

TRADING TERMS AND CONDITIONS APPLYING TO ALL CONTRACTS BETWEEN THE CUSTOMER INSTRUCTING CYCLONE GLOBAL PTY LTD ("THE COMPANY") TO PERFORM THE SERVICES AND THE COMPANY ACCEPTING SUCH INSTRUCTIONS.

1. In these Conditions:
 - "Company" means Cyclone Global Pty Limited (ACN 103 907 375).
 - "Customer" means the person with whom this Contract is made.
 - "Dangerous Goods" means cargo which is volatile or explosive or which is or may become dangerous, inflammable or offensive (including radioactive materials) or which may become liable to damage any person or property whatsoever.
 - "Goods" means the cargo accepted by the Company together with any container, packaging or pallet(s) supplied by or on behalf of the Customer.
 - "GST" means the goods and services tax imposed by or under a GST Law.
 - "GST Law" means the same as in the A New Tax System (Goods and Services Tax) Act 1999.
 - "GST Rate" means the rate of GST under the GST Law.
 - "Invoice" means the tax invoice under the GST Law.
 - "Services" mean the whole of the operations undertaken by the Company in respect of the Goods.
 - "Subcontractor" includes any other person who pursuant to a contract or arrangement with any other person (whether or not the Company) provides or agrees to provide the Services or any part of the Services.
 - "Supply" means the same as in the GST Law.
 - "Taxable Supply" means any Supply under these Conditions in respect of which the Company is or may become liable to pay GST.
 2. The Company is not a common carrier and accepts no liability as such. The Company reserves the right to accept or refuse the provision of Services in respect of the Goods at its sole discretion. All Services are provided to the Company subject only to these Conditions which prevail at all times over the conditions of contract of the Customer. In the event of and to the extent of any inconsistency between these Conditions and the conditions which are incorporated into the bill of lading, waybill, consignment note or other transport document issued by the Company, these Conditions prevail.
 3. **Price and Payment**
 - 3.1 At the Company's sole discretion:
 - (a) the price shall be as indicated on the invoices provided by the Company to the Customer in respect of Services supplied; or
 - (b) the price of the Services shall be the Company's quoted price that shall be binding upon the Customer provided that the Customer shall accept the Company's quote within twenty-eight (28) days; and
 - (c) the customer agrees that interest shall be payable on any invoice unpaid within thirty (30) days at the rate of ten percent (10%) per annum.
 - 3.2 The Company may by giving notice to the Customer increase the price of the Services to reflect any increase in the cost to the Company beyond the reasonable control of the Company (including, without limitation, foreign exchange fluctuations, or increases in taxes or customs duties or insurance premiums or warehousing costs).
 - 3.3 Time for payment for the Services shall be of the essence and will be stated on the invoice, consignment note, airways bills, manifests or any other order forms. If no time is stated then payment shall be on delivery of the Goods.
 - 3.4 At the Company's sole discretion, for certain approved Customers payment will be due thirty (30) days following the date of the invoice.
 - 3.5 Payment will be made by cash, or by cheque, or by bank cheque, or by direct credit, or by any other method as agreed to between the Company and the Customer.
 - 3.6 The price shall be increased by the amount of any GST and other taxes and duties that may be applicable, except to the extent that such taxes are expressly included in any quotation given by the Company.
 4. The Customer warrants that it is either the owner or the authorised agent of the person or persons owning or having any interest in the Goods or any part of the Goods and enters into this Contract on its own behalf or as authorised agent of that person or those persons. Further the Customer undertakes to indemnify the Company in respect of any liability whatsoever and howsoever arising (including without limiting the foregoing from negligence or breach of contract or wilful act or default of the Company or others) in connection with the provision of the Services and/or the Goods to any person (other than the Customer) who claims to have, who has or may hereafter have any interest in the Goods or any part of the Goods.
 5. The Customer warrants that it has complied with all laws and regulations relating to the nature, condition, packaging, handling, storage and carriage of the Goods and that the Goods are packed to withstand the ordinary risks of handling, storage and carriage, having regard to their nature and indemnifies the Company for all liability and for all costs incurred as a result of or arising out of a breach of this warranty. Further the Customer shall provide to the Company all such assistance, information and documentation that may be necessary to enable the Company to comply with such laws and regulations.
 6. The Company shall not effect insurance on the Goods accepted by it except upon receipt of express instructions given in writing by the Customer and the Customer's written declaration as to the value of the Goods and any such insurance effected by the Company may be subject to such exceptions and conditions as may be required by the insurance company or underwriter accepting the risk. In the event of any dispute in regard to liability under any such insurance policy for any reason whatsoever the insured shall have recourse against the insurer or underwriter only and the Company shall have no liability or responsibility in relation to any such insurance policy.
 7. The Company shall not be liable for:
 - (a) any loss, mis-delivery, delay in delivery, deterioration, contamination, evaporation or non-delivery of or damage to the Goods or consequential loss arising there from howsoever caused or for any reason whatsoever other than (subject to sub-paragraph (2) of this clause and Clause 9 hereof) loss or damage to the Goods occurring whilst the Goods are in the actual custody of the Company and under its actual control and where such loss or damage is due to the wilful act or negligence on the part of the Company, its servants or agents;
 - (b) damages arising out of a loss or depreciation of market attributable to delay in forwarding or in transit of the Goods or failure to carry out instructions given to it by the Customer; loss, damage, expense or additional cost arising from or in any way connected with marks or brands on, weight, numbers, contents, quality or description of the Goods, or loss or damage resulting from fire, water, explosion or theft, whether or not caused in any such case by the wilful act or negligence on the part of the Company, its servants or agents.
 - 8.1 In the case of Goods with value exceeding Two Hundred Dollars (\$200.00) per package or unit or the equivalent of that sum in other currency, the value will not be declared or inserted in a Bill of Lading for the purpose of extending the Shipowner's liability under Article (IV), Rule 5 of the Sea-Carriage of Goods Act 1924 except upon express instructions given in writing by the customer.
 - 8.2 In the case of carriage by air, no option or declaration of value to increase air-carrier's liability under the Civil Aviation (Carriers' Liability) Act 1959, Article 22(2) of the first schedule will be made except on express instruction given in writing by the Customer.
 9. Notwithstanding the terms of Clause 7(1) and any other provisions hereof the liability of the Company shall not in any circumstances exceed Twenty Dollars (\$20.00) per package. If the Customer requires that the liability of the Company should not be governed by that limit written notice thereof must be given to the Company before any Goods or documents are entrusted to the Company, together with a statement of the value of Goods and, upon receipt of such notice the Company may in its entire discretion agree to its liability being increased to a maximum equivalent to the amount stated in this notice, in which case it shall be entitled to effect special insurance to cover its maximum liability and the party giving the notice shall be deemed by so doing to have agreed and undertaken to pay to the Company for such insurance. Should the Company not give its agreement to such increase in liability in writing prior to receiving the Goods or documents pertaining thereto its liability shall remain limited as if such notice had not been given.
 10. Instructions to collect on delivery (C.O.D.) in cash or otherwise are accepted by the Company upon the condition that the Company in the matter of such collection will be liable for the exercise of reasonable diligence and due care only.
 11. Where the goods are perishable and are not taken up immediately upon arrival or are insufficiently or incorrectly addressed or marked or otherwise not identifiable, they may be sold or otherwise disposed of with or without notice to the Customer, consignee, owner or consignee of the Goods and payment or tender of the net proceeds of any sale after deduction of all costs, expenses and charges incurred by the Company in effecting of such sale or disposal shall be equivalent to delivery.
 12. Where the goods are non-perishable and cannot be delivered either because they are insufficiently or incorrectly addressed or marked or otherwise marked or otherwise non-identifiable or because they are not collected or accepted by the consignee they may be sold or returned at the Company's option at any time after the expiration of 21 days from notice in writing to the address which the Customer gave to the Company on delivery of the goods. All costs, charges and expenses incurred by the Company and arising in connection with the sale or return of the Goods shall be paid by the Customer. A communication from the Company or its agent to the effect that the Goods cannot be delivered for any reasons shall be conclusive evidence of the fact.
 13. The charges of the Company shall be considered earned as soon as the Goods are delivered to the Company and under no circumstances shall any of those charges be refunded. The Company may charge by weight, measurement or value and may at any time reweigh, remeasure or revalue or require the Goods to be reweighed, remeasured or revalued and charge proportional additional charges accordingly. The Customer is and remains responsible to the Company for all its proper charges whether or not the Goods are delivered and/or the Services are provided as instructed and whether or not they are damaged.
 14. The Company shall have a lien on the Goods and any documents relating to the Goods and/or any other Goods or cargo of the Customer in the possession or control of the Company and any documents relating to those other Goods or cargo for all sums payable by the Customer to the Company for that purpose and shall have the right to sell such Goods or cargo by public auction or private treaty without notice to the Customer. The Company shall be entitled to retain the sums due to it, in addition to the charges incurred in detention and sale of such Goods or cargo, from the proceeds of sale and shall render any surplus to the entitled person.
 15. Every special instruction to the effect that charges shall be paid by a person other than the Customer shall be deemed to include a stipulation that if that nominated person does not pay those charges within seven (7) days of delivery or attempted delivery of the Goods, then the Customer shall pay those charges to the Company within seven (7) days of being notified of that person's failure to pay.
 16. The Company shall not be responsible in negligence or contract or otherwise for loss, damage, costs, fines or penalties incurred by the Customer or any other person resulting from or arising out of or in connection with any quotation, advice, statement, representation or information given or made by or on behalf of the Company to the Customer or others as to the classification of or any matter material to the valuation of or the liability for or the amount, scale or rate of customs and/or excise duty or other import, tax or rate charged in respect of the Goods or any cargo whatsoever. In giving or making any such quotation, advice, statement, representation or information the Company relies solely on the particulars provided by the Customer which warrants that those particulars accurately and completely describe all aspects of the Goods or cargo and the transaction(s) relating to the Goods or cargo.
 17. In all cases where liability of the Company has not been excluded, whether by these Conditions, by statute or by international convention or otherwise, the liability of the Company whatsoever and howsoever arising is limited to:
 - i. Australian One Hundred Dollars (\$100.00) or the value of the Goods the subject of the Contract at the time the Goods were received by the Company, whichever is the lesser; or
 - ii. in the case of a proven breach of an implied warranty provided by the Trade Practices Act 1974 as amended, the payment of the cost of having the Services supplied again.
 18. The Company shall not be bound by any agreement purporting to waive or vary these Conditions unless such agreement to so waive or vary shall be in writing and signed by an executive officer of the Company.
 19. The Customer acknowledges that no claim for loss or damage may be made after the Company has received written acknowledgement of receipt of delivery of the Goods.
 20. i. All the rights, immunities and limitations of liability in these Conditions shall continue to have their full force and effect in all circumstances and notwithstanding having any breach of this Contract or of these Conditions by the Company or any other person entitled to the benefit of such provisions.
ii. It is agreed that if any provision or any part of any provision of these Conditions is unenforceable such unenforceability shall not affect any other provision or any other part of such provision.
 21. Notwithstanding anything herein contained the Company shall continue to be subject to any implied warranty provided by the Trade Practices Act 1974 Australia as amended if and to the extent that that Act is applicable to this Contract and prevents the exclusion, restriction and modification of such warranty.
 22. These Conditions shall be governed by and construed in accordance with the laws of New South Wales.
 23. This Clause 23 applies if the Company is or may become liable to pay GST in relation to any Supply under these Conditions.
- 23.1 Unless otherwise stated, all charges quoted are exclusive of GST. In addition to such charges, the Customer must pay GST on the Taxable Supply to the Company of an amount equal to the GST exclusive consideration multiplied by the GST Rate. GST shall be payable by the Customer without any deduction or set off for any other amount at the same time as the GST exclusive consideration is payable. In all other respects, GST shall be payable by the Customer to the Company upon the same basis as the GST exclusive consideration is payable by the Customer under these Conditions.
- 23.2 The Company must issue an Invoice or Invoices to the Customer for the amount of GST referable to the Taxable Supply. The Company must include in any such Invoice such particulars as are required by the GST Law in order that the Customer may obtain an input tax credit for the amount of GST payable on the Taxable Supply.
- 23.3 If any part of the consideration is referable to both a Taxable Supply and anything that is not a Taxable Supply, the amount of GST payable by the Customer shall be determined by the Company and shall be the same amount of GST that would be payable if the Taxable Supply were the only Supply made to the Customer.
- 23.4 If the Customer makes default in the payment on the due date of any amount payable pursuant to Clause 23 (ii) then without prejudice to any other remedies of the Company, the Customer shall pay to the Company upon demand an amount equal to the amount of any damages or interest or additional GST that may become payable by the Company arising out of the default of the Customer.
24. **Privacy Act 1988**
 - 24.1 The Customer and/or the Guarantor/s agree for the Company to obtain from a credit reporting agency a credit report containing personal credit information about the Customer and Guarantor/s in relation to credit provided by the Company.
 - 24.2 The Customer and the Guarantor/s agree that the Company may exchange information about the Customer and Guarantor/s with those credit providers named in the Application for Credit account or named in a consumer credit report issued by a reporting agency for the following purposes:
 - (a) to assess an application by the Customer;
 - (b) to notify other credit providers of a default by the Customer;
 - (c) to exchange information with other credit providers as to the status of this credit account, where the Customer is in default with other credit providers; and
 - (d) to assess the credit worthiness of the Customer and/or Guarantor/s
 - 24.3 The Customer consents to the Company being given a consumer credit report to collect overdue payment on commercial credit (Section 18K(1)(h) Privacy Act 1988).
 - 24.4 The Customer agrees that Personal Data provided may be used and retained by the Company for the following purposes and for other purposes as shall be agreed between the Customer and the Company or required by law from time to time:
 - (a) provision of Services;
 - (b) marketing of Services by the Company, its agents or distributors in relation to the Goods and Services;
 - (c) analysing, verifying and/or checking the Customer's credit, payment and/or status in relation to the provision of Services;
 - (d) processing of any payment instructions, direct debit facilities and/or credit facilities requested by the Customer; and
 - (e) enabling the daily operation of the Customer's account and/or the collection of amounts outstanding in the Customer's account in relation to the Services.
 - 24.5 The Company may give, information about the Customer to a credit reporting agency for the following purposes:
 - (a) to obtain a consumer credit report about the Customer; and/or
 - (b) allow the consumer credit reporting agency to create or maintain a credit information file containing information about the Customer.
25. **Demurrage and Waiting Time**

The Customer will be made responsible to the Company for any additional charges that are incurred during the loading or unloading of the vehicle or container. The Company reserves the right to invoice these at any time after the loading or unloading has taken place. These charges will apply as set out below:

 - (i) One (1) hour free waiting time at the port/wharf/depot before waiting time is charged.
 - (ii) One (1) hour free to load/unload vehicle or container at designated delivery point before waiting time is charged.
 - (iii) One (1) hour free to de-hire empty containers at allocated CY container yard.

These additional charges, if applicable, will be invoiced at the current market rate where there is a minimum charge of one (1) hour.
26. **Container Detention**
 - 26.1 The Customer acknowledges they will have ten (10) days to receive and return any shipping line equipment from the first day the containers are made available from the port for the applicable arriving vessel. All costs thereafter are the responsibility of the Customer.
 - 26.2 The shipping line equipment includes general containers, reefer container, high cube containers, tank containers, open top containers and flat rack units.
 - 26.3 Labour to load or unload the vehicle or container shall be the responsibility and expense of the Customer.