

# Star Track Express Pty Ltd

## Terms & conditions

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# Star Track Express Pty Limited

ACN 001 227 890

## Service Conditions

### 1. Introduction

Other than where you have a signed agreement covering the Services, these Service Conditions, together with the Conditions of Service, set out the terms on which Star Track Express Pty Limited ACN 001 227 890 (“StarTrack”) will accept your freight for provision of the Services.

### 2. Dictionary

“**Aviation Transport Security Laws**” means the Aviation Transport Security Act 2004 and any regulations made under that Act and any legislation which implements the Convention on International Civil Aviation signed at Chicago on 7 December 1944.

“**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.

“**Charges**” means the StarTrack rates, charges, additional service charges, fees and surcharges agreed between us from time to time (whether expressly or impliedly), the charges in clause 8, expenses to comply with any law or regulation or any order or requirement made under them, or with the requirement of any market, harbour, dock, railway, airline, shipping line, roadway, customs, excise, or warehouse authority or other person including any duties, excise and costs charged by any governmental, non-governmental or administrative authority which we become liable to pay in respect of the Goods arising out of or in connection with providing the Services and any tax including GST levied directly on a supply under these Conditions.

“**CN**” means a consignment note in a form approved by us.

“**Conditions**” means these Service Conditions and the Conditions of Service.

“**Conditions of Service**” means the document we have provided to you that contains details of the Charges and additional terms and conditions relating to our Services and the Charges.

“**Consequential Loss**” means any economic loss, loss of revenue, loss of production, loss of profits, loss of income, loss of markets, loss of reputation, loss or impairment of goodwill, loss of business, loss of customers, loss of an opportunity or chance, loss of value, loss of use, loss of anticipated savings, increased costs of work or materials, or the cost of defending and settling any claim, demand or proceeding brought against you by any third party even if we had knowledge that such damages or loss might arise, and any other indirect, incidental, special or consequential damages or loss.

“**Cubic Weight**” means the weight determined by us by multiplying the height, width and depth of the Goods (in metres) by the standard cubic factor of 250 kgs/m<sup>3</sup>, or any other agreed cubic factor, rounded up to the nearest whole kilogram, and 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 any goods deemed of a dangerous or hazardous nature including but not limited to Goods which are or may become dangerous, inflammable, explosive, volatile or offensive (including radioactive materials) or Goods which are or may become liable to damage or injure any property or persons, whether you were aware of the dangerous or hazardous nature of the Goods or not, and includes, without limitation, goods forbidden, limited or restricted from time to time by:

- (a) the International Air Transport Association (“IATA”);
- (b) the International Civil Aviation Organisation;
- (c) the Civil Aviation Safety Authority;
- (d) the Australian Dangerous Goods Code; or
- (e) any applicable law, regulation, guideline or requirement of a regulatory body or government of a country or territory from, through or into which the Goods are carried.

**“Dangerous Goods Declaration”** means a written form of declaration that declares whether consignments contain or do not contain Dangerous Goods, which complies with the IATA Dangerous Goods Regulations and is signed by the Sender or its authorised agent.

**“Date of Despatch”** means the date on which the Goods are accepted by us from you and removed by us from the premises from which you ask us to collect the Goods.

**“Dead Weight”** means the weight designated by us to the Goods 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.

**“Excluded Goods”** 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; refrigerated/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).

**“Force Majeure”** means any circumstance or cause beyond our control including without limitation inclement weather, acts of God, industrial disputes, air traffic control, unserviceable aircraft, war, terrorist act, nuclear explosion, flood, fire, embargo, litigation, strikes, lockouts, riots, civil commotion, an airline captain’s instructions, or act of a public authority, government or any agency instrumentality or any political subdivision thereof.

**“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 accepted from you with any Packaging supplied by you.

**“GST”** means any goods and services, value added or like tax.

**“Implied Terms”** means those terms, conditions and warranties implied into contracts at law for the supply of goods and services including, without limitation, those terms implied by the Competition and Consumer Act 2010 (Cth).

**“International Carriage Conventions”** means (1) the convention for the Unification of Certain Rules for International Carriage by Air, signed at Warsaw, 12 October 1929, or that convention as amended at The Hague, 28 September 1955, and by the Montreal Additional Protocol 4 at Montreal on 25 September 1975 (Warsaw Convention), or (2) the convention for the Unification of Certain Rules for International Carriage by Air, signed at Montreal, 28 May 1999 (Montreal Convention).

**“Lost”** in clause 11 means all Goods in the consignment that have not been Delivered and are unable to be located by us.

**“Manual Handling Surcharge”** means the manual handling surcharges for Premium and Express services as prescribed in the Conditions of Service.

**“Maximum Cover”** has the meaning given in clause 11.2 below.

**“Packaging”** means any container, packaging or pallet used for the purpose of containing and protecting the Goods for the purpose of the Services.

**“Paperless Despatch”** has the meaning given in clause 13.1.

**“Perishable Goods”** means any Goods which are subject to waste, deterioration or spoilage over time or through contact with other goods or elements and include fruit, vegetables, dairy products, meat, newspapers and magazines.

**“POD”** means proof of delivery as established in accordance with clause 3.6.

**“Receiver”** means the person, organisation, business or company who receives the Goods upon Delivery by us.

**“Related Body Corporate”** has the same meaning as in the Corporations Act 2001.

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

**“Sender”** means the person, organisation, business or company who consigns Goods to us for the purposes of us providing the Services.

**“Services”** means the whole of the carriage, operations and services we undertake for the Goods, including but not limited to the transportation and storage of the Goods.

**“Sub-Contractor”** means:

- (a) any person we arrange to perform the Services or any part thereof, and
- (b) any person who is an employee, agent or sub-contractor of any person in paragraph (a).

**“Transit Warranty”** means the warranties in clause 11 or any other class of warranty agreed to by us.

**“We”** or **“us”** or **“our”** means Star Track Express Pty Limited ACN 001 227 890 and its Related Bodies Corporate and its officers, employees, agents and Sub-Contractors.

**“You”** or **“your”** means any person, organisation, business or company who requests the Services from us and with whom we contract and if more than one in relation to any Services, whoever we designate is responsible for the request of the Services.

### 3. Service basis

**3.1** The Services commence when the Goods are delivered to or received by us and terminates on Delivery.

**3.2** 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:

- (a) deposit the Goods at the Delivery Address, which shall be conclusively deemed to be due Delivery of the Goods;
- (b) return the Goods to our nearest depot or Australia Post Office and advise you to collect the same;
- (c) store the Goods at your sole risk and you agree to indemnify us for all costs and expenses incurred in relation to such storage; or
- (d) attempt to re-deliver the Goods to the Receiver or the Sender.

- 3.3** To the extent permitted by law, including the Competition and Consumer Act 2010 (Cth), we accept no liability and you will not hold us responsible for any loss, damage or other liability occasioned to any items or any claims by you, the Receiver or any other party having an interest in the Goods, except to the extent that the loss is incurred as a direct result of our fraud or wilful misconduct, and you hereby indemnify us and will keep us indemnified against any claim for loss, damage or other liability occasioned by us as a result of acting in accordance with the provisions of this clause 3.2.
- 3.4** We are not a common carrier. Subject to any laws which cannot be excluded by agreement, we do not accept liability as a common carrier and may refuse to transport any particular Goods for any person or Goods which are IATA restricted articles.
- 3.5** Insurance is not included in the Charges. You are solely responsible for taking out and keeping current (at your own cost), all insurances in respect of the Goods and the Services as you consider to be reasonable and prudent.
- 3.6** We may establish POD by producing to you the CN or our driver's run sheet, a photograph of the parcel 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, and 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.
- 3.7** Subject to clause 11, we transport all Goods at your risk.

## **4. Your acknowledgments and obligations**

- 4.1** You acknowledge and agree:
- (a) that all CNs will be prepared by you; or
  - (b) you will authorise a third party to prepare CNs on your behalf; and
  - (c) you are responsible for the accuracy of the content on the CNs.
- 4.2** You acknowledge and agree that we assume no liability for the transport of Excluded Goods.
- 4.3** You must not sell or provide to third parties any of our pre-paid products and you acknowledge that pre-paid products are non-refundable.
- 4.4** You acknowledge and agree that all the information in the CN and our contract with you and our Charges are confidential and you must not disclose them to any third party without our prior written consent.
- 4.5** You must not tender for service a satchel or envelope containing Excluded Goods, Dangerous Goods, Semi-Fragile or Fragile Goods.
- 4.6** You agree that we will determine the Cubic Weight including that of irregular shaped packages but it is your responsibility to ensure the Goods are packed to minimise the Cubic Weight.
- 4.7** You must list the dimensions and weight of individually packed Goods on the CN.
- 4.8** You will be responsible for ensuring that all Packaging conforms with the requirements of the Receiver. If we incur any expense or liability as a result of the Packaging not conforming with the requirements of the Receiver, you must immediately upon demand by us, reimburse and indemnify us for all expense or liability incurred by us.

- 4.9** You must ensure that any Goods consigned on a fixed-price service are packed in the StarTrack-supplied satchel or carton corresponding to the selected weight break, or, if we permit you to supply your own packaging, in a satchel or carton that conforms to our specified maximum volumes and/or dimensions (details available on our [Box packaging & satchels page](#)).
- 4.10** You acknowledge that subject to the Implied Terms and to the extent permitted by law, it is your responsibility to ensure that the Services are sufficient and suitable for your purpose.

## 5. Your warranties

You warrant that:

- 5.1** you are the owner or the authorised agent of the person(s) owning or having an interest in the Goods and have full power, capacity and authority to agree to these Conditions with respect to the Goods and to deal with the Goods or any part thereof as contemplated by these Conditions (including to send the Goods to the Receiver); and you accept these Conditions for yourself and as authorised agent for the Receiver and for any person having an interest in the Goods or for whom you are acting;
- 5.2** all the Goods are or will be accurately described in the CN, accurately marked, addressed and appropriately packed having regard to the nature of the Goods and suitable for the Services with ordinary care in handling;
- 5.3** you will comply with all relevant laws and regulations and any reasonable instructions provided by us relating to the consigning, labelling, packaging, carriage, and delivery of the Goods (including but not limited to the requirements under the IATA Dangerous Goods Regulations, and the Australian Dangerous Goods Code);
- 5.4** you will fully declare all Dangerous Goods;
- 5.5** you will comply with all your obligations under the Aviation Transport Security Laws and provide all information and do all acts necessary for us to comply with our obligations under them;
- 5.6** all applicable customs, import, export and other laws and regulations of all countries to, from, through or over which the Goods may pass have been complied with, including procuring the payment of destination duties and taxes by the Receiver; and
- 5.7** where you are not the Sender, you must satisfy yourself that the Sender has done everything necessary to ensure that you do not breach any of the warranties under these Conditions.

## 6. Your indemnities

Subject to clauses 10 and 11 and to the maximum extent permitted by law, you will be liable for and will indemnify us against all loss, claims, damages, fines, expenses, demands or liabilities arising directly or indirectly from:

- 6.1** your breach of any of your obligations, warranties, representations and guarantees set out in these Conditions;
- 6.2** your breach of any applicable legislation (including but not limited to legislation relating to chain of responsibility and dangerous goods);
- 6.3** any negligent act or omission by you (or of your officers, employees, agents, contractors or subcontractors);
- 6.4** the illness, injury or death of any of your officers, employees, agents, contractors or subcontractors in connection with the provision of the Services;
- 6.5** any claim or demand relating to the Goods or the Services brought by, or liability to, the Receiver, Sender, owner or any other person who has or claims to have or may have an interest in the Goods.

## 7. Our rights

- 7.1** 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 additional charges as advised by us.
- 7.2** We may abandon or release any Goods which are unacceptable for service, which you undervalue for customs purposes or are misdescribed, without any liability to us.
- 7.3** We and our Sub-Contractors may, either in your name as principal or in our name as your agent, and at your sole cost and expense, enter into and perform contracts to:
- (a) use any Sub-Contractors or any aircraft or vehicle or service methods to carry out the whole or any part of the Services;
  - (b) lease or use any Packaging in which the Goods may be placed or packed;
  - (c) give any receipt for the Goods or any Packaging;
- and any such contracts made for or on your behalf may be made subject to the terms and conditions of any bill of lading, any form or contract of carriage, whether by sea, rail, road or air, any lease arrangement and handover agreement or any receipt or other document, as the case may be.
- 7.4** We may open, inspect and examine any document, wrapping, package or other container of the Goods to determine their nature, condition, ownership or destination without any liability to you.
- 7.5** We may sell or dispose any uncollected or undeliverable Goods 60 days after making reasonable efforts to contact you and will not be required to account to you for the sale or disposal of the Goods unless required to do so by legislation.
- 7.6** We may accept for the purpose of the Services some Dangerous Goods, provided you have first provided to us a Dangerous Goods Declaration. Adherence (and the compliance of your consignments and documentation) to all laws and regulations relating to Dangerous Goods remain entirely your responsibility at all times. You agree to indemnify us for any liability whatsoever arising out of or as a result of your failure to comply with any law or regulations relating to Dangerous Goods.
- 7.7** If required by law, we may immediately destroy, dispose of, abandon or render harmless Dangerous Goods without first seeking your permission, without compensation to you and without prejudicing our rights to any Charges payable by you for the Services. Upon our request you must instruct us on the proper method of disposal and indemnify us for the costs incurred for disposal of such Dangerous Goods.

## 8. Charges

- 8.1** The Charges shall be considered fully earned as soon as the Goods are loaded and despatched from the Sender's premises and you must comply with the provisions of clause 8.2 irrespective of whether the Goods have been Delivered to the Receiver or whether Goods which have been Delivered are damaged or otherwise, and in all circumstances the Charges paid by you to us shall be absolutely non-refundable.
- 8.2** You must pay:
- (a) by the date for payment on the tax invoice or statement, all Charges, and if any Charges are not paid by the date for payment, you must also pay an administration fee of \$5.00 for each invoice period that an amount remains due and payable, plus the following late payment charges:
    - (i) 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

(ii) 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; and

(b) a cheque handling flat fee of \$100.00, payable once in a twelve-month period, where you make any payment to us during the year by cheque.

### **8.3** You:

(a) must pay Charges for delivery determined by the higher of the weight declared on the CN, the Dead Weight or Cubic Weight, by reference to our current rates schedule and/or the current special quoted rates offered by us to you, which may include additional charges for other services performed by us as specified in our current rates schedule;

(b) must, if applicable, pay any Transit Warranty Charges based on the declared value of the Goods or the Maximum Cover;

(c) agree that where you have provided information about the weight, volume or value of the Goods that we may use such information to determine the Charges or we may in our absolute discretion and at any time weigh or measure the Goods to determine the Charges whether or not you have provided such information and whether or not there is a discrepancy between the information which you have provided and the physical properties of the Goods that have been despatched to us. For the avoidance of doubt, uncrated machinery will be measured to a minimum height of 2.7 metres;

(d) agree that for items consigned to us on the same day (whether in one or more locations and regardless of the destination of individual consignments), 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 Charges. For example, for despatch of a small number of cartons, we may use the actual measurements of each carton consigned; for a large bulk despatch which includes palletised consignments, 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.

(e) agree, that for the Bulk Cube Method, a formula is used to average the total volume over the whole day's despatch to individual consignments based on the dead weight of the consignments as specified to us by you or as measured by us. The volume is then multiplied by the cubic factor and rounded up to the nearest kilogram

(f) agree we may charge an additional charge to you for the cost of any charges incurred by us as a result of any delay (where such delay has occurred other than from our default) in excess of 30 minutes in loading or unloading the Goods or in the event that the Receiver is not in attendance at the Delivery Address during normal hours when Delivery is attempted.

### **8.4** If upon our receipt of Goods for which our Charges have been pre-paid:

(a) we determine that you have understated the Cubic Weight or Dead Weight, you must pay us the difference between the pre-paid amount and the amount that we determine, plus an additional administration fee for the understatement; or

(b) the Cubic Weight is higher than the Dead Weight, then we may charge you the Charges applicable to the Cubic Weight.

### **8.5** You agree that we are not bound by any instructions by you to collect any Charges from any other party (a "Third Party"), notwithstanding that we may accept the Goods as tendered for the Services. In the event that we agree in our absolute discretion that the Third Party may pay the Charges and the Third Party does not pay the Charges within 7 days from the date of the invoice issued by us to the Third Party, you must pay the Charges as specified in the original invoice issued to the Third Party within 14 days after an invoice has been issued by us to you. We advise that all Charges billed to parties who do not have an account with us will be calculated using our non-account schedule rates. Where the Third Party does not pay and you become liable for the Charges, in no case will the Charges be reduced.



## 8.6 Manual Handling Surcharge

(a) We may charge a Manual Handling Surcharge that is consigned to us for delivery by our Premium or Express services.

(b) Freight consigned to us on pallets or skids (and for delivery on pallets or skids) will not attract a Manual Handling Surcharge. Where pallets or skids contain Freight that would normally attract a Manual Handling Surcharge, and we are required to deliver those items individually, the Manual Handling Surcharge will apply to each item of Freight on the pallet or skid.

**8.7** We may change our Charges at any time and, after 30 days prior notice to you, charge you accordingly. The notice must specify the amount of the change and the date on which the change will take effect. If you continue to use our services after the date that the new Charges apply, you will be deemed to have agreed to those new Charges.

**8.8** Unless otherwise agreed, if you do not select a service type on the CN, our overnight Charges will apply and the consignment will be treated and charged as a priority consignment in its service category.

**8.9** If GST is imposed on any supply made by us to you pursuant to these Conditions, you must pay to us, as part of the Charges, an amount equal to the GST payable by us in connection with that supply (as determined by us in good faith and not in contravention of the law).

**8.10** You agree that we may charge you a fee of \$10.00 per article (Unmanifested Fee) if, at the time of pick-up, we do not receive evidence of a successful data transmission, using Paperless Despatch, of details of the Goods we have collected.

## 9. Lien and set-off

**9.1** Save where prohibited by any applicable law or regulation, we have a general lien on the Goods and any documents relating thereto for all Charges due and payable to us, or which become due and payable to us, on any account for the Services.

**9.2** If the Charges are not paid by you or the person nominated by you or the Receiver fails to take delivery or return of the Goods, we shall notify you of this failure and:

(a) we may store the Goods as we think fit at your risk and expense; or

(b) on the earlier of the expiration of a period of 60 days from the date on which the Charges are payable by you or when the Receiver should have taken delivery or return of the Goods, we may open any Packaging and sell all or any of the Goods as we think fit (whether by public auction or private treaty) and apply the proceeds to discharge the lien and costs of sale.

**9.3** In respect of Perishable Goods or Dangerous Goods, we may exercise our rights under clause 9.2(b) immediately.

**9.4** We may deduct or set-off from any moneys due from us to you, or the person nominated by you, under any contract, debts and money due and payable from you to us under these Conditions or any contract.

## 10. Exclusions and limitations of liability

**10.1** Subject to the following paragraphs of this clause 10, clause 11, and except as otherwise set out in these Conditions, the Goods are at your risk at all times and to the maximum extent permitted by law, we shall not be liable to you or to any third party in tort (including negligence), contract, bailment or otherwise for any loss, damage (including concealed damage), injury, delay, contamination, evaporation, deficiency, deterioration caused to the Goods, or mis-delivery or failure to deliver the Goods whatsoever arising from the Services for any reason or any loss, except only to the extent that the loss or damage arises directly as a result of our fraud or wilful misconduct.

- 10.2** Clause 10.1 applies to all, and the consequences of all loss, damage, delay, deterioration, mis-delivery or failure by us whether it occurs in events which are in our or your contemplation or in events which are foreseeable by you or us, or in events which could constitute a fundamental breach or breach of a fundamental term of the contract of which these Conditions form part.
- 10.3** If the Services involve an ultimate destination or stop in a country other than the country of departure, an International Carriage Convention may be applicable and govern and, in most cases, limit our liability for loss of, or damage to, or delay in Delivery of the Goods. The International Carriage Convention also contain time limits for notification of claims to us and for commencement of any proceedings against us.
- 10.4** An International Carriage Convention's liability limits may vary depending on the country of delivery. If any International Carriage Convention applies to your Goods, our liability is limited to the amount of special drawing rights per kilo specified in the applicable International Carriage Convention, unless a higher value is declared in advance by you and an additional Charge is paid if required.
- 10.5** If clause 10.1 of these Conditions is deemed invalid by any law of any country including those which apply to damage occurring during international service by air, then our liability, subject to clause 11, is limited to a sum not exceeding \$100 per consignment of Goods.
- 10.6** We exclude the Implied Terms to the extent that we are permitted to exclude them at law and, where we are only permitted at law to limit the Implied Terms, and where it is reasonable to do so, we limit our liability for a breach of an Implied Term to replacing or repairing the Goods, resupplying the Services or paying the cost of replacing or repairing the Goods or resupplying the Service.
- 10.7** Subject to the provisions of clause 11, you must notify us in writing of the substance of any claim (including a claim under clause 10), against us within 14 days from the date of Delivery, or the date the Goods should have been Delivered if the Goods are not Delivered. You must not commence legal proceedings against us until you do so.
- 10.8** If you do not institute legal proceedings for any claim against us within 120 days of Delivery or the date when the Goods should have been Delivered, you release us from all liability.
- 10.9** In the event that the Services involve a requirement for us to undertake any form of handling, storage, installation, removal, assembly or erection of Goods, we shall not be liable for any loss, damage or injury of any kind to any person or property howsoever arising or occurring during any part of the Services and you indemnify us in respect of any claim for:
- (a) loss of or damage to the Goods or any other equipment belonging to or provided by you or any third party except to the extent that loss arose directly as a result of our fraud or wilful misconduct; and
  - (b) any Consequential Loss arising from any loss, damage or injury caused to you or any person or property.
- 10.10** All our rights, immunities and limitations of liability in these Conditions shall continue to have full force and effect in all circumstances and notwithstanding any breach by us of these Conditions.

## 11. Transit Warranty

### Cover Level under Transit Warranty

- 11.1** Subject to the following paragraphs of this clause, we provide you with an opportunity to purchase a warranty against the 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 in the Conditions of Service, or as otherwise agreed by us in writing.
- 11.2** 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, 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 11 and may be less than the Maximum Cover.
- 11.3** 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 (available from <https://startrack.com.au>), or as otherwise agreed by us in writing.
- 11.4** If you have elected not to purchase Transit Warranty cover, we do not (subject to the application of any applicable law) provide a warranty against loss or damage to the Goods.

### Transit Warranty Claims and Claim Process

- 11.5** You must notify us in writing of any intended Transit Warranty claim (“Claim”) to the address specified in clause 11.9 within the following time limits:
- (a) where the Receiver has indicated in writing that loss has occurred in respect of the Goods, within 14 days from the date of Delivery of the Goods to the Delivery Address;
  - (b) where the Receiver has acknowledged that the Goods have been Delivered and received in good order and condition, within 7 days from the date of Delivery of the Goods to the Delivery Address;
  - (c) in respect of Claims for non-delivery, within 14 days after the Date of Despatch.
- 11.6** Where notice of an intended Claim has been provided to us under clause 11.5, you must then submit a completed Claim form within the following time limits:
- (a) where the Receiver has indicated in writing that loss has occurred in respect of the Goods, within 14 days of the date that you notified us of your intended Claim;
  - (b) where the Receiver has acknowledged that the Goods have been Delivered and received in good order and condition, within 7 days from the date that you notified us of your intended Claim;
  - (c) in respect of Claims for non-delivery, within 14 days from the date that you notified us of your intended Claim.
- 11.7** We may, in our absolute discretion, accept written notification of an intended Claim where it is submitted to us not more than 7 days after the expiry of the applicable time limit in clause 11.5.
- 11.8** You must provide to us with any Claim notification:
- (a) documentary evidence of the cost price of the Goods in a form that we notify you is acceptable to us, acting reasonably. Examples of acceptable evidence include, receipts, valuations and tax invoices; and
  - (b) if your Claim relates to damage to the Goods, coloured photographs of the damaged Goods and/or Packaging.
- 11.9** Any Claim form or notice of intended Claim must be sent to “Corporate Claims Department, StarTrack, Locked Bag 5700, Strawberry Hills, NSW, 2012” or email to [transit.warranty@startrack.com.au](mailto:transit.warranty@startrack.com.au).

## Exclusions

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

- (a) for loss or damage, however caused, to any Excluded Goods, Dangerous Goods, or Fragile Goods;
- (b) 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 any delay in Delivery;
- (c) if you do not comply with the process in this clause 11;
- (d) 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);
- (e) if you claim that the Goods are Lost and we are in possession of a POD document for the consignment;
- (f) if we inform you that, in our reasonable opinion:
  - (i) the Packaging provided by you for the Goods was insufficient or unsuitable for transportation;
  - (ii) the Goods were defective prior to commencement of the Services; or
  - (iii) damage, mechanical failure or defect in the Goods could not have been caused by the Services,

provided that, in each case, we provide you with reasons in writing;

(g) if the Goods have been returned to us (unless your Quotation states that you are covered for this);

(h) if we were not responsible for the total Delivery of the Goods to the Delivery Address;

(i) if the Delivery Address is a post office box, roadside drop or postal mail box;

(j) if the damage is caused by or Goods are Lost due to a Force Majeure event;

(k) if the Goods are Delivered unattended in accordance with documented pre-authorisation from the Sender or the Receiver ;

(l) if you fail to substantiate the cost price of Goods claimed to be Lost or damaged as and when requested by us;

(m) if the Goods have not been consigned by way of a valid StarTrack CN or by Paperless Despatch through the StarTrack despatch system;

(n) if the Claim is for less than \$25.00.

## Payment of Claims

**11.11** The maximum amount that may be claimed from us under the Transit Warranty, and the maximum amount we will pay for a Claim is the lesser of the:

- (a) Maximum Cover;
- (b) cost price of the Goods;
- (c) declared value of the Goods (where applicable); and
- (d) agreed cost of repairs to the Goods, if appropriate.

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

**11.13** The provisions of Transit Warranty do not extend to the payment of any claim for Consequential Loss.

- 11.14** The Charges, 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 Claim.
- 11.15** You may only make one Claim per consignment.
- 11.16** Where you make a valid Claim and there are outstanding amounts owed by you to us that are due and payable, we may pay the Claim either directly to you or as a credit to your account.

## 12. Credit Enquiries

You authorise us to make lawful enquiries from time to time as we may require to satisfy us as to your creditworthiness and if requested by us, you undertake to provide signed authorities permitting us to contact credit agencies, your bank, other credit providers, credit bureaus or mercantile agencies.

## 13. Paperless Despatch

- 13.1** This clause applies where we have agreed to allow you to despatch the Goods to us without the need to generate a CN at the point of despatch (“Paperless Despatch”).
- 13.2** All Paperless Despatch consignments must be despatched utilising the Star Track despatch system or a modified system approved by us.
- 13.3** All Paperless Despatch consignments must be verified by an electronic transfer of data to us that matches the items sent on the same day.
- 13.4** You must, for each Goods pick-up, prepare a Paperless Despatch summary report in the form provided by us (“Despatch Summary Report”).
- 13.5** You must, for each Goods pick-up, provide to our pick-up person at the time of pick-up:
  - (a) evidence of a successful transmission of data from you to us in respect of the Goods despatched to us on that day using Paperless Despatch (unless other arrangements have been made between us, a completed Despatch Summary Report will be sufficient evidence);
  - (b) CNs, where required by us;
  - (c) Dangerous Goods Declaration (where applicable).
- 13.6** We rely on data provided by you to provide the Services and any failure to transfer accurate data to us at the time of collection or despatch may result in Late Delivery of the Goods, for which we will not be responsible.
- 13.7** You must provide us with after hours contact numbers so that we may contact you in the event that data is not received by us and we in our sole discretion determine that corrective action is required to be taken (but with no obligation to take corrective action).
- 13.8** We may supply you with software for the purpose of facilitating the Paperless Despatch of freight by you to us (“Software”); and if we do:
  - (a) All intellectual property rights in the Software, including the source code, and any operating instructions remain our property;
  - (b) You may only use the Software, and make such copies of the Software and operating instructions as is necessary for your internal business purposes in consigning freight to us;
  - (c) You will be responsible for the installation of the Software, installing any updates to the Software upon receipt from us, and ensuring that the Software is used in accordance with any operating instructions provided by us;

(d) If you cease to do business with us, if your account with us is closed or if you breach the provisions of this clause, you may no longer use the Software and you must deliver up to us the Software (including all copies, authorised or otherwise), the media in which it is contained, and any operating instructions (whether in original form or as modified by you).

(e) Without limiting the provisions of clause 10 of these Conditions, we shall have no liability whatsoever in respect of any loss or damage incurred by you in connection with or arising out of your use of the Software howsoever caused, including any failure or defect in the Software.

(f) You must keep confidential all details of the Software and the operating instructions and you must not attempt to reverse engineer the Software or provide the Software or the operating instructions to any third party.

## 14. General

**14.1** (Entire Agreement) These Conditions represent the entire agreement between us.

**14.2** (Amendment) We may change these Conditions at any time by providing reasonable notice to you, electronically or in writing. If you continue to use our Services after notification of the changes, you are deemed to have accepted those changes.

**14.3** (Governing Law) These Conditions are governed by the laws of New South Wales, Australia and any proceedings against us must be brought in New South Wales, Australia only.

**14.4** (Severance) If any part of these Conditions is void, illegal, unenforceable or invalid, it will be severed from these Conditions to the extent that it is void, illegal, unenforceable or invalid. The remainder of these Conditions will be unaffected by such a severance.

**14.5** (Interpretation) Unless the contrary intention appears, in these Conditions:

(a) capitalised terms used in these Conditions have the meaning given to them in clause 2 (Dictionary);

(b) the singular includes the plural and vice versa;

(c) 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;

(d) 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;

(e) a party includes its employees, agents, representatives, contractors and sub-contractors and any servant or agent of its contractors or sub-contractors;

(f) a word which denotes a person includes an individual or a body corporate, and also includes the trustee, executor, administrator, and successor in title and permitted assignee of that person;

(g) 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;

(h) Australian dollars, dollars, A\$ or \$ is a reference to the lawful currency of Australia; and

(i) if there is any inconsistency between these Conditions and the Conditions of Service, the Conditions of Service will prevail to the extent of the inconsistency.