

1. Definitions. In these conditions:

'DYERS' means Transdyer Management Pty Ltd. ACN 005 054 571 and its related bodies corporate carrying on business in their own names and any business names and their officers, servants, agents and Sub-contractors.

'Sub-contractor' means: -

- 1.1 All corporations which are related to DYERS within the meaning of that expression in Section 9 of the Corporation Law
- 1.2 The commonwealth, a State, a Territory or an authority that operates a railway.
- 1.3 Any person DYERS arranges to Transport the goods.
- 1.4 Any person who is a servant, agent, employee, or sub-contractor of any of the Persons in 1.1, 1.2 or 1.3.

'Persons' include any person, firm, corporation, or government authority.

'Transport' means the goods accepted from the Sender with any container, packaging, or pallets supplied by or for the sender.

'Charges' means DYERS quoted charges for transport of the Goods (Calculated under its rate chart) the charges in clause 6.

2. Contract Basis

- 2.1 DYERS is NOT A COMMON CARRIER and does not accept any liability as a common carrier AND MAY REFUSE TO TRANSPORT GOODS FOR ANY PERSON OR TRANSPORT ANY CLASS OF GOODS AT ITS DISCRETION.
- 2.2 The sender has filled in the front and for his contract DYERS relies on the details of description, items, weight, and measurement on the front but DYERS cannot verify their accuracy.

3. Sender's Obligations – The sender must:

- 3.1 Not tender for Transport any volatile spirits or explosive Goods or Goods which are or may become dangerous, inflammable or offensive (including radioactive materials) or which are or may become liable to damage any person or property without first presenting to DYERS a full written description disclosing the nature of those goods; and
- 3.2 Make the Goods conform to the Receiver's requirements and pay any expense incurred by DYERS if the Sender fails so to do: and
- 3.3 Ensure any container, packaging or pallet which is part of the Goods and required to be returned to its owner or the owner's nominee is so returned within the time required by that owner or nominee.

4. Sender's Warranties and Indemnities. The sender warrants:

- 4.1 It has fully and adequately described the Goods, their nature, weight and measurements and complied with all applicable laws and regulations (including the Australian code for the Transport of Dangerous Goods by Road and Rail, Civil Aviation Regulations and the International Maritime Dangerous Goods Code) about the notification, classification, description (on this contract or separately), labelling, transport and packaging of the Goods and given their nature the Goods are packed in a proper way to withstand the ordinary risks of Transport: and
- 4.2 The person delivering the Goods to DYERS for Transport is authorised to sign this contract; and
- 4.3 It is either the owner or the authorised agent of the owner of the Goods and by entering the in to this contract it accepts these conditions for itself and the Receiver as well as for any other person for whom the sender is acting, and
- 4.4 Neither it or any other person will make an allegation or claim against DYERS about the Transport of the Goods AND the Sender indemnifies DYERS from any loss, damage, expense, penalty, fine or liability arising from a breach of these warranties, the Sender's obligations or these conditions.

5. DYERS rights

- 5.1 If in DYERS opinion the Goods are or at liable to become dangerous, inflammable, explosive, volatile, offensive or damaging in nature, DYERS may at any time destroy, dispose of, abandon, or render them harmless without compensation to the Sender or Receiver without prejudice to DYERS right to any charges.

- 5.2 If the sender instructs DYERS to use a particular method of Transport whether by Road, Rail, Sea, or air, DYERS will give priority to that method designated by if DYERS cannot conveniently adapt it DYERS may Transport or have Goods Transported by another method.
- 5.3 DYERS is authorised to deliver the Goods at the address given to DYERS by the Sender or any other address directed by the Receiver and DYERS will be taken to have delivered the Goods if at either address DYERS obtains from any Person a receipt.
- 5.4 If any contract or identifying document or mark is lost, damaged, destroyed or defaced DYERS may open any document, wrapping, package or other container in which the Goods are placed or carried to inspect them to determine their nature or condition or to determine their ownership or destination.
- 5.5 DYERS may consolidate the Goods with others and as principal or agent may arrange for Transport of these Goods by any Sub-Contractor on any items.
- 5.6 The sender authorises DYERS to lease, hire or use any container, pallet, or rail wagon in which or on which the Goods may be placed or packed and subject to the terms of any bill of lading, hire lease agreement, equipment hand – over agreement, interchange receipt or other contract for Transport whether by sea, rail, road or air and to give any receipt for the Goods or any container, pallet or rail wagon.

6. Charges

- 6.1 The sender, receiver or third party, as nominated on the front must:
 - 6.1.1 Pay cash on or before delivery if a current trading account is not held with DYERS.
 - 6.1.2 Unless otherwise agreed, pay DYERS in Australian Dollars its Charges within 7 days of the date of DYERS invoices and
 - 6.1.3 Pay freight by weight measurement or value as DYERS selects, and uncrated machinery if less than 2.6 metres high, will be charged for as if 2.6 metres high and
 - 6.1.4 If the Goods at any time are re-weighted or re-valued or re-measured, pay any additional freight and additional charges, and
 - 6.1.5 Pay any charge for demurrage at rate charged to DYERS directly or indirectly by any railway or shipping authority or by any other person, and
 - 6.1.6 Pay DYERS expenses and charges to comply with any law or regulation or any order or requirement made under them or with the requirement of any harbour, dock, railway, shipping, customer exercise or warehouse authority or other Person, and
 - 6.1.7 If any of the Goods are under Customs control pay all customs duty, excise duty and costs which DYERS becomes liable to pay or pays, and
 - 6.1.8 Supply and pay for labour to load and unload the Goods; and
 - 6.1.9 Pay DYERS for any delay in excess of 30 minutes which occurs in loading or unloading. The delay period commences when DYER reports to load or unload during normal rating hours; and
 - 6.1.10 Pay the cost, expense or loss to DYERS of destruction or disposal under 5.1 or of opening or inspection under 5.4 and
 - 6.1.11 Compensate DYERS for any cost, expense, or loss of tolls property or any Person caused by the Goods and
 - 6.1.12 If any charges are not paid on the date for payment, pay interest on the unpaid charges at a rate of 4% higher than the prevailing rate under the Penalty Interest Rates Act 1983.
- 6.2 The sender must pay the charges if someone other than the Sender is nominated on the form to pay the Charges and that Person does not pay the charges within 7 days of the date for payment or within 7 days of delivery or tendered delivery of the Goods
- 6.3 The sender acknowledges;
 - 6.3.1 DYERS Charges are considered earned as soon as the Goods are picked up and whether they are delivered to the Receiver or not and whether damaged or not; and
 - 6.3.2 DYERS will not refund any payment for Charges under any circumstances; and
 - 6.3.3 If the level or mode of services is not nominated on the front DYERS may Transport the Goods at the highest mode and service level available (usually Express Road)

7. Lien

- 7.1 DYERS has a general lien on the Goods of all Charges due or which become due on any account whether of Transport of the Goods or any other Goods or any other service.

- 7.2 If the charges are not paid or the Goods are not collected, DYERS may without notice, and in the case of perishables Goods immediately:
- 7.2.1 Remove all or any of the Goods and store them as DYERS thinks fit at the senders risk and expense; or
 - 7.2.2 Open any package and sell all or any of the Goods as DYERS thinks fit and apply the process to discharge the lien cost of sale

8. Claim

- 8.1 The sender or receiver must give notice in writing to DYERS of any claims to be made under this contract within 7 days of the date of delivery or in case of non-delivery within 7 days of the anticipated date of delivery
- 8.2 The failure to claim within the time under 9.1 is evidence of satisfactory performance by DYERS of its obligation.

9. Damage, Exclusions and Limitations

- 9.1 Goods are deemed to be in transit despite interruption of the Transport or that DYERS may divert from the usual route of Transport.
- 9.2 If the Sender requests DYERS to pack Goods DYERS is not liable of any damage or loss whether in packing or in transit no matter how the damage or loss arises, including any negligence.
- 9.3 DYERS is not liable for and the sender releases and indemnifies DYERS against any loss of or damaged to or mis-delivery, delay in delivery or return, concealed damage deterioration, contamination, evaporation or non-delivery or return of Goods at any time in its possession, care, custody or control or any consequential loss even if it arises because of breach of contract or negligence or wilful act or omission of DYERS.
- 9.4 DYERS is not liable for, and the Sender releases and indemnifies DYERS against, any loss, claim, demand or liability arising from personal injury, illness or death to any Person or damage to any property caused or contributed to by the Goods. This disclaimer releases the indemnity extent to include loss, damage or injury even if it arises because of breach of contract or negligence or wilful act or omission of DYERS.
- 9.5 If DYERS is required to handle, install, remove, assemble, erect, load or unload any Goods whether into or onto bulk tanks or vessels, drums, containers, or rail wagons or use of any crane, gantry machinery during the process DYERS is not liable for and the Sender releases and indemnifies DYERS against any claim, demand or liability arising from any death, injury, illness, or delayed or contamination even if it arises because of breach of contract or fail, breakdown or defect in machinery whether or not caused or contributed to by any negligence or wilful act or omission of DYERS
- 9.6 Even if DYERS breaches this contract or any of its conditions all the rights, immunities and limitation of liability in these conditions continue to have their full force and effect in all circumstances

10. Trade Practices Act

These conditions are to be read subject to any implied warranty provided by Trade Practices Act 1974 so far as the application to this contract and prevents the exclusion, restriction or modification of the warranty.

11. Law of Contract

These conditions are governed and must be construed under the laws of the State of Victorian and any proceedings against DYERS must be brought in that State within 12 months of the date of this contract.

12. Variations

DYERS will not be bound by any agreement which varies these conditions unless it is in writing and signed for DYERS by all authorised officer.

