

CONDITIONS OF CARRIAGE

1. This is a contract between Acumation and the Customer.

1.1 These terms constitute the contract under which Acumation will supply services to the Customer (ie, the person engaging the services). Usually (but not always) the Customer is the person specified as the sender on the front of this contract. The Customer warrants that it has read and understood this contract and agrees to be bound by the terms and conditions of this contract.

1.2 Acumation is not a common carrier and will accept no liability as such. Acumation may refuse to handle, transport or store goods or supply services to the customer for any reason whatsoever.

1.3 Acumation and any subcontractor may subcontract part or all of their obligations on any terms. Subcontractors shall include but not be limited to shipping lines, railway companies, road hauliers, freight forwarders, Customs brokers, independent consultants and any other person, firm, establishment or company with whom Acumation may arrange for the carriage, transport or storage of any of the goods the subject of this contract and any person who is now or hereafter a servant, agent, employee or sub-contractor of any of the persons, firms, establishments or companies referred to within this contract.

1.4 The Customer agrees that:

- a) Acumation's employees, agents and subcontractors shall have the benefit of this contract as if they were parties to it (Benefited Persons); and
- b) Acumation holds that benefit on trust for them and can, if requested by them, enforce it on their behalf; and
- c) Acumation may complete and sign this contract for and/or on behalf of the Customer whilst Acumation and its subcontractors retain all rights, immunities indemnities, warranties and limitations afforded by this contract to Acumation and/or its subcontractors.

1.5 Goods mean any goods accepted from or on behalf of the Customer and any other goods including but not limited to paperwork, packaging, dunnage and third party content or equipment that Acumation may collect with those goods.

1.6 Services means all services including but not limited to advice, agency, brokerage, consultancy, storage or transport applied by Acumation in any capacity to the Customer including as forwarding agent, shipping agent, forwarder, storer, packer, loader, operator, driver, carrier or bailee howsoever ordered by the Customer.

1.7 Acumation means the entity Acumation Pty. Ltd. Registered ACN 076 953 074 and ABN 97 076 953 074.

2. Credit, payment and charges.

2.1 Acumation earns its charges when it collect the goods from the Customer or from the address nominated by the Customer.

2.2 The Customer must pay the charges relating to the services and the transport of the goods unless the sender (where the Customer is not the sender) or the receiver pays them. If another person is nominated as liable to pay the charges the Customer promises that if that person does not pay the charges by the due date, the Customer will pay the charges.

2.3 The Customer must prepay immediately Acumation's charges or where the Customer has a credit account, charges accrue immediately to that account.

2.4 In addition to freight and or transport charges, Acumation may charge for:

- a) any additional expenses Acumation incurs as a result of any incorrect declaration by the Customer of the weight, volume, description or packaging of the goods or Acumation having to re-pack any goods to comply with any laws;
- b) any expense or loss incurred by Acumation as a result of the Customer canceling any services;
- c) Any demurrage or detention charges as a result of the Customer's act or omission;
- d) any storage or other charges or expenses Acumation incurs in relation to the goods;
- e) a late payment fee for overdue accounts;
- f) any expenses incurred in connection with the recovery of overdue accounts.

2.5 Acumation is entitled to keep all commissions, allowances and remuneration paid to it.

2.6 The charges in this contract are exclusive of GST. If GST applies to the supply of the services the Customer must pay an additional amount for GST without deduction or offset. Acumation will provide a Tax Invoice for all services supplied showing Acumation's ABN of 97 076 953 074.

2.7 Acumation may in its absolute discretion make a credit facility available to the Customer subject to the following conditions:

- a) the Customer must pay by the due date;
- b) the Customer must provide to Acumation written notice of any changes in its business structure or creditworthiness;
- c) if Acumation withdraws or reduces a credit facility, any charges incurred by the Customer are immediately due and payable;
- d) if the Customer breaches this contract Acumation may in its discretion immediately reduce or withdraw any credit facility.

3. Insurance.

3.1 No form of insurance has been included in this quotation and remains the responsibility of the Customer.

3.2 Acumation does not provide insurance for any of the services provided by it or its subcontractors.

3.3 The Customer will indemnify Acumation and its subcontractors against all loss and/or damage caused to goods in transit, third party property and/or effects and/or human/other interaction whilst contracted to provide services to the Customer.

4. The Customers obligations.

4.1 The Customer promises to Acumation and its subcontractors that:

- a) the Customer alone owns the goods or if there are other owners the Customer acts as their agent and they agree to services provided by Acumation;
- b) the Customer indemnifies Acumation against any claim in connection with this contract, the supply of services or the handling, transport or storage of the goods from any person other than the Customer including the sender where the sender is not the Customer;
- c) the Customer has completed the contract document correctly (or agreed that Acumation may complete it on the Customer's behalf) and all information provided by the Customer is accurate;
- d) the goods are packed to withstand handling, transport and storage;
- e) the Customer has complied with all laws in connection with the goods and services to ensure that they can be lawfully handled, transported and stored;
- f) the Customer will not sue Acumation or any Benefited Persons for anything arising in connection with this contract, the services or the handling, transport or storage of the goods and the Customer will indemnify Acumation for any loss or damage (including property damage) caused to any person as a result of the Customer's breach of this contract (including breach of promises made by the Customer).

4.2 The indemnities in this contract will operate irrespective of whether any loss or damage arises from a willful, deliberate or unauthorised act or omission by Acumation or its subcontractors.

5. Dangerous goods.

5.1 Goods are "dangerous" if they are classified by the Australian Dangerous Goods Code or if they might injure people or damage property or the environment.

5.2 The Customer must:

- a) pre-book all dangerous goods and provide Acumation with a full and accurate written inventory of dangerous goods including if requested an emergency procedures guide;
- b) comply with the dangerous goods code including making all declarations and labeling and/or placarding the goods.

5.2 If Acumation or its subcontractors consider that the dangerous goods may cause injury or damage they may at the Customer's cost dispose of or destroy the goods or take any other action in relation to the goods.

5.3 The Customer will always bear all risk of loss or damage to, or arising in connection with, dangerous goods.

6. The Customer authorises Acumation to:

6.2 use any method for handling, transporting or storing the goods. Acumation will give priority to any instructions given by the Customer but if those instructions cannot be followed Acumation will use another method;

6.3 deviate from any usual route of transport or place of storage;

6.4 open any container or inspect the goods for any reason;

6.5 claim a general or particular lien over the goods and any documents relating to them for outstanding payments relating to those goods or other goods which have been or are to be handled, transported or stored on the Customer's behalf;

6.6 sell any goods held by Acumation for outstanding payments by public auction or private sale without notice to the Customer.

7. No implied warranties.

7.1 If the Customer is a consumer as defined in the Trade Practices Act the contract does not affect any rights the Customer may have as a result of the Act.

7.2 Acumation makes no express warranties under this contract. Subject to clause 7.1 to the greatest extent possible Acumation excludes all conditions, warranties and terms implied by law. In particular Acumation:

- a) does not guarantee the time of departure of arrival of the goods; and
- b) does not have to inform the Customer of the expected delivery of the goods; and
- c) does not have to inform the Customer of any known damage or delay to the goods.

8. Claims.

8.1 If the Customer believes Acumation is liable it must notify Acumation immediately and send written notice of claim within 72 hours

8.2 If Acumation does not receive written notice of a claim within that time, Acumation will have no liability to the Customer.

8.3 Notwithstanding such claim, the Customer remains liable to pay Acumation's charges under this contract.

8.4 Acumation will have no liability to the Customer, even if the Customer gives Acumation written notice of claim within the specified period, if the Customer does not commence legal proceedings against Acumation within six months after the date of ordering the services from Acumation.

9. Liability.

9.1 Services are supplied at the Customer's risk. The Customer bears all risk of loss or damage to or arising in connection with the goods. The Customer acknowledges its responsibilities under laws relating to the goods and the way they are loaded and packed and will at all times comply with such laws.

9.2 Acumation and its subcontractors are not liable for any delay, loss or damage arising from the supply of or failure to supply services including any loss of, deterioration of, or failure to deliver goods for any reason whatsoever including breach of contract, negligence, breach of duty as bailee or Acumation's willful act or default.

9.3 Acumation and its subcontractors have the benefit of these exclusions and limitations of liability even if any loss or damage arises for any reason whatsoever including breach of contract, negligence, breach of duty as bailee or Acumation's willful act or default.

9.4 Subject to paragraphs 7.1 and 7.2 Acumation limits any liability to the Customer from any cause whatsoever (at Acumation's discretion) to:

- a) refunding the amount paid for the services; or
- b) resupplying the services; or
- c) paying the cost of having the services resupplied.

10. General.

10.1 Title and risk in the goods remains with the Customer (as between the Customer and Acumation) even while goods remain in Acumation or its subcontractors possession.

10.2 All intellectual property rights relating to the contract belong to Acumation (as between the Customer and Acumation).

10.3 The terms of this contract and associated charges are confidential and must not be disclosed without the prior written consent of Acumation.

10.4 If any provision of the contract is illegal, invalid, void or voidable the remainder of this contract shall continue in full legal force and effect. The parties will replace the relevant clause(s) with a legally acceptable alternative that meets the same commercial objectives.

10.5 No waiver will be effective unless it is in writing, signed and witnessed by the party giving it.

10.6 This contract is governed by the laws of the State of Victoria in the Commonwealth of Australia and each party submits to the jurisdiction of that state.

10.7 This contract constitutes the entire agreement between the parties and supercedes any prior agreement or understanding between the parties.

10.8 Acumation may amend these terms at any time by notice in writing to the Customer. Such amendment takes effect on receipt of the amended terms by the Customer.

10.9 In this contract:

- a) headings are for ease of reference and do not affect interpretation;
- b) the singular includes the plural and vice versa;
- c) reference to a person includes any individual, firm, company, statutory body, body corporate, unincorporated association or other legal entity; and
- d) a reference to a party includes the party's successors and permitted assignees.