

SEAROAD GROUP STANDARD CONDITIONS OF CONTRACT - CUSTOMERS

These Conditions apply to all Services provided by SeaRoad group companies notwithstanding any terms appearing in documentation provided by or on behalf of you, the person who delivers the Goods to SeaRoad, or any other person. Such terms are expressly negated.

The Customer is deemed to accept these Conditions upon the Goods being given to, collected by or made available to SeaRoad for transportation by any person.

GENERAL CONDITIONS

1. DEFINITIONS

In these Conditions:

Abandoned Goods means Goods which have not been accepted for Delivery or which have remained in SeaRoad's possession for 30 days after being available for Delivery or collection.

Authorities means anyone who administers any laws or who has power to give directions to SeaRoad including persons responsible for environmental, safety and transport rules and emergency services.

Charges means the charges claimed by SeaRoad for the Services as set out in the Invoice delivered to the Customer which will be based on SeaRoad's Tariff, unless a specific quote has been given to the Customer, plus all Surcharges. Unless otherwise stated, SeaRoad's Tariff, Surcharges and quotes exclude GST.

Conditions means these Standard Conditions of Contract.

Container means any container, trailer, mobile unit whether under its own power or not, transportable tank, pallet, flat rack, bolster or any device used to consolidate and carry cargo.

Contract means the agreement resulting from the acceptance by SeaRoad of the Goods for transportation or storage and is deemed to include these Conditions, the Transport Document, the applicable Tariff, the Services Agreement, the application for credit by a Customer, information on any Invoice, and any variations agreed to in writing by SeaRoad and the Customer.

Customer means the owner of the Goods, the person at whose request or on whose behalf SeaRoad provides the Services and any person claiming through them or acting on their behalf and anyone enjoying the benefit (whether directly or indirectly) of any part of the Services whether as principal, employee or agent, as the case may be, including any consignor (sender) and consignee (receiver) and/or person responsible for paying for the Services or nominated as the payer under the Contract and these Conditions apply to and bind those persons jointly and severally.

DG code means the Australian Code for the Transport of Dangerous Goods by Road and Rail and the International Maritime Dangerous Goods Code, as applicable to the carriage of the Goods.

Dangerous Goods means dangerous goods as defined in the DG code and any Goods which are, or which may become, dangerous, volatile, explosive, inflammable, radioactive, hazardous or offensive, or which may become harmful to any person, property or the environment whatsoever.

Delivery means delivery of the Goods to or on behalf of the Customer or to a person SeaRoad reasonably believes to be the Customer or to its premises or the Goods being available for collection by the Customer.

Goods means the goods, cargo (including live cargo), baggage, vehicle of any description or item in relation to which any part of any Services have been or are to be performed and any receptacle, Container, tray, package, packaging or item in or on which they are contained or with which they are stored or handled.

to be Insolvent means a person is or becomes or may be presumed insolvent in accordance with the Corporations Act and Regulations, or a controller has been appointed to that person or over all or part of the person's property.

Invoice means a tax invoice.

Marine Orders means Marine Orders signed by the Chief Executive Officer of Australian Maritime Safety Authority in force from time to time.

Out of gauge means Goods that cannot be easily loaded into a twenty foot container or do not fit within the standard dimensions of a trailer or pallet.

SeaRoad means SeaRoad Shipping Pty Ltd ABN 68 123 782 203 and/or SeaRoad Logistics Pty Ltd ABN 51 123 782 196 as the case may be, depending upon which company is providing Services to the Customer.

Services mean the whole of the operations provided by SeaRoad for the Customer including, without limitation, transportation by sea, road, air or rail and storage facilities and any computer and other systems used by SeaRoad to provide the Services.

Services Agreement means, where applicable, an agreement between SeaRoad and the Customer, which includes specific provisions relating to the Services.

Subcontractor means any person, and its officers, employees and agents, who pursuant to any arrangement with SeaRoad or any other person provides or agrees to provide the Services or any part of the Services.

Surcharges means, without limitation, road levies, port fees, customs duty, excise duty, wharf storage charges, AQIS fees, bond charges, ancillary charges relating to refrigerated containers, hazardous goods and container detention charges, increased costs attributable to the impact of any greenhouse gas emissions or clean energy laws, carbon pricing mechanism, changes in diesel fuel rebate and additional fuel charges and any other costs incurred by SeaRoad in providing the Services which SeaRoad pays or may become liable to pay in relation to the Goods or the Services and which were not included in the quote for the Services, were not included in the Tariff at the time of provision of the Services or have varied since then.

Tariff means SeaRoad's current charges or standard rates at the time of provision of the relevant Services.

Temperature Controlled Goods means Goods which require temperature control.

Transport Document means any transport document of whatever nature including without limitation, bill of lading, waybill, consignment note, manifest, shipping receipt, warehouse receipt, gate pass, proof of delivery, or other document whether electronic data or in hard copy form for transportation of Goods issued by or on behalf of SeaRoad.

2. APPLICATION

2.1. SeaRoad is not a common carrier and accepts no liability as such. Goods are carried at the risk of the Customer. SeaRoad reserves the right to agree or to refuse to contract with the Customer in its absolute discretion.

2.2. SeaRoad is not, and will not be deemed to be, a consignor and accepts no liability as such. The Customer authorises SeaRoad to name the Customer or another person as the consignor in any documentation where applicable.

2.3. All Services are provided by SeaRoad subject only to, and on the terms of, the Contract.

2.4. Provision of the Services is subject to the availability of shipping space, force majeure and other factors and transit times may vary from quoted times.

2.5. Where there is an increase in the costs to SeaRoad of supplying the Services between the time of a quote for the Services and the provision of the Services, the Customer will pay that increase as part of the Charges.

2.6. In the event of and to the extent of any inconsistency between these Conditions and the conditions which are incorporated into any Transport Document, these Conditions prevail.

2.7. The Contract is subject to any consumer guarantees and remedies pursuant to those guarantees as set out in the Australian Consumer Law (**ACL**) to the extent to which the ACL is applicable to the Services but then only to the extent that those guarantees and remedies may not be excluded.

2.8. SeaRoad will not be bound by anything purporting to waive or vary the Contract unless such waiver or variation is in writing and signed by an officer of SeaRoad.

3. CUSTOMER'S WARRANTIES

The Customer warrants and agrees that:

3.1. it is either the owner or the authorised agent of the owner of the Goods and enters into the Contract on its own behalf or as authorised agent of the owner and it has the authority of all persons owning or interested in the Goods to enter into the Contract.

3.2. the Goods are fit for shipping, whether by sea, road or rail, in accordance with good shipping practices, in compliance with SeaRoad's published shipping requirements and as specified by any relevant regulations, DG Code and Marine Orders and are packed to withstand the ordinary risks of the Services having regard to the nature of the Goods.

3.3. the Container is in good repair and has been properly secured.

3.4. it has accurately and fully described the Goods and has provided all necessary instructions and information regarding handling, care and control of the Goods.

3.5. it has complied with and will comply with the requirements of any applicable law (including DG code and Marine Orders) relating to the nature, condition, packaging, handling, labelling, storage and carriage of the Goods and it will provide all necessary assistance, information and documentation to enable SeaRoad and its agents to comply with any of its obligations under such laws.

3.6. it will not tender any Dangerous Goods or Temperature Controlled Goods for the provision of the Services without presenting a full description of the Goods and disclosing their nature, and where relevant, information relating to the care of such Goods (without imposing any liability on SeaRoad to take such care) and agrees to pay additional charges relating to such Goods if requested by SeaRoad to take into account their nature.

3.7. it will indemnify SeaRoad for any expenses, loss, damage or liabilities incurred by, any claim made against, and any claim for death of or bodily injury to a person made against, SeaRoad or others directly or indirectly caused by the Goods or their use or the Customer's failure to comply with the Contract.

4. SEAROAD'S RIGHTS

4.1. SeaRoad may provide the Services by any method which SeaRoad in its absolute discretion deems fit notwithstanding any instructions of the Customer that the Services are to be supplied by another method.

4.2. If SeaRoad is given any directions or recommendations from Authorities in relation to the Goods and/or the provision of the Services, or if, in the opinion of SeaRoad, the Goods are or are liable to become Dangerous Goods, SeaRoad may refuse to provide the Services, and may at any time open any Goods and destroy, dispose of, abandon or render harmless the Goods at the risk and expense of the Customer and without compensation to the Customer or any other person.

4.3. If the Customer fails to accept Delivery, SeaRoad may store the Goods as it deems fit without any liability for them at the risk and expense of the Customer.

4.4. If, in the opinion of SeaRoad, the Goods do not meet the requirements of all applicable laws relating to the Goods and the Services, or are unsuitable to be handled by SeaRoad using the equipment and operating procedures normally employed by SeaRoad in providing the Services, or the Goods (if self propelled) break down, SeaRoad in its absolute discretion may:

- (a) refuse to provide the Services in respect of the Goods or any part of them; or
- (b) take whatever measures it deems necessary, at the risk and expense of the Customer, to cause the Goods to comply with the requirements of all such laws or to move or handle or make the Goods suitable to be moved or handled by SeaRoad, and SeaRoad will have no liability in doing so.

4.5. If, in the opinion of SeaRoad it is necessary and reasonable to do so, SeaRoad may open any Goods or documents without incurring any liability to the Customer for any loss occasioned by that.

4.6. SeaRoad may subcontract the Services (in whole or in part) to a Subcontractor on any terms and, without prejudice to any rights of SeaRoad under the Contract. SeaRoad will not be liable for the acts or omissions of any Subcontractor in tort, contract, pursuant to statute or otherwise howsoever.

5. SEAROAD'S LIABILITIES

5.1 Every exemption, limitation, condition, right, defence and immunity available to SeaRoad will be available and will extend to protect its officers, employees, agents and Subcontractors and any person who is or may be liable for the acts or omissions of SeaRoad or a Subcontractor and SeaRoad holds the benefit of these Conditions for them.

5.2. SeaRoad accepts no responsibility for the accuracy of any part of any description of, or any declaration in relation to, the Goods on any document to which the Services relate but may amend or include details where they are incorrect or omitted, without liability to SeaRoad.

5.3. Except as provided in clause 5.4, SeaRoad is not liable nor will the Customer hold SeaRoad or its officers, employees, agents or Subcontractors liable in tort, contract, pursuant to statute or otherwise howsoever for any damage or costs or losses (including, without limitation, consequential losses, loss of business, lost profits or production, loss of opportunity or anticipated savings, indirect or economic loss in any case whether foreseeable or not) incurred by the Customer or any other person:

- a) arising out of a breach by the Customer of any warranty in the Contract;
- b) to the Goods, including concealed damage, deterioration, contamination or evaporation of the Goods;
- c) arising out of delays, misdelivery of, or failure to deliver, the Goods;
- d) arising out of or in connection with the provision of the Services or a failure to provide the Services in whole or in part; or

e) as a result of any act or omission of SeaRoad or its employees, agents or Subcontractors, or any other breach of the Contract,
(all of the above a) to e) inclusive being **incidents**).

5.4. Subject to clause 2.7, the liability of SeaRoad for any incidents is limited to supplying the Services again or to the payment of the cost of having the Services supplied again.

5.5. Any claim for loss of or damage to the Goods or relating to performance of the Services must be notified in writing to SeaRoad within 14 days of the Delivery date.

5.6. In any event, SeaRoad will be discharged from all liability whatsoever unless proceedings are brought within six months of: the provision of the Services, Delivery, when the Services should have been provided, or when the Goods should have been delivered, whichever is the earliest.

5.7. All rights, immunities, indemnities and limitations of liability in these Conditions will continue to have full force in all circumstances notwithstanding any breach of these Conditions by SeaRoad or any other person entitled to the benefit of such provisions.

6. CUSTOMER'S INDEMNITIES

6.1. Irrespective of the negligence, breach of contract or wilful act or default of SeaRoad or others, the Customer will indemnify and keep indemnified SeaRoad, its officers, employees, agents and Subcontractors (all, **Indemnified Persons**) in all circumstances in respect of any loss, damage, costs, claims or liabilities to which an Indemnified Person may become exposed arising in connection with the Services, whether the Customer or someone else (including the Consignee) makes a claim arising in connection with the Services and/or in respect of the Goods.

6.2. The provisions of this clause survive the termination of the Contract.

7. INSURANCE

7.1. The Customer acknowledges that the transportation of Goods is inherently risky and agrees that it will take out insurance in relation to loss of or damage to the Goods and any failure to perform the Services. SeaRoad would not agree to provide the Services without an assurance that the Customer has adequate insurance. Accordingly, the Customer holds the benefit of such insurance for itself and SeaRoad and SeaRoad's officers, employees, agents and Subcontractors.

8. ADVICE & INFORMATION

8.1. In giving any quotation, advice, representation or information (all, **advice**) SeaRoad relies solely on the particulars provided by the Customer in relation to the Goods and the Services and will not be liable in tort, contract, statute or otherwise howsoever if the advice is incorrect for any reason whatsoever.

9 CARRIAGE AND RETURN OF CONTAINERS

9.1. The Customer is responsible for the return of any Container to the person who owns or has the right to possession of the Container or its agent and the Customer indemnifies SeaRoad against any claims or liabilities which may arise as a result of a failure by the Customer to do so.

9.2. The Customer is responsible for the safe and proper stowage of the Goods in or on any Container.

9.3. Any Container supplied by SeaRoad must be:

- a) inspected by the Customer prior to stowage to ensure that the Container is undamaged and suitable for carriage of the Goods; and
- b) returned to SeaRoad clean and undamaged to the place and by the date nominated by SeaRoad, failing which the Customer will be liable for hiring and storage charges which will be charged in accordance with the applicable Tariff or Services Agreement, and for all resulting costs and expenses incurred by SeaRoad.

10. BREACH AND TERMINATION

10.1. SeaRoad may terminate the Contract immediately by written notice to the Customer if the Customer:

- a) commits a breach of the Contract and, where capable of remedy the Customer fails to remedy the breach within three days after written notice of the breach has been given by SeaRoad; or
- b) is or becomes Insolvent.

10.2. The termination of the Contract does not affect any rights of the parties which have accrued before the date of termination.

11. CHARGES & PAYMENT

11.1. The Customers are jointly and severally liable for payment of the Charges plus GST.

11.2. The Charges must be paid in full within 7 days of the date of the Invoice issued by SeaRoad without discount, deduction, counterclaim or set-off, and regardless of any dispute between SeaRoad and the Customer. Interest will be payable on any sum which remains due and unpaid after the date for payment and will be charged at the rate of 12% per annum accruing daily and capitalised monthly.

11.3. If the Customer breaches this clause 11, SeaRoad may, in its absolute discretion, suspend or refuse to provide the Services to the Customer.

11.4. SeaRoad may charge by weight, measurement or value and may at any time re-weigh or re-value, or re-measure or require the Goods to be re-weighed, re-valued or re-measured and charge proportional additional charges accordingly.

11.5. The Charges will be considered earned as soon as the Goods are delivered to or collected by or on behalf of SeaRoad and under no circumstances will those Charges be refunded.

11.6. Every special instruction to the effect that Charges will be paid by a person other than the Customer will be deemed to include a stipulation that if that person does not pay those charges on the date set for payment, or if no date is set for payment within 7 days of Delivery or attempted delivery of the Goods, then the Customer will pay those charges on demand.

12. LIEN

12.1. SeaRoad has a lien on the Goods and any documents relating to those Goods for all sums payable by the Customer to SeaRoad.

12.2. Where Goods are not collected on time or Delivery is not effected, SeaRoad has the right to charge for storage and/or may remove the Goods to a warehouse or bond store at the risk and expense of the Customer without any duty of care as a bailee or otherwise howsoever to look after the Goods.

12.3. SeaRoad may sell, on 28 days notice sent to the last known address of any one of the Customers, such Goods and any Abandoned Goods by public auction or private treaty and retain the sums due to it, in addition to the Charges and costs incurred in detention and sale of such Goods from their proceeds and will pay any surplus to any person who SeaRoad believes is entitled to it without any liability to account for it.

13. FORCE MAJEURE

SeaRoad will be released from its obligations under the Contract to the extent that performance of the Services is delayed, hindered or prevented due to any event or circumstance beyond the reasonable control of SeaRoad and whether foreseeable or not including, without limitation, weather, industrial action, breakdowns and accidents. SeaRoad will not be obliged to place the Customer's interests before SeaRoad's commercial interests.

14. JURISDICTION

The laws of Victoria govern these Conditions and the parties submit to the exclusive jurisdiction of the courts of that State.

15. SEVERANCE

If any part of the Contract is unenforceable, it is to be treated as removed from the Contract and neither that part nor its severance will affect the enforceability of the remaining parts of the Contract.

16. CONFIDENTIALITY

The provisions of the Contract are confidential and SeaRoad and the Customer will not disclose any details of it to any person.

17. CREDIT CHECKS

The Customer authorises and consents to SeaRoad obtaining credit information about it from, and supplying information to, a credit reporting body or collection agency for commercial credit related or credit guarantee purposes or for ongoing credit management of the Customer's account, including collecting payments.

18. SPECIFIC TERMS RELATING TO SEA CARRIAGE OF GOODS

18.1. SeaRoad may in its absolute discretion abandon, alter or repeat any voyage, route or journey, or store or leave Goods for any period of time and at any place, either intentionally or unintentionally, and may take any necessary action incidental to the above as SeaRoad considers expedient, without notice to or recourse by the Customer. Anything done in exercising that discretion will not be considered a deviation or breach of the Contract and SeaRoad will incur no liability in doing so.

18.2. SeaRoad is not obliged to notify the Customer of the arrival of the Goods or of any carrying vehicle or vessel at the place where the Goods are to be delivered.

18.3. SeaRoad does not and will not be deemed to warrant the seaworthiness of any vessel, either at or after the commencement of the voyage.

18.4. The Goods may be carried on deck at SeaRoad's absolute discretion and at the risk of the Customer.

18.5. General Average shall be adjusted at any port or place at SeaRoad's absolute discretion and shall be settled according to the York Antwerp Rules 1994. General Average on a vessel not operated by SeaRoad shall be adjusted according to the requirements of the operator of that vessel.

18.6. Any salvage services rendered to the vessel or its cargo by a vessel owned or operated by SeaRoad will be paid as fully and in the same manner as if the salving ship was owned or operated by strangers.

18.7. If the Goods are or include live animals SeaRoad is not required to accept them as cargo or provide enclosures, food or attendance for the animals. The animals may be loaded or transported on any vessel either on deck or below, as SeaRoad deems expedient. SeaRoad may make decisions regarding the animals' welfare without notice to the Customer and without incurring any liability in doing so. The Customer is responsible for all costs incurred by SeaRoad in relation to the care, welfare and movement of the animals including any additional cleaning costs, quarantine or other costs incurred by SeaRoad in relation to the transportation of the animals.

19. SPECIFIC TERMS RELATING TO VEHICLES

19.1. SeaRoad will not be responsible in tort, contract, pursuant to statute or otherwise howsoever for any, or the consequences of any, loss or damage to personal effects or other items in any vehicle, tarpaulins attached to any vehicle, any vehicle which cannot be moved under its own power or is in an unroadworthy condition, or damage to any vehicle howsoever caused.

19.2. The Customer will inspect the vehicle upon delivery and will immediately notify SeaRoad of any alleged damage to the vehicle by noting such damage on the consignment note issued by SeaRoad.

Privacy Collection Statement: SeaRoad respects individuals' privacy and only collects information that is reasonably necessary for its business. Please refer to our Privacy Policy at www.searoad.net for details about how and why we may use personal information, rights of access to that information, our complaints procedures and contact details for those enquiries.