

# TERMS & CONDITIONS OF TRADE

## 1. DEFINITIONS

- 1.1 "Cardinal Logistics" shall mean Cardinal Freight Distribution Ltd or Cardinal incorporating any agents or employees thereof.
- 1.2 "Customer" shall mean the Customer, any person acting on behalf of and with the authority of the Customer, or any person purchasing products and services from Cardinal Logistics.
- 1.3 "Services" shall mean all freight services provided by Cardinal Logistics to the Customer.
- 1.4 "Price" shall mean the cost of the Services as agreed between Cardinal Logistics and the Customer and includes all disbursements eg charges Cardinal Logistics pay to others on the Customer's behalf subject to clause 4 of this contract.

## 2. ACCEPTANCE

- 2.1 Any instructions received by Cardinal Logistics from the Customer for the supply of services shall constitute a binding contract and acceptance of the terms and conditions contained herein.

## 3. COLLECTION AND USE OF INFORMATION

- 3.1 The Customer authorises Cardinal Logistics to collect, retain and use any information about the Customer, for the purpose of assessing the Customer's credit worthiness, enforcing any rights under this contract, or marketing any Services provided by Cardinal Logistics to any other party.
- 3.2 The Customer authorises Cardinal Logistics to disclose any information obtained to any person for the purposes set out in clause 3.1.
- 3.3 Where the Customer is a natural person the authorities under clauses 3.1 and 3.2 are authorities or consents for the purposes of the Privacy Act 1993.

## 4. PRICE

- 4.1 Where no price is stated in writing or agreed to orally the Services shall be deemed to be sold at the current amount as such Services are sold by Cardinal Logistics at the time of the contract.

- 4.2 The price may be increased by the amount of any reasonable increase in the cost of supply of the Services that is beyond the control of Cardinal Logistics between the date of the contract and delivery of the Services.

## 5. PAYMENT

- 5.1 Unless it has been agreed by Cardinal Logistics with the Customer that payment for Services shall be made in full on or before the 20th day of the month following the date of the invoice ("the due date") then payment for services shall be made in full on or before seven (7) days following the date of the invoice ("the due date").
- 5.2 Interest may be charged on any amount owing after the due date at the rate of 2.5% per month or part month.
- 5.3 Any expenses, disbursements and legal costs incurred by Cardinal Logistics in the enforcement of any rights contained in this contract shall be paid by the Customer, including any reasonable solicitor's fees or debt collection agency fees.
- 5.4 Receipt of a cheque, bill of exchange, or other negotiable instrument shall not constitute payment until such negotiable instrument is paid in full.

## 6. QUOTATION

- 6.1 Where a quotation is given by Cardinal Logistics for Services:
- 6.1.1 Unless otherwise agreed the quotation shall be valid for thirty (30) days from the date of issue; and
- 6.1.2 The quotation shall be exclusive of goods and services tax unless specifically stated to the contrary;
- 6.1.3 Cardinal Logistics reserve the right to alter the quotation because of circumstances beyond its control.
- 6.2 Where Services are required in addition to the quotation the Customer agrees to pay for the additional cost of such Services.

## 7. RISK

- 7.1 All Services provided by Cardinal Logistics to the Customer are a contract of carriage at "owner's risk" pursuant to section 8 of the Carriage of Goods Act 1979.

- 7.2 The time agreed for delivery shall not be an essential term of the contract, unless agreed in writing between the parties.

## 8. TITLE AND SECURITY (PERSONAL PROPERTY SECURITIES ACT 1999)

- 8.1 Title in any Services supplied by Cardinal Logistics passes to the Customer only when the Customer has made payment in full for all Services provided by Cardinal Logistics and of all other sums due to Cardinal Logistics by the Customer on any account whatsoever. Until all sums due to Cardinal Logistics by the Customer have been paid in full, Cardinal Logistics has a security interest in all Services.

- 8.2 If the Services are attached, fixed, or incorporated into any property of the Customer, by way of any manufacturing or assembly process by the Customer or any third party, title in the Services shall remain with Cardinal Logistics until the Customer has made payment for all Services, and where those Services are mixed with other property so as to be part of or a constituent of any new Services, title to these new Services shall be deemed to be assigned to Cardinal Logistics as security for the full satisfaction by the Customer of the full amount owing between Cardinal Logistics and Customer.

- 8.3 The Customer gives irrevocable authority to Cardinal Logistics to enter any premises occupied by the Customer or on which Services are situated at any reasonable time after default by the Customer or before default if Cardinal Logistics believes a default is likely and to remove and repossess any Services and any other property to which Services are attached or in which Services are incorporated. Cardinal Logistics shall not be liable for any costs, damages, expenses or losses incurred by the Customer or any third party as a result of this action, nor liable in contract or in tort or otherwise in any way whatsoever unless by statute such liability cannot be excluded. Cardinal Logistics may either resell any repossessed Services and credit the Customer's account with the net proceeds of sale (after deduction of all repossession, storage, selling and other costs) or may retain any repossessed Services and credit the Customer's account with the invoice value thereof less such sum as Cardinal Logistics reasonably determines on account of wear and tear, depreciation, obsolescence, loss or profit and costs.

- 8.4 Where Services are retained by Cardinal Logistics pursuant to clause 8.3 the Customer waives the right to receive notice under s.120 of the Personal Property Securities Act 1999 ("PPSA") and to object under s.121 of the PPSA.

- 8.5 The following shall constitute defaults by the Customer:

- 8.5.1 Non payment of any sum by the due date.
- 8.5.2 The Customer intimates that it will not pay any sum by the due date.
- 8.5.3 Any Services are seized by any other creditor of the Customer or any other creditor intimates that it intends to seize Services.
- 8.5.4 Any Services in the possession of the Customer are materially damaged while any sum due from the Customer to Cardinal Logistics remains unpaid.
- 8.5.5 The Customer is bankrupt or put into liquidation or a receiver is appointed to any of the Customer's assets or a landlord distains against any of the Customer's assets.

- 8.5.6 A Court judgment is entered against the Customer and remains unsatisfied for seven (7) days.

- 8.5.7 Any material adverse change in the financial position of the Customer.

## 9. LIABILITY

- 9.1 The Consumer Guarantees Act 1993, the Fair Trading Act 1986 and other statutes may imply warranties or conditions or impose obligations upon Cardinal Logistics which cannot by law (or which can only to a limited extent by law) be excluded or modified. In respect of any such implied warranties, conditions or terms imposed on Cardinal Logistics, Cardinal Logistics' liability shall, where it is allowed, be excluded or if not able to be excluded only apply to the minimum extent required by the relevant statute.

- 9.2 Except as otherwise provided by clause 9.1 Cardinal Logistics shall not be liable for:

- 9.2.1 Any loss or damage of any kind whatsoever, arising from the supply of Services by Cardinal Logistics to the Customer, including consequential loss whether suffered or incurred by the Customer or another person and whether in contract or tort (including negligence) or otherwise and irrespective of whether such loss or damage arises directly or indirectly from Services provided by Cardinal Logistics to the Customer; and
- 9.2.2 The Customer shall indemnify Cardinal Logistics against all claims and loss of any kind whatsoever however caused or arising and without limiting the generality of the foregoing of this clause whether caused or arising as a result of the negligence of Cardinal Logistics or otherwise, brought by any person in connection with any matter, act, omission, or error by Cardinal Logistics its agents or employees in connection with the Services.

## 10. CONSUMER GUARANTEES ACT

- 10.1 The guarantees contained in the Consumer Guarantees Act 1993 are excluded where the Customer acquires Services from Cardinal Logistics for the purposes of a business in terms of section 2 and 43 of that Act.

## 11. MISCELLANEOUS

- 11.1 Cardinal Logistics shall not be liable for delay or failure to perform its obligations if the cause of the delay or failure is beyond its control.

- 11.2 Failure by Cardinal Logistics to enforce any of the terms and conditions contained in this contract shall not be deemed to be a waiver of any of the rights or obligations Cardinal Logistics has under this contract.

- 11.3 If any provision of this contract shall be invalid, void or illegal or unenforceable the validity existence, legality and enforceability of the remaining provisions shall not be affected, prejudiced or impaired.

- 11.4 The client shall not assign all or any of its rights or obligations under this contract without the written consent of Cardinal Logistics.

BANK ACCOUNT NUMBER FOR DIRECT  
CREDIT

03 1322 0056562 00

WESTPAC

We accept the Terms and Conditions of Trade as specified -

Signed .....

Name .....

Position .....

Company .....

Date .....