

Terms and Conditions
VIKING CARGO LOGISTICS PTY LTD
ACN 101 513 964

STANDARD TERMS & CONDITIONS OF CONTRACT FOR WAREHOUSING SERVICES

1. FEES, CHARGES & INVOICING

(A) VIKING CARGO LOGISTICS PTY LTD ("VCL") will invoice the customer weekly for fees and charges ("rates") in respect of warehousing and associated services supplied by VCL at the request and order of the customer.

(B) Except where otherwise expressly indicated, rates quoted and invoiced by VCL are exclusive of G.S.T. which will be shown as a separate item on VCL's tax invoice.

(C) SUBJECT as set forth in this Clause below, rates shall remain effective and in force for such period as is agreed in writing between VCL and the customer and shall be subject to adjustment by VCL at the expiration of the period following review by VCL PROVIDED HOWEVER that:

(a) VCL reserves the right to charge and recover a minimum invoice amount of \$100.00;

(b) As rates are quoted by VCL on the basis of transaction volumes supplied by the customer, VCL shall be entitled to increase rates for any invoicing period during which actual volumes for that period fall short of the estimate supplied by the customer PROVIDED HOWEVER that:-

(i) such short-fall is greater than 5% of the estimate supplied;

(ii) The increase shall be no greater than proportional to the variation between the estimated and actual volumes;

(iii) The increase shall only apply to the period during which the short-fall occurs.

(c) VCL shall be entitled to increase rates where they become manifestly inadequate due to an event or events unforeseeable at the time of entering the contract and beyond the control of VCL such as (but not limited to) changes to government taxes or charges or increases in VCL's costs arising from government legislation or regulation;

(d) Any increase in rates pursuant to (c) above shall be proportional to the increase in VCL's costs caused by the said event or events and become effective from the expiration of a period (not less than 14 days) prescribed in written notice to the customer of the amount of and reason(s) for the increase.

(D) Unless otherwise agreed, VCL may at its absolute discretion and without giving reason therefore increase rates at any time and from time to time and such increase shall become effective at the expiration of the period (not less than 14 days) prescribed in written notice of the increase to the customer.

(E) An order from the customer requiring same-day processing (e.g. for picking and/or packing and/or dispatch) received by VCL after 1.00pm on that day will at the discretion of VCL attract a charge of \$40 in addition to normal rates.

(F) Pallet Rates:

(a) Are normally charged on the following bases: -

(i) Receiving into store ("pallet-in,");

(ii) Warehouse disposition ("pallet put-away");

(iii) Warehousing ("pallet storage");

(iv) Despatch ("pallet-out").

(b) Rates are charged per pallet unit for each full unit and any part of a unit received, dispositioned, warehoused or despatched.

(c) A pallet unit is defined as that with maximum dimensions of 1170 mm width, 1170 mm depth and 1200 mm height and with maximum volume of 1.64 cubic metres.

A skip is defined as that with maximum dimensions of 585mm width, 585 mm depth and 600mm height.

(d) Pallet storage rates are charged on a weekly basis for each full week or any part of a week;

(e) For the purposes of (d) a week is defined as Saturday to the following Friday inclusive.

2. PAYMENT TERMS & CREDITS

(A) Invoiced amounts shall be payable in full by the customer within seven (7) days from the date of the invoice or such other period agreed in writing between VCL and the customer.

(B) Claims to VCL for credit in respect of alleged loss or damage to warehoused goods or other property will only be accepted for assessment when made by the customer in writing: -

(a) Immediately following any stock-take by or on behalf of the customer at the warehouse;

(b) In the case of despatch by VCL using transport services retained by VCL, within forty-eight (48) hours of delivery (or in the case of alleged loss within 48 hours after the date the goods allegedly lost should in the ordinary course have been delivered);

(c) In the case of despatch using transport services not retained by VCL, before departure from the warehouse.

(C) Claims to VCL for credit arising from any other cause will only be accepted for assessment when made in writing within fourteen (14) days from the date of issue of VCL's tax invoice.

(D) A claim for credit shall not be made a reason for deferring payment of an invoice issued by VCL in accordance with the foregoing relevant provisions.

3. SERVICE DELIVERY & PERFORMANCE

(A) While VCL will use its best endeavours to check that goods brought into the warehouse comply with accompanying paperwork, VCL will not be responsible for ensuring such compliance and will not be subject to any liability whatsoever for any discrepancy between such goods and paperwork.

(B) It shall be the sole and absolute responsibility of the customer if and when it so wishes to verify that goods comply by quantity, quality or otherwise with its expectations and requirements and at no stage shall VCL be responsible or accept liability for any discrepancy between the goods and those expectations and requirements.

(C) Every endeavour will be made by VCL to meet the customer's reasonable order requirements by the time desired. However, VCL shall not be liable for failure to do so or any loss occasioned thereby caused by strike or other labour troubles, equipment breakdown, stress of weather or any other cause beyond its control.

(D) Customer orders will only be accepted by VCL when in writing (including E-mail) and where same-day processing is required must be forwarded to be received by VCL before 1.00pm on that business day and must be reasonably capable of implementation on that day.

(E) Where the customer takes responsibility for tasks requiring its attendance (Including by its employees and agents) at VCL's warehouse, VCL will provide reasonable access upon reasonable notice during business hours (9.00am - 4.00pm Monday - Friday excl. public holidays).

4. STOCKTAKES

(A) VCL will carry out stock takes of the customer's goods at regular intervals (Usually weekly unless resources do not permit) at a cost agreed in writing with the customer.

(B) Where agreed in writing between VCL and the customer, the customer shall be entitled to carry out its own stock takes at reasonable times and with reasonable prior notice in accordance with 3.(E) above.

(C) VCL shall in no way or to any extent be liable for any error or inaccuracy in recording the results of its stock takes or in reporting or not reporting those results to the customer. Where VCL reports such results to the customer these shall be final and conclusive between VCL and the customer and no alleged discrepancy will be recognised or entertained unless it is raised by the customer within twenty-four (24) hours of the results being reported.

5. DANGEROUS & OBJECTIONABLE GOODS

(A) VCL will not accept for warehousing or any other purpose any dangerous, explosive, inflammable, perishable or spoiling article or substance or anything likely to encourage vermin or other pests, and the customer shall be liable for any damage that may be suffered by VCL or any third party through the introduction of any such article or substance by the customer.

(B) If any such article or substance is discovered, VCL may at its discretion remove, sell, destroy or otherwise dispose of it and shall not be responsible or accountable for the value of it.

6. RISKS & INSURANCE

(A) VCL shall not be liable for loss, damage or deterioration to the goods of the customer caused by or arising out of:-

(a) burglary or theft;

(b) floods, leakage or overflow of water;

(c) heat or fire;

(d) overflow or spillage from or of goods stored for other customers;

(e) pests or vermin;

(f) damp, moths, mildew or rust;

(g) strikes, labour troubles, act of God, riot, civil commotion, invasion, war, explosion, and air accidents;

(h) any packaging, case or container supplied by the customer; or for loss, damage or deterioration in any article or substance of a perishable nature.

(B) VCL shall not be liable in any way to the customer or to the owner or hirer of a pallet taken into the custody and control of VCL from the customer or another party acting on behalf of or nominated by the customer in the course of or incidental to VCL carrying out warehousing or distribution or other related service for the customer for all charges and fees payable in respect of the pallet or for damage to or loss of the pallet. The customer shall indemnify and hold harmless VCL from and against all claims and demands to pay such charges and fees or to make good any damage to or loss of the pallet.

(C) It shall be the responsibility of the customer to arrange such insurances as it sees fit to cover all or any of the above and any other risks and VCL shall be under no responsibility whatsoever to see that such insurance has been effected.

7. OWNERSHIP

(A) The customer warrants and undertakes with VCL that it is the sole, absolute and unencumbered owner of the articles and substances being stored and otherwise dealt with by VCL pursuant to these provisions.

(B) The customer undertakes to notify VCL promptly if all or any of the warranties and undertakings in 7.(A) above cease to apply.

8. LIEN FOR UNPAID CHARGES & POWER OF SALE

(A) VCL shall have a general lien upon the goods of the customer from time to time stored by VCL on behalf of the customer for all moneys payable to VCL.

(B) Subject to the provisions of the Warehousemen's Liens Act, 1935 (as amended) ("the Act"), where at least some part of the fees and charges owing to VCL are in arrears of payment for more than six (6) months (or such shorter period as then allowed by the Act), VCL shall (after serving notice in accordance with the Act) have full power to open and examine any part of the whole of the goods stored on behalf of the customer and to sell such goods or any part thereof by public auction, and after deducting the costs in connection with the sale, retain and apply the residue of the proceeds of sale in payment of or towards all fees and charges payable to VCL by the customer.

(C) Any surplus remaining after payment of all such fees and charges shall be dealt with by VCL in accordance with the Act.

9. TERMINATION OF AGREEMENT/NO WAIVER

(A) Any agreement between VCL and the customer for a definite period of time at fixed rates shall, subject to the provisions of 1.(B) and 8. above and 9.(B) and (C) below, expire at the end of that period PROVIDED HOWEVER that no earlier than six (6) weeks before the scheduled expiration of the agreement VCL shall be entitled to review rates and give to the customer written notice of intended increase in rates which shall become effective at the expiration of six (6) weeks from the date of that notice.

(B) VCL shall be entitled to forthwith terminate this agreement at any time by written notice in the event of the death or bankruptcy of the customer or where the customer is a corporation in the event of the customer entering into a scheme of arrangement with its creditors or having an administrator, receiver or liquidator appointed.

(C) Where the customer is in breach of a fundamental condition of this agreement (Including but not limited to failure to pay VCL's fees and charges in accordance with agreed terms) VCL shall be entitled to serve upon the customer written notice of the breach and of VCL's intention to terminate this agreement at the expiration of no less than fourteen (14) days from the date of that notice unless the customer remedies that breach. In the event that the breach is not remedied within the prescribed time to VCL's reasonable satisfaction, VCL shall be entitled forthwith to treat this agreement as terminated due to the customer's breach.

(D) In the event that VCL gives written notice to the customer of intention to increase fees and charges pursuant to 1.(B)(c) or 1.(C) above, the customer shall be entitled to give written to VCL of intention to terminate this agreement on or after the date upon which the proposed increase is to take effect.

(E) Nothing contained in any of the provisions of 9.(A) to 9.(E) above shall be read or construed to affect in any way the entitlement of VCL to pursue its rights under 8. above or such further entitlement as it may have to seek remedies at law or in equity consequential upon breach of this agreement by the customer.

(F) Any delay or failure by VCL to exercise any right or entitlement it may have shall not operate as a waiver of such right or entitlement. Any waiver of a provision of this agreement by either party must be in writing and signed by the party or a person having clear and ostensible authority to do so.

10. AMENDMENT OF CONDITIONS

VCL reserves the right at any time and from time to time to amend these Terms and Conditions without notice to the customer. All such amendments shall have force and effect forthwith and shall apply to a subsisting contract for warehousing of goods and related services except where the terms of that contract are repugnant to the provisions of the amended Terms and Conditions in which event the terms of the contract shall prevail to the extent of that repugnancy during the duration of that contract. It shall be the absolute responsibility of the customer to ensure from time to time that it has an up-to-date copy of VCL's Terms and Conditions which VCL will make available on request.

11. INTERPRETATION

Where any provision hereof is repugnant to the provisions of the terms of the agreement between VCL and the customer as constituted by acceptance of the quotation issued to the customer by VCL then to the extent of that repugnancy the latter shall prevail.