

Transport Terms

1. Transport Terms

- 1.1 These Transport Terms apply to the supply of Transport Services by ResourceCo and form part of all Contracts (together with the Credit & General Terms) including the provision of Transport Services.
- 1.2 These Transport Terms takes precedence over any terms provided by the Customer, to the extent of any inconsistency.
- 1.3 The Customer will be deemed to have accepted and be bound by the Contract by ordering Transport Services from ResourceCo.
- 1.4 The parties acknowledge and agree that ResourceCo is not a common carrier.
- 1.5 If the Transport Services involve transporting Material, then the Incoming Material Terms will also form part of the Contract.
- 1.6 If the Transport Services involve transporting Product, then the Outgoing Product Terms will also form part of the Contract.

2. Quote

- 2.1 A Customer may request ResourceCo to provide Transport Services in relation to Material or Product by requesting a quote from ResourceCo.
- 2.2 A quote will be valid for 30 business days from issue, unless otherwise specified in the Contract Particulars.
- 2.3 ResourceCo will provide a quote in relation to the provision of Transport Services in its sole discretion.

3. Supply of Transport Services

- 3.1 In consideration for the Price, ResourceCo will supply the Transport Services to the Customer as described in the Contract Particulars.
- 3.2 ResourceCo will use reasonable endeavours to:
 - 3.2.1 perform the Transport Services in a timely manner to facilitate the timely and expeditions completion of the Transport Services in cooperation with the Customer and any timeframes provided by the Customer (subject to Chain of Responsibility Laws);
 - 3.2.2 follow the timetable or any other reasonable request of the Customer as notified by the Customer from time to time to ResourceCo in relation to carrying out the Transport Services (subject to Chain of Responsibility Laws).
- 3.3 ResourceCo shall notify the Customer as soon as reasonably possible where ResourceCo cannot supply the Transport Services according to the Customer's timetable.
- 3.4 The Customer acknowledges and agrees that any times quoted for collection and delivery of Material or delivery of Product by ResourceCo are estimates only and ResourceCo will not be liable whatsoever for any Loss suffered by the Customer as a result of Material not being collected or delivered or Product not being delivered within such quoted collection/delivery times.
- 3.5 ResourceCo may use any competent and qualified Personnel to supply the Transport Services.

4. Price and payment

- 4.1 Subject to **clause 4.3**, the Customer will pay ResourceCo the Price for providing the Transport Services in the manner nominated or agreed by ResourceCo.
- 4.2 Unless expressly stated otherwise, all amounts payable or consideration to be provided under the Contract are exclusive of GST. The amounts payable for each taxable supply under the Contract must be increased by the rate of GST imposed by law.

- 4.3 ResourceCo reserves the right to amend the Price should the Transport Services be varied, or the Material presented differ from the description, sample or Classification Report used to determine pricing and acceptability. For example, where Material cannot be accepted by ResourceCo at its site, the cost to deliver the Material to a third-party site, will be at the Customer's cost (together with costs associated for the third-party site to receive the Material).

5. Collection & delivery of Material

- 5.1 At or before collection of Material, the Customer must provide a Classification Report to ResourceCo.
- 5.2 ResourceCo will collect the Material from the Customer's nominated location at the time agreed for collection in the Contract Particulars.
- 5.3 If ResourceCo is unable to collect the Material from the nominated location for any reason, ResourceCo will make reasonable endeavours to contact the Customer.
- 5.4 The Customer will be liable for any additional costs incurred by ResourceCo arising from any delay in the collection of the Material caused by the Customer or the Customer's Personnel's acts or omissions.
- 5.5 ResourceCo will deliver the Material to the site nominated by the Customer and agreed to by ResourceCo.
- 5.6 If the Material is delivered to a site not owned or operated by ResourceCo ('**Third Party Site**'), the Customer will provide all information and assistance to ResourceCo as is required for the Third Party Site to accept the Material.
- 5.7 If ResourceCo is unable to deliver the Material to any Third Party Site for any reason (including the refusal by any person to accept delivery of the Material at the Third Party Site), ResourceCo will make reasonable endeavours to contact the Customer and if unsuccessful, will then handle and store the Material in such manner as it may in its discretion determine, subject to the Material remaining in ResourceCo's possession and control, until it is successful in contacting the Customer.
- 5.8 The Customer will be liable for any additional costs incurred by ResourceCo arising from any delay in the delivery of the Material caused by the Customer or the Customer's Personnel's acts or omissions (including without limitation by failing to provide any information required by a Third Party Site in relation to the Material) or by the operator of any Third Party Site.
- 5.9 Where Material is delivered to a ResourceCo or Third Party Site, the Delivery Documentation will, subject to manifest error, be proof of delivery of the Material.

6. Delivery of Product

- 6.1 ResourceCo will only provide Transport Services in respect of a delivery of Product where the quantity of Product for delivery is 10 tonnes or more, or in the case of truck and trailer cartage, 25 tonnes or more.
- 6.2 The Delivery Documentation will, subject to manifest error, be proof of delivery of the Product. However, the Delivery Documentation will not be taken as a warranty from the Customer that the Product was received without loss, damage or deterioration having been caused to them.
- 6.3 If ResourceCo is unable to deliver the Product for any reason (including the refusal by any person to accept delivery of the Product at the delivery location), ResourceCo will make reasonable endeavours to contact the Customer and if unsuccessful, will then handle and store the Product in such manner as it may in its discretion determine, subject to the Product remaining in ResourceCo's possession and control, until it is successful in contacting the Customer.

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- 6.4 The Customer will be liable for any additional costs incurred by ResourceCo arising from any delay in the delivery of Product caused by the Customer, the Customer's Personnel's acts or omissions or any person at the delivery location.
- 7. Loading and unloading of Material**
The Customer will load and unload (at its cost) the Material and Products from ResourceCo's or its Personnel's vehicles.
- 8. Access to the collection and/or delivery location**
- 8.1 The Customer grants or will ensure that ResourceCo is granted a licence to enter any location for the collection and if applicable, the delivery of Material and the delivery of Product.
- 8.2 ResourceCo agrees to abide by and ensure that its Personnel abide by all policies and reasonable directions provided by the Customer, its Personnel or the owner or controller of the delivery or collection location with respect to ResourceCo's access to the delivery or collection location.
- 9. Warranties, liabilities and indemnities**
- 9.1 Except for any condition or warranty the exclusion of which could be void or otherwise contravene the *Competition and Consumer Act 2010* (Cth) or any other equivalent competition or consumer law in the Australia ('**Non Excludable Condition**'), ResourceCo disclaims all conditions, warranties and representations, either express or implied with respect to the supply of the Transport Services.
- 9.2 Subject to any warranty provided by ResourceCo in respect of the supply of Transport Services and notwithstanding where legislation implies into these Transport Terms a Non-Excludable Condition, to the fullest extent permitted by law:
- 9.2.1 the liability of ResourceCo to the Customer for any reason related to the Transport Services under these Transport Terms is to be limited (at the election of the ResourceCo) to the re-supply of the Transport Services or the amount paid or payable by the Customer in respect of the particular Transport Services; and
- 9.2.2 in no event will ResourceCo be liable to the Customer for:
- (a) other than in respect of **clause 9.2.1**, any Loss arising out of or in connection with the supply of Transport Services or these Transport Terms; or
- (b) indirect loss or consequential loss, loss of profits, loss of revenue, loss of goodwill, exemplary damages, punitive damages in connection with or arising out of these Transport Terms and the supply of the Transport Services even if advised of the possibility of such damages or if such loss ought reasonably to have been in the contemplation of both parties on entering into these Transport Terms.
- 9.3 The Customer warrants that:
- 9.3.1 it and its Personnel will comply with all instructions from ResourceCo and its Personnel associated with ResourceCo providing the Transport Services;
- 9.3.2 the description and source of the Material, or any other information provided by the Customer to ResourceCo and or its Personnel is true and accurate;
- 9.3.3 any Material supplied does not contain Excluded Material;
- 9.3.4 it and its Personnel will comply with all required laws, regulations, authorisations, approvals, permits and licenses required to provide the Material.
- 9.4 The Customer warrants that all information it provides to ResourceCo including without limitation in a Classification Report is true and correct and indemnifies ResourceCo accordingly.
- 9.5 If ResourceCo or its Personnel enters the Customer's premises to make deliveries of Products or collect or deliver Material, the Customer releases ResourceCo from claims for damage to the premises or personal injury. The Customer indemnifies ResourceCo if it or its Personnel suffer Loss relating to damage to third party's premises or personal injury in making deliveries of Product or in collecting or delivering Materials to or from the Customer, except where the Loss is caused by ResourceCo or its Personnel's negligent act or omission.
- 9.6 The Customer indemnifies (and must keep indemnified) ResourceCo from and against all Loss suffered or incurred by ResourceCo arising (directly or indirectly), including any debt recovery and legal costs (on an indemnity basis) from the Customer's acts or omissions or for a breach of these Transport Terms by the Customer, except to the extent that such claim, loss or damage arises solely and directly from the gross negligence or wilful misconduct of ResourceCo or its Personnel.
- 10. Definitions**
- 10.1 Except where the context otherwise requires, capitalised terms used but not defined in these Transport Terms have the same meanings given to them in the Credit & General Terms.
- 10.2 In these Transport Terms, unless the contrary intention appears, the following terms have the following meanings:
- 10.2.1 '**Credit & General Terms**' means the terms upon which ResourceCo provides credit and goods and/or services to its customers available at www.ResourceCo.com.au/credit-general-terms (as at the time of entry into the Contract).
- 10.2.2 '**Delivery Documentation**' means out turn tickets, delivery tickets, weighbridge documentation and tax invoice.
- 10.2.3 '**Transport Terms**' means these terms and conditions.