.2 are authorities or consents for the purposes of the Privacy Act 1993.

4. PRICE

- 4.1 Where no price is stated in writing or agreed to orally the Services shall be deemed to be sold at the current amount as such Services are supplied by Profreight at the time of the contract.
- 4.2 The price may be increased by the amount of any reasonable increase in the cost of supply of the Services that is beyond the control of Profreight between the date of the contract and delivery of the Services.

5. PAYMENT

- 5.1 All disbursements (including, duty, freight and taxes) shall be payable in advance unless otherwise agreed in writing by Profreight. All other fees/accounts shall be payable on completion of the supply of services by Profreight and as stipulated on the application form.
- 5.2 Interest may be charged on any amount owing after the due date at the rate of 2.5% per month or part month.
- 5.3 Any expenses, disbursements and legal costs incurred by Profreight in the enforcement of any rights contained in this contract shall be paid by the Client, including any reasonable solicitor's fees or debt collection agency fees.
- 5.4 Receipt of a cheque, bill of exchange, or other negotiable instrument shall not constitute payment until such negotiable instrument is paid in full.

6. AGENCY

- 6.1 The Client authorises Profreight to contract either as principal or agent for the provision of Services that are the matter of this contract.
- 6.2 Where Profreight enters into a contract of the type referred to in clause 6.1 it shall be read with and form part of this agreement and the Client agrees to pay any amounts due under that contract.

7. GENERAL LIEN

- 7.1 The Client agrees that Profreight may exercise a general lien against any property belonging to the Client that is in the possession of Profreight for all sums outstanding under this contract and any other contract to which the Client and Profreight are parties.
- 7.2 If the lien is not satisfied within fourteen (14) days of the due date Profreight may, having given notice of the lien at its option either:
 - 7.2.1 Remove such Services or property and store them in such a place and in such a manner as Profreight shall think fit and proper and at the risk and expense of the Client; or
 - 7.2.2 Sell such Services or property or part thereof upon such terms as it shall think fit and apply the proceeds in or towards discharge of the lien and costs of sale without being liable to any person for damage caused.

8. CLAIMS

- 8.1 Pro-forma claims must be received within seven (7) days of the date of notification of availability of freight for collection or the date of delivery or the date of release of freight, whichever date is the earlier.
- 8.2 Value claims must be received within nine (9) months of the pro-forma claim. The acceptance of any liability for such claims by Profreight shall be at Profreight's sole discretion.

9. DESCRIPTION AND PACKAGING

- 9.1 The Client warrants the description and particulars of the freight is true, correct and adequate and agrees to indemnify Profreight against all losses arising or resulting from any inaccuracies or inadequacy in that information.
- 9.2 The Client warrants that the freight is properly packed and labelled for carriage except where Profreight have accepted written instructions in respect of such services.

10. DANGEROUS GOODS

- 10.1 Profreight may at any time (without compensation or notice to the Client and without prejudice to its right to freight and charges) destroy, dispose of, abandon, render harmless or otherwise deal with any freight, whether originally dangerous or not, that in the opinion of Profreight or any other person constitute a risk or become dangerous or of damaging nature to other freight, property, life or health.
- 10.2 Whether or not the client was aware of the nature of the freight, the Client shall indemnify and hold harmless Profreight against all claims, losses, penalties, damages, or expenses arising in consequence of any breach of the provisions of this clause.

11. STORAGE, RISK AND DELIVERY

- 11.1 At any time the freight may be warehoused or otherwise held at any place at Profreight's sole discretion at the Client's expense.
- 11.2 The freight is carried at the Client's risk and that risk shall remain with the Client throughout this agreement. Subject to clause 12.1 the Client is responsible for arranging insurance.
- 11.3 Delivery shall be deemed complete at the time and place when and where Profreight is entitled to call upon the client to take delivery. Upon notice of delivery being given to the Client, Profreight shall be entitled without notice to unstow or store the freight at the expense of the Client and such storage shall be deemed delivery.
- 11.4 Profreight shall not be liable for any loss or damage whether due to failure by Profreight to deliver the freight (or any of it) promptly or at all. Profreight reserves the right to deliver the freight by instalments and each instalment shall be deemed to be a separate contract subject to the same conditions as the main contract. Failure by Profreight to deliver one or more instalments shall not entitle the Client to repudiate the main contract.

12. INSURANCE

- 12.1 Insurance will not be arranged by Profreight except with the express written instructions of the Client and then only at the Client's expense and on lodgement of a declaration as to value prior to receipt of freight by Profreight.
- 12.2 Profreight accepts no liability for any insurance arrangements and the Client agrees to indemnify Profreight for any loss or damage it may suffer in relation to or arising out of the insurance of the freight.

13. LIABILITY

- 13.1 Profreight carries on business as a customs and forwarding agent, warehouse storage and distribution and is not the actual carrier of goods. Profreight's obligations are restricted to arranging carriage of the goods by a reputable carrier and are performed subject only to these terms and conditions and when applicable the conditions printed on any transport document issued by Profreight itself or as agent for the carrier.
- 13.2 The Consumer Guarantees Act 1993, the Fair Trading Act 1986 and other statutes may imply warranties or conditions or impose obligations upon Profreight which cannot by law (or which can only to a limited extent by law) be excluded or modified. In respect of any such implied warranties, conditions or terms imposed on Profreight, Profreight's liability shall, where it is allowed, be excluded or if not able to be excluded only apply to the minimum extent required by the relevant statute.
- 13.3 Except as otherwise provided by clause 13.1 Profreight shall not be liable for:
 - 13.3.1 Any loss or damage of any kind whatsoever, arising from the supply of Services by Profreight to the Client, including consequential loss whether suffered or incurred by the Client or another person and whether in contract or tort (including negligence) or otherwise and irrespective of

whether such loss or damage arises directly or indirectly from Services provided by Profreight to the Client; and

- 13.3.2 If, contrary to Profreight's disclaimer of liability contained in these terms and conditions of trade, Profreight is deemed to be liable then such liability is limited to that specified in applicable international conventions and/or national law;
- 13.3.3 The Client shall defend and indemnify Profreight against all claims and loss of any kind whatsoever however caused or arising and without limiting the generality of the foregoing of this clause whether caused or arising as a result of the negligence of Profreight or otherwise, brought by any person in connection with any matter, act, omission, or error by Profreight its agents or employees in connection with the Services.

14. CONSUMER GUARANTEES ACT

- 14.1 The guarantees contained in the Consumer Guarantees Act 1993 are excluded where the Client acquires Services from Profreight for the purposes of a business in terms of section 2 and 43 of that Act.

15. MISCELLANEOUS

- 15.1 Profreight shall not be liable for delay or failure to perform its obligations.
- 15.2 Failure by Profreight to enforce any of the terms and conditions contained in this contract shall not be deemed to be a waiver of any of the rights or obligations Profreight has under this contract.
- 15.3 If any provision of this contract shall be invalid, void or illegal or unenforceable the validity existence, legality and enforceability of the remaining provisions shall not be affected, prejudiced or impaired.
- 15.4 Profreight and the Client agree that any additional conditions of carriage and trade issued by Profreight at the time any contract of carriage is entered into, shall also form part of these terms and conditions of trade.