
CLIENT TERMS

These Client Terms, together with any Client Form (defined in clause 1), set out the agreement (this '**Agreement**') under the terms of which V-AUS TRANS PTY LTD ACN 139 611 724 ('**V-AUS TRANS**') provides Services (defined in clause 2) to you or the company which you represent (the '**Client**').

1. CLIENT FORM, THIS AGREEMENT

- (a) These Client Terms will apply to all the Client's dealings with V-AUS Trans, including being incorporated in all agreements, quotations or orders issued by V-AUS Trans under which V-AUS Trans is to provide services to the Client (each a '**Client Form**') together with any additional terms included in such Client Form (provided such additional terms are recorded in writing).
- (b) The Client will be taken to have accepted this Agreement if the Client accepts a Client Form, or if the Client orders, accepts or pays for any goods or services provided by V-AUS Trans after receiving or becoming aware of this Agreement or these Client Terms.
- (c) In the event of any inconsistency between these Client Terms and any Client Form, the clauses of these Client Terms will prevail to the extent of such inconsistency, except that any "Special Conditions" (being terms described as such in a Client Form) will prevail over these Client Terms to the extent of any inconsistency.

2. SERVICES

- (a) In consideration for the payment of the fees set out in the Client Form (**Fees**), V-AUS Trans will provide the Client with the services set out in a Client Form (**Services**).
- (b) Unless otherwise agreed, V-AUS TRANS may, in its discretion:
 - (i) not commence work on any Services until the Client has paid any Fees or deposit payable in respect of such Services; and
 - (ii) withhold Services until the Client has paid an invoice in respect of such Services.

3. CLIENT OBLIGATIONS AND WARRANTIES

3.1 PROVIDE INFORMATION, LIAISON, REASONABLE DIRECTIONS AND PREPARATION

- (a) The Client must:
 - (i) provide V-AUS Trans with all documentation, information and assistance reasonably required for V-AUS Trans to perform the Services;
 - (ii) liaise with V-AUS Trans as it reasonably requests for the purpose of enabling V-AUS Trans to provide the Services;
 - (iii) comply with V-AUS Trans' reasonable directions in receiving the Services; and
 - (iv) take all reasonable steps to minimise risk of damage to or loss of the Delivery Goods during the Services, including by taking all reasonable care in the manner in which Delivery Goods are stored, packed and arranged.

3.2 COMPLIANCE WITH LAWS, REGULATIONS, DANGEROUS GOODS

- (a) The Client agrees that it will not, in receiving or requesting the Services:
 - (i) breach any applicable laws, rules, regulations or relevant codes of conduct (including any applicable privacy laws, the International Maritime Dangerous Goods Code and the Australian Code for the Transport of Dangerous Goods by Road and Rail), or cause or contribute to V-AUS Trans making any such breach; or
 - (ii) infringe the intellectual property rights or other rights of any third party or breach any duty of confidentiality, or cause or contribute to V-AUS Trans making any such infringement.
- (b) The Client must ensure that no dangerous goods, including any explosive or flammable goods, are included in the Delivery Goods.

3.3 AUTHORISATION

The Client warrants that they own the Delivery Goods or are otherwise authorised to request the Services.

3.4 DELIVERY SERVICES

- (a) The Client must ensure that:
 - (i) the Delivery Goods meet the specifications provided to and accepted by V-AUS Trans; and
 - (ii) the Delivery Goods meet the specifications provided to any other relevant third party, including the relevant shipping line and terminal.
- (b) Without limiting any other clause of this Agreement, if the Client breaches any part of this clause 3.4, the Client must pay any additional charges on invoice to the Client that V-AUS Trans incurs in connection with the Client's breach, which, without limiting any other clause of this Agreement, may include charges from third parties for the failure of Delivery Goods to meet their specifications.

3.5 ACCEPTANCE

Upon delivery of the Delivery Goods to the Delivery Point, the Client must:

- (a) supervise such delivery and ensure that no damage is caused to its premises or personal property as part of the Services, and the Client releases V-AUS Trans from any such loss or damage arising out of the Services, to the extent that it is caused or contributed to by the Client's failure to supervise in accordance with this clause, or by the Client's failure to comply with any other clause of this Agreement;
- (b) ensure that its authorised representative signs a document (for example, a Point of Delivery Consignment Note) confirming that the Delivery Goods have been successfully delivered (**Acceptance Confirmation**);
- (c) ensure that no person who is not an authorised representative of the Client ever signs an Acceptance Confirmation;
- (d) ensure that any lateness, delay or other issue with the Services is noted in the Acceptance Confirmation. The Client releases V-AUS Trans from any loss or damage arising out of any lateness, delay or other issue which is not noted in the relevant Acceptance Confirmation; and
- (e) ensure that no person other than V-AUS Trans' personnel move, or in any way handle or alter, any Delivery Goods, before an Acceptance Confirmation is signed, without V-AUS Trans' approval. The Client indemnifies V-AUS Trans in respect of any and all loss or damage that arises from or in connection with the Client's personnel, or any other third party, moving, or in any way handling or altering, any Delivery Goods before the relevant Acceptance Confirmation is signed.

3.6 PICK UP SERVICES - CONTAINERS

- (a) To the extent that the Services include V-AUS Trans picking up containers from the Client, or other items, (**Pick Up Services**) the Client must:
 - (i) notify V-AUS Trans in writing once an item that is to be the subject of Pick Up Services (**Pick Up Item**) is ready for collection. The Client must provide V-AUS Trans with more notice that the Container Pick Up Minimum Notification Period;
 - (ii) not do anything which may cause or contribute to the Pick Up Item's late return to its owner; and
 - (iii) ensure all Pick Up Items are easily accessible, organised, positioned and located such that they are reasonably ready for pick up:
 - A. at the time notified to V-AUS Trans under clause 3.6(a); and
 - B. in accordance with V-AUS Trans' directions and with this Agreement.
- (b) Without limiting any other clause of this Agreement, if the Client breaches any part of this clause 3.6, the Client must:

-
- (i) pay any additional charges on invoice to the Client that V-AUS Trans incurs in connection with the Client's breach, which, without limiting any other clause of this Agreement, includes charges from the owner of a Pick Up Item for late return; and
 - (ii) grant to V-AUS Trans a licence to enter its property to rectify the breach and perform the Pick Up Services, at V-AUS Trans' option. The Client acknowledges that a breach of this clause 3.6 will affect V-AUS Trans' ability to perform the Pick Up Services and the Client releases V-AUS Trans from any and all liability arising out of reasonable damage to the Client's premises or property caused by V-AUS Trans carrying out the Pick Up Services or rectifying the Client's breach of this clause 3.6. Without limiting this clause 3.6(b)(ii), specific risks that may arise if the Client breaches any part of clause 3.6, in relation to which the Client releases V-AUS Trans from any liability, include moving containers on the Client's property.

3.7 LOSS OR DAMAGE

- (a) Subject to clause 3.7(b), the Client releases V-AUS Trans from any and all liability in respect of loss or damage to Delivery Goods, except if:
 - (i) V-AUS Trans did not take reasonable care for the safety of the Delivery Goods when performing the Services; or
 - (ii) the Client notifies V-AUS Trans of such loss or damage within 7 days of the date the relevant Acceptance Confirmation was signed; and
 - (iii) such loss or damage is unreasonable.
- (b) The Client indemnifies V-AUS Trans in respect of any and all loss or damage that arises from or in connection with storing, packing or arrangement of the Delivery Goods for the duration of the Services, except to the extent that such storage, packing or arrangement was completed by V-AUS Trans.

3.8 CLIENT BREACH OF THIS CLAUSE

Without limiting any other clause of this Agreement, if the Client breaches any part of this clause 3, V-AUS Trans may, at its option:

- (a) charge the Client an additional amount for the Services, specified by V-AUS Trans (acting reasonably), on invoice to the Client; or
- (b) elect not to perform the relevant parts of the Services.

4. PAYMENT

4.1 FEES

The Client must pay fees to V-AUS Trans in the amounts and at the times set out in the Client Form or as otherwise agreed in writing.

4.2 INVOICES

Unless otherwise agreed in the Client Form:

- (a) if V-AUS Trans issues an invoice to the Client, payment must be made by the time(s) specified in such invoice;
- (b) in all other circumstances, the Client must pay for all goods and services within 30 days of receiving an invoice for amounts payable; and
- (c) the Client must not set off any money alleged to be owing by V-AUS Trans against money due by the Client to V-AUS Trans.

4.3 PAYMENT METHOD

The Client must pay Fees using the fee payment method specified in the Client Form.

4.4 EXPENSES

Unless otherwise agreed in writing, any third party costs reasonably incurred by V-AUS Trans in the course of performing the Services will be billed to the Client, unless specifically otherwise provided for in the Client Form. Such expenses that V-AUS Trans may reasonably incur, include:

-
- (a) any fees or charges incurred by V-AUS Trans in the course of providing the Services, provided such fees or charges were not caused by V-AUS Trans' negligence or breach of this Agreement;
 - (b) any additional fees charged to V-AUS Trans in performing the Services, for lateness or delay, including delay in loading or unloading, that were caused or contributed to by the Client or the end customer, or any of either parties' personnel;
 - (c) any taxes or duties on the Services;
 - (d) any customs duty, excise duty or cost; and
 - (e) any additional fees specified in other clauses of this Agreement.

4.5 ADDITIONAL FEES

V-AUS Trans may, on written notice to the Client, increase the Fees for the Services to reflect an increase in the cost to V-AUS Trans of providing the Services.

4.6 GST

Unless otherwise indicated, amounts stated in a Client Form do not include GST. In relation to any GST payable for a taxable supply by V-AUS Trans, the Client must pay the GST subject to V-AUS Trans providing a tax invoice.

4.7 CARD SURCHARGES

V-AUS Trans reserves the right to charge credit card surcharges in the event payments are made using a credit, debit or charge card (including Visa, MasterCard, American Express or Diners Club).

4.8 ONLINE PAYMENT PARTNERS

V-AUS Trans may use third-party payment providers (**Payment Providers**) to collect payments for Goods or Services. The processing of payments by the Payment Provider will be, in addition to this Agreement, subject to the terms and conditions and privacy policies of the Payment Provider and V-AUS Trans is not liable for the security or performance of the Payment Provider. V-AUS Trans reserves the right to correct, or to instruct our Payment Provider to correct, any errors or mistakes in collecting your payment.

5. CANCELLATION

V-AUS Trans reserves the right to cancel a Client Form for any reason, and will notify the Client of this as soon as possible. Where payment has already been debited for a cancelled Client Form, the full amount will be credited back to the original method of payment.

6. TITLE AND RISK

- (a) **(Title)** Title in the Delivery Goods is retained by the Client, subject to clause 6(c).
- (b) **(Risk)** Risk in the Goods will pass to the Client upon signing of the relevant Acceptance Confirmation. Delivery must not be refused by the Client.
- (c) **(Failure to pay)** If the Client does not pay for any Services on or before the due date for payment:
 - (i) or the Client otherwise fails to comply with this Agreement, or with the terms of any sale credit has been extended to the Client, V-AUS Trans reserves the right to revoke such credit and demand immediate payment before any further Services;
 - (ii) the Client must pay V-AUS Trans interest at the rate of 12% per annum on each amount outstanding, from the due date for payment to the date on which the payment is received by V-AUS Trans; and
 - (iii) V-AUS Trans may at its option keep Delivery Goods being the subject of Services for which the Client has not made payment prior to the payment due date, which are still in V-AUS Trans' possession.

6.2 CUSTOMS AND DUTIES

The Client will be responsible for paying all customs and import duties and acknowledge that failure to pay may result in an order being held at customs. V-AUS Trans will not be liable for any costs the Client may incur in having Delivery Goods released from customs, and the Client must reimburse V-AUS Trans for any customs or import duties they may pay, at their discretion.

7. CHANGES

- (a) The Client must pay additional service fees for changes to Services requested by the Client which are outside the scope set out in the relevant Client Form (**Changes**).
- (b) Unless otherwise agreed in writing, V-AUS Trans may at its discretion extend or modify any delivery schedule or deadlines for the Services as may be reasonably required by such Changes.

8. SUBCONTRACTING

V-AUS Trans may subcontract any aspect of providing the Services and the Client hereby consents to such subcontracting.

9. INSURANCE

Insurance in respect of the Delivery Goods is the responsibility of the Client, and V-AUS Trans is under no obligation to hold such insurance.

10. THIRD PARTY GOODS AND SERVICES

- (a) Any Service that requires V-AUS Trans to acquire goods and services supplied by a third party on behalf of the Client may be subject to the terms & conditions of that third party (**Third Party Terms**), including 'no refund' policies.
- (b) The Client agrees to any Third Party Terms applicable to any goods and services supplied by a third party that the Client or Service Provider acquires as part of the Services and V-AUS Trans will not be liable for any loss or damage suffered by the Client in connection with such Third Party Terms.

11. WARRANTIES

- (a) To the maximum extent permitted by applicable law, all express or implied representations and warranties (whether relating to fitness for purpose or performance, or otherwise) not expressly stated in this Agreement or a Client Form are excluded.
- (b) Where any law (including the *Competition and Consumer Act 2010* (Cth)) implies a condition, warranty or guarantee which may not lawfully be excluded, then, to the maximum extent permitted by applicable law, V-AUS Trans' liability for breach of that non-excludable condition, warranty or guarantee will, at V-AUS Trans' option, be limited to:
 - (i) in the case of goods, their replacement or the supply of equivalent goods or their repair; and
 - (ii) in the case of services, the supply of the services again, or the payment of the cost of having them supplied again.

12. LIMITATION OF LIABILITY

To the maximum extent permitted by law, V-AUS Trans' liability for all claims in aggregate (whether those claims be for breach of contract, negligence or otherwise, and whether those claims are for economic loss, or for personal injury or other damage) arising under or in connection with this Agreement:

- (a) is totally excluded, to the extent it concerns liability for indirect, special and consequential damages, and damages (whether direct or indirect) reflecting loss of revenue, loss of

profits and loss of goodwill (except to the extent this liability cannot be excluded under the *Competition and Consumer Act 2010* (Cth)); and

- (b) is limited, insofar as concerns other liability, to the total money paid to V-AUS Trans under this Agreement as at the date the event giving rise to the relevant liability occurred (or, where there are multiple events, the date of the first such event).

Nothing in this Agreement is intended to limit the operation of the *Competition and Consumer Act 2010* (Cth).

13. INDEMNITY

The Client indemnifies V-AUS Trans from and against all losses, claims, expenses, damages and liabilities (including any taxes, fees or costs) which arise out of:

- (a) any breach of this Agreement by the Client; or
- (b) any negligent, fraudulent or criminal act or omission of the Client, of the owner of the Delivery Goods or of any personnel of either party.

14. TERMINATION

14.1 TERMINATION BY V-AUS TRANS

V-AUS Trans may terminate this Agreement in whole or in part immediately by written notice to the Client if:

- (a) the Client is in breach of any term of this Agreement; or
- (b) the Client becomes subject to any form of insolvency or bankruptcy administration.

14.2 TERMINATION BY THE CLIENT

The Client may terminate this Agreement in whole or in part by written notice to V-AUS Trans if:

- (a) V-AUS Trans has committed a material breach of this Agreement and has failed to remedy the breach within 30 days after receiving written notice from the Client; or
- (b) V-AUS Trans consents to such termination, subject to the Client's fulfillment of any pre-conditions to such consent (for example, payment of a pro-rata portion of the agreed fees).

14.3 EFFECT OF TERMINATION

Upon termination of this Agreement, the Client must promptly pay (at V-AUS Trans' request):

- (a) any payments required by V-AUS Trans to third party suppliers or service providers to discontinue their work;
- (b) V-AUS Trans' standard fees in relation to work already performed; and/or
- (c) an equitable amount by way of profit margin on the preceding items.

14.4 SURVIVAL

Any provision of this Agreement which, by its nature, would reasonably be expected to be performed after the termination, shall survive and be enforceable after such termination, including without limitation clauses 3 – 15.

15. DISPUTE RESOLUTION

- (a) The parties must, without delay and in good faith, attempt to resolve any dispute which arises out of or in connection with this Agreement prior to commencing any proceedings.
- (b) If a party requires resolution of a dispute it must immediately submit full details of the dispute to the chief executive officer of the other party or, if the party is an individual, that individual.
- (c) The parties acknowledge that compliance with this clause 15 is a condition precedent to any entitlement to claim relief or remedy, whether by way of proceedings in a court of law or otherwise in respect of such disputes, except:

- (i) in the case of applications for urgent interlocutory relief; or
- (ii) a breach by another party of this clause 15.

16. NOTICES

16.1 FORM OF NOTICE

A notice or other communication to a party under this Agreement must be:

- (a) in writing and in English; and
- (b) addressed to that party to:
 - (i) the postal address of that party; or
 - (ii) the email address of that party that has been regularly used by the parties to correspond during the term of this Agreement (unless such email address is known to be inactive by the party giving notice).

16.2 HOW NOTICE MUST BE GIVEN

A notice must be given by one of the methods set out in the table below and is regarded as given and received at the time set out in the table below.

Method	When Notice is regarded as given and received
By hand	On delivery
By pre paid post in the same country	On the third business day after the date of posting
By pre paid post in another country	On the fifth business day after the date of posting by airmail
By email to the nominated email address	Unless the party sending the email knows or reasonably ought to suspect that the email and the attached communication were not delivered to the addressee's domain specified in the email address, 24 hours after the email was sent.

17. GENERAL

17.1 GOVERNING LAW

This Agreement is governed by the law applying in Victoria, Australia

17.2 JURISDICTION

Each party irrevocably submits to the exclusive jurisdiction of the courts of Victoria, Australia and courts of appeal from them in respect of any proceedings arising out of or in connection with this Agreement. Each party irrevocably waives any objection to the venue of any legal process on the basis that the process has been brought in an inconvenient forum.

17.3 ASSIGNMENT

A party cannot assign, novate or otherwise transfer any of its rights or obligations under this Agreement without the prior consent of each other party (such consent not to be unreasonably withheld).

17.4 RELATIONSHIP

- (a) Nothing contained in this Agreement creates an agency, partnership, joint venture or employment relationship between V-AUS Trans and the Client or any of their respective employees, agents or contractors.
- (b) Neither party nor any person acting on its behalf may hold itself out as being entitled to contract or accept payment in the name of or on account of the other party.

17.5 AMENDMENTS

This Agreement may only be amended by a document signed by each party.

17.6 WAIVER

No party to this Agreement may rely on the words or conduct of any other party as a waiver of any right unless the waiver is in writing and signed by the party granting the waiver.

17.7 FURTHER ACTS AND DOCUMENTS

Each party must promptly do all further acts and execute and deliver all further documents required by law or reasonably requested by another party to give effect to this Agreement.

17.8 ENTIRE AGREEMENT

This Agreement embodies the entire agreement between the parties and supersedes any prior negotiation, conduct, arrangement, understanding or agreement, express or implied, in relation to the subject matter of this Agreement.

18. DEFINITIONS AND INTERPRETATION

- (a) In this agreement, capitalised phrases have the meanings specified in the Client Form or in the body of these Client Terms.
- (b) In this agreement, the following rules of interpretation apply:
 - (i) **(singular and plural)** words in the singular includes the plural (and vice versa),
 - (ii) **(gender)** words indicating a gender includes the corresponding words of any other gender;
 - (iii) **(defined terms)** if a word or phrase is given a defined meaning, any other part of speech or grammatical form of that word or phrase has a corresponding meaning;
 - (iv) **(person)** a reference to "person" includes an individual, the estate of an individual, a corporation, an authority, an association, consortium or joint venture (whether incorporated or unincorporated), a partnership, a trust and any other entity;
 - (v) **(party)** a reference to a party includes that party's executors, administrators, successors and permitted assigns, including persons taking by way of novation and, in the case of a trustee, includes any substituted or additional trustee;
 - (vi) **(this agreement)** a reference to a party, clause, paragraph, schedule, exhibit, attachment or annexure is a reference to a party, clause, paragraph, schedule, exhibit, attachment or annexure to or of this agreement, and a reference to this agreement includes all schedules, exhibits, attachments and annexures to it, including the cover page and Statement of Work;
 - (vii) **(document)** a reference to a document (including this agreement) is to that document as varied, novated, ratified or replaced from time to time;
 - (viii) **(currency)** a reference to "\$" or "dollar" is to Australian currency;
 - (ix) **(headings)** headings and words in bold type are for convenience only and do not affect interpretation;
 - (x) **(includes)** the word "includes" and similar words in any form is not a word of limitation; and
 - (xi) **(adverse interpretation)** no provision of this agreement will be interpreted adversely to a party because that party was responsible for the preparation of this agreement or that provision.