

# TRADING TERMS AND CONDITIONS: Customer's Information

ANY BILL OF LADING OR AIR WAYBILL PREPARED ON BEHALF OF THE CUSTOMER SHALL BE SUBJECT TO CERTAIN CONDITIONS A COPY OF WHICH WILL BE MADE AVAILABLE TO THE CUSTOMER BY EXPEDITORS INTERNATIONAL OR ITS AGENTS ON REQUEST AND A COPY OF WHICH MAY BE INSPECTED AT ANY OFFICE OF EXPEDITORS INTERNATIONAL.

## CONDITIONS OF CONTRACT

1. In these Conditions:  
"Expeditors International" means Expeditors International Pty. Ltd.  
"Customer" means any person at whose request or on whose behalf Expeditors International undertake to provide Services pursuant to these Conditions.  
"Goods" shall mean and include the cargo accepted from the Customer together with any container, packaging or pallets supplied by or on behalf of the Customer.  
"Services" shall mean and include the whole of the Services undertaken or provided by Expeditors International with respect to the Goods including but not limited to the carriage, storage and clearance of the Goods and to any advice and information provided in connection with those Services.  
"Subcontractor" shall include any person who pursuant to a contract or arrangement with any other person [whether or not Expeditors International] performs or agrees to perform the Services or any part thereof.
2. These Conditions shall be governed by the laws of the State of New South Wales and Expeditors International and the Customer agree to submit to the jurisdiction of that Court.
3. No claim in respect of any loss, damage, cost or expense may be made unless notice of and claim is lodged in writing with Expeditors International within twenty four [24] hours from receipt of the goods or from when the goods would have been received in the ordinary course of business. In any event, Expeditors International shall be discharged from all liability in respect of any loss, damage, cost or expense unless suit is brought within one [1] year from receipt of the goods or from when the goods would have been received in the ordinary course of business.
4. Notwithstanding anything herein contained Expeditors International shall continue to be subject to any implied warranty provided by the Trade Practices Act 1974 [as amended] if and to the extent that the said Act is applicable to these Conditions and prevents the exclusion, restriction or modification of such warranty. The liability of Expeditors International, if any, for breach of any warranty so implied shall be limited at the option of Expeditors International to the supply of the Services again or to the payment of the costs of having the Services supplied again.
5. 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 any breach of these Conditions by Expeditors International or any other person entitled to the benefit of the provisions of these Conditions.
6. It is hereby agreed that if any provision, or part of any provision of these Conditions is unenforceable such unenforceability shall not affect any other part of such provision or any other provision hereof.
7. No servant or agent of Expeditors International nor any other person has any power to waive or vary any of the provisions hereof unless such waiver or variation is in writing signed by an executive officer of Expeditors International.
8. Expeditors International is not a common carrier and shall accept no liability as such. Except for such of the Services that are provided subject to terms and conditions contained in the Bill of Lading or Air Waybill issued by or on behalf of Expeditors International, all Services are undertaken or provided by Expeditors International subject to these Conditions. Expeditors International reserves the right to refuse the provision of Services for any person or corporation in respect of any class of Goods at its sole discretion. Expeditors International is entitled to retain and be paid all commissions, allowances and other remunerations customarily retained by or paid to customs brokers, forwarding agents, shipping agents, stors, freight forwarders and carriers.
9. It is agreed that:
  - a) The person delivering the Goods to Expeditors International is authorised to sign the documentation evidencing this contract for the Customer.
  - b) The Customer warrants in agreeing to these Conditions it is, or it has the authority of, the person or persons owning or having any interest in the Goods or any part thereof.
  - c) Without prejudice to the generality of the foregoing, the Customer undertakes to indemnify Expeditors International in respect of any liability whatsoever in respect of the Goods to any other person [other than the Customer] who claims to have, who has, or who may hereafter have an interest in the Goods or any part thereof.
10. If the Customer expressly or impliedly instructs Expeditors International to use or it is expressly or impliedly agreed that Expeditors International shall use a particular method of handling or storing the Goods or a particular method of carriage, whether by road, rail, sea or air, or a particular method of clearance, Expeditors International shall give priority to that method but in any event the method or methods of handling, carriage, storage or clearance adopted by Expeditors International shall remain at the sole discretion of Expeditors International and Customer hereby authorises Expeditors International to adopt any method or methods other than the method instructed or agreed.
11.
  - a) Expeditors International and its subcontractors shall be entitled to subcontract on any terms, the whole or any part of the Services.
  - b) The Customer undertakes that no claim or allegations shall be made whether by the Customer or any other person who is or may hereafter be interested in the Goods against any person [other than Expeditors International] by whom [whether a subcontractor, principal, employer, servant, agent or otherwise] the Services or any part thereof are provided which imposes or attempts to impose upon such person any liability whatsoever in connection with the Goods whether or not arising out of negligence on the part of such person and if such claim or allegation should nevertheless be made to indemnify Expeditors International and the person against whom such claim or allegation is made against the consequences whereof. Without prejudice to the foregoing and for the purposes of this Clause Expeditors International shall be deemed to be acting as agent or trustee on behalf of and for the benefit of all such persons and each of them and all such persons and each of them shall to this extent be or be deemed to be parties to this contract.
12. Every exemption, limitation, condition and liberty herein contained and every right, exemption from liability, defence and immunity of whatsoever nature applicable to Expeditors International or to which Expeditors International is entitled hereunder shall also be available and shall extend to protect:
  - a) All subcontractors;
  - b) Every servant or agent of Expeditors International or of a subcontractor;
  - c) Every other person [other than Expeditors International] by whom the services or any part thereof are provided.
  - d) All persons who are or may be vicariously liable for the acts or omissions of any person falling within [a] [b] or [c] hereof and for the purpose of the Clause Expeditors International is or shall be deemed to be acting as agent or trustee on behalf of and for the benefit of all such persons and each of them and all such persons and each of them shall to this extent be or be deemed to be parties to this Contract.
13. Quotations are subject:
  - a) To these Conditions; and
  - b) To the right of withdrawal or revision by Expeditors International without notice to the Customer and the Customer shall pay Expeditors International for the Services in accordance with the charges set out in the quotation subject to any variation therein between the time the quotation is made and the time at which the Services are performed in which case the applicable charges are those which are enforced at the time the Services are performed.
14. The customer shall be bound by and warrant the accuracy of all descriptions, values and other particulars furnished to Expeditors International for customs, consular and other purposes and shall be liable for any duty, tax, impost or outlay of whatsoever nature levied by the authorities at any port or place for and in connection with the Goods and for any payment, fine, expense, loss or damage made, incurred or sustained by Expeditors International in connection with, whether or not arising by reason of any inaccuracy or omission of such description, value or other particular and notwithstanding any act, default or neglect on the part of Expeditors International, the Customer hereby indemnifies Expeditors International against any such payment, fine expense, loss or damage arising from the Customer's failure to comply with this warranty.
15.
  - a) The Customer shall not tender for carriage, storage or clearance any volatile spirits or explosive Goods or Goods which are or may become dangerous, inflammable or offensive [including radio-active materials] or which are or may become liable to damage any property whatsoever without presenting a full description disclosing the nature of such Goods and in any event shall be liable for loss and damage caused thereby and if in the opinion of Expeditors International the Goods are or are liable to become of a dangerous, inflammable, explosive, volatile, offensive or damage nature the same may at any time be destroyed, disposed, abandoned or rendered harmless by Expeditors International without compensation to the Customer without prejudice to Expeditors International's right to any charges hereunder.
  - b) The Customer warrants that it has complied with the laws and regulations relating to the nature, packaging, labelling, carriage, storage or clearance of the Goods and that the Goods are packed in a manner adequate to withstand the ordinary risks of carriage, storage or clearance having regard to the nature and hereby indemnifies Expeditors International for any liability whatsoever as a result of or arising out of the Customer's failure to comply with each of these warranties.
16.
  - a) Perishable Goods which are not taken up immediately upon arrival or which cannot be delivered either because they are insufficiently or incorrectly addressed or marked or otherwise not identifiable may be sold or otherwise disposed of without any notice to the Customer, owner, consignor or consignee of the Goods and payment or tender of the net proceeds of any sale after the deduction of all costs, expenses and charges incurred by Expeditors International in effecting such sale or disposal shall be conclusively deemed to be delivery.
  - b) Non-perishable goods which cannot be delivered wither because they are insufficiently or incorrectly addressed or marked or otherwise not identifiable or because they are not collected or accepted by the Customer, consignor, owner or consignee may be sold or returned at the option of Expeditors International at any time after the expiration of twenty one [21] days of a notice in writing being sent to the address which the Customer has given as the place of delivery of the Goods. All costs, charges and expenses incurred by Expeditors International relating to the sale or return of the Goods are for the account of the Customer.
17. Without prejudice to what appears elsewhere in these Conditions Expeditors International shall not accept any liability whatsoever for any perishable Goods, human remains, bullion, coins, precious stones, jewellery, valuables, antiques, pictures, livestock or plants except where special arrangements have been made previously in writing with Expeditors International.
18. All Goods received by Expeditors International for carriage, storage or clearance are accepted subject to the condition that Expeditors International shall accept no responsibility for collection of cash on delivery or any other payments of behalf of the Customer or any other person and further that when Goods are tendered by any person with instructions for Expeditors International to collect any such payments Expeditors International shall not be bound by such instructions notwithstanding that Expeditors International may accept the Goods as tendered and perform Services in relation to those Goods.
19. Without prejudice to what appears elsewhere in these Conditions:
  - a) In the case of carriage by sea of Goods which have a value exceeding the package limitation as applied in the relevant jurisdiction pursuant to international law making the Hague Rules or the Hague-Visby Rules compulsory applicable to the relevant Bill of Lading, the value thereof shall not be declared or inserted in such Bill of Lading for the purpose of extending the liability of the carrier under such Bill, except upon express instructions given in writing by the Customer to Expeditors International.
  - b) In the case of carriage by air of Goods no option or declaration of value thereof shall be made pursuant to Article 22[2] of the Warsaw Convention as enacted in the relevant jurisdiction under the relevant national law, except upon express instructions given in writing by the Customer to Expeditors International.
  - c) In all other cases in respect of the extent of liability assumed by carriers, warehousemen and others, no declaration of value shall be made for the purposes of extending such liability and the Goods shall be forwarded or dealt with at the risk of the Customer, consignor, owner or consignee at minimal charges, unless express instructions in writing are given by the Customer to Expeditors International.
20. The Services are undertaken and provided at the risk of the Customer and not Expeditors International and Expeditors International shall not be responsible in tort or contract or otherwise for any loss or damage arising from the provision of the Services or any failure to provide or delay in or wrongful provision of the Services [including but limited to any loss of or damage to or deterioration of Goods or mis-delivery or failure to deliver or delay in delivery of Goods either in transit or in storage] for any reason whatsoever including without limiting the foregoing the negligence or breach of contract or willful act or default of Expeditors International or others and this Clause shall apply to such loss or damage whether or not the same occurs in the course of performance by or on behalf of Expeditors International of this contract or in events which are in the contempt of Expeditors International and or the Customer or in events which are in the contempt of them or in events which could constitute a fundamental breach of the contract or a breach of a fundamental term thereof.
21.
  - a) The charges of Expeditors International shall be deemed fully earned as soon as the Goods are loaded and dispatched from the Customer's premises or accepted for carriage, storage or clearance and shall be payable, non-refundable and not subject to set-off or counter-offer in any event.
  - b) The Customer shall be and remains responsible to Expeditors International for all charges incurred by Expeditors International for any reason, including debt collection or legal fees in recovering any outstanding monies.
  - c) ALL GOODS [AND DOCUMENTS RELATING TO SUCH GOODS] SHALL BE SUBJECT TO A PARTICULAR AND GENERAL LIEN IN FAVOUR OF EXPEDITORS FOR MONIES DUE EITHER IN RESPECT OF SUCH GOODS OR FOR ANY PARTICULAR OR GENERAL BALANCE OR OTHER MONIES DUE FROM THE CUSTOMER TO EXPEDITORS. If any monies due to Expeditors International is not paid within one [1] calendar month after written notice has been given to the person from whom the monies are due being given to the Customer such goods which are retained may be sold by auction or otherwise at the sole discretion of Expeditors International and the proceeds may be applied to or in satisfaction of any particular and or general lien. If after deduction of all monies owing to Expeditors International including the expenses of sale there is surplus balance of sale proceeds, such surplus shall be accounted for by Expeditors International to the Customer.