

Conditions of Carriage



1 In These Conditions:

1.1 Definitions

- (a) "Carrier" means the Fastway franchisee that has agreed to provide carriage services in respect of the Goods as specified from time to time, including any sub-contractor of the Carrier.
- (b) "Consignor" means the customer/party that has engaged the Carrier to provide the Services in accordance with these conditions.
- (c) "Goods" means the items provided by the Consignor for carriage by the Carrier.
- (d) "Parcel Connect Agent" means the agent of the Carrier, at who's premises the Carrier may leave the Goods for collection by the Receiver.
- (e) "Receiver" means the consignee party nominated by the Consignor to receive the Goods.
- (f) "Services" means the services provided by the Carrier in connection with the carriage of the Goods including (without limitation), the carriage, transport and/or storage of the Goods plus any incidental services.

1.2 Interpretation

Words denoting the singular include the plural and vice versa; any gender includes the other gender; and persons include corporations and bodies politic and include their legal personal representatives and assigns.

2 Application Of Conditions

- 2.1 All services will be performed by the Carrier on the terms set out in these Conditions.
- 2.2 No person has the authority to waive or vary these Conditions on behalf of the Carrier unless the waiver or variation is in writing and signed by the Carrier.

3 Not A Common Carrier

The Carrier is not a common carrier and accepts no liability as such and may in its absolute discretion:

- (a) refuse carriage of any item for any person;
 - (b) refuse to provide any of the Services to the Consignor whether before or after the carriage of Goods has commenced where the Consignor has provided Goods in breach of clauses 4.5 and 11, and
 - (c) open any document, envelope, package or other container in which the Goods are placed or packaged, or the Goods, to inspect the Goods to ensure compliance with these Conditions or, where any consignment note or identifying document or mark is lost, damaged or destroyed, to ascertain the ownership or destination of the Goods.
- When taking steps under this clause, the Carrier will use reasonable efforts to limit damage to the Goods or its packaging, and where reasonable to do so, will contact the Consignor to resolve the issue rather than opening the Goods.

4 Warranties and Acknowledgments

- 4.1 The Consignor warrants that the person who tenders the Goods for carriage has the authority to deliver the Goods to the Carrier and sign any consignment note. At the point of providing the Goods to the Carrier, the Consignor accepts these Conditions as binding upon it.
- 4.2 The Carrier uses prepaid labels and satchels, dynamic labels and electronic labels known as Fastlabel in its operations. All labels and satchels must be used within 1 year of purchase and are not refundable or transferable other than where required by law.
- 4.3 The Consignor is responsible for ensuring that the correct labels, satchels, dynamic labels and electronic labels are used for the Goods. Where an incorrect label, satchel, dynamic label or electronic label is used by a Consignor, resulting in an underpayment by the Consignor for the carriage of the Goods, the Carrier will calculate and apply the correct payment and raise an invoice against the Consignor for the difference, for immediate payment on presentation. The Carrier reserves its rights not to provide the Services to the Goods until the Consignor has paid the correct amount applicable for the carriage of the Goods.
- 4.4 Where the Consignor is not the owner of the Goods it warrants it has full authority to act as agent of the owner of the Goods, or any other person having an interest in, the Goods for all purposes in connection with the carriage of the Goods by the Carrier under these conditions and indemnifies and shall keep indemnified the Carrier in respect of all liability whatsoever or howsoever arising (including without limitation any loss or damage caused by the Goods during the provision of the Services by the Carrier or caused from the negligent or willful act or default of any third party) in connection with the Goods.
- 4.5 The Consignor warrants:
 - (a) that it has complied with all laws and regulations relating to the nature, packaging, labelling of the Goods for carriage, and that the Goods are packed and packaged in a manner adequate to withstand the ordinary risks associated with the Services having regard to the nature of the Goods; and
 - (b) the accuracy of all markings and brandings of the Goods, descriptions, value and other particulars furnished to the Carrier for carriage, customs, consular or any other purpose and indemnifies and keeps indemnified the Carrier against all losses, damage, expense and fines arising from any inaccuracy or omission in this respect.

5 Limited Liability

- 5.1 Subject to clauses 5.2-5.5 (inclusive), the Carrier is not liable for:
 - (a) injury or damage to or destruction or loss of the Goods or any other property arising out of or incidental to the provision of the Services; or
 - (b) the mis-delivery or non-delivery of the Goods.
- 5.2 The Carrier will be liable to the Consignor in respect of injury or damage to or destruction or loss of the Goods directly caused by the Carrier in providing the Services up to the amount of \$1,500 as a total maximum liability for all of the Goods the subject of the consignment note (Cap). The parties agree that any such liability shall be based on in the case of lost goods, the net cost to purchase or manufacture like goods, or in the case of damaged goods, the net cost for repair. The parties agree that neither party is liable for any consequential loss however caused.
- 5.3 The limitations in clause 5.1 and 5.2 are subject to law, and in particular do not limit the Carrier's liability for any consumer guarantees under The Australian Consumer Law.
- 5.4 Any claim for injury or damage to or destruction or loss of the Goods under clause 5.2 must be made in writing to the Carrier in the case of:
 - (i) Damage to the Goods - an endorsement must be made in writing at the time of receiving the Goods. A formal claim must be received in writing within 7 business days of delivery of the Goods.
 - (ii) Non-delivery of the Goods - within 30 business days from the date the Carrier receives the Goods from the Consignor, so that any such claim not so made shall be waived by the Consignor and rejected by the Carrier.All information reasonably requested by the Carrier, or its third party claims administrator, in relation to the claim must be provided in writing within 14 business days of the request being made.
- 5.5 The Carrier will not collect cash or any other payment on delivery of the Goods from the Receiver and the Consignor remains liable for payment of the Services.
- 5.6 As the liability of the Carrier is limited as provided in these Conditions the Consignor is advised to secure their own additional insurance cover generally. No insurance will be effected by the Carrier for the benefit of the Consignor.

6 Sub-Contractors

The Carrier may subcontract all or part of the provision of the Services to another party. If the Carrier does so, it will remain fully responsible for the provision of the Services under these Conditions.

7 Performance Of Services

- 7.1 The Consignor may request the Carrier to provide the Services in a particular way (whether as to means of carriage, place of storage or otherwise). Whilst the Carrier may agree to take reasonable steps to comply with the request, it may provide the Services in the way it reasonably considers appropriate in the circumstances.
- 7.2 The Consignor authorises any Services to be provided by the Carriage to be carried out in accordance with the route of carriage or place of storage (if any) as the Carrier may in its absolute discretion deem appropriate or necessary.

8 Delivery

- 8.1 The Carrier:
 - (a) is authorised to deliver the Goods to the Receiver at the address nominated by the Consignor or Receiver or agent of either of them; and
 - (b) shall be deemed to have delivered the Goods in accordance with these Conditions if the Carrier:
 - (i) obtains a signature acknowledging receipt from any person who presents themselves to the Carrier as the Receiver or its agent; or
 - (ii) is provided with a written Authority to Leave (ATL), which can be either permanent or a per consignment basis, which allows delivery without signature, from either the Consignor or Receiver; or
 - (iii) in the case of perishables, when they are physically deposited at the address given by the Consignor or Receiver.
- 8.2 If the nominated place of delivery is unattended at the time delivery is attempted (and there is no ATL in place) or if delivery cannot otherwise be effected, the Carrier may, without being obliged to do so, store the Goods at the risk and expense of the Consignor so that:
 - (a) the Carrier may attempt one more re-delivery of the Goods to the Receiver from the place of storage; or
 - (b) at the direction of the Receiver, deliver the Goods to an alternate delivery address provided by the Receiver, for an additional fee; or
 - (c) deliver the Goods to a Parcel Connect Agent and leave a calling card at the delivery address notifying the Receiver to collect the Goods from the relevant Parcel Connect Agent;
 - (d) request that the Receiver attend the Carrier's premises to collect the Goods.If neither re-delivery nor pick up by the Receiver can be effected within 7 days, the Carrier may return the Goods to the Consignor.
- 8.3 Where the Goods are collected, or consigned for collection, the Carrier may release the Goods to any person who presents himself to the Carrier as the Receiver or its agent and the Carrier shall be conclusively presumed to have delivered the Goods in accordance with these Conditions if the Carrier obtains from that person a receipt or signature for the Goods.

9 Responsibility For Charges

- 9.1 The Consignor is liable to the Carrier for all proper charges incurred for any reason in the provision of the Services, including but not limited to, reasonable fees and charges for credit or debit card payments.
- 9.2 The Carrier's charges shall be deemed fully earned as soon as the Goods are received by or on behalf of the Carrier and shall be immediately payable then and non-refundable.
- 9.3 Neither party may set off against any moneys payable by them, under these Conditions, any moneys owed or alleged to be owed to them by the other party.

10 Lien

The Carrier has a lien on the Goods (and any document relating to the Goods) and any other related items (and any documents relating thereto) of the Consignor in custody or control of the Carrier for any monies owing to the Carrier by the Consignor in connection with the Carriage of the Goods. The Carrier may sell the Goods or any of those items by public auction or private treaty, provided that reasonable notice is first provided to the Consignor, to satisfy that obligation and all reasonable costs incurred by the Carrier for storage or in relation to the sale. The Carrier will use reasonable endeavours to obtain market value for the Goods and any additional proceeds of sale, after the Carrier has deducted its fees and costs, will be paid to the Consignor.

11 Nature Of Goods

- 11.1 The Consignor must not provide to the Carrier:
 - (a) any Goods with a deadweight or cubic weight of more than 25kg or length of more than 2.15m (or such other deadweight or cubic weight or length as advised by the Carrier in writing prior to taking the Goods);
 - (b) any volatile spirits, explosive Goods or Goods which are or may become dangerous (including radioactive materials), flammable or offensive (Dangerous Goods), outside the minimum levels for Dangerous Goods for goods in classes 2.1, 2.2, 3 and 9 of the Australian Code for the Transport of Dangerous Goods, without also presenting a full description disclosing the nature of the Goods or Dangerous Goods to the Carrier. The Consignor is liable for all loss, or damage or destruction caused by the Dangerous Goods. The Carrier is entitled to refuse to accept for carriage any Dangerous Goods or if accepted without the nature of the Dangerous Goods being fully disclosed to the Carrier, to notify the Consignor that it must arrange for collection of the Dangerous Goods at its cost once the nature of the Dangerous Goods is discovered by the Carrier.
- 11.2 If in the reasonable opinion of the Carrier the Goods are or are liable to become a dangerous, flammable, explosive, or of a volatile nature, or otherwise likely to cause damage to property or persons, the Carrier may take any steps reasonably necessary to protect persons and property and render the Dangerous Goods harmless, and will not be required to pay any compensation to the Consignor in respect of any such action taken.
- 11.3 The Carrier does not accept for carriage livestock, second-hand car parts, perishables, flowers or plants, cash or other negotiable instruments, jewellery, cigarettes or tobacco products, irreplaceable items or other such valuables. Goods of this type, consigned by the Consignor via the Carrier shall not be covered by the Limited Liability Scheme referred to in clause 5 of these Conditions. If the Consignor requires insurance cover for these Goods, it must take out its own coverage and its cost.

12 Brokerage And Commission

The Consignor agrees that the Carrier may retain any allowances, brokerages and commissions paid by shipping and forwarding agents, insurance brokers, airlines and any other person in relation to the provision of the Services.

13 Export Control And Customs

- 13.1 The Consignor authorises the Carrier to act as the Consignor's agent for export control and customs purposes and to complete all documents as may be reasonably necessary in connection with the provision of the Services.
- 13.2 The Carrier may (but without obligation to do so) advance any duties, taxes, outlays or charges at any port or place in respect of the Goods and the Consignor shall reimburse the Carrier on presentation of an invoice detailing those amounts.

14 Indemnity

- 14.1 The Consignor indemnifies and shall keep indemnified the Carrier, its agents, servants and officers in respect of all liabilities arising from any breach of these conditions by the Consignor, except to the extent that any losses or damages were caused or contributed to by the Carrier.
- 14.2 The Consignor indemnifies and shall keep indemnified the Carrier, its agents, servants and officers against all claims raised or suffered by a Receiver of the Consignor against the Carrier in respect of the Goods, the Services or any other matter under these Conditions of Carriage.

15 Severance

If any provision or part of any provision in these Conditions is or becomes unenforceable that unenforceability will not affect the enforceability of the balance of the provision or any other provisions of these Conditions.

16 Applicable Law

These Conditions shall be governed and construed in accordance with the laws of the place of issue of a consignment note.

17 Ownership

The Consignor acknowledges that the business of the Carrier is independently owned from that of other operators in the Fastway network.

18 Force Majeure

The Carrier is not liable for loss or damage to the Goods where the loss or damage wholly or partly resulted from causes beyond the control of the Carrier including but not limited to natural disasters, acts of war or civil unrest.