



**GRANTS HORSE
TRANSPORT PTY LTD**

TERMS & CONDITIONS



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1. APPLICATION OF TERMS AND CONDITIONS

- 1.1. If a Consignor places an order with the Carrier for the Carriage of Stock, that act shall constitute assent by the Consignor to be bound to the terms and conditions in this Contract, which will form the basis of a contract between the Carrier and the Consignor.

2. DEFINITIONS

Carrier	Means The Trustee for Herreygers Family Trust as trustee for Herreygers Family Trust trading as 'Grants Horse Transport Pty Ltd' and includes his servants, agents, and subcontractors.
Carriage	Means the whole of the operations and services undertaken by the Carrier or any person on behalf of the Carrier in respect of the Stock, including (without limitation) the despatch, pick up, carriage, transportation, storage, consignment, delivery, agistment, resting, temporary depasturing, livery or any other service performed by the Carrier in relation to the Stock
Consignor	Means the person, firm, body, or corporation who places an order with the Carrier for the Carriage of the Stock.
Contract	Means the contract constituted by this document.
Corporations Act	Means the Corporations Act 2011 (Cth).
Dangerous Goods	Means Stock that is classified as dangerous by either the IATA Dangerous Goods Regulations or the Australian Dangerous Goods Code or which is capable of injuring or damaging people, property, or the environment. This includes Stock that is or may become poisonous, corrosive, volatile, explosive, flammable or radioactive.
Externally-Administered Body Corporate	Has the meaning given to that term in the Corporations Act.
Force Majeure Event	Means anything outside of a party's reasonable control that either directly or indirectly prevents it from complying with some or all of its obligations under this Contract including flood, fire, theft, storm, tempest, act of God, war, act of government (such as a change in legislation, regulations or order made under legislative authority) strike, lock-out or shortage of labour.
GST	Has the meaning given to that term in the A New Tax System (Goods and Services Tax) Act 1999 (Cth).
Related Bodies Corporate	Has the meaning given to that term in the Corporations Act.
Stock	Means the property from time to time accepted by the Carrier from the Consignor for Carriage and includes (without limitation) any livestock and any other incidental items, goods or accessories with the livestock, any person travelling with the livestock, and any container or packaging or other item/s supplied by or on behalf of the Consignor.
Subcontractor	Includes any person who, pursuant to a contract or arrangement, the Carrier arranges to perform the Carriage or any part thereof. It shall also include (without limitation) any person with whom the Carrier may arrange agistment, livery or storage, and the respective railways of any State of the Commonwealth of Australia.

3. GOVERNING LAW

- 3.1. This Contract is governed by and is to be construed in accordance with the laws of the State of Queensland. Each party irrevocably and unconditionally submits to the non-exclusive jurisdiction of the Court of Queensland and Courts entitled to hear appeals from those Courts.

4. NEGATION OF LIABILITY OF AS A COMMON CARRIER

- 4.1. The Carrier is not a common carrier and will accept no liability as such. All Goods are carried, and all storage and other services are performed by the Carrier subject only to these conditions and the



Carrier reserves the right to refuse the Carriage of Goods for any person, corporation, company or other entity and the Carriage of any class of Goods at its discretion.

5. INSURANCE

- 5.1. The Stock will not be insured by the Carrier.
- 5.2. The Consignor must arrange and maintain their own insurance in relation to the Stock.

6. LIABILITY OF CARRIER

- 6.1. Carriage services are provided at the Consignor's risk and the Consignor bears all risk of loss or damage to or arising in connection with the Stock.
- 6.2. The Consignor acknowledges and agrees that neither the Carrier nor any servant or agent or Subcontractor of the Carrier nor any other person who carries the Stock at any time pursuant to this Contract shall in any circumstances (except where any statute otherwise requires) be under any liability whatsoever (whether in contract, tort or otherwise) for any personal injury or loss or damage to or mis delivery or non-delivery of the Stock or any of them whether in transit or storage or otherwise for any consequential loss or injury of any kind whatever whether such personal injury, loss, damage, mis delivery, delay in delivery, non-delivery or consequential damage or injury is caused or alleged to have been caused by the negligence or wilful act or default of the Carrier or its servants or agents, its Subcontractors, or by any cause whatsoever. The exclusion of liability in this clause 6.2 applies in respect of claims for loss of profits, loss of revenue, liabilities in respect of third parties, loss of anticipated savings or business, pure economic loss, loss of opportunity and any form of consequential, special, indirect, punitive, or exemplary loss or damages, whether or not the Carrier was advised of the possibility of such loss or damage.
- 6.3. The Carrier shall be entitled to the benefit of the exclusion of liability provided for herein even if it is proved that the loss or damage resulted from an act or omission done with intent to cause damage, or recklessly and with knowledge that damage would probably result.
- 6.4. Nothing whatsoever done or omitted to be done or other conduct by the Carrier in breach of the Contract or otherwise shall under any circumstances constitute a fundamental breach of the Contract, or a repudiation of the Contract such as to have the effect of disentitling the Carrier from obtaining the benefit of and enforcing all rights, defences, exemptions, immunities and limitations of liability of the Carrier contained in this Contract, and all such rights, defences, exemptions, immunities, limitations of liability and like protection shall continue to have full force and effect in any event whatsoever.
- 6.5. All warranties, descriptions, representations, or conditions, whether implied by law, trade, custom or otherwise, and all specific conditions, even though such conditions may be known to the Carrier, are to the fullest extent possible expressly excluded.
- 6.6. The Carrier's liability for any breach of warranty or implied condition (excluding contracts for the supply of services ordinarily acquired for personal, domestic, or household use or consumption) shall be limited to the re-supply of the services, or at the Carrier's option, payment of the cost of having the services re-supplied.



6.7. If the Carrier is not able to rely upon the exclusion of liability in clause 6.2 the Carrier's maximum aggregate liability for all loss and damage suffered or incurred by the Consignor in connection with any particular Stock and services, howsoever caused and under any theory of liability, will be limited to the amounts paid by the Consignor to the Carrier for the relevant services.

7. CONSIGNOR'S WARRANTIES AND INDEMNITIES

7.1. The Consignor warrants that:

- a) it has accurately and fully described the Stock to the Carrier and has provided all necessary instructions and information to the Carrier regarding handling, care and control of the Stock having regard to the nature of the Stock;
- b) it has complied with the requirements of any applicable law (including the Australian Dangerous Goods Code) relating to the nature, condition, packaging, handling, labelling, storage and carriage of the Stock and it shall provide all necessary assistance, information, and documentation to enable the Carrier to comply with any of its obligations under such laws;

7.2. The Stock is fit for Carriage and storage;

- a) the Stock are free from injury and disease and have had all required vaccinations; and the Consignor has the authority of all persons owning or having any interest in the Stock to enter into this Contract on their behalf.
- b) 4.2 To the maximum extent permitted by law the Consignor agrees to:
 - i. indemnify and keep indemnified (for all time and despite any termination or expiry of the Contract) the Carrier against any and all claims, demands, actions, costs (including legal costs), charges or expenses in connection with this Contract or the Carriage, handling, transport, or storage of the Stock from any person other than the Consignor;
 - ii. not sue any Subcontractor, agent, or servant of the Carrier for anything arising in connection with the Contract or the Carriage, handling, transport, or storage of the Stock;
 - iii. indemnify and keep indemnified (for all time and despite any termination or expiry of the Contract) the Carrier for any loss or damage caused to any person, including property damage, as a result of the Consignor's breach of this Contract;
 - iv. and indemnify and keep indemnified (for all time and despite any termination or expiry of the Contract) the Carrier in respect of any and all claims, demands, actions, costs (including legal costs), charges, expenses, loss, damage, injury or other liability caused (directly or indirectly) to the Carrier or any other person or any property of the Carrier or any other person by the Consignor or the Stock during Carriage thereof or after delivery thereof (including delivery under clause 10.6 of this Contract).

7.3. The indemnities in clause 7.2 will operate irrespective of whether any loss or damage arises from a wilful, deliberate, or unauthorised act or omission by the Carrier or by any of its Subcontractors, agents, or servants.



8. SUBCONTRACTORS

- 8.1. The Carrier at its discretion may subcontract to any person, on any terms, the whole or any part of the Carriage or otherwise the obligations of the Carrier under this Contract. The Consignor must not assign or subcontract its rights under this Contract without the Carrier's prior written consent.
- 8.2. The Consignor agrees that no claim or allegation shall be made against any servant, agent, or subcontractor of the Carrier which imposes or attempts to impose upon such person any liability whatsoever arising out of or in any way connected with the Stock and/or the Carriage whether or not arising out of negligence or a wilful act or omission on the part of any of them and if such a claim or allegation should nevertheless be made to indemnify the Carrier against all consequences thereof.
- 8.3. Every exemption, limitation, condition and liberty in this Contract and every right, exemption from liability, defence, and immunity of whatsoever nature that the Carrier is entitled to in this Contract shall also be available and shall extend to protect:
- a) all Subcontractors;
 - b) every servant or agent of the carrier or of a Subcontractor;
 - c) every other person (other than the carrier) by whom the Carriage or any part of the Carriage is undertaken;
 - d) all persons who are or might be vicariously liable for the acts or omissions of any person falling within (a), (b) or (c) above,
 - e) and for the purposes of this clause 8.3 the Carrier is or shall be deemed to acting or trustee on behalf of and for the benefit of all such persons and each of them shall to this extent be or deemed to be parties to this Contract.

9. ROUTE AND DEVIATION

- 9.1. The Consignor authorises any deviation from the usual route or manner of Carriage of the Stock which may in the absolute discretion of the Carrier be considered desirable or necessary in the circumstances.
- 9.2. If the Consignor expressly or impliedly instructs the Carrier to use, or it is expressly or impliedly agreed that the Carrier will use particular method of handling or storing the Stock or a particular method of Carriage, the Carrier will use its best endeavours to give priority to that method but if it cannot conveniently be adopted by the Carrier the Consignor hereby authorises the Carrier to handle or store or to carry or to have the Stock carried by another method or methods in the Carrier's absolute discretion.

10. ORDERS AND DELIVERY

- 10.1. Any quotation by the Carrier is not to be construed as an offer by, or an obligation on, the Carrier to supply Carriage services.



- 10.2.** Once placed, an order for Carriage cannot be cancelled or deferred without the Carrier's prior written agreement and then only on terms that will fully indemnify the Carrier against any loss, damage, cost, or liability suffered by it as a result of that cancellation or deferral.
- 10.3.** The Carrier is under no obligation to enquire as to the authority of any person placing an order for Carriage on behalf of the Consignor and all orders for Carriage are deemed to be placed with the Carrier with the authority of the Consignor and in its name. The Consignor agrees to indemnify and keep indemnified the Carrier against any and all loss or claims suffered by the Carrier by accepting an unauthorised order for Carriage.
- 10.4.** The Consignor must provide the Carrier with accurate details in all orders for Carriage it submits. The Carrier is under no obligation to enquire as to the accuracy of the details in any order for Carriage or whether the Carriage services will be fit for the purpose required by the Consignor.
- 10.5.** The Consignor will use its reasonable commercial endeavours to fulfil accepted orders for Carriage and comply with any requested or estimated date for delivery of Stock. However, the Carrier is not liable for any delay in delivery of Stock or in the supply of Carriage services and the Carrier reserves the right to extend the date for delivery of Stock.
- 10.6.** The Carrier is authorised to deliver the Stock at the address nominated to the Carrier by the Consignor for delivery. It is expressly agreed that the Carrier shall be conclusively deemed to have delivered the Stock in accordance with this Contract if the Carrier deposits the Stock at the nominated place of delivery or otherwise obtains from any person a receipt or signed delivery docket for the Stock. The time of delivery will be deemed to be as soon as the Stock is removed from the mode of Carriage used by the Carrier.
- 10.7.** If the nominated place of delivery should be unattended or if the delivery cannot otherwise be effected by the Carrier or the Consignor (or person nominated by the Consignor) otherwise fails to take delivery of the Stock for any reason whatsoever the Carrier may at its option deposit the Stock at that place or store the Stock elsewhere (in the Carrier's discretion) which shall be conclusively presumed to be due delivery under this Contract). If the Stock is stored by the Carrier under this clause
- 10.8.** the Consignor shall pay for or indemnify the Carrier against all costs and expenses incurred in or about such storage.

11. INVOICING AND PAYMENT

- 11.1.** The Carrier will issue to the Consignor a tax invoice for the services supplied in accordance with the requirements of the law relating to GST.
- 11.2.** The Carrier's charges are exclusive of GST. The Consignor must pay GST on the charges at the same time as payment is made under clause 11.4.
- 11.3.** The Consignor must pay the price for the services as indicated on the Carrier's invoice or other similar document issued by the Carrier.
- 11.4.** Unless otherwise specified by the Carrier in writing, the due date for payment will be prior to the stock being transported and from the date an invoice for the amount owing is issued by the Carrier.



- 11.5.** The Consignor must pay the charges relating to the services by the due date specified in the invoice in full without any deductions whether by way of set-off, counter-claim, or any other equitable or legal claim.
- 11.6.** If payment remains unpaid 7 days after date of the invoice, the Carrier may and is hereby authorised to, in addition to its other rights and remedies under this Contract and at law:
- a) Suspend performance of its obligations under this Contract until the full amount outstanding is paid in full;
 - b) exercise a general lien on the Stock, and any documents relating to them, and sell them at public auction or by private treaty to recover all charges and any other money owing to the Carrier. The Consignor is still liable to pay any amount still owing to the Carrier after such sale; and
 - c) claim a security interest over the Stock already delivered to the Consignor (in this regard, the Consignor acknowledges having granted the Carrier a security interest in the Stock to secure any payments required under this Contract).
- 11.7.** The Carrier's charges shall be deemed fully earned on receipt of the Stock by the Carrier and are non-refundable in any event.

12. DANGEROUS GOODS

- 12.1.** If the Consignor provides Stock to the Carrier for Carriage which are Dangerous Goods, such Stock must be accompanied by a full written declaration disclosing the nature of such Stock.
- 12.2.** The Consignor shall indemnify and keep indemnified the Carrier against all loss (including consequential loss) damage or injury howsoever caused arising out of the Carriage of any Dangerous Goods whether declared as such or not and whether or not the Consignor was aware of the nature of the Stock.
- 12.3.** Regardless of whether or not the Consignor has notified the Carrier that the Stock includes Dangerous Goods, the Consignor agrees that if in the opinion of the Carrier (in its sole discretion), the Stock is liable to become of a dangerous and/or flammable and/or damaging nature, the Stock may at any time be destroyed, disposed of, abandoned or rendered harmless without compensation to the Consignor and without prejudice to the Carrier's right to charge for the Carriage of the Stock.
- 12.4.** The Consignor warrants that it has complied with all laws and regulations relating to the nature, packaging, labelling or cartage of any Dangerous Goods and that the Dangerous Goods are packed in a manner adequate to withstand the ordinary risks of Carriage having regard to their nature. The Consignor agrees to indemnify and keep indemnified the Carrier against any liability whatsoever as a result of or arising out of the Consignor's failure to comply with each of these warranties.
- 12.5.** The Carrier may comply with any orders, directions or recommendations made by a government agency in relation to the Stock and / or the provision of the Carriage services without recourse by, and at the risk and expense of, the Consignor.
- 12.6.** If, in the opinion of the Carrier, the Stock is liable to become Dangerous Goods, the Carrier may, in its absolute discretion, refuse to provide Carriage of the Stock.

13. NOTIFICATION OF CLAIM

- 13.1. Notwithstanding any other provision in this Contract, the Carrier shall in any event be discharged from all liability whatsoever in respect of the Stock unless notice of a claim or an intended claim (together with particulars of the circumstances on which the claim is based) is given to the Carrier within fourteen (14) days from the delivery of the Stock or from the date on which in the ordinary course of business, delivery would have been effected.
- 13.2. The Carrier will have no liability to the Consignor, even if the Consignor gives the Carrier a written notice within that time, if the Consignor does not commence legal proceedings against the Carrier within 12 months of the date of delivery. Where the Stock has not been delivered out, proceedings must be commenced within 12 months of the date the Stock should have been delivered.

14. DEFAULT

14.1. In the event that:

- a) any amount payable by the Consignor to the Carrier is overdue, or the Consignor fails to meet any other obligation to the Carrier or in the Carrier's opinion the Consignor is likely to be unable to meet its payment or other obligations to the Carrier;
- b) the Consignor becomes an Externally-Administered Body Corporate, bankrupt or insolvent or has a receiver appointed in respect of all or some of its assets, makes or is likely to make an arrangement with its creditors, has a liquidator (provisional or otherwise) appointed or is otherwise placed under statutory or official management; or
- c) any of the terms of this Contract are breached by the Consignor, (each an Event of Default) then:
 - i. the Carrier will be entitled to cancel all or any part of a Carriage or a request for Carriage which remains unperformed in addition, and without prejudice, to its other remedies; and
 - ii. all amounts outstanding under this Contract will, whether or not due for payment, immediately become due and payable.

15. DEFAULT INTEREST

- 15.1. The Consignor will upon demand pay the Carrier interest, at the rate which is three (3) per cent above the highest overdraft rate charged by the Carrier's principal bank for commercial loans in excess of \$100,000, as at the due date in respect of all of the Consignor's indebtedness, which is overdue (Default Interest).
- 15.2. Default Interest will accrue on a daily basis from the date when payment is due until the date when payment is actually received, and the Consignor will be liable to pay all expenses and legal costs of the Carrier as between solicitor and client in relation to obtaining a remedy in respect of such failure to pay.
- 15.3. The Default Interest payable under this clause is charged by way of damages for failure to pay and does not imply the granting of, or an extension of, credit by the Carrier to the Consignor.



15.4. Notwithstanding the provisions for the payment of interest contained in clause 15.1, the Consignor acknowledges and agrees that if it fails to make payment of the amount due under this Contract:

- a) the Carrier will incur damage, expense, or loss;
- b) the Carrier may charge the Consignor an administration fee equivalent to 2.5% of the amount due and payable (Administration Fee); and
- c) the Administration Fee is a fair and reasonable pre-estimate of the damage, expense, or loss that the Carrier will incur in administering the account in default.

16. PROVISIONS SEVERABLE

16.1. If any provision or part of this Contract is or becomes legally invalid or unenforceable, the remainder of this Contract subsists and remains enforceable and binding on the parties.

17. ENTIRE AGREEMENT

17.1. This Contract sets out the entire agreement of the parties with respect to its subject matter and supersedes any previous deed or agreement between the parties with respect to its subject matter. No other agreement, warranty, or representation, express or implied has been given or made by the parties with respect to the Carriage of Stock.

18. VARIATION

18.1. The Carrier shall not be bound by any agreement purporting to vary this Contract unless such agreement is in writing and signed by the Carrier.

19. NON-WAIVER

19.1. A failure, delay, relaxation, or indulgence by a party exercising any power or right conferred on the party by this Contract does not operate as a waiver of the power or right. A single or partial exercise of the power or right does not preclude a further exercise of it or the exercise of any other power or right under this Contract. A waiver of a breach does not operate as a waiver of any other breach.

20. TERMINATION

20.1. If the Consignor defaults in payment or in accepting a delivery of Stock, the Carrier will be entitled to terminate any Carriage or a request for Carriage so far as it is unfulfilled, without prejudice to its right to recover all sums owing to it in respect of deliveries already provided.

20.2. The Carrier is entitled to assign to any other person all or any part of the Consignor's indebtedness to the Carrier and the assignee will be entitled to claim all or part of the indebtedness and will have the same rights of recovery as the Carrier.

20.3. Where the Consignor owes any amount to the Carrier or any of its Related Bodies Corporate, the Carrier will be entitled, at its complete discretion, to accept any payment received and apply it towards



satisfaction of any such indebtedness to the Carrier and the assignee will be entitled to claim all or part of the indebtedness and will have the same rights of recovery as the Carrier.

- 20.4.** The Carrier will be entitled to cancel all or any part of any accepted request for Carriage from the Consignor at any time with or without prior notice. Any such cancellation will be without prejudice to the Carrier's other rights and remedies including, but not limited to, those which may arise from any breach or non-compliance by the Consignor.

21. FORCE MAJURE

- 21.1.** If the Carrier or any of its subcontractors, servants or agents are wholly or partially prevented from performing any of their obligations under this Contract by a Force Majeure Event, they may suspend performance of all of their obligations under this Contract for the duration of the Force Majeure Event.
- 21.2.** If the Force Majeure Event (and consequential inability to perform the obligations under this Contract) continues for a period longer than twenty-eight (28) days from its initial occurrence, then either party may terminate this Contract by written notice to the other. This will not prejudice any rights or obligations either party may have accrued prior to such termination.