

Star Track Express Pty Limited

Terms and Conditions

ABN 44 001 227 890

Important: things you should know.

The following clauses contained in these terms and conditions may be prejudicial to you.

Read the terms and conditions carefully before using StarTrack's services.

- If you are a customer trading as an intermediary, there are circumstances in which you will be liable and will indemnify StarTrack against loss (to the extent permitted by law) (Clause 3.8)
- StarTrack may amend the Service Rates or Additional Charges at its discretion, by giving 30 days' notice (noting your right to terminate if you do not accept the changes) (Clause 4.6)
- You will be required to pay a late payment charge in certain circumstances (Clause 4.8)
- There are circumstances in which an extra charge may be applied (Clause 4.11)
- There are circumstances in which StarTrack limits its liability for lost or damaged Goods, delay, non-delivery or mis-delivery of the Goods (to the extent permitted by law) (Clause 6)
- There are circumstances in which StarTrack limits its liability and excludes warranties in relation to the provision of the Service (including limiting its liability for breach of guarantee, condition and warranty to either the resupply of the Service or the cost of resupply) (Clause 8)
- There are circumstances in which you will indemnify StarTrack (to the extent permitted by law) including for any loss suffered in connection with your breach of any obligation or warranty under the Services Agreement, any Goods including for Dangerous Goods consigned, and any third party claims for loss or damage to the Goods (Clause 8.5)
- Either party may terminate the Services Agreement at its discretion on 90 days' notice (Clause 13.3)

Terms and Conditions

1. Introduction

1.1. These Terms and Conditions apply to and govern the provision of all Services provided by Star Track Express Pty Limited ("StarTrack"). Other than where the parties have agreed in writing that the Terms and Conditions will be excluded or amended, they will form part of your Services Agreement with StarTrack.

1.2. Capitalised terms used in these Terms and Conditions are defined in clause 17 below or as are specified in the Additional Charges.

2. Provision of the Services

2.1. We agree to provide you with the Services in accordance with the Services Agreement.

2.2. You agree to comply with the Services Agreement and any reasonable directions given by us.

2.3. Unless agreed otherwise, you may only consign Goods at or from the Lodgement Points.

2.4. You must comply with all applicable Laws and any reasonable directions given by us when consigning Goods with us. It is your responsibility to read, understand and comply with all relevant Product Guides notified to you from time to time.

2.5. You are responsible for the accurate and complete preparation of CNs for all Goods consigned under this Agreement. You acknowledge and agree:

2.5.1. where you authorise a third party to prepare CNs on your behalf, you will be responsible for the accuracy of the content on the CNs;

2.5.2. all Goods consigned will be accurately described in the CN, and properly addressed; and

2.5.3. you will list the dimensions and weight of individually packed Goods on the CN.

2.6. You must ensure all Goods are consigned in accordance with applicable Product Guides and are appropriately packed having regard to the nature of the Goods and are suitable for the Services when handled with reasonable care in our network.

2.7. We will provide you or make available to you on request a POD for all Deliveries. The POD may be established by producing to you the CN or an extract of our driver's run sheet, a photograph of the Goods at the Delivery Address or an acknowledgment of receipt of the Goods signed by any person present at the Delivery Address at the time of Delivery whether electronically or otherwise. Absent any evidence to the contrary, the POD shall be binding on you or any person liable to pay the charges. We do not have to produce POD if the Goods were Delivered more than 12 months prior to your request for POD.

2.8. You may only consign the following Goods with our prior consent:

2.8.1. Dangerous Goods;

2.8.2. alcohol; and

2.8.3. Oversize Goods.

You will comply with all directions given by us and relevant Laws, including without limitation all packaging requirements, when consigning any Goods in the above categories. We will charge you any relevant Additional Charges as applicable in relation to the consignment of such Goods.

2.9. You must not knowingly consign, and we have the right to reject any:

2.9.1. Goods which are reasonably considered unsafe to move, or which may damage our equipment;

2.9.2. Goods which are already damaged, or which are reasonably considered likely to become damaged;

2.9.3. Goods which are reasonably considered likely to damage or delay goods consigned by other customers; and

2.9.4. Goods which cannot safely be handled by our personnel using our standard equipment, including equipment available to our personnel on our vehicles.

2.10. In the case of our Road Express Service, you must not consign Goods packaged in non-rigid packaging (e.g. satchel, tote, jiffy bag, bubble wrap, plastic wrapped). We reserve our rights in relation to Goods lodged in breach of this requirement, including the application of the Manual Handling Surcharge (being a pre-estimate of the additional handling and other costs that would be incurred by us) and/or enforcing our rights under clause 13 below.

2.11. Controlled Returns and Transfer Movements

2.11.1. Our Controlled Returns and Transfer Movements Service will only be permitted where specifically agreed, and Service Rates for those Services are set out in your Pricing Schedule.

2.11.2. An Additional Charge will apply if the despatch paperwork and freight labels for a Controlled Return or Transfer Movement are printed at the StarTrack pick-up depot and delivered to your customer (i.e. the sender of the Controlled Return or Transfer Movement).

2.12. If required, you may use our book-in consignment service, where either you or your Receiver requires an allocated timeslot for delivery, invoice notification or has specific delivery requirements. Such consignments must be scheduled either by you or your Receiver at our dedicated "Book-In" distribution centres in our major locations. We will charge labour and packaging costs for repacking or reconfiguring your consignments as reasonably required for your Goods to be processed through our network or to meet either your or your Receiver's requirements.

2.13. Where the Receiver is unavailable or the Delivery Address is unattended and whether or not you or the Receiver has provided us with a duly signed written authority to do so, we may, at our sole discretion and at your sole cost and expense:

2.13.1. deposit the Goods at the Delivery Address, which shall be conclusively deemed to be due Delivery of the Goods;

2.13.2. take the Goods to our nearest depot or a Post Office and advise your customer to collect them;

2.13.3. store the Goods and you agree to indemnify us for all costs and expenses incurred in relation to such storage; or

2.13.4. attempt to re-deliver the Goods to the Receiver or return them to you or the sender, if this isn't you.

2.14. You must not sell or provide to third parties any of our pre-paid products, such as our satchels. Our pre-paid products are non-refundable, subject to applicable Laws.

2.15. You must not consign Dangerous Goods (including Permitted Dangerous Goods), Potentially Hazardous Foods, Semi-Fragile or Fragile Goods in any of our pre-paid satchels or envelopes.

2.16. Where you consign Goods using a fixed-price service which are packed in our supplied satchels or cartons, or which are packed in your own satchels or cartons or other appropriate soft packaging, those consignments must conform to the stated weight break, or the weight break you have declared in your CN. Where we identify that you have over-filled any such satchels or packaging and/or underdeclared any consignments using a fixed-price service, we reserve the right to charge you at the rates specified in the Additional Charges.

2.17. We may complete for you any documents required to comply with any Laws (but only as authorised to do so by those Laws) and act as your forwarding agent and customs broker for customs clearance, entry and export control purposes and you will pay any extra charges under clause 4.11 as advised by us.

2.18. Where we have reasonable grounds to do so:

2.18.1. we may open, inspect and examine any document, wrapping, package or other container of the Goods to determine their nature, condition, ownership or intended destination without any liability to you;

2.18.2. we reserve the right to not process and not deliver any Goods in our possession which do not comply with the provisions of these Terms and Conditions without any liability to you (in which case we will contact you to determine how such Goods should be returned or handled); and

2.18.3. we may sell or dispose any uncollected or undeliverable Goods 60 days after making reasonable efforts to contact you and we will not be required to account to you for the sale or disposal of the Goods unless required to do so by applicable Laws.

3. Intermediaries

3.1. The provisions of this clause only apply if you are an Intermediary.

3.2. You must notify us of the identity of any End Customers to whom you wish to offer the Services. You must also provide details about End Customers, including anticipated delivery volumes, freight profiles and Lodgement Points. Following receipt of all information reasonably requested, we will either provide you a Proposal specific to that End Customer, or decline to provide the Services.

3.3. We will not provide Services to End Customers until you confirm acceptance of the Proposal in writing. Acceptance of a Proposal will constitute a separate agreement with you, for Services to be supplied to the End Customer specified in the Proposal, for the Service Rates set out in the Proposal, and otherwise in accordance with the terms set out in the Services Agreement. Upon receipt of written acceptance of the Proposal a separate billing account will be created for the relevant End Customer.

3.4. Where applicable, any additional terms or arrangements for a specific End Customer must be agreed in writing and signed.

3.5. You are responsible for and must satisfy yourself that all of your End Customers receiving the Services do everything necessary to meet the obligations of your Services Agreement and not do anything which, if it was done by you, would cause you to be in breach of your Services Agreement.

3.6. You must not consign or allow the consignment of any Goods with us, or otherwise use any Services, for any person or an End Customer where a specific Proposal has not been provided and agreed, in writing.

3.7. The failure to comply with Clause 3.2 is a material breach of your Services Agreement. Without limiting any other rights or remedies available to us, including the right to terminate the Services Agreement, if you breach Clause 3.2, we reserve the right to charge you and you must pay for the Services at the Service Rates which would have been charged had Clause 3.2 been fully and accurately complied with.

3.8. Subject to clauses 6, 7 and 8 and to the maximum extent permitted by Law, you will be liable for and will indemnify us against all Loss arising directly or indirectly from:

3.8.1. any act or omission by your End Customers, that if done by you would cause you to be in breach of any obligation, warranty or representation in your Services Agreement;

3.8.2. a breach by your End Customers of any applicable Law (including but not limited to legislation relating to chain of responsibility and Dangerous Goods);

3.8.3. any negligent act or omission by your End Customer (or of your End Customer's officers, employees, agents, contractors or sub-contractors);

3.8.4. the illness, injury or death of any person caused or contributed to by a negligent act or omission of your End Customers or your End Customers' officers, employees, agents, contractors or sub-contractors;

3.8.5. any Claim relating to the Goods or the Services brought by, or liability to, the Receiver, your End Customer or any other sender, owner or any other person who has or claims to have or may have an interest in the Goods; and

3.8.6. any fraudulent act or wilful misconduct of your End Customers (or your End Customer's officers, employees, agents, contractors or sub-contractors).

4. Service Rates and Additional Charges

4.1. We will invoice you the applicable Service Rates plus any Additional Charges and other applicable charges in respect of the Services we provide to you.

4.2. The Service Rates quoted in your Pricing Schedule refer only to the specific Services and Lodgement Points listed.

4.3. **Unquoted Destinations.** If you wish to send to or from destinations that have not been quoted in your Pricing Schedule, our standard Service Rates will apply, as set out in the Standard Rate section of your Pricing Schedule and which may be found [here](#).

4.4. Specific destination rates are one-way only (i.e. not return), unless a return rate has been provided. A further delivery fee will be charged for any consignment which is re-directed or re-delivered at the request of you, other sender if not you, Receiver or other third party.

4.5. You must open and maintain a StarTrack Credit Account using our Credit Account application form as current from time to time.

4.6. **Service Rate Review.** We may amend the Service Rates and/or add, remove or amend any Additional Charge at any time and at our discretion by giving you no less than 30 days' written notice ("Price Notification"). If you do not agree with a Price Notification, you may terminate the Services Agreement (or the relevant Service) by providing us with written notice of termination within 30 days from receipt of the Price Notification. You will be deemed to have accepted the Price Notification if we do not receive notice of termination within this period.

4.7. The Service Rates plus any Additional Charges and other applicable charges will be invoiced to you weekly and, unless otherwise agreed in writing, must be paid within fourteen (14) days.

4.8. If any charges are not paid by the due date for payment, you must also pay the Administration Charge for each invoice period that an amount remains due and payable, plus the following late payment charges:

4.8.1. for accounts with credit terms of 14 days or less, pay (for each period between

invoices) a fee of 0.2% of the Charges that are due and payable and not paid by the date for payment; or
4.8.2. for accounts with credit terms of more than 14 days, pay (for each period between invoices) a fee of 1.5% of the Charges that are due and payable and not paid by the required date for payment.

4.9. **Calculation of Service Rates.** Service Rates invoiced to you will be based on whichever is the greater of:

- 4.9.1. the Dead Weight of the Goods consigned; or
- 4.9.2. the cubic measurement of the Goods multiplied by the Cubic Factor.
- 4.9.3. **For example:** assuming a Cubic Factor of 250 kilograms per cubic metre and the following freight dimensions: height (400mm), width (300mm) and length (550mm), the cubic calculation is as follows:

- (a) $0.400 \times 0.300 \times 0.550 = 0.066$ cubic metres
- (b) 0.066 cubic metres $\times 250 = 16.5$ kg (rounded up to 17kg chargeable weight)

In the above example if the dead weight of the freight is less than 17kg, the chargeable weight will be 17kg. If the Dead Weight of the freight exceeded 17kg, the consignment would be charged on the Dead Weight (rounded up to the nearest whole kilogram).

4.9.4. We may use, at our discretion, automatic cubing and weighing technology and / or the Bulk Cube Method, to attribute a Dead Weight, or Cubic Weight for the purpose of calculating the Service Rates. For example, for despatch of a small number of items, we may use the actual measurements of each item consigned; for a large bulk despatch which includes consignment on pallets, we may use the Bulk Cube Method; and for mixed items, despatched on pallets and as loose freight, we may use a combination of both.

4.9.5. **Bulk Cube Method.** We use a formula, as described below, to calculate chargeable weight where multiple items are consigned in a day. The formula calculates the total volume of items consigned over the whole day and applies that volume across individual consignments based on the greater of the Dead Weight of the consignments as you have specified to us, or the volume as measured by us. The volume is then multiplied by the Cubic Factor, and rounded up to the nearest kilogram.

4.9.6. **Example of the Bulk Cube Formula:** Total cubic measurements for each day's despatch are divided by the total Dead Weight, to arrive at a cubic to Dead Weight ratio. The individual Dead Weight of each consignment is multiplied by the ratio. The Cubic Factor is then applied to determine the number of kilograms to be charged for each consignment.

- (a) Total cubic metres for the day's despatch = 2m³
- (b) Divided by total Dead Weight despatched that day 400 kilos = 0.005
- (c) Multiplied by individual consignment Dead Weight 15 kilos = 0.075
- (d) Multiplied by Cubic Factor $\times 250 = 18.75$ Rounded up to 19 kilos.

Note: In the above example, 15 Dead Weight kilograms will be charged at 19 cubic kilograms. All partial chargeable kilograms are rounded up to the next whole kilogram for each consignment. All calculations will be based on weights and measurements supplied by you in the electronic data or consignment note or the weight and measurements designated by StarTrack, including the weight and measurements of any pallets or skids used in the transportation of Goods to their final destination. Uncrated machinery will be measured to a minimum height of 2.7 metres.

4.10. If upon our receipt of Goods for which our Service Rates have been pre-paid (including for our prepaid satchels and cartons), we determine that you have understated the Cubic Weight or Dead Weight (as the case may be), you must pay us the difference between the amount you have pre-paid and the amount that we determine, plus an additional administration fee for rectifying the understatement.

4.11. **Extra Charges.** In addition to the Services Rates and any Additional Charges, we reserve the right to apply, at a rate which is reasonable in the circumstances, the following extra charges:

- 4.11.1. labour and packaging costs if we need to repack or reconfigure your consignment as reasonably required to be processed through our network or to meet either your or your Receiver's requirements.
- 4.11.2. storage charges when we are requested to hold Goods for more than two days;
- 4.11.3. any delay (where such delay has occurred other than from our default) in excess of 30 minutes in loading or unloading the Goods or if the Receiver is not in attendance at the Delivery Address during normal hours when Delivery is attempted;
- 4.11.4. charges for forklift, crane hire or any equipment required for the safe loading, unloading or handling of your Goods;
- 4.11.5. reasonable costs of completing any documentation required under clause 2.17; and
- 4.11.6. on-forwarding charges as applicable in some remote areas if the requested delivery location is outside the area serviced by our delivery network. In such cases, additional charges will be dependent on the specific delivery requirements. On-forwarding charges for Next Flight consignments will be advised at the time of booking.

4.12. Where either you or your Receiver has requested that our charges be invoiced to a third party (including a Receiver):

- 4.12.1. if the third party does not have an account with us, our charges will be calculated using our standard rates schedule, and
- 4.12.2. if our charges are not paid promptly, you will pay charges as originally invoiced to the third party.

4.13. All Service Rates, Additional Charges and any extra charges are quoted without including an amount for GST unless stated otherwise. In addition to any GST-exclusive amounts payable you must pay an amount equivalent to the GST payable in respect of the taxable supply on receipt of a valid tax invoice.

4.14. If in relation to a supply made under the Services Agreement an adjustment event occurs that gives rise to an adjustment, the price of that supply (including any GST Amount) will alter accordingly and where necessary a payment will be made to reflect the price adjustment.

5. Minimum Revenue and Trading Levels

5.1. The Service Rates in the Pricing Schedule are quoted based on your advice of your expected Minimum Spend.

5.2. If your trading levels are less than the Minimum Spend within any three consecutive month period, we reserve the right to adjust your rates on 30 days' notice to reflect your spend. If you do not wish to continue with the Services following an adjustment in the rates, you may terminate this agreement by providing written notice not more than 30 days' from the date that you are made aware of the adjustment.

6. Liability for Lost, Damaged or Delayed Goods

6.1. Other than as required by a Law that we cannot exclude by agreement, we do not accept any liability (including for negligence) to you for any Loss that you may incur arising from the Loss or damage to your Goods while those Goods are in our custody or control unless you have purchased Transit Warranty for those Goods.

6.2. Other than as required by a Law that we cannot exclude by agreement, we do not accept any liability for any Loss that you may incur arising from any delay in the delivery of your Goods, nor as a result of any non-delivery or mis-delivery of your Goods.

6.3. This liability clause is subject to your rights under the Australian Consumer Law and nothing in these terms and conditions is intended to limit any rights you may have under the Competition and Consumer Act 2010 (Cth).

7. Transit Warranty

Cover Level under Transit Warranty

7.1. Subject to the following paragraphs of this clause, we provide you with an opportunity to purchase a warranty, subject to the exclusions below, against the Goods (other than any Excluded Goods) being Lost or damaged while we are providing the Services and while the Goods are in our possession (the "Transit Warranty"). In return for us providing you with the Transit Warranty, you agree that you will pay the Transit Warranty Charges as set out below, or as otherwise agreed by us in writing.

7.2. We will provide you with (and charge you for) the Transit Warranty cover you have selected for each consignment, up to a cap of \$5,000 (subject to clause 7.8), or such other amount that we have agreed to in writing ("Maximum Cover"). The amount that we will pay out for any claim is determined by the provisions of this clause 7 and may be less than the Maximum Cover.

7.3. You may opt out of Transit Warranty cover, or arrange a different amount as Maximum Cover, by providing notice to us in a [Transit Warranty Registration Form](#), or as otherwise agreed by us in writing.

7.4. If you have elected not to purchase Transit Warranty cover, we do not (subject to the application of any applicable Law that cannot be excluded by agreement) provide a warranty against loss or damage to the Goods and to the maximum extent provided under any applicable Law, we accept no liability for loss or damage to the Goods whilst those Goods are in our possession or control (other than liability which arises due to our fraud or wilful misconduct).

7.5. This clause is subject to your rights under the Australian Consumer Law and nothing in these terms and conditions is intended to limit any rights you may have under the Competition and Consumer Act 2010 (Cth).

Transit Warranty Charges

7.6. For Transit Warranty cover between \$100 and \$5,000, you will be charged at a rate of \$1 per \$100 of cover for each consignment. The level of cover you select will apply to each consignment. You may, at any time, opt out of Transit Warranty or select a different level of cover (between \$100 and \$5,000) by completing the [Transit Warranty Form](#).

7.7. If you wish to purchase Transit Warranty cover for a specific consignment, you must declare the value of the consigned Goods on the CN (or StarTrack's Electronic Despatch System or an alternate approved electronic despatch system). You will be charged according to the level of Transit Warranty cover selected. You are not entitled to purchase Transit Warranty for a specific consignment unless you have some Transit Warranty cover applying to all consignments.

7.8. You can request a quote for Transit Warranty cover over \$5,000 on a specific consignment by downloading and completing the [Transit Warranty Quotation Form](#).

Transit Warranty Claims and Claim Process

7.9. You must notify us in writing of any intended transit warranty claim ("Transit Warranty Claim") to the address specified in clause 7.11.3 and then submit a completed Transit Warranty Claim form within the following time limits:

- 7.9.1. where the Receiver has indicated in writing that loss has occurred in respect of the Goods, provide notice of intention to claim within 14 days from the date of Delivery of the Goods to the Delivery Address and the Transit Warranty Claim form within a further 14 days of providing the notice of intention to claim;
- 7.9.2. where the Receiver has acknowledged that the Goods have been Delivered and received in good order and condition, provide notice of intention to claim within 7 days from the date of Delivery of the Goods to the Delivery Address and the Transit Warranty Claim form within a further 7 days of providing the notice of intention to claim;
- 7.9.3. in respect of Transit Warranty Claims for non-delivery, provide notice of intention to claim within 14 days after the date of despatch and the Transit Warranty Claim form within a further 14 days of providing the notice of intention to claim.

7.10. We may, in our absolute discretion, accept written notification of an intended Transit Warranty Claim where it is submitted to us not more than 7 days after the expiry of the applicable time limit in clause 7.9.

7.11. You must provide to us with any Transit Warranty Claim notification:

- 7.11.1. documentary evidence of the cost price of the Goods in a form that we notify you is acceptable to us, acting reasonably, which may include, receipts, valuations and tax invoices; and
- 7.11.2. if your Transit Warranty Claim relates to damage to the Goods, coloured photographs of the damaged Goods and/or packaging.
- 7.11.3. Any Transit Warranty Claim form or notice of intended Transit Warranty Claim must be sent to "Corporate Claims Department, StarTrack, Locked Bag 5700, Strawberry Hills, NSW, 2012" or by email to transit.warranty@startrack.com.au.

Exclusions

7.12. Unless otherwise agreed by us in writing, Transit Warranty does not apply, and we are not obliged to pay you any amount for a Transit Warranty Claim under the Transit Warranty:

- 7.12.1. for loss or damage, however caused, to any Excluded Goods, Dangerous Goods, or Fragile Goods;
- 7.12.2. for any Consequential Loss.
- 7.12.3. where the damage is electrical or mechanical derangement, loss in weight or volume, shrinkage, leakage, wear and tear attributable to the nature of the Goods, or inherent vice of the Goods whether or not such damage is caused or contributed to by us, including by any delay in Delivery;
- 7.12.4. if you do not comply with the Transit Warranty Claim process in this clause 7;
- 7.12.5. if the Goods are Lost or damage occurs while the Goods are transported by air and the air carriage involves an ultimate destination or stop in a country other than the country of departure (in which case you may be entitled to compensation under the Civil Aviation (Carriers' Liability) Act 1959);
- 7.12.6. if you claim that the Goods are Lost and we are in possession of a POD document for the consignment;
- 7.12.7. if we inform you (and provide you with reasons in writing) that, in our reasonable opinion:
 - 7.12.7.1. the packaging of the Goods was insufficient or unsuitable for transportation;
 - 7.12.7.2. the Goods were defective prior to commencement of the Services; or
 - 7.12.7.3. damage, mechanical failure or defect in the Goods could not have been caused by the Services,
- 7.12.8. if the Goods have been returned to us (unless your Services Agreement states that you are covered for this);

- 7.12.9. if we were not responsible for the total Delivery of the Goods to the Delivery Address;
- 7.12.10. if the Delivery Address is a post office box, roadside drop or postal mail box;
- 7.12.11. if the damage is caused by or to Goods are Lost due to a Force Majeure Event;
- 7.12.12. if the Goods are Delivered unattended in accordance with documented pre-authorisation from you or other sender if not you or the Receiver;
- 7.12.13. if you fail to substantiate the cost price of Goods claimed to be Lost or damaged as and when requested by us;
- 7.12.14. if the Goods have not been consigned by way of a valid StarTrack CN or by through the StarTrack's Electronic Despatch System;
- 7.12.15. if the Transit Warranty Claim is for less than \$25.00.

Payment of Claims

7.13. The maximum amount that we will pay under a Transit Warranty Claim is the lesser of the:

- 7.13.1. maximum Cover;
- 7.13.2. cost price of the Goods;
- 7.13.3. declared value of the Goods (where applicable); and
- 7.13.4. agreed cost of repairs to the Goods, if appropriate.

7.14. If we make a payment under this clause for the replacement of the Goods we may retain or recover the damaged Goods.

7.15. The Transit Warranty charge and the GST component of the cost price of Goods will not be included in any payment made by us to you for a valid Transit Warranty Claim.

7.16. You may only make one Transit Warranty Claim per consignment.

7.17. Where you make a valid Transit Warranty Claim and there are outstanding amounts owed by you to us that are due and payable, we may pay the Transit Warranty Claim either directly to you or as a credit to your outstanding account.

8. Liability and Limitation of Liability

8.1. Subject to 8.2 below, we exclude to the maximum extent permitted by Law, all guarantees, conditions and warranties, express or implied by Law, in respect of the Services supplied under the Services Agreement.

8.2. If any guarantee, condition or warranty applies or is implied into the Services Agreement under any Law (including the Competition and Consumer Act 2010 (Cth)), then where permitted by Law, and providing it is reasonable to do so, our liability for breach of the guarantee, condition or warranty will be limited to either resupplying the Service, or paying the cost of resupplying the Service, in respect of which the breach occurred and otherwise will be limited to the maximum extent permitted by Law.

8.3. Other than as required by a Law that we cannot exclude by agreement, and subject to clause 8.4 below and any Transit Warranty Claim we accept under clause 7 above, we are not liable to you, or any third party, in contract, tort (including negligence), bailment or otherwise in Law or equity for any Loss whatsoever arising out of the provision of (or any failure to provide) the Services.

8.4. Nothing in the Services Agreement will limit a party's liability for Loss arising out of:

- 8.4.1. any illness, injury to or death of any person caused by a negligent act or omission of that party; or
- 8.4.2. any fraudulent act or wilful misconduct of that party.

8.5. You will indemnify us against any Loss incurred by us arising from:

- 8.5.1. any breach by you of your obligations under the Services Agreement, or any representation or warranty made you;
- 8.5.2. any breach of Laws relating to the consignment of Goods, including Dangerous Goods; or
- 8.5.3. any third-party Claim regarding delay or damage to, or loss, non-delivery or mis-delivery of your Goods.

8.6. Your liability to us under clauses 8.5.1 and 8.5.2 above is reduced proportionally to the extent that the Loss was caused or contributed to by us.

8.7. We are not liable to you and you are not liable to us for Consequential Loss arising under the Services Agreement.

8.8. This liability clause is subject to your rights under the Australian Consumer Law and nothing in these terms and conditions is intended to limit any rights you may have under the Competition and Consumer Act 2010 (Cth).

8.9. Any benefit received under a provision of the Services Agreement which limits or excludes our liability, or which provides us with an indemnity, is extended to include our Representatives and to the extent necessary, StarTrack holds the benefit of the indemnity on trust for Related Bodies Corporate and Representatives.

9. IP, Confidentiality & Privacy, Data

Intellectual Property

9.1. The ownership of any Background IPR will not be transferred or assigned, unless otherwise agreed in writing by the parties.

9.2. You warrant that you own, or are licensed to use, all of your Background IPR provided to us to provide the Services, and that our use of your Background IPR to provide the Services will not infringe any third-party Intellectual Property Rights.

9.3. All Intellectual Property Rights developed or produced by us (or on behalf of us), in connection with or as a result of, the provision of the Services, will become our sole and unencumbered property.

9.4. If requested by us, you must execute any assignment or other document reasonably requested to evidence our ownership of the Intellectual Property Rights.

Confidentiality & Privacy

9.5. Subject to 9.6 below, each party must keep confidential and must not use other than in performing its obligations or exercising its rights under the Services Agreement or disclose to any other person, any Confidential Information of the other party.

9.6. A party may make any disclosures of the other party's Confidential Information:

- 9.6.1. to any Representative, consultant, service provider or professional adviser to whom it is necessary to disclose the information for the purpose of performing that party's obligations or exercising its rights under this Agreement;
- 9.6.2. with the consent of the other party, which consent may not be unreasonably withheld; or
- 9.6.3. as is necessary for it or its shareholders to comply with any applicable Law or the rules of any a stock exchange.

9.7. A party disclosing Confidential Information under 9.6 must take all practicable steps to ensure that the person receiving the Confidential Information from it complies with 9.5.

9.8. We handle Personal Information in accordance with the Privacy Act 1988 (Cth), the Act and the Australia Post Privacy Policy.

9.9. You warrant that you have obtained all necessary consents required to enable us to lawfully use any Personal Information you provide to us to allow us to perform the Services.

Data

9.10. You acknowledge that we use data collected or created by us in the normal course of providing the Services for improving our performance and services, improving health and public safety, generating reports, undertaking consumer, market and trend analysis (which findings may be used for a commercial purpose, subject to our compliance with 9.11 below) and performing our business functions.

9.11. We undertake to use data as described in 9.10 in an appropriately aggregated and de-identified way. We will only disclose the aggregated and de-identified information in a manner which is consistent with our obligations under the Privacy Act 1988 (Cth), and in accordance with and the Australia Post Privacy Policy.

10. Dangerous Goods

10.1. You warrant and declare that any Goods consigned by you or on your behalf under the Services Agreement will not constitute or contain Dangerous Goods, other than properly packaged Permitted Dangerous Goods, the carriage of which have been agreed by us in writing prior to being consigned.

10.2. You acknowledge that Goods consigned by you may be carried by air, sea, road or rail.

10.3. When consigning any Permitted Dangerous Goods, you must comply with applicable Laws and any reasonable directions provided by us relating to consignment, labelling and packaging of Dangerous Goods.

10.4. Where consigned, you will fully declare all Permitted Dangerous Goods, including completing a Dangerous Goods Declaration, and other documentation required or reasonably requested by us.

11. Electronic Despatch System

11.1. We will make available to you at no charge our proprietary electronic despatch system for the preparation of CNs and electronic manifests.

11.2. Electronic manifests are required for all Goods consigned by you under your Services Agreement. An Additional Charge will be applied where either a manual manifest or no manifest is provided. You may use either the Electronic Despatch System or another electronic manifesting system approved by us of this purpose.

11.3. Where you chose to use the Electronic Despatch System, we will provide you with access via applications protocol interfaces (APIs) and the required access credentials (in the form of security token or otherwise).

11.4. All of your consignments must be verified by an electronic transfer of data to us that matches the Goods consigned on the same day.

11.5. You must, for each Goods pick-up, prepare an electronic summary report in the form provided by us ("Despatch Summary Report").

11.6. You must, for each Goods pick-up, provide to our pick-up person at the time of pick-up CNs and Dangerous Goods Declaration (where applicable). You acknowledge that applicable Services Rates and other charges, are determined when Goods are processed through the StarTrack network. Any Services Rates and other charges applicable to consignments which are prepared using either the Electronic Despatch System or any other system provided by us are best estimates only and may vary from the final charges.

11.7. You acknowledge that applicable Services Rates and other charges, and delivery times may be affected by the nature of the Goods consigned, their size and weight and whether any are Oversize or otherwise require manual handling and whether any Dangerous Goods are included. Delivery time estimates prepared using either the Electronic Despatch System or other system provided by us are best estimates only, and we make no warranty of their accuracy.

12. Pallet Trading

12.1. On request, we may assist you to facilitate pallet transactions between you and our trading partners CHEP and Loscam (Pallet Partners). You acknowledge that we provide this assistance as an intermediary only and it is your responsibility to arrange for the issue/ supply of Pallet Partner pallets and/or plain pallet suppliers. Under no circumstances will we supply Pallet Partner pallets or plain pallets to you.

12.2. We will only accept CHEP code 10001 and Loscam code WP, no other hire equipment will be accepted onto our accounts.

12.3. If you elect to source pallets from our Pallet Partners, it is a requirement that you establish the requisite accounts with those entities and submit your account details to us.

12.4. You accept the responsibility to raise the Pallet Partner docket at pick-up to effect a transfer of pallet/s to our account. If a fully completed pallet transfer is not given to our driver at pick-up, then no liability for the pallets is passed to or accepted by us. You accept the responsibility to promptly forward the transfer advice/dockets to the relevant Pallet Partner for processing.

12.5. For freight deliveries into distribution centres and grocery warehouses, the effective date of the pallet transaction with us must be calculated as 30 days from the despatch date.

12.6. Pallet Partners IOUs – will need to be made available for pick-up within 1 week of the original transaction. If we do not receive the IOU within this timeframe, we will request that an account be opened and all future transactions completed via transfer.

12.7. We will only transact pallet movements by 'transfer' on/off our account to/from the relevant Pallet Partner account.

13. Term and Termination

13.1. The Services Agreement continues until it reaches its Expiry Date (if any) or is terminated in accordance with its terms ("Term").

13.2. A party ("Non-defaulting Party") may terminate the Services Agreement immediately by giving written notice to the other party ("Defaulting Party") if the Defaulting Party commits a breach of this Agreement and:

- 13.2.1. the breach is not remedied within 14 days after receipt of notice from the Non-defaulting Party specifying the breach and its intention to terminate this Agreement by reason of such breach; or
- 13.2.2. the breach is not capable of remedy.

13.3. Either party may terminate the Services Agreement for any reason by giving at least

90 days' written notice to the other party. Where notice is given by us under this clause, the date of termination will, if required, automatically be extended so that the effective date of termination is not during the months of November or December in any year.

13.4. We may immediately terminate the Services Agreement by giving you written notice if a Termination Event occurs.

13.5. The termination or expiry of the Services Agreement for any reason will not extinguish or otherwise affect:

- 13.5.1. any rights of either party against the other which accrued before the termination or expiry and which remain unsatisfied;
- 13.5.2. the provisions of 6 (Liability for Lost, Damaged or Delayed Goods) 7 (Transit Warranty), 8 (Liability and Limitation of Liability), 9 (IP, Confidentiality and Privacy, Data), 10 (Dangerous Goods) and 13 (Term and Termination); or
- 13.5.3. any other provision of the Services Agreement, which is expressly stated to, or which by its nature, survives termination or expiry of the Services Agreement.

13.6. Upon termination or expiry of the Services Agreement, you must immediately pay us all outstanding amounts unpaid under the Services Agreement for the period up to and including the date of termination or expiry.

14. Force Majeure

14.1. If by reason of a Force Majeure Event, a party is unable to carry out, or is delayed in performance any of its obligations under the Services Agreement (other than an obligation to pay money) those obligations will be suspended to the extent that the party impacted is prevented or delayed by such Force Majeure Event from performing those obligations and neither party will be liable to the other party for any additional costs or expenses incurred in connection with that Force Majeure Event.

14.2. A party affected by a Force Majeure Event must give the other party prompt notice of the Force Majeure Event which must contain full details of the Force Majeure Event and the extent to which it will be unable to perform its obligations under this Agreement and use all commercial endeavours to, as soon as possible, remove such Force Majeure Event and the effect of such Force Majeure Event on the performance of its obligations (including by finding ways to continue the performance of those obligations) under the Services Agreement

14.3. Nothing in this clause will require the affected party to settle strikes or other labour disputes on terms contrary to its reasonable wishes.

14.4. If the Force Majeure Event causes the delay or non-performance of the obligations to continue for more than thirty days, either party may immediately terminate the Services Agreement by giving written notice to the other party.

15. Modern Slavery

15.1. We confirm that we have not committed an act that would constitute "modern slavery" (as that term is defined in the Modern Slavery Act 2018 (Cth)).

15.2. We will use reasonable endeavours to confirm that our suppliers, Sub-Contractors and any person or entity providing goods and services to us have not committed an act that would if committed by us constitute a breach of the warranty in 15.1 and are compliant with the requirements of the Modern Slavery Act 2018 (Cth) in connection with the Services supplied to you.

16. General

16.1. **(Interpretation)** Unless the contrary intention appears, a reference in the Services Agreement to:

- a) **(singular includes plural)** the singular includes the plural and vice versa;
- b) **(calculation of time)** if a period of time dates from a given day or the day of an act or event, it is to be calculated exclusive of that day;
- c) **(meaning not limited)** the words "include", "including", "for example" or "such as" are not used as, nor are they to be interpreted as, words of limitation, and when introducing an example, do not limit the meaning of the words to which the example relates to that example or examples of a similar kind;
- d) **(two or more persons)** an agreement, representation or warranty in favour of two or more persons is for the benefit of them jointly and each of them individually;
- e) **(jointly and individually)** an agreement, representation or Warranty by two or more persons binds them jointly and each of them individually;
- f) **(reference to a party)** a party includes its employees, agents, representatives, contractors and sub-contractors and any servant or agent of its contractors or sub-contractors;
- g) **(reference to a person)** a word which denotes a person includes an individual or a body corporate. A person also includes the trustee, executor, administrator, and successor in title and permitted assignee of that person;
- h) **(legislation)** any legislation includes any regulation or instrument made under it and where amended, re-enacted or replaced means that amended, re-enacted or replacement legislation; and
- i) **(dollars)** Australian dollars, dollars, A\$ or \$ is a reference to the lawful currency of Australia.

16.2. **(Notices)** All notices, consents, approvals, waivers and other communications in connection with the Services Agreement must be made in writing and handed delivered or sent by email or Registered or prepaid post to the address set out in the Details Schedule.

16.3. **(Subcontracting)** We may engage Sub-Contractors to perform all or any of the Services to be performed under the Services Agreement. We remain liable for the acts or omissions of our Sub-Contractors.

16.4. **(Assignment)** You must not assign, novate or otherwise deal with the Services Agreement without our prior written consent (not to be unreasonably withheld). Any change of your ownership or change in your structure or control will be deemed to be an assignment.

16.5. **(Waiver)** Subject to any provision in the Services Agreement which specifies otherwise, a provision of the Services Agreement or a right created under the Services Agreement may not be waived or varied except in writing, signed by the parties.

16.6. **(Entire Agreement)** The Services Agreement and any other documents incorporated by reference in the Services Agreement, constitute the entire agreement of the parties about the Services and supersede all previous agreements, understandings and negotiations on that subject matter.

16.7. **(Precedence)** If applicable, any additional terms or arrangements between us and any customer forming part of the Services Agreement must be agreed in writing and signed. Any such terms or arrangements will have precedence over these Terms and Conditions, and if there is an inconsistency between a provision of these Terms and Conditions and a provision of such terms or arrangements, the provision of such terms or arrangements will prevail to the extent of the inconsistency.

16.8. **(Variation)** We may revise these Terms and Conditions by giving you thirty (30) days' notice of our amendments. If you do not agree with amendment, you may terminate the Services Agreement (or the relevant Service) by providing us with written notice of termination within 30 days from receipt of the amendment. You will be deemed to have accepted the amendment if we do not receive notice of termination within this period.

16.9. **(Severability)** If the whole of, or any part of, a provision of the Services Agreement is deemed void, unenforceable or illegal in a jurisdiction it is severed for that jurisdiction. The remainder of the Services Agreement as the case may be, has full force and effect and the validity or enforceability of that provision in any other jurisdiction is not affected. This 16.8 has no effect if the severance alters the basic nature of this agreement or is contrary to public policy.

16.10. **(Jurisdiction)** The Services Agreement is governed by the Law in force in the State of Victoria and each party submits to the non-exclusive jurisdiction of the relevant courts of and courts of appeal from them.

16.11. **(Relationship)** In providing the Services, we act as an independent contractor. Nothing in the Services Agreement will be construed as creating a partnership, trust or agency between us and you, or as imposing any fiduciary duties on us in relation to you.

17. Definitions

Additional Charges means the surcharges, charges, fees or rates (additional to the Service Rates) set out in the document entitled "Additional Charges" which is generally appended to your Pricing Schedule and which can be found here: [Pricing Schedule](#) or as otherwise notified to you.

Australia Post Privacy Policy means the policy published at our [Privacy page](#).

Background IPR of a party means materials:

- a) the Intellectual Property Rights in which are owned by that party as at the date of the Services Agreement; or
- b) which are subsequently created by that party independently of the performance of the Services.

Bulk Cube Method means the method where multiple items consigned on one day are consolidated and measured by us collectively to calculate the Cubic Weight.

Claim means any allegation, debt, cause of action, liability, claim, proceeding, suit or demand of any nature howsoever arising and whether present or future, fixed or unascertained, actual or contingent, whether at Law, in equity, under statute or otherwise.

CN means a consignment note in a form issued by the Electronic Despatch System or as otherwise approved by us.

Confidential Information means information that is by its nature confidential, is designated by a government agency as confidential, or a party knows or ought to know is confidential, but does not include information that:

- a) is or becomes public knowledge otherwise than by breach of the Agreement or any other confidentiality obligation;
- b) is in the possession of a party without restriction in relation to disclosure before the date of receipt; or
- c) has been independently developed or acquired by the receiving party.

Consequential Loss means any indirect or consequential loss, including loss of profits, pure economic loss, loss due to delay, loss of business revenue, loss of business opportunities, loss of anticipated savings or damage to goodwill or reputation.

Controlled Returns and Transfer Movements Service means any pre-booked service offered by us where Goods are consigned by you to be returned from your customer by us either to you or another destination specified by you.

Credit Account means the credit account established by you under clause 4.5.

Cubic Factor means the minimum number of kilograms per cubic metre on which Service Rates will be levied. Unless otherwise agreed by us in writing, an industry standard of 250 kgs/m³ will apply.

Cubic Weight means the calculated weight determined by us by multiplying together the height, width and depth of the Goods (in metres), and the Cubic Factor, rounded up to the nearest whole kilogram. If packed in a tube, the diameter of the tube will be used as both the width and height of the Goods.

Dangerous Goods means those goods which meet the criteria of one or more of the nine United Nations hazard classes as prescribed in the current Technical Instructions of the International Civil Aviation Organisation (ICAO) as reflected in the Dangerous Goods Regulations of the International Air Transport Association (IATA).

Dangerous Goods Declaration means a written form of declaration that declares that consignments contain Dangerous Goods, which complies with the IATA Dangerous Goods Regulations and all other applicable Laws, and is signed by you or your authorised agent.

Dead Weight means the weight of the Goods measured by us and if not measured by us, the weight declared by you in your manifest, rounded up to the nearest whole kilogram.

Delivery means leaving the Goods at the Delivery Address, or as close to that as we reasonably and practically can, and "Deliver" and "Delivered" have corresponding meanings.

Delivery Address means the address on the CN or as we are notified otherwise by you as the address to which the Goods must be delivered by us to the Receiver.

Details Schedule means the document entitled "Details Schedule" or other document describing the Services we have agreed to provide to you and other details, which forms part of or is incorporated into the Services Agreement.

Electronic Despatch System means our electronic despatch system as described in clause 11.

End Customer means, where you are an intermediary offering some or all of our Services to a third party, the third party to whom some or all of our Services are being provided.

Excluded Goods in clause 7, means Dangerous Goods and each of the following items: currency, cash and banknotes; negotiable instruments of any kind; gold, silver and other precious metals; jewellery; gemstones; wrought or unwrought metals; antiques; works of art; securities; drugs; weapons; living animals or plants; human tissue, organs, blood or blood products; Potentially Hazardous Foods or any other refrigerated or perishable items; glass, china, household Goods exceeding \$500 in value per consignment unless certified professionally packed as required by us or as otherwise agreed in writing; personal effects; second hand Goods, used Goods, cigarettes, tobacco and tobacco products; solar panels, any valuable documents; large sporting Goods including but not limited to kayaks, surf skis, long boards (malibus), windsurfers or similar equipment exceeding 3 metres in length; Goods packaged in satchels or envelopes or despatched on a pre-paid Service (unless otherwise agreed in writing by us).

Expiry Date means the date (if any) as set out in the Details Schedule.

Force Majeure Event means any cause or event that:

- a) is outside the reasonable control of the party claiming that the event has occurred and
 - b) prevents that party from performing or delays the performance of its obligations under this Agreement,
- and includes:
- a) an act of God, lightning strike, meteor strike, earthquake, storm, flood, landslide, explosion or fire;
 - b) strikes or other industrial action, other than strikes or other industrial action of some or all of a party's employees; or
 - c) war, terrorism, sabotage, blockade, revolution, riot, insurrection, civil commotion pandemic or epidemic,
- but excludes:
- d) an event the adverse effects of which could have been prevented or mitigated against by that party by the exercise of reasonable diligence or the taking of reasonable precautionary measures.

Fragile Goods means glassware, porcelain, enamel or fibreglass Goods, furniture of any kind, household or personal effects or any Goods that are fragile or marked fragile but do not include Semi-Fragile Goods.

Goods means the goods including packaging (both your own packaging or any StarTrack satchels and cartons) consigned by you under the Services Agreement.

Intellectual Property Rights means all rights conferred under statute, common law or equity subsisting in and in relation to, inventions, designs, patents, copyright in all works, trade secrets, Confidential Information, trademarks, business names, domain names and circuit layout rights.

Intermediary means a customer of StarTrack who is noted as an Intermediary on the Details Schedule and who facilitates and manages the provision of the Services to its customers, thereby on-selling the Services to its customers. Without limitation, this includes brokers, shipping agents, and third party logistics (3PL) providers.

Law means any statute, regulation, order, rule, subordinate legislation or other document enforceable under any statute, regulation, rule or subordinate legislation.

Lodgement Points means the lodgement points listed in the Details Schedule or as otherwise agreed in writing.

Loss means any damage, loss, liability, debt, fine, cost and expense (including legal and other professional advisers' costs and expenses) suffered by a party.

Lost in clause 7 means all Goods in the consignment that have not been Delivered and are unable to be located by us.

Maximum Cover has the meaning given in clause 7.

Minimum Spend means the amount specified under this heading in the Details Schedule.

Oversize Goods means Goods, the dimensions and/or weight of which fall outside our standard dimensions or weights normally accepted by us for carriage using the Services, further details of which are set out in the in the Additional Charges.

Permitted Dangerous Goods means those Dangerous Goods that we permit you to consign with us under clause 10.

POD means proof of delivery as established in accordance with clause 2.7.

Potentially Hazardous Foods means food requiring controls in place to ensure they remain safe to consume. Examples of foods that are normally considered Potentially Hazardous could include meat, seafood, dairy products, foods containing egg and prepared fruits and vegetables.

Pricing Schedule means the schedules headed "Pricing Schedule" which form part of the Services Agreement, and includes your Service Rates, Additional Charges and other applicable charges. Where you have a StarTrack quotation or quote pack, this will be a Pricing Schedule for the purposes of this definition.

Product Guide means any product guide specific to the Services we notify to you under clause 2.4.

Proposal means the document entitled StarTrack Proposal, which includes a Pricing Schedule, and is issued for the proposed supply of Services by us to a prospective customer or End Customer. Where a customer or End Customer has a StarTrack quotation or quote pack, this will be Proposal for the purposes of this definition.

Receiver means the person, organisation, business or company (or the intended recipient of the Goods) who receives the Goods upon Delivery by us.

Related Bodies Corporate has the meaning set out in the Corporations Act 2001 (Cth).

Representative means an employee, agent, officer, director, contractor or sub-contractor or a Related Body Corporate and any of its employees, agents, officers, directors, contractors or sub-contractors and any other person or persons providing any or all of the Services.

Semi-Fragile Goods means Goods that are semi-fragile or marked semi-fragile including computers and electrical equipment but do not include Fragile Goods.

Services means the services you have selected to receive from us and as set out in the Details Schedule, or as otherwise agreed by us in writing. Such services may include StarTrack's Road Express, Premium, Next Flight, Special Services and Courier Services.

Services Agreement means these Terms and Conditions, Details Schedule, Pricing Schedules and any Product Guide applicable to the Services.

Service Rates means the fees to be paid by you to us for the Services excluding the Additional Charges and other applicable charges as set out in the Pricing Schedules or otherwise notified to you in writing.

Sub-Contractor means any person we arrange to perform the Services or any part thereof and any person who is an employee, agent or sub-contractor of that Sub-Contractor.

Transit Warranty means the warranty you may purchase from us under which we warrant that we will be liable for loss or damage to your Goods in certain circumstances.

Termination Event means:

- a) you become Insolvent or cease or threaten to cease business;
- b) you fail to make payment under this Agreement, and that failure continues for 14 days after receipt of notice from us of our intention to terminate this Agreement by reason of such failure;
- c) your Credit Account is cancelled, suspended or if you are refused approval to operate a Credit Account;
- d) the supply or use of a Service is or is to become unlawful; or
- e) in our reasonable opinion, the provision of a Service is liable to cause death or personal injury or damage to property.

We or us or our means Star Track Express Pty Limited ABN 44 001 227 890 and its Related Bodies Corporate and its officers, employees, agents.

You or your means the customer identified in the Details Schedule and any person, organisation, business or company who requests the Services from us under the Services Agreement and who we agree to provide Services to, as set out in the Details Schedule, or otherwise agreed by us.