

Conditions of Contract

1. **All transportation, storage and any other service provided together with any goods and services used in and/or ancillary to the said transportation, storage and other services provided by the Carrier shall be subject to these conditions.**
2. Definitions
In these conditions:
 - 2.1 "Carrier" shall mean Direct Freight Express Pty Ltd ABN 66 060 136 870 carrying out business in its own name and under any other business name and unless the context otherwise requires its officers, servants, agents and sub-contractors.
 - 2.2 "Charges" mean the Carrier's charges for Services calculated under its published Direct Freight Express National Rates Schedule (National Rates Schedule), Zones Indicators & Locations and Additional Service Charges and fees for the Direct Guard Warranty Service and any Rates Schedule quoted by the Carrier to the Sender as may apply from time to time and any fuel levy.
 - 2.3 "Collection Point" means a location authorized by the Carrier from which goods can be delivered to and collected from.
 - 2.4 "Consequential loss" means any indirect or consequential loss; loss of use; loss of product or production; loss of use of any plant or facility; delayed, postponed, interrupted or deferred production; inability to produce, deliver or process; increased cost of work or materials; loss of profit, revenue or anticipated revenue; loss of anticipated savings; loss of bargain, contract, expectation or opportunity; special, punitive or exemplary damages; in each case arising from or in connection with the performance of these conditions and whether or not foreseeable at the time of entering into these conditions or at the time of provision of the services.
 - 2.5 "Damage" shall mean damage to the goods consigned to the Carrier for delivery and/or storage.
 - 2.6 "Force Majeure" means any circumstance or cause beyond our control including without limitation natural disasters, acts of God, pandemic, industrial disputes, war, terrorism, fire, flood, embargo, litigation, strikes and / or lockouts (whether of the Carrier's own employees or those of others and whether or not the Carrier could have avoided the same by acceding to the demands of the employees responsible for such action), riots, civil commotion, government restrictions or intervention, any quarantine or customs restriction or act of a public authority, government or any agency instrumentality or any political subdivision thereof or any other force majeure or major attributable incident of this nature or any other cause beyond the control the Carrier;
 - 2.7 "Goods" shall mean the cargo accepted from the sender together with any container, packaging or pallets supplied by or on behalf of the sender.
 - 2.8 "Loss" shall include any form of loss sustained by the Sender including but not limited to economic loss, whether or not the loss is pure economic loss.
 - 2.9 "My Online Direct Account" means the account allocated to the Sender by the Carrier in the Carrier's online web access portal.
 - 2.10 "Person" includes each of the following: a natural person, a body corporate which is registered pursuant to or which maintains its incorporation by operation of the Corporation Act 2001 or any other law of the Commonwealth of Australia or any law of any state or territory of Australia, a foreign company within the meaning of that term in section 9 of the Corporations Act 2001, a corporation sole, the Commonwealth of Australia, a state of Australia, a territory of Australia or in its external territories, any Local Government body of Australia or in its external territories, a public authority, the holder of any statutory office, the Owners Corporation of any strata body, a partnership.
 - 2.11 "Sender" shall mean the person with whom this contract is made.
 - 2.12 "Services" shall mean and include the whole of the operations and services undertaken by the Carrier in connection with the goods including but not limited to the carriage, transport and or the storage of the goods.
 - 2.13 (i) The heading to any clause is intended to assist in reading the term and is not to be used to limit or qualifying the meaning thereof.
(ii) Except where the context clearly shows an intention to the contrary, the singular shall include the plural and the plural shall include the singular.
(iii) The use of the term "and/or" shall mean any one or all or any combination of the things, persons and events that precede and follow it as the context suggests.
3. The **CARRIER IS NOT A COMMON CARRIER** and will accept no liability as such. The Carrier reserves the right to refuse the carriage or transport of goods for any person, corporation or company and the carriage or transport of any class of goods at its discretion.
4. TIME
 - 4.1 TIME FOR AND MEANS OF GIVING NOTICE OF DAMAGE AND CONSEQUENCES OF NOT GIVING NOTICE IN THE TIME PROVIDED
The Sender agrees to inspect the goods immediately upon the goods being delivered and to notify the Carrier of the nature and extent of any damage to the goods which is capable of being discovered upon a reasonable inspection and that such notice is to be given to the Carrier within fourteen (14) days of the date of delivery of the goods and, in the case where the goods are not delivered, within fourteen (14) days of the date the goods would have, in the ordinary course of delivery, been delivered. If the goods suffer damage in the course of carriage and/or storage which damage is not capable of being discovered upon reasonable inspection immediately upon delivery then notice in writing of the nature and extent of any damage and the reasons why it could not have been discovered on a reasonable inspection immediately upon delivery must be given to the Carrier within fourteen (14) days of the discovery of such damage; however, the time provided in clause 4.2 for commencing proceedings applies irrespective of when the damage is discovered and/or notice given. If notice of damage is not given within the respective periods provided herein, the onus of proof of which rests upon the Sender, then, without limiting any other provision herein excluding liability or for bringing claims or for commencing proceedings, no claim shall lie against the Carrier for damage and loss. Notice of damage as required by this clause must be given to the Carrier in writing and physically delivered to a place of business of the Carrier (which does not include a truck or a means of transport used by the Carrier) or by submitting a Consignment Credit Request through My Online Direct Account or transmitted by email to accounts@directfreight.com.au or delivered personally to the registered office (within the meaning of that term in the *Corporations Act 2001*) of the Carrier or be given personally to the company secretary or managing director of the Carrier. If notice is not given to the Carrier in the manner provided herein then the notice shall not be notice which complies with this provision.
 - 4.2 TIME FOR COMMENCING PROCEEDINGS
The limitation period for bringing proceedings for compensation or any other relief for damage and loss shall expire six (6) months after the date of delivery of the goods and, in the case where the goods are not delivered, within six (6) months after the date the goods would have, in the ordinary course of delivery, been delivered.
5. VARIATION OF THESE TERMS AND CONDITIONS
 - 5.1 The Sender acknowledges that the only persons authorised on behalf of the Carrier to vary these terms and conditions are the Managing Director or an Executive Officer of the Carrier and that the authority of such persons on behalf of the Carrier to authorise any variation is limited to doing so in writing and/or by such means as provided by these terms and conditions.
 - 5.2 The Carrier reserves the right to vary these terms and conditions of contract from time to time and shall publish such variation on its website thirty (30) days prior to commencement.
 - 5.3 The Sender agrees to the varied terms and conditions by continuing to use the services.
 - 5.4 Any variation to these terms and conditions will take effect in relation to all services, orders and agreements made on and after the thirty-first (31st) day following the publication thereof on the Carrier's website; and the date which is the thirty-first (31st) day after the date published on that

website at any time as being the date upon which the variation was first published shall be taken as the date of the variation unless some other date is proved to be the date of making the variation.

5.5 A variation of any Charges does not constitute a variation of these terms and conditions.

6. The Sender authorises the Carrier to engage such servant or agent or subcontractor to perform on the Carrier's behalf the carriage and/or storage of goods as the Carrier thinks fit. In the event that the Carrier engages any such servant or agent or subcontractor then such servant or agent or subcontractor may rely on these terms to exclude or limit the liability of the servant or agent or subcontractor to the same extent as such exclusion is available to be relied upon by the Carrier.

7. The Sender acknowledges that the goods are sent and/or held by the Carrier at the risk of the Sender and that the Sender agrees that, except in the case of wilful damage, neither the Carrier nor any servant or agent or subcontractor of the Carrier nor any other person who carries and/or stores the goods placed with the Carrier by the Sender shall at any time be under any liability whatsoever to the Sender, for any cause of action, and without limiting the foregoing, the Carrier, any employee, servant or agent shall not be liable to the Sender for negligence or for any other failure to exercise care or skill, whether or not such failure gives rise to a fundamental breach of contract by the Carrier, which causes and otherwise results in each or any of the following:

- (i) Damage and/or loss of any kind whatsoever arising.
- (ii) Delayed delivery of the goods in any circumstances including but not limited to whether or not the goods require transportation in refrigerated or chilled conditions or are perishable.
- (iii) Damage and/or loss of any kind whatsoever arising from non-delivery of the goods.
- (iv) Consequential loss.

Without limiting the foregoing, the Carrier shall not be liable for the wilful act of any employee or subcontractor or agent giving rise to any damage and/or loss set out in lines (i), (ii), (iii) or (iv) herein.

8. The Carrier will not insure the goods nor will the Carrier act as the insurer of the goods. The Sender and the Carrier may enter into the DirectGuard Warranty Service for which the Sender will pay an additional charge and whereupon the Carrier shall only be liable to the extent of its liability under the terms of the said DirectGuard Warranty.

9. FORCE MAJEURE

9.1 The Carrier is not liable for any failure or delay in performance of the services or for any loss or damage to the Goods where such failure or delay or the loss or damage is due, wholly or partly, to any causes beyond the control of the Carrier including due to, but not limited to, force majeure.

9.2 In circumstances beyond the Carrier's control, including due to, but not limited to, any force majeure, the Carrier has the right to immediately amend its services, requirements of the Sender and/or process for an interim period. Notification of any such changes shall be provided on the Carrier's website.

10. CHARGES

10.1 As soon as the goods are accepted by the Carrier for transport and/or storage, the Carrier is entitled to be paid the whole of its charges for the services and those charges shall be taken as fully earned and shall be forthwith payable. The entitlement of the Carrier to be paid shall not be defeasible except where each of the following apply:

- (i) there has been a complete failure of delivery where the Carrier has not delivered the goods, or any part of the goods, at all (regardless of the place, date and time of delivery); and
- (ii) the goods have not been destroyed or disposed of or otherwise seized in accordance with these terms and conditions or in accordance with law; and
- (iii) the Sender makes no other claim against the Carrier.

10.2 In addition to the rates of carriage, a fuel levy (as may apply from time to time) and any Additional Service Charges shall be charged to the Sender including account service fees, pallet charges, pick-up and delivery charges, and destination surcharges (as may apply from time to time) as published in the Carrier's Additional Service Charges.

10.3 The Sender will be and remain responsible to the Carrier for all its proper charges incurred for any reason.

10.4 The Sender is liable and will continue to be liable for the cost of the freight and/or any charges whether or not the Carrier accepts a direction from the Sender to accept payment from any person or entity.

10.5 The Sender must pay any reasonable fees and charges for credit or debit card payments.

11. RATES

11.1 The Sender duly accepts the Carrier's rates of carriage and/or applicable charges for each consignment.

11.2 The 'rates of carriage' shall be as quoted by the Carrier to the Sender (the Rates Schedule) and, where there is not a quoted rate, then a rate which is a sixty percent (60%) reduction of the National Rates Schedule applies.

11.3 The Rates Schedule accepted by the Sender is only valid for twelve months from the date of the proposal and is subject to a monthly minimum trading level.

11.4 The rates as quoted do not include insurance of the goods.

11.5 The Sender agrees to the Carrier applying the method of cubing, such that the greater of the calculated cubic kilograms or actual kilograms will be used in calculating the freight charges, rounded up to the nearest whole kilogram. Cubic weight is calculated applying the formula: $(\text{Width} \times \text{Length} \times \text{Depth, each dimension expressed in metres}) \times \text{cubic factor} = \text{cubic kilograms (kg)}$.

11.6 The Carrier will charge the freight by weight and/or measurement and/or quantity in accordance with its rates of carriage being the published National Rates Schedule and/or any Rates Schedule quoted by the Carrier to the Sender. The Carrier reserves the right at any time to weigh or re-weigh and/or to measure or re-measure and/or to quantify or re-quantify and/or to otherwise require the Sender to weigh or re-weigh and/or to measure or re-measured and/or to quantify or re-quantify the goods being carried and/or stored or to be carried and/or stored. The Carrier shall be entitled to charge in accordance with the scale of charges based upon the most accurate measurement of the weight, size or quantity of the goods. The Carrier will reasonably determine the most accurate weight, size or quantity of the goods. In this clause "quantity" and "quantify" shall include count.

11.7 Any request by the Sender to the Carrier to re-calculate charges for a consignment for any reason must be made within 90 days from the date the consignment was invoiced and such request is to be made to the Carrier in the same manner as applies for giving notice as provided in clause 4.1. The Carrier may charge the Sender a fee for such adjustment and re-calculation. Any such adjustment and re-calculation shall be at the Carrier's discretion.

12. The Sender warrants:

- (i) That he is the owner of the goods or otherwise has authority of the owner to consign the goods upon and subject to these conditions.
- (ii) That the goods comply with the requirement to any applicable law (including the Australian Code for the Transport of Dangerous Goods by Road and Rail and Air Navigation Orders Part 33) relating to the consigning and packaging of the goods and the expenses and charges of the Carrier in complying with the provisions of any such law or with any order or requirement thereunder or with the requirement of any harbour, dock, railway, shipping, customs warehouse or other relevant authority or company shall be paid by the Sender.
- (iii) If any of the goods are subject to the control of the Customs all Customs duty, excise duty and costs which the Carrier becomes liable to pay and shall pay in respect of such goods pursuant to any law relating to Customs or excise shall be paid by the Sender.

- (iv) The Sender shall not tender for carriage and/or storage any substance which is or is partly made up of any material and/or substance which could become volatile and/or corrosive and/or inflammable and/or radioactive and/or noxious and/or could smell offensively. The Sender warrants that if there is a possibility that any goods may volatile and/or corrosive and/or inflammable and/or radioactive and/or noxious and/or could smelling offensively which possibility is more than remote or fanciful and/or the transportation and/or storage of which may cause damage and/or injury to any person and/or property that the goods comply with all laws relating to the possession and/or transportation and/or storage of those goods and will give to the Carrier a full description in writing of the goods and of the nature of the goods and the circumstances in which they could become volatile and/or corrosive and/or inflammable and/or radioactive and/or noxious and/or could smell offensively prior to the goods being accepted by the Carrier for transportation and/or storage or cause injury or damage. If, in the opinion of the Carrier, the said goods are, or are liable to become dangerous, inflammable, corrosive or offensive or of damaging nature the same may, at any time, be destroyed, disposed of, abandoned or rendered harmless by the Carrier without compensation to the Sender and if necessary at the Sender's expense and without prejudice to the Carrier's right to any charges hereunder.
 - (v) That the goods are packed in a manner adequate to withstand the ordinary risks of carriage having regard to their nature.
 - (vi) That on the consignment note, electronic consignment, electronic transfer, label and in any quotation requests the Sender has fully and adequately described the goods, (including their nature, weight and measurements), the destination and the delivery information in accordance with the form and specifications approved by the Carrier (as may be varied from time to time).
 - (vii) The Sender has produced and labelled the packaging of the consignment, and that label fully and adequately described the destination, the delivery information and the consignment number and is barcoded in accordance with the form and specifications approved by the Carrier (as may be varied from time to time).
 - (viii) That the consignment and services provided by the Carrier are for the purposes of business only of the Sender and the Sender is not a consumer as defined under the Competition and Consumer Act 2010.
- The Sender will indemnify the Carrier against all loss and expenses suffered or incurred by the Carrier by reason of any breach of the foregoing warranties.
13. Upon being accepted by the Carrier for transport and/or storage the goods will subject to a lien in favour of the Carrier for any charge which is due to the Carrier and/or which may thereafter become due to the Carrier by the Sender on any account whatsoever whether in respect of the goods being carried and/or stored or for any other service. If any lien provided for herein is not satisfied and/or the goods are not otherwise collected by the Carrier, the Carrier may at its absolute discretion upon the expiration of one month's notice to the Sender and, in the case of perishable goods, without notice to the Sender:
- (i) Store the goods in such place and manner as the Carrier shall think proper at the risk and expense of the Sender;
 - (ii) Open any package and sell the goods or part thereof upon such terms as it shall think fit and apply the proceeds in full or in part discharge of the outstanding charges and to the cost of sale and cost of storage without being liable to any person for any damage and loss thereby caused or for selling the goods at a price below the market price of the goods so sold whether the sale.
 - (iii) Where the Carrier determines in its absolute discretion that the goods are not of a sufficient worth such that the Carrier believes that the sale thereof would not raise sufficient monies after the costs of selling to reduce significantly the liability of the sender, then it may dispose of the goods as the Carrier thinks fit.
 - (iv) The costs of selling include reasonable charges for the time of the Carrier, its servants and agents, and its disbursements including commission.
 - (v) On any sale of goods pursuant to this clause the Carrier shall sell as agent of the Sender and shall be entitled to transfer to the buyer the right title and interest of the Sender in the goods.
14. The provisions of these conditions of carriage shall apply to the container or containers or other packaging containing the goods and to any pallet or pallets delivered with the goods to the Carrier. The Sender shall be responsible for the conformity of such containers, packaging and pallets with any requirements of the Receiver and for the expense incurred by the Carrier arising from any failure of them so to conform.
15. Any instruction to the Carrier to exchange or transfer consigned pallets to the Carrier's pallet hire account is accepted on the basis that the sender will indemnify the Carrier against any loss or non-recovery of the consigned pallets however arising. Evidence of the instruction to the Carrier and any non-recovery shall be as shown on the consignment note which shall be deemed conclusive proof of the instruction and/or non-recovery. A charge may be made by the Carrier for the cost of hiring, recovery and replacement (if applicable) of all pallets hired by the Carrier unless exchange pallets are available at the time of delivery.
16. If the Sender expressly or impliedly instructs the Carrier to use or it is expressly or impliedly agreed that the Carrier will use a particular method of handling or storing the goods or a particular method of carriage whether by road, rail, sea or air, the Carrier will give priority to that method but if it cannot conveniently be adopted by the Carrier, the Sender hereby authorises the Carrier to handle or store or to carry or to have the goods carried by another method or methods. The Carrier shall be entitled to open any document, wrapping, package or other container in which the goods are placed or carried, to inspect the goods to determine their nature or condition for the purpose of determining their ownership or destination where any consignment note or other identifying document or mark is lost, damaged, destroyed unidentifiable or defaced.
17. The Carrier shall not be liable for any damage or loss whatsoever occasioned to any goods which the Carrier has been requested by the Sender to pack whether such damage or loss should occur in the course of packing or in transit or otherwise.
18. PICK-UP & DELIVERY
- 18.1 Any receipt the Carrier may give when effecting the pick-up, including when a person requires the Carrier to pick-up goods on that person's behalf from a third party, is no more than a record of the pick-up and is not to be construed as confirmation of the quality or condition of the goods.
 - 18.2 The Carrier is authorised to deliver the goods at the address given to the Carrier by the Sender for that purpose. It is expressly agreed that the Carrier shall be taken to have delivered the goods in accordance with this contract if at that address he obtains from any person a receipt or signed delivery docket for the goods.
 - 18.3 If the nominated place of delivery should be unattended or if delivery cannot be otherwise effected by the Carrier, the Carrier may at its option
 - 18.3.1 Deposit the goods at that place; or
 - 18.3.2 Deposit the goods at a Collection Point,
 and this deposit shall be conclusively presumed to be due delivery hereunder. Alternatively, the Carrier may store the goods and if the goods are stored the Sender shall pay or indemnify the Carrier for all costs and expenses incurred in or about such storage.
 - 18.4 The Carrier shall be at liberty to redeliver goods stored in accordance with clause 18.3 or deposited in accordance with clause 18.3.2 to the Sender from the place of storage or deposit at the Sender's expense.
 - 18.5 The Carrier shall not be liable for any loss or damage suffered as a result of the inability or failure of the Sender or Receiver to retrieve the goods from the Collection Point.
 - 18.6 A charge may be made by the Carrier in respect of any delay in excess of thirty (30) minutes in loading or unloading occurring other than from the default of the Carrier. Such permissible delay period shall commence upon the Carrier reporting for loading or unloading.
 - 18.7 Where mechanically aided loading or unloading of goods, other than the use of the tailgate of the Carrier's vehicle solely, is required the labour, machinery and processes to load or unload the goods shall be the responsibility and expense of the Sender. A charge may be made by the Carrier in respect of the use of the tailgate of the Carrier's vehicle.
 - 18.8 Should the Receiver not be in attendance during normal trading hours or at the time specified, the Carrier reserves the right to make further charge for every delay until delivery is effected.

19. DIRECT GUARD WARRANTY SERVICE

- 19.1 General
- 19.1.1 The Carrier may offer and the Sender may elect to have the Carrier provide to the Sender a warranty against loss or damage to Goods during the Carriage and while the Goods are in the possession of the Carrier, subject to the limitations and exclusions set out hereunder (the "DirectGuard Warranty"). Such election to apply the DirectGuard Warranty must be in writing on the form provided by the Carrier and delivered to the Carrier.
- 19.1.2 The DirectGuard Warranty applies to all goods consigned on each Sender's unique account number allocated by the Carrier. Senders cannot elect which consignments the DirectGuard Warranty will apply to and the DirectGuard Warranty will apply to an account completely.
- 19.1.3 The Sender may cancel DirectGuard Warranty by giving at least seven (7) days notice. Where cancellation is effective within thirty (30) days after the commencement of the coverage the Sender may have all DirectGuard Warranty charges refunded in full in the absence of any Claims. Notice of the cancellation must be given by the Sender in writing and delivered to warranty@directfreight.com.au.
- 19.1.4 The Sender agrees to pay the Carrier the applicable DirectGuard Warranty fee per consignment (as may apply from time to time) as disclosed in the Carrier's Ancillary Charges.
- 19.1.5 In clause 19 "Claim" shall mean any demand for compensation under the Direct Guard Warranty Service.
- 19.2 DirectGuard Warranty Claims
- 19.2.1 Any claim under the DirectGuard Warranty for damage to or loss of Goods must be made by the Sender through warranty claims in the My Online Direct Account.
- 19.2.2 The Sender must notify the Carrier in writing of any Claim within the following time limits:
- where the Receiver has indicated in writing on the Proof of Delivery or has records that they have informed the Carrier that loss or damage has occurred in respect of the Goods, within fourteen (14) days from the date of delivery of the Goods to the Delivery Address;
 - where the Receiver has acknowledged that the Goods have been delivered and received in good order and condition, within seventy-two (72) hours from the date of delivery of the Goods to the Delivery Address;
 - In respect of Claims for non-delivery, within fourteen (14) days after the goods were due to arrive at their specified delivery location.
- 19.2.3 The Sender may only make one (1) Claim per consignment.
- 19.2.4 The Sender must provide to the Carrier with any Claim, documentary evidence acceptable to the Carrier (for example receipt, valuation or tax invoice) as proof of cost price of the Goods.
- 19.2.5 Where the Sender makes a valid Claim the Carrier reserves the right to pay the Claim either directly to the Sender by cheque, EFT or as a credit to the Sender's account.
- 19.2.6 Claims will only be paid by the Carrier in respect of any Claim after the Sender has paid all outstanding amounts owed by the Sender to The Carrier on their account.
- 19.3 DirectGuard Warranty Limitations
- 19.3.1 The DirectGuard Warranty is subject to the following limitations:
- Claims are limited to loss of or damage to the Goods only. For the avoidance of doubt, the DirectGuard Warranty does not cover any consequential loss or damage suffered by the Sender as a result of loss or damage to the Goods.
 - The maximum amount that may be claimed from The Carrier under the DirectGuard Warranty is the lesser of:
 - the Direct Guard Warranty Limitation Amount of \$700.00; and
 - the Senders cost price of the Goods, as supported by documentary evidence acceptable to the Carrier (for example receipt, valuation or tax invoice from the seller of the Goods).
 - GST and DirectGuard Warranty charges relating to the consignment covered by the DirectGuard Warranty shall not be included in the calculation of any amount payable under the DirectGuard Warranty in respect of the Goods and any payment by The Carrier arising out of any Claim made by the Sender will be exclusive of GST.
 - Where a claim has been paid in full for goods damaged, the Carrier reserves the right to take possession of the goods as salvage and to dispose of such goods as it sees fit.
- 19.4 DirectGuard Warranty Exclusions
- 19.4.1 The Carrier will not be liable for any Claims made by the Sender in any of the following circumstances:
- Where the Sender has not paid the DirectGuard Warranty charge;
 - Where the Sender fails to submit the Claim to the Carrier within the relevant time limits set out above;
 - Where the Carrier is in possession of an unendorsed proof of delivery form for the consignment;
 - Where the Goods consigned are Excluded Goods, where "Excluded Goods" means each of the following items:- Currency; negotiable instruments; jewellery; gemstones; wrought or unwrought metals; securities; drugs; weapons; living animals or plants; antiques; works of art; refrigerated / perishable goods; household and personal effects; second hand goods, cigarettes, tobacco and tobacco products; valuable documents; glassware or glass related panels, including, but not limited to, glass panes, frames, mirrors, televisions, microwaves, ovens, laptops, tablets, monitors and other glass related products.
 - Where the Carrier in its reasonable opinion considers the Packaging of the Goods to be inadequate for road, rail, sea or air transportation;
 - Where the Goods are Dangerous Goods as defined by the Australian Dangerous Goods (ADG) Code 7.3;
 - Where the Goods are determined by the Carrier to have been defective prior to the Carriage;
 - Where damage, mechanical failure or other operational defect in the Goods could not, in the reasonable opinion of the Carrier, have been caused by the Carriage;
 - Where the Carrier fails, delays or is unable to carry out its obligations under this contract due to any force majeure;
 - Where the goods have been lost or damaged as a result of derailments, collisions, overturning;
 - Where the Goods have not been packed in the original manufacturer's packaging or the equivalent;
 - Where the Delivery Address is a post office box, a roadside drop or postal mail box;
 - Where goods have been left as per an authority to leave instruction.

20. The provisions of these terms and conditions shall not be discharged and will otherwise survive the contract irrespective of the manner in which the contract comes to an end, including termination by any party for fundamental breach.

21. These terms and conditions apply except to the extent as may be prohibited and/or rendered nugatory by statute. In the event that any term or part of a term is prohibited and/or rendered nugatory by statute then it shall be severed from the balance thereof and the remaining terms and/or the part of the term from which it was severed shall continue to have effect.

22. These conditions shall be read subject to any implied terms, conditions or warranties imposed by the Competition and Consumer Act 2010 (as amended) or any other Commonwealth or State legislation which prevents, the exclusion or modification of any such term, condition of warranty.

23. Subject to clause 22, but notwithstanding any other clause in these terms and conditions, if any liability is found to attach to the Carrier, the Carrier's liability is to be limited to: (a) supplying the services again; or (b) the cost of supplying the services again.

24. Any agreement to which these terms and conditions apply shall be governed by the laws of the state of New South Wales.

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