

CONDITIONS OF CONTRACT

1. In these Conditions -
"carriage" includes delivery and storage.
"carrier" shall mean Westcoast Express Pty. Ltd. its employees, servants and agents.
"carry" includes handle and store.
"consignor" means the person and or company shown overleaf as the sender.
"goods" means all goods delivered or to be delivered by the consignor to the carrier and or to any sub-contractor and includes the goods referred to overleaf and all packaging and pallets on which the goods are to be transported.
"state" means the State and Territories of the Commonwealth of Australia.
"sub-contractor" shall mean.
 - (a) railways and tramways operated by the Commonwealth, any State or any other person.
 - (b) any other person, firm or company with whom the carrier may arrange for the carriage.
 - (c) any employee, agent or sub-contractor of any of the persons in (a) and (b) above.
2. The carrier is not a common carrier and will accept no liability as such. All goods and articles are carried or transported and all storage and other services are performed by the carrier subject only to these Conditions.
3. The carrier may, in its absolute discretion, arrange with a sub-contractor for the carriage of any goods. the subject of this contract. Any such arrangement shall be deemed to be ratified by the consignor upon delivery of the goods to the sub-contractor, who shall thereupon be entitled to the full benefit of these terms and Conditions to the same extent of the carrier. Insofar as it may be necessary to insure that such sub-contractor shall be so entitled, the carrier shall be deemed to enter into this contract for its own benefit and also as trustee for the sub-contractor.
4. If the consignor instructs the carrier to use a particular method of carriage whether by road, rail, sea or air, the carriage will give priority to the method designated but if that method cannot conveniently be adopted by the carrier, the carrier may carry or have the goods carried by another method or methods.
5. Save and only to the extent that this Condition is inconsistent with any statutory provision to the contrary, no responsibility will be accepted by the carrier for any loss of or damage to or misdelivery or failure to deliver or delay in delivery of goods either in transit or in storage or for any reason whatsoever. The carrier may deliver the goods at the address given to the carrier by the consignor for that purpose and the carrier shall be taken to have delivered the goods in accordance with this contract if at that address the carrier obtains from any person a receipt or signed delivery docket for the goods.
6. The provisions of clause 5 shall be modified only and if in the event such provision is inconsistent with any statutory provision in which event the carrier's liability shall be restricted only to the extent of supplying the transport services again or the payment of the cost of having the transport services supplied again.
7. The consignor hereby acknowledges that he is aware that the carrier does not carry any insurance with respect to the carriage of the goods under this contract, and the consignor hereby warrants and declares that the consignor has insured the goods to be transported under this contract to the full insurable value of the goods and that the policy of insurance does not entitle the consignor's insurer to claim contribution and or indemnify against the carrier for any act default omission or otherwise with respect to the carrier's performance of the contract and that the consignor shall indemnify and keep the carrier fully indemnified for and in respect of any breach or default on the part of the consignor under this clause including a indemnity with respect to all and any charges, costs and expenses including legal costs incurred by the carrier arising out of any breach of this clause.
8. The goods are at the risk of the consignor in every respect and neither the carrier nor the sub-contractor shall be responsible either in tort, contract, statute or otherwise for any loss or damage to or deterioration of the goods or misdelivery or failure to deliver or delay in delivery of the goods for any reason whatsoever including any negligence act default or omission on the part of the carrier and or sub-contractor and including any circumstance which would otherwise constitute a fundamental breach of the contract or a breach of a fundamental term of this contract.
9. The consignor shall pay to the carrier the charges for carrying the goods calculated at the charge rate prescribed overleaf to be paid within the nominated due date for payment. Any request or direction by the consignor to tender any invoice to a consignee or any other third party does not relieve and discharge the consignor from liability to pay the costs and charges of the carrier if in the event for whatever reason such costs and charges are not paid by the consignee or other third party within seven days of the date of tendering of an invoice.
10. The consignor or his authorised agent shall not tender for carriage any explosive inflammable or otherwise dangerous or damaging goods without presenting a full description of those goods and in default of so doing shall be liable for all loss and damage resulting from or caused by the goods.
11. The consignor warrants and agrees with the carrier that the consignor is either the owner or the authorised agent of the owner of any goods or property the subject matter of this contract of carriage and by entering into this contract the consignor accepts these conditions of contract for any consignee as well as for all other persons on whose behalf the consignor is acting.
12. Without departing from any other provision of these Conditions, the carrier shall not be liable for any loss or market, loss of use or consequential loss concealed damage or damage caused by inherent vice or nature of the goods or merchandise carried including chilled frozen refrigerated or perishable goods either in transit or in storage whether caused by the negligence wrongful act or default of the carrier or by any other cause.
13. All the rights, immunities and limitations of liability granted to the carrier by these conditions shall continue to have their full force and effect in the circumstances and notwithstanding any breach of the contract or any other conditions hereof by the carrier.
14. The consignor shall be deemed to authorise any deviation from the usual route or manner of carriage of goods which may in the absolute discretion of the carrier be deemed reasonable necessary of appropriate in the circumstances.
15. This contract shall be construed and enforced in accordance with the laws of the State of Western Australia and the parties to this contract hereby submit to the jurisdiction of the Courts of the State of Western Australia.
16. If in the event there is any conflict or inconsistency between the provisions of this contract and any relevant statute, which renders any provision of this contract invalid or unenforceable, then the remaining provisions of this contract shall continue to apply and be binding upon the parties.