

Terms and Conditions

NDST PTY LTD
ABN 53 040 193 035
TERMS AND CONDITIONS OF CONTRACT

PLEASE READ THESE TERMS AND CONDITIONS CAREFULLY BEFORE YOU USE OUR SERVICES.

These terms and conditions regulate the legal relationship between you and us. By using our Services in any way, or by becoming the Member, you agree to be bound by them.

'We' are:

NDST Pty Ltd ABN 53 040 193 035
(identified as "Company"/ "we" /"us" /"our" in these terms) of:

PO Box 253, Narre Warren North, VIC 3804

'You' are:

a Member

Customer'

means Member to whom the Company agrees to provide the Services.

'Consignment'

means goods accepted by the Company from the Customer together with any containers, packaging or pallets supplied by or on behalf of the Customer and used in the cartage, transportation and/or storage of those goods.

'Driver'

means Member who may act as driver (even on occasional basis)

'Member'

means either the Customer or a Driver.

'Services'

means the whole of the operation and services undertaken by the Company in connection with the Consignment including the collection, cartage, transportation, delivery and/or storage of the Consignment as agreed with the Customer for the price.

'Subcontractor'

means any person who, pursuant to a contract or arrangement with any other person, (whether or not the Company) performs or agrees to perform the Services of any part thereof as per these terms.

1.

These additional terms governing relationship with the Customers are in addition to and are not in derogation of the General terms available at

<http://ndst.com.au/index.php?page=terms-and-conditions>

1.1.

You understand and acknowledge that by booking the Consignment, you are entering into an agreement with us and that you accept these terms and conditions. If you do not agree to any of these terms, please do not use the Website and do not book the Consignment with us.

1.2.

You must provide the required information for booking the Consignment, which may include business name/Individual name, ABN, address, phone number, fax and email. All information collected is confidential and not used by any third party other than to complete our services.

1.3.

The information that we collect from you is used:

1.3.1.1. to provide you with the services which you request;

1.3.1.2. to maintain our accounts;

1.3.1.3. for billing;

1.3.1.4. to enable us to answer your enquiries;

1.3.1.5. for verifying your identity for security purposes;

1.3.1.6. to help in making the Website more useful to you.

1.4.

You will receive an email confirming details, booking dates and confirmation of payment of booking fee. We do not accept responsibility for a mistaken Consignment offered that is booked.

1.5.

It is agreed that any person who delivers Consignment to the Company for and on behalf of the Customer is authorised to do so subject to these terms and conditions. The Customer warrants that it has full authority of the person or persons owing or having any interest in the Consignment or any part thereof.

1.6.

Consignment is accepted by the Company subjected to the condition that the Company accepts no responsibility for the collection of cash on delivery or any other payments on behalf of the Customer or any other person. When Consignment are tendered by a person with instructions for the Company to collect any such payments, the Company shall not be bound by such instructions notwithstanding that the Company may accept those Consignment as tendered and perform other services of carriage, forwarding or storage in relation to those Consignment.

1.7.

If and only if the Company has agreed in writing and signed by the director to insure the Consignment then the liability of the Company is limited to the amount, if any, it is liable to pay under such insurance for physical loss of or damage to the Consignment up to the limit of such insurance. Otherwise the Customer on his own must insure the Consignment.

1.8.

The Consignment is at the risk of the Customer and not the Company and unless expressly agreed in writing, the Company shall not be responsible in tort or contract or otherwise for any loss of or damage to or deterioration of Consignment or wrong delivery or failure to deliver or delay in delivery of Consignment including perishable Consignment either in transit or in storage for any reason whatsoever including limiting the foregoing the negligence or wilful act or default of the Company or its Sub contractor and this paragraph shall apply to all such loss of or damage to or deterioration of Consignment or miss-delivery or failure to deliver or delay in delivery of Consignment as aforesaid whether or nor the same occurs in the course of performance by the Company of the contract or in events which are in the contemplation of the Company and/or the Customer or in events which are foreseeable by them of either of them or in events which would constitute a fundamental breach of the contract or a breach of fundamental term thereof.

1.9.

If in the sole discretion of the Company and Consignment becomes or is liable to become of a dangerous, inflammable, explosive, volatile, offensive or damaging nature the same may at any time be retained, destroyed, disposed of, abandoned or rendered harmless by the Company at the cost of the Customer and without any compensation to the Customer and without prejudice to the Company's right to any charges made.

1.10.

The Customer shall not tender for carriage or storage any illegal, volatile or explosive material in the Consignment, or Consignment which are or may become dangerous, inflammable or offensive (including radioactive materials) or which are or may become liable to damage any property whatsoever without resending a full description disclosing the nature of the Consignment, and in any event shall be liable for all loss and damage caused therein.

1.11.

The Customer acknowledges that it is aware of and understands any applicable legislation relating to the disposal of uncollected Consignment and confirms that its place of abode for the purpose of that legislation is that set out on the documentation evidencing this contract.

1.12.

The Customer warrants that it has complied with all laws and regulations relating to the nature, packaging, labelling, storage and carriage of the Consignment and that the Consignment is packed in a manner adequate to withstand the ordinary risks or storage and/or carriage having regard to its nature and hereby indemnifies the Company for any liability whatsoever and for all costs and expenses incurred as a result of or arising out of the Customer's failure to comply with each of these warranties. It is further agreed that the Customer shall be responsible for the conformity of any containers, packaging, or pallets with any requirements of the consignee and for any expense incurred by the Company arising from any failure to so conform.

1.13.

If the Customer expressly or impliedly instructs the Company to use, or it is expressly or impliedly agreed that the Company shall use a particular method of handling or storing the Consignment or a particular method of carriage whether by road, rail, sea or air, the Company shall give priority to that method but in any event the method or methods of handling, storage and/or carriage adopted by the Company shall remain the sole discretion of the Company and the Customer hereby authorises the Company to adopt any method or method other than the method instructed or agreed.

1.14.

If the nominated place of delivery should be unattended or if delivery cannot otherwise be effected to any person at that place, the Company may, at its option, deposit the Consignment at that place (which shall be deemed to be delivery in accordance with this contract) or store the Consignment and if the Consignment is stored by the Company the Customer shall pay or indemnify the Company for all costs and expenses incurred in or about such storage, in the event that the Consignment is stored by the Company, the Company shall be at liberty to redeliver it to the Customer from the place or storage at the Customer's expense.

1.15.

If the Customer or any of its representatives remains absent during normal trading hours or at the time specified or if the Company's representative arrives or Sub contractor to affect collection at the Customer's premises or arrives to affect delivery at the consignee's premises and is delayed in affecting prompt collection, or is unable to affect collection of the Consignment, or arrives to find no Consignment available for collection or is delayed in affecting prompt delivery of the Consignment at the set premises for any reason whatsoever outside the control of the Company, then the Company reserves the right to make an additional charge to every call made for collection and/or delivery or for the amount of the delay until collection and/or delivery is affected along with any detention time.

1.16.

The Company shall in any event be discharged from all liability whatsoever in connection with the Consignment unless suit is brought within seven (7) days after delivery was affected or would in the ordinary course of business have been affected.

1.17.

The Customer undertakes to indemnify the Company in respects of any liability whatsoever and howsoever arising (including without limiting the foregoing from negligence or breach of contract or wilful act of default of the Company or others) in connection with the Consignment to any person (other than the Customer) who claims to have, who has or may hereafter have any interest in the Consignment or any part thereof. It is agreed that this indemnity operates irrespective of whether the Company's liability arises in events, which may constitute a fundamental breach of a fundamental term.

1.18.

The Company's charges shall be deemed fully earned as soon as the Consignment is loaded and despatched to/from the Customer's agreed

place or accepted for storage and shall be payable and non-refundable in any event.

1.19.

In the event of any loading, unloading, handling, removal, assembly or erection of any kind whatsoever, it is undertaken on the strict basis that the Company accepts no liability for any loss, damage or injury of any kind whatsoever, however arising, caused or incurred or occurring during any part of the movement. The disclaimer extends to include not only loss of or damage to itemised Consignment or equipment itself, but loss, damage or injury to and person, property or thing damaged during the movement and to include any loss consequently or otherwise arising from any loss, damage or injury aforesaid.

1.20.

If Customer fail to pay charges to the Company in respect of Services by the Company on reasonable demand being made in accordance with this contract, the Company may detain and sell by public auction or private treaty all or any of the Consignment of that person which are in its possession and out of the moneys arising from the sale retain charges so payable and all charges and expenses of the detention and sale and shall pay the surplus if any of the moneys arising from the sale of and such of the Consignment as remain unsold to the party entitled thereto. Any such sale shall not prejudice or affect charges due or payable in respect of such Services or the said detention and sale however shall occur without notice to the Customer.

1.21.

The Customer shall remain responsible to the Company for all the additional costs in addition to agreed Consignment charges for its Services. A charge may be made to the Customer in respect of any delay in loading, unloading or waiting incurred other than from the fault of the Company. Such permissible delay period shall commence upon the Company reporting for loading, unloading or waiting. Labour to load, unload or wait for the Consignment shall be the responsibility of and at the expense of the Customer. Loading, unloading and waiting time shall be charged at the rate of up to \$100.00 per hour per person with a minimum of one (1) hour per person, unless an alternate hourly rate has been negotiated with the Customer and/or client and placed in writing. Rates for other services not listed on a standard price schedule will include but not be limited to bridge tolls, customs clearance, mobile telephone calls made in the course of provision of Services, wrong address fees, redelivery fees, return to sender fees, on forwarding fees and fees for special instructions. These rates are subject to change without notice and it remains the sole responsibility of the Customer to avail itself of these rates.

1.22.

The Company and any Subcontractor shall be entitled to subcontract on any terms, the Services or any part thereof. The Customer undertakes that no claim or allegation shall be made, whether by the Customer or any other person who is or may hereafter be interested in the Consignment, against the Company and/or any person by whom (whether as 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 and howsoever arising (including without limiting the foregoing from negligence or breach of contract or wilful act of default of the Company or others) in connection with the Services and the Consignment and if any such claim or allegation should nevertheless be made, the Customer undertakes to indemnify the Company and the person against whom such claim or allegation is made against the consequences thereof. Without prejudice to the foregoing and for the purpose of this paragraph the Company 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 to this extent be or be deemed to be parties to this contract. It is agreed that each of the indemnities in this paragraph operates irrespective of whether the liability of the Company or any other person arises in events, which may constitute a fundamental breach of contract or a breach of fundamental term.

1.23.

Verbal and online confirmation of deliveries is supplied free of charge. In the event that a hard copy proof of delivery is required, a fee of not less than \$10.00 will apply for deliveries if up to three (3) months in arrears from the date of delivery, \$50.00 for four (4) to twelve (12) months in arrears from the date of delivery, and \$100.00 for dates in excess of twelve (12) months.

1.24.

Unless expressly agreed in writing or otherwise, standard rates for Services submitted to the Customer are valid for up to six (6) months only from the date of their submission yet may be subjected to review at any time by the Company.

2.

Price and Payment

2.1.

Cash Payment

2.1.2.

The prices shall be inclusive of taxes, levies & surcharges.

2.1.3.

The payment shall be made within seven (7) days from the date of invoice generated to Customer.

2.1.4.

The payment should be directly transferred into the Company's bank account.

2.1.5.

We reserves the right to charge interest from the Consignor on the amount due for the payment from the due date of the payment till the date of the payment at the rate of five (5) per cent above the base interest rate of their bank NAB Banking Corporation.

2.1.6.

The Customer shall remain responsible to the Company for all the additional costs in addition to agreed Consignment charges for its Services.

2.1.7.

Rates for other services not listed on a standard price schedule as mentioned in Schedule will include but not be limited to bridge tolls, customs clearance, mobile telephone calls made in the course of provision of Services, wrong address fees, redelivery fees, return to sender fees, on forwarding fees and fees for special instructions. These rates are subject to change without notice and it remains the sole responsibility of the Customer to avail itself of these rates.

2.1.8.

The Company's charges shall be deemed fully earned as soon as the Consignment is loaded and despatched from the Consignor's agreed place or accepted for storage and shall be payable and non-refundable in any event.

2.1.9.

If the Customer is not making payment of any monies due under any invoice issued by the Company within the due time for payment, the Customer agrees to pay the Company and accounting surcharge of twenty (20) per cent of the gross value of the overdue amount, together with interest at a rate equivalent to the NAB Banking Corporation prime rate on the date, plus one (1) per cent, to be calculated on a daily basis from the first date of the account becoming overdue until payment is made, or until judgment, as the case may be. In the event of legal action being instituted, the minimum accounting service fee will be \$500 plus Goods and Services Tax, legal and court costs.

2.2.

In applying for credit facilities from the Company, the Customer expressly agrees:

2.2.1.

for the disclosure of personal, financial and other information to the Company to or from a credit reporting agency.

2.2.2.

that the Company may contact any trade references or other credit references at any time whether now or in the future for the purpose of assessing credit worthiness.

2.2.3.

that the Company may receive from any other credit provider or may provide to any credit provider any credit information whether by way of report record or otherwise relating to credit worthiness for the purposes of exchange of information, assessing credit worthiness, and notification of default at any time whether now or in the future.

2.2.4.

that the Company may obtain from a credit reporting agency a credit report on the Customer for the purpose of assessing credit application and the Customer further consents to the Company that it may obtain such reports from time to time for the purpose of assessing credit worthiness during the continuance of credit provision.

2.2.5.

that the Company may obtain from a business which provides credit information a report or information in relation to the commercial credit worthiness or commercial dealings of the Customer and using such information for the purpose of assessing the application of credit.

2.2.6.

that in the event of default of payment the Company may disclose all information relating to the credit account of the Customer to its collection agency for the purpose of receiving any or all amounts outstanding.

2.3.

In the case of prepaid carriage:

2.3.1.

if the Consignment exceeds the prepaid consignment note weight as allowed on the front of the aforesaid, either in dead weight or cubic capacity, the Company reserves the right to make an additional charge for each kilogram of the excess weight or cubic capacity, which ever is greater. The rate per kilogram, unless otherwise permitted, or in absence of some other permitted method of charge, is not less than \$ 10.00.

2.3.2.

all Consignments are charged at two hundred and fifty (250) kilograms per cubic metre, or dead weight, whichever is greater.

2.3.3.

standard rates for Services submitted to the Customer are valid only when the agreement of the Company's General Terms and Conditions has been signed or ticked for online bookings by an authorised officer for and on behalf of the Customer.

2.4.

Where the Customer has declared the weight and/or dimensions of the Consignment the Company has relied upon such declared weight and/or dimensions in making its arrangements for transportation, and where the actual weight or dimensions of the Consignment differs from the declared weight and/or dimensions than in every such case the Customer shall be responsible for all extra costs and risk incurred by the Company resulting from reliance as aforesaid upon the declared weight and/or dimensions. The Customer agrees without exception that the signature of a collection made on behalf of the Company is acknowledgement of the number of items only.