Airland LOGISTICS
Delivering the impossible daily.

STANDARD TERMS AND CONDITIONS OF CONTRACT

1. Definitions
    a. 'Company' means Airland Logistics Pty Ltd ACN 123 148 032 its servants and agents.
    b. 'Consumer' means an individual who acquires the Services wholly or predominately for personal, domestic or household use or consumption.
    c. 'Customer' means the party entering into the contract of Services with the Company, being the shipper, consignor, receiver, consignee, the owner of the goods, or their authorised agent.
    d. 'Goods' means the cargo accepted by the Company together with any container, packaging, or pallet(s) supplied by or on behalf of the Customer.
    e. 'Heavy Vehicle National Law' means the *Heavy Vehicle National Law Act 2012* (Qld) as enacted in the Queensland Parliament and adopted by the States and Territories, including any Regulations made under that Act and any other legislation enacted by the Commonwealth, a State or a Territory for the purpose of giving effect to the Heavy Vehicle National Law or the Council of Australian Governments' Intergovernmental Agreement on Heavy Vehicle Regulatory Reform dated 25 February 2010.
    f. 'Modern Slavery Laws' means any Commonwealth, State or Territory legislation or regulations based on or adopted from the provisions of the *Modern Slavery Bill 2018* as approved by the Commonwealth or each State, the *Modern Slavery Act 2018 (NSW)* and any regulations, ordinances and directions made pursuant to the Modern Slavery Laws and any successors to the Modern Slavery Laws.
    g. 'OHS Laws' means any occupational health and safety legislation, regulations or guidelines, codes of conduct or policies of the Commonwealth of Australia or any of the States, Territories or Municipalities of Australia.
    h. 'Personal Property Securities Act' or 'PPSA' means the Personal Property Securities Act 2009 (Cth).
    i. **'**RSA' means those State and Commonwealth Government Authorities in Australia responsible for road safety regulation of heavy vehicles and Chain of Responsibility legislation and the Heavy Vehicle National Law and the laws governing the carriage of goods by road
    j. 'Services' means the whole of the operations undertaken by the Company, including but not limited to packing, unpacking, road, rail, sea or air carriage, storage, freight forwarding, customs clearance, de-stuffing and de-consolidation, logistics, warehousing and distribution and break bulk handling of goods and containers on behalf of the Customer and any other services provided by the Company.
    k. 'Small Business Contract' means a standard form small business contract as defined in section 23(3) of Schedule 2 of the Competition and Consumer Act 2010 (Cth).
    l. 'VGM' means verified gross mass as set out in Chapter VI, Part A, Regulation 2 of SOLAS and given effect in Australian law by Marine Order 42 (Cargo, stowage and securing) 2014 (Order 2014/11).
2. The Company is not a common carrier and accepts no liability as such. The Company may refuse the carriage or transport of Goods for any person or corporation and the carriage or transport of any class of Goods is at the Company's absolute discretion.
3. These Standard Terms and Conditions of Contract cover the whole of, or any part of, the Services and any goods supplied from time to time by the Company to the Customer and shall prevail at all times over any terms and conditions of the Customer. The Customer's own terms and conditions shall in no way derogate from these Standard Terms and Conditions of Contract and any provision in the Customer's own terms and conditions which is contrary to any provision of these Standard Terms and Conditions of Contract shall to the extent of such inconsistency be inapplicable.
4. The Customer warrants that:
    a. the Customer has complied with all applicable laws and regulations relating to the nature, condition, packaging or carriage of the Goods and that the Goods are packed in a manner, having regard to their nature, adequate to withstand the ordinary risks of handling, storage or carriage, the Goods are accurately described in writing, and the container(s) packaging are fit and proper condition for the Services;
    b. the Customer is either the owner of the Goods and/or the authorised agent of the person or persons owning or having any interest in the Goods or any part thereof and enters into this contract on its own behalf and/or as authorised agent of that person or persons;
    c. the information it provides to the Company in relation to the Goods including the nature, number of packages and weight of the contents of the container is accurate;
    d. any VGM provided to the Company is accurate and complies with Marine Orders 42, has been calculated in accordance with an approved method and that it is supplied in time to be used in vessel planning;
    e. it has complied with all Laws and regulations of any Government Authorities relating to the nature, condition, packaging, handling, storage, weight and Carriage of the Goods including all Laws prescribed by the RSA and the Heavy Vehicle National Law;
    f. the Goods and their carriage do not contravene any Laws or the Modern Slavery Laws;
    g. it will comply at all times with all Privacy Laws; and
    h. it will comply at all times with all OHS Laws and will notify the Company of any issues or requirements under such laws of which the Company should be aware, or which may affect the Company's ability to comply with all OHS Laws.
5. The Customer agrees to indemnify and hold harmless the Company for any liability of the Company, expenses, charges or losses including legal costs sustained or incurred as a result of a breach of the warranties in Clause 4.
6. The method or methods of undertaking the Services shall be at the sole discretion of the Company and the Customer authorises the Company to adopt any method or methods other than any method which may have been instructed or agreed.
7. The Customer authorises any deviation from the usual route of carriage.
8. The Company shall not be bound to deliver the Goods except to the receiver shown on the consignment note or to such other persons as may be authorised in writing by the Customer to receive the Goods.
9. If the Company is unable to deliver the Goods for any reason (including failure on the part of the receiver to take delivery within a reasonable time) the Company shall be entitled to handle and store the Goods in such manner as it may in its discretion determine and shall be entitled to make a reasonable charge in respect of such handling and/or storage and subsequent delivery of the Goods. The Company shall also charge for any delay in excess of 60 minutes commencing upon the Company's driver reporting as being ready to load or unload the Goods.

10. The Customer 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, injury and death caused thereby and shall indemnify and hold harmless the Company for such liability.
11. If in the opinion of the Company, the Goods are or are liable to become of a dangerous, inflammable, explosive, volatile, offensive or a damaging nature, they may at any time be destroyed, disposed of or abandoned or rendered harmless by the Company without compensation to and at the cost of the Customer.
12. Except under special arrangements previously made in writing the Company will not accept bullion, coins, precious stones, jewelry, valuables, antiques, pictures, livestock or plants and the Company will not accept any liability whatever for any such goods except under special arrangements previously made in writing.
13. The Goods shall at all times be at the risk of the Customer and the Company shall not be liable in tort (including negligence), contract, bailment, contravention of any statute or breach of statutory duty or otherwise for any loss of or damage to or failure to deliver or delay in delivery or misdelivery of the Goods or documentation whatsoever howsoever caused.
14. The Company is not liable for any loss suffered by the Customer in connection with the Goods or the Services that is a consequential or indirect loss, including:
    a. losses that are purely financial or economic losses;
    b. loss of opportunity;
    c. losses in connection with contracts, agreements or understandings the Customer has with third parties;
    d. loss of market;
    e. any other losses whatsoever that do not arise directly from physical damage to or loss of the Goods and are consequential in nature.
15. The exclusion of liability in Clauses 13 and 14 extends to include not only loss of or damage to the Goods themselves, but loss damage or injury to any person, property or thing damaged arising from the Company providing the Services under this contract and to any indirect or consequential loss arising from such loss, damage or injury or from failure to deliver, delay in delivery or misdelivery of Goods or documentation.
16. The Company does not exclude or limit the application of any laws, including Schedule 2 of the Competition and Consumer Act 2010 (Cth), where to do so would contravene those laws or cause any part of these conditions to be void.
17. The Company excludes from these Standard Terms and Conditions of Contract, all conditions, warranties, terms and consumer guarantees implied by laws, general law or custom except any the exclusion of which would contravene any laws or cause this condition to be void ('Non-Excludable Condition').
18. Notwithstanding any other provision in these Standard Terms and Conditions of Contract, but subject always to Clause 13, 14 and 15, if any liability whatsoever, howsoever arising, is found to attach to the Company or any sub-contractor, for breach of an Non-Excludable Condition, the Company's liability shall be limited to the lesser of:
    a. in the case of Services supplied under this contract:
        i. the supplying of the Services again; or
        ii. the payment of the cost of supplying the Services again; or.
        iii. the amount of AUD$100.00.
    b. in the case of supply of Goods under this contract:
        i. the replacement of the goods or the supply of equivalent goods;
        ii. the repair of the goods;
        iii. the payment of the cost of replacing the goods or of acquiring equivalent goods;
        iv. the payment of the cost of having the goods repaired; or
        v. the amount of AUD$100.00.
19. All the rights, immunities and limitations of liability in these Standard Terms and Conditions of Contract shall continue to have full force and effect notwithstanding any breach of this contract by the Company or any other person entitled to the benefit of such provisions which are severable to the extent that they are invalid or unenforceable.
20. Freight shall be earned as soon as the Goods are delivered to the Company. The Customer shall pay to the Company in cash, or as agreed, all sums immediately when due without deduction or deferment on account of any claim, counterclaim or set-off.
21. Words and expressions used in this clause 21 which have a defined meaning in the A New Tax System (Goods and Services Tax) Act (GST Act) have the same meaning in this clause as in the GST Act. Unless expressly stated otherwise, all consideration to be provided under this contract is expressed as exclusive of GST. If GST is payable by a supplier on any supply made under this contract, the recipient will, upon receiving a tax invoice from the supplier, pay to the supplier an amount equal to the GST payable on the supply without deduction or set off.
22. When the Company is instructed to collect freight, duties, charges or other expenses from any person other than the Customer, the Customer shall remain responsible for the amounts and shall pay these amounts to the Company on demand where these amounts have become due and have not been paid by such other person.
23. All customs and/or excise duties, costs, fines or penalties, which the Company becomes liable to pay for any reason whatsoever in respect of the Goods and any documentation relating to the Goods pursuant to any applicable laws or regulations shall be paid by the Customer. Further, the Customer agrees to indemnify the Company for any container demurrage, container detention and claims for container damage or container cleaning charges in respect of containers that carry the Goods.
24. The Customer shall indemnify the Company against any claim, liability or expense, including detention or demurrage charges, which arise as a result of:
    a. a failure to return the container;
    b. a delay in the return of the container beyond the free time provided by the relevant carrier, or
    c. any damage to the container; and/or
    d. the container being returned in a dirty or contaminated condition.
25. The Customer shall indemnify the Company against any claim, liability or expense which arises as a result of delay in loading or unloading of the Customer's Goods, or any waiting time, detention or demurrage for any truck or any other conveyance whatsoever.
26. On all accounts overdue to the Company, the Company shall be entitled to interest calculated at 4 per cent above base rate of the Company's bank applicable during the periods that such amounts are overdue.
27. If on demand any person fails to pay charges due to the Company in respect of Services rendered by the Company, the Company shall have a particular and general lien over the Goods and/or any other cargo and/or documents and/or items the property of the Customer, and may sell all or any part of the Goods and/or any other cargo or items the property of the Customer by public auction or

private treaty without notice to the Customer and out of the moneys arising from the sale retain the charges so payable together with all charges and expenses of the detention and sale, and shall render the surplus if any of the moneys arising from the sale and such of the goods as remain unsold to the person entitled thereto. In addition, the lien shall cover the costs and expenses of exercising the lien and of such a sale including reasonable legal costs.

28. Without limitation to other rights of the Company, from the time the Goods are in possession of the Company or a subcontractor, the Goods are subject to a continuing security interest in favour of the Company for payment of all amounts due and owing by the Customer under these Standard Terms and Conditions of Contract. To the extent permitted by law, the Customer and the Company agree pursuant to section 115 of the PPSA to contract out of sections 96 and 120 of the PPSA and that the Customer irrevocably waives any right it has to receive notices under sections 95, 118, 121(4), 124(4), 125, 130, 132(3)(d), 132(4), and 135 of the PPSA, redeem the Goods under section 142 of the PPSA, reinstate these Standard Terms and Conditions of Contract under section 153 of the PPSA and receive a verification statement under section 157 of the PPSA. The Customer will not grant a security interest to another person, or allow any encumbrance to arise, in respect of the Goods.
29. The Company is authorised (if it should think fit to do so) to subcontract the whole or any part of the Services on any terms and such authorisation extends to any subcontractor and any further sub-subcontractor(s). Whilst not in any way lessening the effect of any other provision in these Standard Terms and Conditions of Contract the Company shall not be liable for any loss or damage to the Goods whilst not in its possession.
30. Any clause herein excluding or limiting the liability of the Company or providing any right or exemption from liability to the Company shall also be available and shall extend to protect all subcontractors, sub-subcontractors, and every servant or agent of the Company and of any subcontractor's subcontractor. The Company is or shall be deemed to be acting as agent or trustee on behalf of and for the benefit of such persons and each of them and all such persons and each of them shall be deemed to be parties to this contract.
31. The Customer undertakes that no claim will be made against any servant, sub-contractor, sub-subcontractor, or agent of the Company which imposes or attempts to impose upon any of them any liability whatsoever in connection with the Goods or the Services supplied under this contract. If any such claim should nevertheless be made, the Customer shall indemnify and hold harmless the Company against the consequences thereof.
32. These Standard Terms and Conditions of Contract shall be governed and construed in accordance with the laws of the Western Australia and the parties submit to the non-exclusive jurisdiction of the Courts of Western Australia.
33. Any claim for loss of or damage to the Goods or relating to the provision of the Services under this contract must be notified in writing to the Company within seven (7) days of delivery of the goods or the date by which the goods should have been delivered or completion of the Services or when the Services should have been completed, failing receipt of which notice the Company shall be forever discharged from any and all liability to any person (including the Customer) in respect of the Goods and/or the Services under this contract. In any event whatsoever, the Company shall be discharged from any and all liability whatsoever unless suit is brought within nine (9) months of delivery of the Goods or the date by which the Goods should have been delivered or completion of the Services or when the Services should have been completed, whichever is the earlier.
34. The Company shall not be liable for failure to fulfil its obligations under this agreement where such a failure is due to force majeure which for the purposes of this Standard Terms and Conditions of Contract is, but is not limited to government or legislative actions, embargoes, strikes, industrial disputes or actions, riots, civil commotion, insurrections, blockades, war, acts of God, fire, flood, lockouts or any other cause beyond the reasonable control of the Company.
35. The Company shall not be bound by any agreement purporting to waive or vary these Standard Terms and Conditions of Contract unless such agreement to so waive or vary shall be in writing and signed by a representative of the Company.
36. If the Customer is a Consumer, or these Terms and Conditions qualify as a Small Business Contract:
    a. Clause 4 is modified so that the Customer is not required to indemnify the Company to the extent that the loss or damage was directly caused by, or in connection with, a grossly negligent, unlawful, or wilful act or omission by the Company or its employees, agents and subcontractors.
    b. Clauses 13 is modified so that the Company's liability is not excluded to the extent that the loss or damage was directly caused by or in connection with a grossly negligent, unlawful, or wilful act or omission by the Company or its employees, agents and subcontractors.
    c. Clause 14 is modified to the extent that the Company will not be liable for any consequential or indirect loss or damage, unless the Company had actual knowledge that such loss might be incurred.
    d. Clause 18 is modified so that the Company's liability is limited to the lesser of the actual loss suffered by the Customer or the value of the Goods at the time the Goods were received by the Company.
    e. Clause 27 is modified so that the Company may only exercise its right of sale under a lien over Goods after the Company has given 21 days' notice in writing to the Customer of its intention to do so.
    f. The last sentence in clause 29 is modified so that the Company's liability is not excluded to the extent that the loss or damage to Goods was directly caused by or in connection with a grossly negligent, unlawful, or wilful act or omission by the Company or its employees, agents and subcontractors.
    g. Clause 31 is modified, so that the Customer:
        i. may make a claim against or impose liability upon any subcontractor; and
        ii. is not required to indemnify the Company from and against any loss, to the extent that the claim, liability or loss was directly caused by, or in connection with, a grossly negligent, unlawful, or wilful act or omission by the subcontractor.
    h. Clause 33 does not apply, and without limitation to any other clause in these Standard Terms and Conditions of Contract, the Company will be discharged from liability in relation to any claim:
        i. where the loss to the Customer results from the act of a subcontractor; and
            1. the Company's right to make a claim against that subcontractor is subject to time limitations; and
            2. the Customer does not make its claim against the Company within a period reasonably sufficient to allow the Company to make a corresponding claim against the subcontractor within any applicable time limitation period, or
        ii. in all other cases, where the Customer does not make its claim within 1 year from the earlier of the delivery of the Goods, if the Goods are not delivered, the date the Goods should have been delivered or where the claim does not relate to loss or damage to Goods, the time of the event giving rise to the claim.
37. The Customer is responsible for insuring the Goods.