

## BlueStar Logistics Pty Ltd

### Melbourne (Head Office)

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[www.bluestarlogistics.com.au](http://www.bluestarlogistics.com.au)

*Flexibility, Reliability, Customer Engagement that's why you can spend more time doing what you do best.*

### **STANDARD CONDITIONS OF CARRIAGE AND STORAGE OF GOODS**

#### Parties:

Bluestar Logistics Pty Ltd ACN 130 179 350 of 24-32 Stanley Drive, Somerton, Victoria, 3062 ("the Company")

The party named in Item 1 of the Schedule ("the Customer")

#### 1. Definitions.

In these conditions:

- A. "us", "we" or "the Company" means Bluestar Logistics Pty Ltd and its related bodies corporate within the meaning of Section 9 of the Corporations Act carrying on business in their own names and under any business names and their officers, servants, agents and sub-contractors;
- B. "sub-contractor" means:
  - (a) any person the Company arranges to transport the goods; and
  - (b) any person who is a servant, agent, employee or sub-contractor of the Company or any person in (a)
- C. "person" includes any person, firm, corporation, governmental authority or state or federal government;
- D. "transport" means the whole of the operations and services undertaken by the Company for the goods;
- E. "goods" means
  - (a) any goods accepted from you or on your behalf;
  - (b) any other goods we pick up with those goods; and
  - (c) any packaging, pallets or containers we pick up with those goods;
- F. "charges" means the Company's quoted charges for transport calculated under its rates schedule or other agreed rates, the charges in clause 3, the cost of the Company's goods cover and any tax including goods and services tax ("GST") levied directly on a transaction or supply under these conditions;
- G. "receiver" means the party shown at Item 2 of the Schedule;
- H. "you" means the Customer;

- I. "services" means storage, carriage, transport, movement, customs clearance and/or any other service performed or arranged by us pursuant to, or ancillary to, our contract with you.

## 2. Transport basis

- 2.1 We are not a common carrier and we do not accept any liability as a common carrier. We may refuse to pick up, handle, transport or store goods or any class of goods for any person or to offer our goods cover for any person or goods.
- 2.2 We rely on the details supplied to us by you but we cannot verify and do not admit their accuracy or completeness and a signature by the Company is only an acknowledgment for the number of items received.
- 2.3 We will deliver goods to an address other than the receiver's address only by special arrangement in writing and provided suitable delivery facilities are available at all hours.
- 2.4 Unless otherwise agreed by us, we will not exchange any pallets with any person and you must not transfer any pallets to any account we may have with a pallet hirer.

## 3. Charges

- 3.1 You, or if a person other than you is nominated in the contract then that person, must pay the charges relating to the transport of the goods.
- 3.2 All rates not quoted will be charged at scheduled rate. For the purposes of calculating weight we round up to the next whole kilogram.
- 3.3 Our charges are earned as soon as we collect the goods from you, or from the address nominated by you whether they are delivered to the receiver or not and whether they are damaged or not.
- 3.4 In addition to freight we will charge you for:
  - 3.4.1 any additional expenses we incur as a result of any incorrect declaration by you of the weight, volume, description or (RE) packaging of the goods
  - 3.4.2 any customs duty including any fine or penalty which we become liable to pay, storage charges or other charges or expenses we incur in relation to the goods, including any separately levied customs charges;
  - 3.4.3 our cost of complying with any law or regulation or any order or requirement made under them or with the requirement of any market, harbour, dock, railway, shipping, customs, excise, or warehouse authority or other person;
  - 3.4.4 supply of labour or machinery or both to load or unload the goods;
  - 3.4.5 if we require it, an additional charge at industry rates if the receiver is not present during normal trading hours (8.00am to 5.00pm Monday to Friday) or the time specified, ; and
  - 3.4.6 the cost, expense or loss to us of destroying or disposing of the goods under clause 5, opening and inspecting the goods under clause 6 or returning the goods under clause 7; or
  - 3.4.7 any costs not recouped out of the proceeds of sale of the goods under clause 5.
- 3.5 You must compensate us for any cost, expense or loss to the Company's property or any person caused by the goods.

- 3.6 If any charges are not paid on the date for payment, we will charge you interest on the unpaid charges at a rate 4% higher than the prevailing rate under the Penalty Interest Rates Act 1983.
- 3.7 If a person other than you is nominated to pay the charges and doesn't do so within 7 days of the date for payment, you must pay the charges and a transfer charge of \$10.00 immediately upon receiving a demand from us.
- 3.8 We are entitled to retain and be paid all commissions, allowances and remuneration paid including those customarily paid by or to customs agents, forwarding agents, forwarders, stores, carriers or bailers.
- 3.9 The charges contained in this contract are exclusive of any Goods and Services Tax, or other similar taxes. If any such tax is applicable to any of the services supplied under contract, we may pass that tax on to you and you must pay the tax in addition to the charges and/or rates specified in these conditions.
- 3.10 Our quotes rates are based on an agreed minimum net weekly average trading as stated on the quotation and may be withdrawn or subject to re-negotiation if the average weekly trade does not comply with the agreed trading figures.
- 3.11 The quote does not become effective until the original acceptance is received by our head office at 24-32 Stanley Drive, Somerton, Victoria, 3062 and is only valid for 28 days from the date of issue.

#### 4. Your warranties

You warrant that:

- 4.1: you have fully and adequately described the goods, their nature, weight and measurements and complied with all applicable laws and regulations (including the Australian Code for the Transport of Dangerous Goods by Road and Rail, Civil Aviation Regulations and the International Maritime Dangerous Goods Code) about the notification, classification, description, labeling, transport and packaging of the Goods and that, given their nature, the Goods are packed in a proper way to withstand the ordinary risks of Transport;
- 4.2 you are either the owner or authorised agent of the owner of the goods and it accepts these conditions for itself and the receiver as well as for any other person for whom you are acting; and 4.3 the person delivering the goods to us for transport is authorised to do so and to sign these conditions-;
- 4.3.1 you have completed our account application form and consignment note accurately;
- 4.3.2 the goods are packaged to withstand handling, transport and storage
- 4.3.3 you have complied with all laws in connection with the goods to ensure that they can be lawfully handled, transported and stored;
- 4.3.4 subject to anything contained in these conditions you will not sue us for anything arising in connection with these conditions or the handling, transport or storage of the goods;

AND you indemnify us in relation to any loss, damage, expense, penalty, fine or liability arising from a breach of these warranties, your obligations or these conditions.

#### 5. Dangerous Goods

## 5.1 You must:

- 5.1.1 not tender for transport any volatile or explosive goods or goods which are or may become dangerous, poisonous, inflammable or offensive (including radioactive materials) or which are or may become liable to damage any person or property without first presenting to us a full written description disclosing the nature of those goods;
  - 5.1.2 make the goods conform to the receiver's requirements and must pay any expense incurred by us if you fail so to do.
- 5.2 Whether or not you have told us that any goods are dangerous you agree that if we consider on reasonable grounds that the goods may cause injury or damage we can, at your cost, do anything appropriate, including disposing of or destroying them. We will not be liable to you for any loss or damage you may incur by reason of our actions under this clause.
- 5.3 A surcharge of \$25.00 (+GST) per consignment and/or per pallet will apply for the cartage of dangerous goods.

## 6. Our rights

You give us authority to:

- 6.1 use any method for handling, storing or carrying the goods. We will give priority to any instructions given by you, but if such stated special instructions cannot be followed, we will use another method;
  - 6.2 consolidate the goods with others and as principal or agent arrange for transport of the goods by any sub-contractors on any terms;
  - 6.3 deviate from the usual route of carriage or place of storage;
  - 6.4 carry the goods by air, road, rail or sea;
- claim a general lien over the goods, and any documents relating to the goods in accordance with clause 7.6.5 If the address is unattended or the receiver fails to take delivery of the goods, we may:
- 6.5.1 deposit the goods at the receiver's address;
  - 6.5.2 store the goods; or
  - 6.5.3 return the goods to you
- and our action under clause 6.5 will constitute delivery.
- 6.5 If the transport method is rail and the receiver's address is a town or place where we do not have a receiving depot, we will be taken to have delivered the goods if they are delivered to the nearest railhead.
  - 6.6 If any identifying document or mark is lost, damaged, destroyed or defaced we may open any document, wrapping, package or other container in which the goods are placed or carried to inspect them either to determine their nature or condition or to determine their ownership or destination.
  - 6.7 We may sell any goods held by us for outstanding payments by public auction or private sale without any further notice to you

## 7. Lien

- 7.1 We have a general lien on the goods and on any other goods owned by you for all charges due or which become due on any account whether for transport of the goods or any other goods or any other service we provide to you.

- 7.2 If the charges are not paid or you or the receiver fails to take delivery or return of the goods, we may without notice and, in the case of perishable goods, immediately:
- 7.2.1 store the goods as we think fit at your risk and expense, or
  - 7.2.2 open any package and sell all or any of the goods as we think fit and apply the proceeds to discharge the lien and costs of sale.
- 7.3 We may deduct or set-off from any moneys due from us to you under any contract, debts and moneys due from you to us under these conditions or any contract.

## 8. Delivery

- 8.1 If a consignment is refused at point of delivery and that delivery is unable to be made, for reasons beyond our control, and then the delivery will be returned to the delivery depot.
- 8.2 Re-delivery of the consignment will be charged at the appropriate delivery rate plus a surcharge of \$26.50 per consignment will apply. Futile pick ups will also be charged if the vehicle booked space is booked and not cancelled. All rates are plus fuel and GST.
- 8.3 Demurrage charges will apply in cases where drivers' waiting time loading or unloading is more than 30 minutes. Charges for demurrage are \$75.00 (+ fuel + GST) per hour for taut liner/van and \$95.00 (+GST) per hour for semi trailer
- 8.4 When a consignment involving pallets requires the driver to hand unload the freight by hand due to the unavailability of a forklift, a surcharge of \$26.50 (+GST) per pallet will apply.
- 8.5 All deliveries must be to a physical street address and never to a PO Box.
- 8.6 If you ask us to deliver goods which we regard as unacceptable, we may contact you to determine whether you wish to continue with the delivery or return the goods to you. Any additional charges so incurred by us will be at your expense. If we cannot find you or you do not accept liability for the additional charges then we may dispose of the goods at our discretion.
- 8.7 Normal delivery times are 8.00am to 5.00pm Monday to Friday. If you require us to deliver goods outside these times we will charge you Taxi Truck rates at the rates set out in clause 8.3, for minimum of 4 hours, starting and ending at our delivery depot. The goods must reach our delivery depot 24 hours before the scheduled delivery time, must be noted in the special instructions on the consignment note and you must confirm the delivery instructions by email or telephone 24 hours before the scheduled delivery time.
- 8.8 Delivery to destinations involving transportation offshore (other than Tasmania) will be FOB.
- 8.9 Tailgate service will incur an additional charge of \$60.00 plus GST per hour and must be booked 24 hours in advance.

## 9. Goods Cover

We will not insure the goods for loss or damage. This is the responsibility of the Customer.

## 10. Claims

- 10.1 If you think we are liable for damage to or loss of the goods or any part of the goods or non-delivery of the goods, you may lodge a claim for a refund of all or part of our transport charges. You must do so in writing within 2 days of the date of delivery or, for non-delivery, within 7 days of the anticipated date of delivery.
- 10.2 The failure to notify a claim within the time under 10.1 is evidence of satisfactory performance by us of our obligations.
- 10.3 In addition, a Proof of Delivery signed by the receiver is evidence that the goods were received in good order and condition.

## 11. Exclusions and Limitations

- 11.1 Subject to clause 12, we exclude from these conditions all conditions, warranties and terms implied by statute, general law or custom.
- 11.2 Subject to any Goods Cover under clause 9 and subject to clause 12, we exclude all liability to any person, including your, for acts or omissions of the Company in tort (including negligence), contract, bailment or otherwise for loss of, damage to or deterioration or contamination of the goods, or any delay, non-delivery or other failure to supply the transport or arising out of the goods, the transport or these conditions.
- 11.3 Subject to any Goods Cover under clause 9 and subject to clause 12, we exclude all liability for, and you and the receiver release and indemnify us against all loss, damage, cost and expense from any claim by any person in tort (including negligence), contract, bailment or otherwise for loss or damage to any property, injury to, or death of any person arising out of any acts or omissions of the Company or any or all of the goods, the transport, any delay, non-delivery or other failure to supply the transport or these conditions.
- 11.4 The exclusions, releases and indemnities in 11.2 and 11.3 extend to loss of profits, business or anticipated savings or any other indirect or consequential damage and to economic loss and even if we know they are possible or otherwise foreseeable.
- 11.5 These conditions apply in all circumstances arising from a fundamental breach of contract or breach of a fundamental term.
- 11.6 The Company in addition to acting for itself, also acts as agent of and trustee for each of its servants, agents and sub-contractors so they are entitled to the full benefit of these conditions, including any exclusions or limitations of liability, to the same extent as the Company.
- 11.7 Even if we breach any of these conditions, all the rights, immunities and limitations of liability in these conditions continue to have their full force and effect in all circumstances.
- 10.8 Despite the transport, we are not liable for, nor bound by, any instructions to collect cash on delivery or any other payments for any person.

## 12. Trade Practices Act.

These conditions are subject to any applicable implied warranty in the Trade Practices Act 1974 which cannot be excluded, restricted or modified.

## 13. General

### 13.1 Governing Law & Jurisdiction

This contract is governed by the laws of Victoria and the parties submit to the exclusive jurisdiction of the courts of that State.

### 13.2 Entire Agreement

In relation to the subject matter of these conditions, these conditions constitute the entire agreement between the parties and supersede all oral and written communications by or on behalf of any of the parties.

### 13.3 Severability.

If a condition or part is unenforceable the unenforceability does not affect any other part of the condition or any other condition.

### 13.4 Variations and Waiver.

We are not bound by any waiver, discharge or release of a condition or any agreement which varies these conditions unless it is in writing and signed for the Company by an authorised officer. If we waive a breach of a condition the waiver does not operate as a waiver of another breach of the same or any other condition or as a continuing waiver.

### 13.5 Concession rate

The special rate concession is automatically withdrawn if there is no trading during a period of 12 weeks.

### 13.6 Pallet size

13.6.1 Pallet size 1 = 1.2 x 1.2 x maximum height of 1.4 meter and 500 kg maximum weight;

13.6.2 Pallet size 2 = 1.2 x 1.2 x maximum height of 1.8 meters and 700 kg maximum weight;

13.6.3 Pallet size 3 = 1.2 x 1.2 x maximum height of 2.4 meters and 1000kg maximum weight .Exceeding the above measurements here will result in a multiple charge.

13.6.4 Carton size = 0.10m<sup>3</sup> and 25 kg in weight. Exceeding the above measurement here will result in a multiple charge;

13.6.6 Cubic conversion 1 m<sup>3</sup> = 250 kgs.

## 14. Fuel Surcharge

A fuel charge using AUD \$0.85 per liter as the base point will apply to all invoices. Movement in the levy will be made on the basis of 1.25 % for every \$0.05 cpl change in the wholesale price per liter, and that will apply to all movement and handling of freight.