

HENNING HARDERS

STANDARD TRADING CONDITIONS

1.1 All business undertaken, including goods carried, moved, lifted or transported, all storage, all customs clearance and advisory services and other services (services) performed by Henning Harders (Australia) Pty Ltd. (the "Company") is transacted subject to these conditions. These conditions take priority over and will prevail to the extent of any inconsistency with any other document issued by either the Company or the customer other than a bill of lading or other transport document issued by the Company.

1.2 Where there is a letter of authority in place, the customer is the customer name in that authority. Where there is no letter of authority, the customer is the entity instructing the company to perform the services. By entering into this contract with the Company, the customer accepts these conditions for itself as well as for any other party on whose behalf it is acting.

1.3 Without limitation to other methods of acceptance, by instructing the Company to provide the services the customer agrees to be bound by these conditions.

1.4 The Company is NOT A COMMON CARRIER and will accept no liability as such. The goods are at all times at the risk of the customer.

2.1 Subject to and in accordance with these conditions the Company agrees and the customer hereby employs and authorises the Company, to contract, either in its own name as principal or as agent, with any person, firm or company (hereinafter referred to as the "Sub-contractor"), or complete and execute any document, for or in connection with the carriage, movement, transport or storage of the goods or for the performance of any other service to be performed by the Company pursuant to or ancillary to this contract.

2.2 Any contract with a Sub-contractor may be made upon terms agreed between the Company and the Sub-contractor, and may include provision for the Sub-contractor to employ any person, firm or company for performance of its obligations.

2.3 All exclusions or limitations on the liability of the Company in these conditions extend to protect all Sub-contractors; the agents, employees and servants of any Sub-contractor or the Company; and any person engaged to provide all or part of the services.

2.4 The customer undertakes that it will not make any claim against, or impose any liability upon, any Sub-contractor in connection with the provision of the services or the goods.

2.5 The customer undertakes that it will indemnify any Sub-contractor from and against any loss, expense or liability if a claim is made against a Sub-contractor by any party (including the customer) in connection with the provision of the services or the goods.

2.6 For the purpose of clauses 2.3 and 2.5, the Company acts as trustee on behalf of and for the benefit of any Sub-contractor, and to this extent each Sub-contractor is deemed to be a party to this contract.

3.1 The Company, its officers, employees, agents or Sub-contractors shall not be liable for any loss or damage due to damage to the goods, misdelivery, delay in delivery, failure to produce or non-delivery of goods either in transit or in storage, or any negligent, unlawful, reckless or wilful act or omission in the performance of services regardless of whether caused by the negligence of, or breach of contract (including fundamental breach) by the Company, its officers, employees, agents or Sub-contractors.

3.2. The Company shall not under any circumstances be liable for loss or damage resulting from or attributable to any quotation, statement, representation of information whether oral or in writing whatsoever or given by or on behalf of the Company or by any officer, employee, agent or Sub-contractor of the Company as to the classification of good, the availability of any concession, or the liability to an amount, scale or rate of customs duty, excise duty or other impost or tax applicable to any goods or property whatsoever.

3.3. The Company excludes from this agreement all conditions, warranties, terms and consumer guarantees implied by legislation, common law or custom except the exclusion of which would contravene any law or cause this condition to be void (Non-Excludable Condition). The Company's liability for any breach of a Non-Excludable Condition is limited, at the Company's option, to supplying the service again, or the cost of supplying the service again.

3.4 Without limitation to any other clause of this agreement, any liability of the Company on whatsoever ground shall in each case be limited to the lessor of the actual damage suffered or the sum of two hundred dollars (\$ 200) per consignment or breach whether or not any higher value of the goods has been declared by the customer for the purpose of carriage or otherwise.

3.5 Without limitation to any other clause of this contract, the Company will not be liable for any loss of damage that (a) does not arise naturally or in the usual course of things, or (b) which constitutes or arises in connection with, a loss in revenue, profit, or opportunity or a loss of goodwill or business reputation, even if such loss or damage arises naturally or in the usual course of things.

3.6 Without limitation to any other clause of the Agreement, the Company will be discharged from all liability in connection with the performance of the services or the goods unless (a) notice of any claim is received by the Company within 7 days of the earlier of the delivery of goods, the date the goods should have been delivered, or where the claim does not relate to loss or damage to goods, the event giving rise to the claim; and (b) suit is brought and written notice is received by the Company within 9 months of the earlier of the delivery of the goods, the date the goods should have been delivered, or where the claim does not relate to loss or damage to goods, the event giving rise to the claim.

3.7 The Company will not be in breach of any obligation or otherwise liable to the customer where the breach or liability results from the Company's compliance with any law or condition of its customs broker's licence, including without limitation, disclosing confidential information to a government authority.

3.8 The value of goods will not be declared or inserted in the bill of lading for the purpose of extending the ship owner's liability except upon express instructions given in writing by the customer and payment of any additional fee.

3.9 Where goods are carried by air, no optional declaration of value to increase the air carrier's liability will be made except upon express instructions given in writing by the customer.

3.10 In all other cases where there is a choice of tariff rates according to the extent of the liability assumed by carriers, warehousemen or others, no declaration of value (where optional) will be made for the purposes of extending liability and goods will be forwarded or dealt with at the owner's risk and cost, unless express instructions in writing to the contrary are given by the customer.

4.1 The Company is authorised by the customer to choose the method of performance of the services. The Company will give priority to any particular method or route for movement of the goods designated by the customer, provided that if that method or route cannot in the opinion of the Company be reasonably or practicably adopted, the Company may adopt an alternative method or route.

4.2 The customer authorises the Company to open any package containing goods, and do any other thing in order to inspect or weigh the goods.

4.3 In performance of the services the Company may at any time warehouse or otherwise hold the goods at any place at its discretion, at the customer's risk, and expense (including the cost of any removal of goods warehoused or held).

4.4 The Company's delivery obligations are satisfied if the Company delivers the goods to the delivery address instructed by the customer, and a person at that address provides a receipt or signs a delivery docket, or if authorised by the customer, the goods are left at the delivery address without obtaining a receipt or signed delivery docket.

4.5. Acting reasonably, the Company shall have the right to sell or otherwise dispose of perishable goods which are not collected immediately upon arrival or which are inadequately addressed or otherwise not identifiable. Where it is not reasonably practicable, the Company shall have no obligation to give notice of such sale to the customer, senders, owners or consignees of the goods, and payment to the customer of the net proceeds of any such sale after deduction of all charges hereunder (including costs of sale) shall in that event constitute delivery of the goods.

4.6. The Company shall have the right at its option at any time after the expiration of twenty one (21) days from the sending of a notice in writing to the address specified by the customer, to sell or return any non-perishable goods which cannot be delivered by the Company because they are insufficiently or incorrectly addressed or they are not collected after notice has been given the customer of the good's arrival. In the event of a sale of any goods, payment to the customer of the net proceeds of sale after deduction (including costs of sale) of all charges shall constitute delivery. In the event of return of the goods, all charges and expenses arising in connection with such return shall be paid by the customer.

4.7 Acting reasonably, the Company may at any time deem goods to be noxious, dangerous, hazardous, inflammable or explosive goods or any goods likely to cause damage (including goods likely to harbour or encourage vermin or other pests) (Dangerous Goods). The Company shall have the right to destroy or otherwise deal with any Dangerous Goods if in the reasonable discretion of the Company, they become dangerous to people, other goods or property (unless special agreement in writing has been made in respect of such goods).

4.8. Except as specifically provided in writing, the Company will not accept bullion, coins, precious stones, jewellery, antiques or other valuables, livestock or plants, and will not accept any liability whatsoever for any such goods.

4.9 The customer will provide the Company with all assistance, information and documentation necessary to enable the Company to provide the services, and punctually comply with any Law or request from a government authority.

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4.10 The customer is under a continuing obligation to provide any information which may materially affect the capacity of the Company to perform its obligations.

5.1 The customer shall pay the Company all fees, charges, brokerages, commissions, allowances and other remuneration as applicable under the terms of this Contract calculated in accordance with any agreed rates, or where no rates were expressly agreed, in accordance with the Company's standard rates within the due date specified on the Company's invoice or any other expressly agreed date. The customer agrees that the Company may charge its fees by way of increasing the amount charged to it by third parties and that there is no obligation on the Company to separately show this portion of the fee on any invoice.

5.2 Any quotation given to a customer is calculated on the basis of immediate acceptance, applies only to the specific freight described in the quotation and is subject to the right of withdrawal or revision.

5.3 The Company has the right to vary its rates of exchange, rates of freight, brokerages, commissions, insurance premiums or other charges applicable to the goods provided that where it is reasonably practicable, it will give prior notice of any change to the customer.

5.4 The Company's fees are earned on the earlier of the commencement of the performance of the services (or part thereof), or when the goods are delivered to the Company or its Sub-contractors.

5.5 The Company at its discretion may determine its fees, including by weight, measurement or value, including without limitation, by volumetric conversion.

5.6 The Company may re-weigh, re-measure or re-value the goods at any time, and amend its fees at its reasonable discretion.

5.7 Unless otherwise stated, the Company's fees are exclusive of goods and services tax.

5.8 The customer remains responsible for the payment of fees even where an arrangement is made for the fees to be paid by another person and whether or not the goods are delivered or damaged or the services performed as instructed.

5.9 The customer will not defer, set-off or withhold payment of any amount payable to the Company by reason of any claim the customer has, or claims it has, against the Company.

5.10 The Company has the right to accept instructions from a customer to collect payment on delivery (C.O.D.) in cash or otherwise. Where the Company does accept such instructions its only obligation to the customer is to use reasonable diligence and care in such a collection. The Company is not liable for any loss or damage arising from such instructions or such collection whether caused by negligence or otherwise.

5.11 The customer agrees that the Company may receive and retain for its own account allowances, brokerages and commissions from shipping and forwarding agents, shipping lines, insurance brokers, airlines and any other person with whom the Company deals and that the Company is not required to disclose the receipt and retention of such amounts to the customer, even, without limitation, if acting as agent for the customer.

6. The customer warrants on behalf of itself and the consignor, consignee, export, importer and owner of the goods:

(a) the accuracy and completeness of all descriptions, values, particulars and other information furnished to the Company;

(b) it is either the owner of the goods, or is the authorised agent of the owner of the goods and is authorised to complete and sign documentation related to the goods and the Company's services;

(c) it has complied, and will continue to comply, with all laws relating to the goods, including the nature, condition, packaging, handling, storage and carriage of the goods;

(d) the goods are packed to endure the ordinary risks of handling, storage and the provision of services and the nature of the goods;

(e) the goods are not Dangerous Goods or valuable goods, unless otherwise disclosed; and

(f) all goods are adequately and accurately marked, labelled or branded.

7.1 The customer undertakes to indemnify the Company for and against all losses, damages, expenses and fines (and must pay on demand) arising from:

(a) any breach of this contract, including a warranty in clause 6;

(b) the Company's performance of the services other than loss resulting from the negligent act or omission of the Company;

(c) the failure to, or delay in, returning any container or transport equipment involved in the performance of the services, including a failure to return the equipment within the "free time";

(d) a claim against the Company by a person who claims to have an interest in the goods;

(e) the Company releasing or delivering the goods to the customer or at the direction of the customer;

(f) any claim for general average and will provide any security requested by the Company for the release of any goods that are the subject of a claim for general average

7.2 The customer agrees that it shall be liable for and hereby indemnifies the Company in relation to:

(a) any duties or other moneys which the Company is obliged to pay or pays in respect of the goods, including payments to the Crown, the Comptroller-General of Customs or any other statutory body or authority arising pursuant to any statute, proclamation, declaration, regulation or by/law or other legislative or quasi-legislative provision;

(b) all costs payable to third parties in relation to the carriage, storage, treatment or entry of the goods.

7.3 The indemnities in this agreement continue whether or not the goods are pillaged, stolen, lost or destroyed.

8. The Company will not be liable for any delay, cost or failure to perform an obligation under this contract caused by an event beyond its reasonable control (Event). If an Event causes a delay or inability in the performance of the Company's obligations exceeding 10 days, the Company may terminate the provision of services by notice to the customer.

9. No insurance will be effected except upon express instructions given in writing by the customer and all insurances effected by the Company are subject to the usual exceptions and conditions of the policies of the insurance company or underwriters taking the risk. The Company shall not be under any obligation to effect a separate insurance on each consignment but may declare it in any open or general policy. Should the insurers dispute their liability for a reason the insured shall have recourse against the insurers only and the Company shall not be under any responsibility or liability in relation thereto, notwithstanding that the premium upon the policy may not be at the same rate as charged by the Company or paid to the Company by the customer.

10. The Company has a general and particular lien on all goods and documents the subject of its services or otherwise belonging to the customer in respect of all sums due and owing by the customer, consignor, consignee or owner of the goods. The company has the right to sell any goods and documents over which it exercises a lien on the giving of 14 days' notice to the customer of the sums due and owing to the Company. The Company may sell the goods or documents at public auction or private sale (at the Company's discretion) and apply the proceeds in respect of all amounts due and owing to the Company by the customer, consignor, consignee or owner of the goods, the costs and expenses relating to the exercise of the lien and right of sale, including the Company's reasonable legal fees.

11. This agreement shall be governed by the law in force in the State of New South Wales, Australia, and the parties hereto submit to the non-exclusive jurisdiction of the Courts of New South Wales.

12. A variation of this agreement will only be valid if in writing and signed by, or on behalf of, each party.

13. All rights, indemnities and limitations of liability contained in these conditions will have their full force and effect, despite any breach of a term of these conditions or any collateral agreement by the Company; the manner or performance of the services; the delivery or non-delivery of the goods; or the expiry or termination of any letter of authority.

14. Clauses 1.4, 2.2, 2.3, 2.4, 2.5, 3, 4.5, 4.6, 4.9, 4.10, 5.8, 5.9, 6, 7, 8, 10, 15, 18 and 19 of these Terms and Conditions will survive termination.

15. If a term or part of a term of these conditions is unenforceable, it must be severed from and does not affect the rest of the conditions.

16. The Company is not bound by any waiver, discharge or release of a condition or any agreement which purports to change these conditions, unless it is in writing and signed by or for the Company.

17. Any party that enters this contract as a disclosed or undisclosed agent agrees to be joint and severally liable for the debts, liabilities and obligations of the principal under this contract.

18. The customer agrees that the Company retains all copyright and intellectual property subsisting in all documents and things created by, or for, the Company in connection with the performance of the services, including copyright and intellectual property that now exists or that later comes into existence.

19. Where the Company sells goods pursuant to a right under this agreement (a) it does so as principal, not as agent, and is not the trustee of the power of sale; (b) the customer must pay all costs, charges and expenses incurred by the Company in connection with the storage, sale or return of the goods, which may be deducted from the proceeds of the sale of the goods; and (c) the Company is entitled to recover any deficit from the customer where the proceeds of sale of the goods do not satisfy the amounts payable to the Company.