

# GENERAL TERMS AND CONDITIONS

## 1. Definitions

For the purpose of this contract:

**Authority or Authorities** means, without limitation, all governmental departments and agencies with responsibility for the import and export of goods, the collection of revenue on the import and export of goods and the transport of those goods to include.

**Carriage** means carriage by vehicles and conveyances of all kind including acts in furtherance of an act of carriage by another or a specific means, whether by air, sea or land transport.

**Carrier** means any party involved in the carriage of Goods whether by air freight, sea freight or land transport.

**Claim** includes against any person any allegation, action, demand, cause of action, suit, proceeding, judgement, debt, damage, loss, cost, expense or liability howsoever arising and whether present or future, fixed or unascertained, actual or contingent whether at law, in equity, under statute or otherwise.

**COMTRANS** means COMTRANS Logistics Pty Ltd (ABN 69 645 634 519), its successors and assigns.

**Customer** means the Customer (or any person acting on behalf of and with the authority of the Customer) as described on any quotation, work authorisation, direction, purchase order or the Customer/Applicant identified in the cover page of the credit application or other form as provided by COMTRANS to the Customer.

**Consequential Loss** means any loss or damage arising from a breach of contract or agreement (including breach of the Service Agreement), tort, or any other basis in law or equity including, but without limitation to, loss of profits, loss of revenue, loss of production, loss or denial of opportunity, loss of access to markets, loss of goodwill, indirect or remote or unforeseeable loss, loss of business reputation, future reputation or publicity, or any similar loss which was not contemplated by the parties at the time of entering this contract.

**Dangerous Goods** means cargo which is noxious, hazardous, inflammable, dangerous, explosive or offensive (including radioactive materials) or may become noxious, hazardous, inflammable, dangerous, explosive or offensive or radioactive or may become liable to cause damage to any person or property whatsoever whether prescribed by laws or otherwise.

**Fees** means all fees and charges charged by COMTRANS for provision of the Services and all other amounts and Taxes referred to in this contract, including those payable to Subcontractors, Carriers and Authorities.

**Goods** are any goods or items which are the subject of the Services provided by COMTRANS to, or on behalf of, the Customer under this contract.

**GST** means the goods and services tax imposed under the GST Law.

**GST Law** means the *A New Tax System (Goods and Services Tax) Act 1999* (Cth).

**Losses** means any damages (including loss of profit and consequential losses), losses, costs, expenses, fees and other amounts incurred or payable (whether presently or contingently).

**PPSA** means the *Personal Property Securities Act 2009* (Cth).

**Services** means any performance of work by COMTRANS for the Customer in any way connected with the Goods including, without limitation:

- (a) making any reports, entries and declarations required by any Authorities;
- (b) providing all necessary information and completing all necessary documentation and reports for the purposes of any Authorities;
- (c) entering into contracts with Subcontractors on behalf of the Customer to enable the Carriage, import, export, storage or transportation of the Goods;
- (d) anything else in connection with the services referred to above, including cross trade management/shipments.

**Subcontractors** means any third party appointed by COMTRANS to assist in the provision of the Services.

**Taxes** includes, without limitation, all customs duty, excise duty, levy, costs, GST, taxes, tariffs, expenses and penalties imposed by any Authority.

**Vessel** means any vessel, vehicle or aircraft used to effect Carriage of the Goods, whether by sea, land or air.

## 2. Interpretation

2.1 All Services are performed by COMTRANS subject only to this contract. Where there is an inconsistency between this contract, the relevant documents will be construed in the following descending order of priority:

- (a) This contract.
- (b) Any fee quotation estimate or similar document.

2.2 The Services are supplied by COMTRANS only on the terms and conditions set out in this contract to the exclusion of anything to the contrary in the terms of the Customer's instruction or order notwithstanding that any such instruction or order is placed on terms that purport to override any provision of this contract.

## 3. Acceptance

3.1 Any instructions received by COMTRANS from the Customer for the supply of the Services or the Customer's acceptance of the Services supplied by COMTRANS, or the Customer signing this contract (whichever occurs first) will constitute acceptance of the terms and conditions set out in this contract.

3.2 Where more than one Customer has entered into this contract, each Customer will be jointly and severally liable for all payments of the Fees.

3.3 Upon acceptance of this contract by the Customer the terms and conditions contained in this contract are legally binding and can only be amended with the written consent of COMTRANS.

## 4. Provision of Services

4.1 COMTRANS carries on business as a customs, forwarding, transport, and shipping agent. COMTRANS is not a common carrier and will accept no liability as such.

4.2 COMTRANS reserves the right, at its absolute discretion, to provide the Services by any means, route or procedure.

4.3 The Customer authorises COMTRANS as agent for the Customer to contract either in its own name as principal or as agent for the Customer with any Subcontractor for the Carriage, movement, transport or storage of the Goods or for the performance of all or any part of the Services pursuant to or ancillary to this Contract. No authority or consent from the Customer is required under the preceding sentence. The Customer will be bound by such conditions and must indemnify COMTRANS and its Subcontractors in respect of any Claim made against them arising out of or in any way related to the Services and/or the Goods.

4.4 Insofar as it may be necessary to ensure that such Subcontractor and COMTRANS's officers, employees, agents and representatives will be entitled to the benefit of this contract applying to the Carriage, COMTRANS will be deemed to enter into any contract for the Carriage of the Goods for its own benefit and also for the benefit of and as agent and trustee for any Subcontractors and its and COMTRANS's officers, employees, agents and representatives..

4.5 COMTRANS, at its sole discretion, may refuse to accept any Goods for Carriage, or refuse to provide any part of the Services, without assigning any reason. COMTRANS will have no liability to the Customer if it exercises its rights pursuant to the preceding sentence.

## 5. Quotations

5.1 Quotations as to Fees and other charges are given on the basis of immediate acceptance and subject to the right of withdrawal or revision by COMTRANS. Quotations are valid only for the specified weight and volume ranges quoted and for the designated services and standard of services quoted.

5.2 Quotations do not constitute a binding offer by COMTRANS and lapse immediately, without notice to the person to whom they are given if, in the opinion of COMTRANS, there has been a change in the circumstances in which the quotation was given.

5.3 Quotations are subject to change at the absolute discretion of COMTRANS at any time including if any change occurs in the rates of freight, insurance premiums, warehousing, statutory fees or any other Taxes applicable to the Goods. Quotations and charges are subject to revision accordingly with notice or, if it is not reasonably practicable, without notice to the Customer.

5.4 Unless otherwise stated, the price quoted in a quotation excludes the amounts and types of charges referred to in the quotation terms and conditions provided to the Customer, including without limitation, the cost of crane hire, road tax, permits, toll, escort and detention, demurrage, Taxes, fuel surcharge, and storage charges and any other additional costs and expenses incurred by COMTRANS in the course of or in connection with the Carriage of the Goods (including, without limitation, additional charges in respect of providing any additional advice, assistance or services not reasonably foreseen or contemplated by the Company as required for the purposes of that Carriage at the time the quotation was made) and where the same are applicable they will be added to the Customer's account.

5.5 The quotation terms and conditions provided to the Customer by COMTRANS are deemed to be incorporated into this contract. In the event of any inconsistency between the provisions of this contract and the quotation terms, the terms as advised by COMTRANS will prevail.

## 6. Fees and payment terms

6.1 The Fees will be:

- (a) as indicated on invoices provided by COMTRANS to the Customer in respect of Goods supplied;
- (b) COMTRANS's current Services rates at the date of the provision of the Services according to COMTRANS's current Price list / rates; or
- (c) COMTRANS's quoted Fees.

6.2 The Fees and/or the rates may be increased or varied at any time, including (without limitation):

- (a) for any increase in the cost of labour, fuel surcharge, bunker adjustment factor surcharges, disposal costs, or consumables used in the performance of the Services;
- (b) due to any change in any charge, Tax or other impost or scheme that increases the cost of performing the Services for the Customer or third party charges; and/or
- (c) for any changes to this contract including changes in the nature, type, weight, measurement, quantity or value of the Goods.

6.3 COMTRANS will notify the Customer in writing of any increase in the Fees.

6.4 COMTRANS is not precluded from raising a debit in respect of any fee or disbursement lawfully due to it, notwithstanding that a previous debit or debits

(whether excluding or partly including the items now sought to be charged) had been raised and whether or not any notice was given that further debits were to follow.

- 6.5 Time for payment for the Fees will be of the essence and will be stated on the invoice or any other forms. If no time is stated, then payment will be due on the date of the invoice.
- 6.6 Payment by the Customer must be made by cash, by cheque, or by direct credit, or by any other method as agreed to between the Customer and COMTRANS. If COMTRANS allows payment by credit card, then COMTRANS reserves the right to charge the Customer a surcharge.
- 6.7 All amounts due to COMTRANS in Australia are payable in Australian dollars. COMTRANS is entitled to charge a currency conversion premium when converting receivables into Australian currency.
- 6.8 Fees are payable whether or not the Goods are lost, damaged, or delayed. All Fees must be paid by the Customer without any deduction, set-off or counterclaim for any other amount.

#### **7. GST and Taxes**

- 7.1 Unless otherwise stated, all charges quoted are exclusive of the GST imposed under the GST Law and any Taxes.
- 7.2 The Customer will be responsible for payment of any GST and Tax liability in respect of the Services as provided by COMTRANS or by Subcontractors which will be payable at the same time as the GST-exclusive consideration.
- 7.3 COMTRANS agrees to provide the Customer with a tax invoice to enable the Customer to claim an input tax credit to the extent permitted by law.
- 7.4 All customs duty, excise duty, costs, taxes, expenses and penalties which COMTRANS pays or becomes liable to pay for any reason whatsoever in respect of or in connection with the Goods and any documents relating to the Goods pursuant to any legislation governing customs and/or excise or the importation, export or Carriage of Goods must be paid by the Customer (whether or not such customs duty, excise duty, costs, expenses or penalties arise directly or indirectly from or in connection with the negligence of COMTRANS or otherwise).

#### **8. No insurances over Goods**

- 8.1 COMTRANS will not effect insurance in connection with the Goods.
- 8.2 It is the Customer's sole responsibility to effect any necessary insurances in relation to, or in connection with, the Goods (including the Carriage of the same).

#### **9. Storage of Goods pending delivery**

Pending forwarding and delivery, the Goods may be warehoused or otherwise held at any place or places at the sole discretion of COMTRANS at the Customer's risk and expense.

#### **10. Liens**

- 10.1 Any Goods which are or which come into the possession of COMTRANS, any Subcontractor or any Carrier are subject to a general and particular lien for all charges due or which may become due to COMTRANS, any Subcontractor or any Carrier on any account and whether or not the charges due are in respect of the Goods being held (Lien).
- 10.2 In addition, the Lien will cover the costs and expenses of exercising the Lien including without limitation, the costs of sale and reasonable legal fees.
- 10.3 If the Lien is not satisfied within 30 days of such payment being due or the Customer's failure to respond to COMTRANS within that time or the Customer's abandonment of the Goods, then COMTRANS, may at its option, either:
- (a) remove such Goods or any part thereof and store them in such place and manner as it thinks appropriate and at the risk and expense of the Customer; or
  - (b) open the package and sell Goods or part thereof upon such terms as it thinks fit and apply the proceeds in or towards discharge of the lien and costs of sale, or destroy such Goods, without being liable to any damage or Loss caused to the Customer.
- 10.4 COMTRANS sells or otherwise disposes of such Goods pursuant to this clause 10 as principal and not as agent and is not the trustee of the power of sale.

#### **11. Destruction of Dangerous Goods**

- 11.1 The Customer must not tender or request for Carriage any Dangerous Goods without:
- (a) notifying COMTRANS firstly, and COMTRANS consenting to provide its Services in relation to the same; and
  - (b) presenting a full written description of those Goods and the nature and degree of their volatility to COMTRANS so as to enable the Goods to be properly classified, described, packaged and labelled for Carriage in accordance with the provision of all relevant laws, regulations, codes, customs and conventions.
- 11.2 If the Customer fails to comply with clause 11.1:
- (a) the Customer will be liable for all Claims made against, and Losses incurred by, COMTRANS in connection with those Goods;
  - (b) the Goods may be destroyed or otherwise dealt with by, and at the sole discretion of, COMTRANS or any other person in whose custody they may be at the relevant time without compensation to

the Customer and without prejudice to COMTRANS's right to freight and charges and rights to indemnity; and

- (c) if such Goods are accepted under the arrangements previously made in writing, they may nevertheless be destroyed or otherwise dealt with if they become dangerous to any person, other goods or property.

#### **12. Inspection**

COMTRANS may without liability open any package or other container which the Goods are placed or carried to inspect the Goods either to determine their nature or condition or to determine their ownership or destination.

#### **13. Delivery**

- 13.1 COMTRANS is authorised to deliver the Goods at the address given to it by the Customer (**Nominated Site**).
- 13.2 COMTRANS is deemed to have satisfied its delivery obligations under this contract if the Goods are delivered to the Nominated Site.
- 13.3 The Customer must make all arrangements necessary to:
- (a) accept delivery of the Goods at the Nominated Site; and/or
  - (b) allow the Goods to be collected by COMTRANS or its Subcontractor from the Customer's nominated premises without delay or interference.
- 13.4 In the event that the Customer is unable to make suitable arrangements to take delivery of the Goods at the Nominated Site (including refusing to do so) or allow the Goods to be collected from the Customer's nominated premises (as the case may be), then:
- (a) COMTRANS is authorised to, at its absolute discretion and at the Customer's sole expense and risk, and without liability to COMTRANS, deal with the Goods as COMTRANS thinks fit including storing or disposing of the Goods or returning them to the Customer or the person entitled to collect the Goods; and
  - (b) COMTRANS will charge for that failed delivery or collection (as the case may be) and for any redelivery or recollection (as the case may be) and any other costs incurred by COMTRANS in that respect (including storage and disposal costs).

#### **14. Terms of Carriage**

The Customer acknowledges and agrees that Goods moving by:

- 14.1 air freight are subject to the applicable international treaties including the Convention for the Unification of Certain Rules relating to International Carriage by Air, signed at Warsaw on October 12, 1929, or that Convention as amended by the Hague Protocol 1955 and including any applicable amendments as from time to time may be made. The Customer's recovery of any loss or damage is against the airline Carrier and is limited in accordance with these or any other conventions that may be applicable; and
- 14.2 ocean freight are subject to the applicable international treaties including the International Convention for the Unification of Certain Rules relating to Bills of Lading signed at Brussels on August 25, 1924 (the Hague Rules), or those rules as amended by the Protocol signed at Brussels on February 23, 1968 (the Hague Visby Rules) and the SDR Protocol (1979) and including any applicable amendments as from time to time may be made. The Customer's recovery of any loss or damage is against the ocean freight carrier and is limited in accordance with these or any other conventions that may be applicable.

#### **15. Disclosure by Customer**

- 15.1 The Customer acknowledges and agrees that:
- (a) COMTRANS is required by laws to establish the true identity of any Customer seeking to undertake international trade in goods and as such, the Customer must provide such evidence of its identity (or the identity of such of its directors, officers, employees or agents) as may be required by COMTRANS, from time to time;
  - (b) the Customer must disclose to COMTRANS any information requested or which is relevant to the Carriage of the Goods;
  - (c) if COMTRANS becomes aware that information that has been provided by or on behalf of the Customer is false, misleading or incomplete, COMTRANS will, as soon as practicable after becoming aware of the error or omission, provide written particulars of the incident to the relevant Authorities;
  - (d) COMTRANS's obligations at law may require COMTRANS to disclose a breach or possible breach of any law to an Authority; and
  - (e) COMTRANS will not have any liability to the Customer or any other party arising from compliance with its obligations pursuant to any law or condition of any licence.
- 15.2 It is the sole responsibility of the Customer to address adequately each consignment and to provide written delivery instructions to enable effective delivery to be made.
- 15.3 The Customer expressly warrants that:
- (a) it will comply with all laws and regulations relating to the nature, packaging, labelling, storage or Carriage of the Goods or the Services to be provided in respect of the Goods and the Goods will be packed in a manner adequate to withstand the ordinary risks attendant on the Services to be provided having regard to their nature.

- (b) it is either the owner or authorised agent of the owner of the Goods and by entering into this contract the Customer accepts this contract for and on behalf of itself and all other persons having an interest in the Goods;
- (c) it will provide to COMTRANS all such assistance, information, descriptions, valuations and documents as may be necessary or prudent to comply with any laws, customs, conventions, codes and regulations in a timely manner;
- (d) it will notify COMTRANS immediately upon becoming aware that any information that the Customer has provided to COMTRANS or any Authority is false, misleading or incomplete; and
- (e) all Goods it instructs COMTRANS to collect and deliver will be free from any and all contamination or, subject to clause 11, other hazardous substances.

#### 16. Customer liabilities and indemnities

Without limiting the effect of any other provision of this contract, the Customer agrees to indemnify and keep indemnified COMTRANS for:

- 16.1 any Loss directly or indirectly caused by the Goods or by breach of this contract by the Customer;
- 16.2 amounts of Taxes and other payments made to Authorities or the Subcontractors by COMTRANS on behalf of the Customer (including any interest or penalties);
- 16.3 providing information that is false, incorrect or misleading or omitting to provide material information relating to the Goods or the Services;
- 16.4 damages payable by COMTRANS from the failure of the Customer to return any container or transport equipment involved in Carriage in the time required by the contract between COMTRANS and the supplier or owner of that container or other transport equipment;
- 16.5 demurrage or other charge for detention or failure to return items provided by COMTRANS pursuant to contracts with other parties;
- 16.6 liabilities or costs incurred by COMTRANS on behalf of the Customer associated with the Services including, without limitation, amounts paid to Carriers or cleaning of containers (whether Subcontractors or otherwise and amounts incurred by COMTRANS in exercising its rights pursuant to this contract);
- 16.7 any charges levied by Authorities for examination and treatment of the Goods; and
- 16.8 any costs or charges incurred in recovering any amounts payable to COMTRANS (including, without limitation, costs of legal proceedings).

The Customer agrees to pay any amounts claimed pursuant to the indemnity in this clause 16 immediately on demand being made by COMTRANS. COMTRANS does not need to incur a cost or Loss before making a claim against the Customer under this clause.

#### 17. Personal Property Securities Act 2009 ("PPSA")

- 17.1 In this clause:
  - (a) the terms 'financing statement', 'financing change statement', and 'security interest' have the meaning given to it by the PPSA; and
  - (b) the term 'security agreement' means the security agreement under the PPSA created between the Customer and COMTRANS pursuant to this contract.
- 17.2 The Customer acknowledges and agrees that this contract constitutes a security agreement for the purposes of the PPSA and creates a security interest over the Goods.
- 17.3 The Customer undertakes to:
  - (a) promptly sign any further documents and/or provide any further information (such information to be complete, accurate and up-to-date in all respects) which COMTRANS may reasonably require to:
    - (i) register a financing statement or financing change statement in relation to a security interest on the Personal Property Securities Register; or
    - (ii) register any other document required to be registered by the PPSA; and
  - (b) indemnify, and upon demand reimburse, COMTRANS for all expenses incurred in registering a financing statement or financing change statement on the Personal Property Securities Register established by the PPSA.
- 17.4 COMTRANS and the Customer agree that sections 96, 115 and 125 of the PPSA do not apply to the security agreement created by this contract. The Customer hereby waives its rights to receive notices under sections 95, 118, 121(4), 130, 132(3)(d) and 132(4) of the PPSA. The Customer waives its rights as a grantor and/or a debtor under sections 142 and 143 of the PPSA. Unless otherwise agreed to in writing by COMTRANS, the Customer waives its right to receive a verification statement in accordance with section 157 of the PPSA.

#### 18. Default and Consequences of Default

- 18.1 Interest on overdue invoices will accrue daily from the date when payment becomes due, until the date of payment, at a rate of 12.00% per annum (compounding monthly).

18.2 In the event that the Customer's payment is dishonoured for any reason the Customer will be liable for any dishonour fees incurred by COMTRANS.

18.3 Without prejudice to any other remedies COMTRANS may have, if at any time the Customer is in breach of any obligation (including those relating to payment) or any other warranty, representation or other undertaking contained in this contract (a **Default Event**), COMTRANS may suspend or terminate the supply of the Services to the Customer and any of its other obligations under this contract. COMTRANS will not be liable to the Customer for any loss or damage the Customer suffers because COMTRANS has exercised its rights under this clause.

18.4 Without prejudice to COMTRANS's other remedies at law COMTRANS will be entitled to terminate this contract immediately if:

- (a) any money payable to COMTRANS becomes overdue, or in COMTRANS's opinion the Customer will be unable to meet its payments as they fall due; or
- (b) the Customer becomes insolvent, convenes a meeting with its creditors or proposes or enters into an arrangement with creditors, or makes an assignment for the benefit of its creditors; or
- (c) a receiver, manager, liquidator (provisional or otherwise), trustee in bankruptcy or similar person is appointed in respect of the Customer or any asset of the Customer.

#### 19. Force majeure and limitation of liability

19.1 COMTRANS will not under any circumstances be liable in any way for any Claim or Loss sustained or incurred by the Customer or any other person resulting from or in connection with any quotation, advice, prediction, forecast, statement, representation or information (**Relevant Advice**) given or made by or on behalf COMTRANS as to liability of the Goods for customs duty, excise duty or any other impost or tax or as to the particular tariff or classification applicable thereto under any legislation imposing or concerning customs duties, excise duties, tariffs or any other impost or tax. In giving or making any Relevant Advice, COMTRANS relies solely on the information provided by the Customer who warrants that the information provided by it to COMTRANS accurately and completely describes all aspects of the Goods and the transaction or transactions relating to the acquisition, sale, importation and/or export of the Goods.

19.2 In all cases where liability has not been effectively excluded, whether by his contract or by statute, convention or otherwise, the total liability of COMTRANS is limited (at the election of COMTRANS) to the lesser of \$100.00, to supplying the Services again, or the cost of supplying the Services again.

19.3 Without limiting the effect of clause 19.1, to the full extent permitted by law, COMTRANS and any Subcontractor will not be responsible for any Claims or Losses relating to:

- (a) the loss, mis-delivery, deterioration, non-delivery, contamination, evaporation or damage to the Goods;
- (b) Consequential Losses however caused;
- (c) any loss or depreciation of market value attributable to delay in forwarding the Goods or failure to carry out instructions of the Customer;
- (d) loss, damage, expense or additional cost arising from or in any way connected with marks or brands on, weight, numbers, content, quality, description of the Goods;
- (e) loss or damage resulting from fire, water, explosion or theft;
- (f) loss, damage or delay occasioned by examination or treatment of the Goods by any Authority;
- (g) loss, damage or delay occasioned by delay in the Carriage of the Goods or handling or storage of the Goods in the course of the Carriage of the Goods; and/or
- (h) any other cause arising beyond the control of COMTRANS including, without limitation, perils, dangers and accidents of the sea or other navigable waters; act of God; act of war; act of terrorism; act of public enemies; strikes or lock-outs or stoppage or restraint of labour from whatever cause, whether partial or general; riots and civil commotions; epidemics, pandemics, government orders, introduction of new laws, container shortages, shortage or limited supply of wharf or carrier slots; delays by its Subcontractors or saving or attempting to save life or property at sea.

19.4 Any claim for loss, damage or delay or any other claim arising from the Carriage must be notified in writing to COMTRANS within seven (7) days of delivery of the Goods, failing which COMTRANS will be discharged of all liability whatsoever, howsoever arising. Time shall be of the essence of this clause.

#### 20. Privacy Act 1988 (Cth)

20.1 The Customer agrees and consents for COMTRANS to obtain from a credit reporting agency a credit report containing personal credit information about the Customer in relation to credit provided by COMTRANS. The Customer agrees that COMTRANS may exchange information about the Customer with those credit providers either named as trade referees by the Customer or named in a consumer credit report issued by a credit reporting agency for the following purposes:

- (a) to assess an application by the Customer;

- (b) to notify other credit providers of a default by the Customer; and/or
- (c) to exchange information with other credit providers as to the status of this credit account, where the Customer is in default with other credit providers and/or to assess the creditworthiness of the Customer.

The Customer understands that the information exchanged can include anything about the Customer's creditworthiness, credit standing, credit history or credit capacity that credit providers are allowed to exchange under the *Privacy Act 1988* (Cth).

- 20.2 The Customer consents to COMTRANS being given a consumer credit report to collect overdue payment on commercial credit. The Customer agrees that personal credit information provided may be used and retained by COMTRANS for the following purposes (and for other purposes as agreed between the Customer and COMTRANS or required by law from time to time):
- (a) the provision of the Services;
  - (b) analysing, verifying and/or checking the Customer's credit, payment and/or status in relation to the provision of Services; processing of any payment instructions, direct debit facilities and/or credit facilities requested by the Customer; and/or
  - (c) enabling the daily operation of Customer's account and/or the collection of amounts outstanding in the Customer's account in relation to the Services.
- 20.3 COMTRANS may give information about the Customer to a credit reporting agency for the following purposes:
- (a) to obtain a consumer credit report about the Customer; and/or
  - (b) allow the credit reporting agency to create or maintain a credit information file containing information about the Customer.
- 20.4 The information given to the credit reporting agency may include:
- (a) personal particulars (the Customer's name, sex, address, previous addresses, date of birth, name of employer and driver's licence number; details concerning the Customer's application for credit or commercial credit and the amount requested;
  - (b) advice that COMTRANS is a current credit provider to the Customer; advice of any overdue accounts, loan repayments, and/or any outstanding monies owing which are overdue by more than sixty (60) days, and for which debt collection action has been started;

- (c) that the Customer's overdue accounts, loan repayments and/or any outstanding monies are no longer overdue in respect of any default that has been listed; and/or
- (d) information that, in the opinion of COMTRANS, the Customer has committed a serious credit infringement (that is, fraudulently or shown an intention not to comply with the Customers credit obligations) and advice that a cheque drawn by the have been dishonoured more than once and/or that credit provided to the Customer by COMTRANS has been paid or otherwise discharged.

## **21. General provisions**

- 21.1 If any provision of this contract is held to be invalid, void, illegal or unenforceable the validity, existence, legality and enforceability of the remaining provisions will not be affected, prejudiced or impaired.
- 21.2 This contract will be governed by the laws of New South Wales, Australia and are subject to the exclusive jurisdiction of the courts of New South Wales.
- 21.3 COMTRANS will be discharged from all liability whatsoever in connection with the Services and/or the Services unless proceedings are served within three (3) months from delivery of the particular Services.
- 21.4 The Customer will not be entitled to set off against, or deduct from the Price, any sums owed or claimed to be owed to the Customer by COMTRANS nor to withhold payment of any invoice because part of that invoice is in dispute.
- 21.5 This contract constitutes the entire agreement of the parties in relation to the provision of the Services. No modification amendments or other variation of this contract will be valid and binding on COMTRANS unless made in writing and duly executed by and on behalf of COMTRANS.
- 21.6 The Customer agrees that COMTRANS may review this contract at any time. If, following any such review, there is to be any change to this contract, then that change will take effect from the date on which COMTRANS notifies the Customer of such change.
- 21.7 The failure by COMTRANS to enforce any provision of these terms and conditions will not be treated as a waiver of that provision, nor will it affect COMTRANS's right to subsequently enforce that provision.
- 21.8 Wherever it is necessary, for the purpose of this contract or any other purpose whatsoever, for instructions to be given to COMTRANS, such instructions will be valid only if given in writing, acknowledged by COMTRANS in writing and given in sufficient time in all the circumstances for COMTRANS reasonably to be able to adopt the instructions.