

## TERMS AND CONDITIONS – SHIPPING & TRANSPORT

---

All business undertaken between United Car Shop Pty Ltd ACN 126 758 969 and the Australian Client in the transportation, packing, storage and delivery of the vehicle referred to in the Shipping Quote/Appointment ('the goods') are subject to these terms and conditions.

### **1. Australian Client Warranties**

1.1 The Australian Client expressly warrants that:

- (a) they are the owner or the duly authorised agent of the owner of the goods or property the subject matter of the Shipping Quote/Appointment with United Car Shop;
- (b) all markings, descriptions and other particulars given to United Car Shop are complete, full, true and accurate;
- (c) except where United Car Shop has agreed in writing to pack the goods, that all goods have been properly and sufficiently packed and/or prepared and labeled.

1.2 The owner/s of the goods are jointly and severally liable with the Australian Client for the observance and compliance with all terms and shall jointly and severally indemnify United Car Shop against all losses, damages, expenses and fines arising from any inaccuracy or omission even if such inaccuracy or omission is not due to any negligent or willful act.

### **2. Route and Transportation**

2.1 United Car Shop reserves the right to choose the route and procedure to be followed in the handling and transportation of the goods and may depart from any express instructions of the Australian Client if, in United Car Shop's sole opinion, it is necessary or desirable to do so.

### **3. Ability to subcontract**

3.1 United Car Shop shall be entitled, in its absolute discretion, to subcontract all or any part of such terms and conditions as it sees fit and any such subcontractor shall be afforded all the rights, exemptions from liability and exceptions available under these terms and conditions as if the subcontractor were a party to this agreement.

#### **4. Sale of goods**

- 4.1 United Car Shop is entitled to sell or dispose of any goods which, in the opinion of United Car Shop are:
- (a) noxious, dangerous, hazardous, inflammable or explosive goods or goods likely to cause damage;
  - (b) incorrectly or insufficiently addressed or marked; or
  - (c) not taken up by the Australian Client within 30 days of written notice to the Australian Client by United Car Shop of delivery of the goods.
- 4.2 All goods which United Car Shop is, in accordance with these terms and conditions, entitled to sell or dispose of, may be sold by auction or otherwise at the discretion of United Car Shop. All charges and expenses in connection with the sale or disposal of the goods shall be paid for by the Australian Client and after deduction of all such charges and expenses, the net proceeds will be paid to the Australian Client. Any such sale or disposal shall not prejudice or affect the rights of United Car Shop to recover from the Australian Client and/or any other person, any balance due or payable to United Car Shop in respect of any services provided or associated costs.

#### **5. Liability of Australian Client including Payments**

- 5.1 The Australian Client and the senders, owners and consignees and their agents, if any, shall be jointly and severally liable for any duty, tax, impost, excise, levy, penalty, deposit or outlay of whatsoever nature levied by any Government or the authorities at any port or place in connection with the goods and for any payments, fines, expenses, loss or damage incurred or sustained by United Car Shop in connection therewith and shall indemnify United Car Shop, its servants and agents from all claims by third parties howsoever arising in connection with the goods.
- 5.2 The Australian Client shall comply with any additional procedures required to be completed by any relevant authority, including customs. If such procedures are completed by United Car Shop on behalf of the Australian Client (in the sole discretion of United Car Shop), the Australian Client shall indemnify United Car Shop from all liability, claims, costs and expenses incurred by United Car Shop in completing same.
- 5.3 The Australian Client shall indemnify United Car Shop against any claim, liability or expense which arises as a result of delay in loading or unloading of the Australian Client's goods, or any waiting time, detention or demurrage for any truck or any other conveyance whatsoever.
- 5.4 All unpaid charges shall be paid for by the Australian Client in full upon demand by United Car Shop and without any offset, counterclaim or deduction, in the currency of the place of receipt of the goods or at United Car Shop's option, in the currency of the place of delivery at the rate in effect on the day of payment.

- 5.5 United Car Shop's charges including freight have been calculated on the basis of particulars furnished by, or on behalf of the Australian Client. United Car Shop may at any time open any container or any other package or unit in order to re-weigh, re-measure or re-value the contents and if the particulars furnished by or on behalf of the Australian Client are incorrect, any additional freight charges shall be payable as liquidated damages to United Car Shop.
- 5.6 In addition to and without prejudice to the foregoing conditions, the Australian Client undertakes that it shall in any event indemnify United Car Shop against all liabilities suffered or incurred by United Car Shop arising directly or indirectly from or in connection with the Australian Client's instructions or their implementation or the goods including containers and in particular the Australian Client shall indemnify United Car Shop in respect of any liability it may be under to any servant, agent or sub-contractor, or any hauler, carrier, warehouseman, or other person whatsoever at any time involved with the goods arising out of any claim made directly or indirectly against any such party by the Australian Client or by any sender, consignee or owner of the goods or by any person interested in the goods or by any other person whatsoever.

## **6. Insurance**

- 6.1 The Australian Client acknowledges and agrees that it must take out appropriate marine insurance for the goods (the insurer to be chosen by United Car Shop in its sole discretion), at the expense of the Australian Client.
- 6.2 The Australian Client acknowledges and agrees to pay the insurance excess where a formal claim is made against the Insurer.
- 6.3 If the Australian Client refuses to pay the costs of any insurance or engages in any conduct which may void or adversely affect such policy, United Car Shop may:
- (a) refuse to ship the goods;
  - (b) immediately end the engagement with the Australian Client; and
  - (c) recover from the Australian Client any fees, costs and expenses, including legal fees, incurred by United Car Shop.
  - (d) Where the Australian Client refuses to undertake Marine Insurance and United Car Shop approves such shipment, United Car Shop shall not be liable for for any damage or expense arising from or in any way connected with marks, numbers, brands, contents, quality or description of any goods; for loss or damage resulting from fire, water, explosion or theft whether caused by negligence of United Car Shop's servants or otherwise;
  - (e) Should the insurance company dispute the liability for any reason, the insured shall have recourse against the insurers only and United Car Shop shall not be under any responsibility or liability.

## **7. Liability of Company**

- 7.1 United Car Shop shall not be liable for any loss or damage suffered by the Australian Client or any other person, howsoever caused or arising, whether:
- (a) for loss of or damage to goods unless such loss or damage occurs whilst the goods are in the actual custody of United Car Shop and under its actual control and unless such loss or damage is due to the willful neglect or default of United Car Shop or its own servants;
  - (b) for any delay in delivery, forwarding or transit or failure to deliver goods, any deterioration, contamination, evaporation or any consequential loss or loss of market however caused;
  - (c) for failure to follow instructions given to it by or on behalf of the Australian Client whether or not such failure is wilful;
  - (d) for any damage or expense arising from or in any way connected with marks, numbers, brands, contents, quality or description of any goods;
  - (e) for loss or damage resulting from fire, water, explosion or theft whether caused by negligence of United Car Shop's servants or otherwise;
- 7.2 United Car Shop shall not be liable under any circumstances for loss or damage resulting from or attributable to any quotation, statement, representation or information whether oral or in writing howsoever, made or given by or on behalf of United Car Shop or by any servant, employee or agent of United Car Shop as to the classification of the liability for or the amount, scale or rate of customs and/or excise duty or other impost, tax or rate applicable to any goods or property whatsoever.
- 7.3 United Car Shop does not accept responsibility or liability in relation to any decision taken or liability incurred on the basis of any such quotation, statement, representation or information.
- 7.4 Liability of United Car Shop arising out of any one incident whether or not there has been any declaration of value of the goods, for breach of warranty implied into these terms and conditions by the *Australian Consumer Law* or howsoever arising, is limited to any of the following as determined by United Car Shop:
- (a) the supplying of the services again; or
  - (b) the payment of the cost of having the services supplied again.
- 7.5 Without prejudice to the terms hereof, any claim by the Australian Client or owner of the Goods against United Car Shop must be made in writing and notified to United Car Shop:
- (a) in the case of damage to goods within 14 days of their delivery;

- (b) in the case of delay in delivery or non-delivery within 14 days of the date when the goods should have been delivered (subject always to any requirements from any relevant authority at any port); and
- (c) in any other cases within 14 days of the event giving rise to the claim.

Any claim not so notified will be deemed to be waived and absolutely barred. In addition, United Car Shop will in any event be discharged from all liability whatsoever in respect of any claim unless the claim is notified to United Car Shop within 6 months of the applicable damage, delay or events giving rise to the claim.

## **8. Delivery and Storage**

8.1 United Car Shop is authorised to deliver the goods to:

- (a) the address nominated to United Car Shop by the Australian Client and the Australian Client expressly agrees that United Car Shop shall be deemed to have delivered the goods if United Car Shop obtains a receipt or signed delivery docket for the goods from any person at that address; or
- (b) any warehouse or other location nominated by United Car Shop and notified to the Australian Client,

at the sole discretion of United Car Shop, at the Australian Client's or owners risk and expense.

## **9. Security**

9.1 United Car Shop shall have a particular and general lien on the goods of the Australian Client in the possession and/or under the control of United Car Shop for all sums payable by the Australian Client to United Car Shop and for that purpose United Car Shop shall have the right to sell any such goods in accordance with these terms and conditions without further notice to the Australian Client.

9.2 United Car Shop shall have an absolute right to register a financing statement or other appropriate charge on the Personal Properties Securities Register against the Australian Client over any goods being carried or dealt with by United Car Shop in order to ensure that any outstanding amounts due and owing to United Car Shop are promptly paid.

## **10. Default**

10.1 The Australian Client will be in default of these terms and conditions if the Australian Client fails to pay any amount when due and owing. Interest on overdue amounts shall accrue daily from the due date for payment until the date of payment at the rate equal to the Reserve Bank of Australia Cash Rate as at the date of default plus 6%.

10.2 The Australian Client shall indemnify United Car Shop from and against all costs and disbursements incurred by United Car Shop in pursuing the debt, including legal costs on a solicitor and own client basis and United Car Shop's collection agency costs, if any.

10.3 Without prejudice to any other remedies United Car Shop may have, if at any time the Australian Client is in breach of any obligation (including relating to the payment of any amount) United Car Shop may suspend or terminate the supply of the goods and any of its obligations under these terms and conditions. United Car Shop will not be liable to the Australian Client for any loss or damage the Australian Client may suffer as a result of United Car Shop exercising its rights under this Clause.

**11. Company may assign**

11.1 This agreement may be assigned by United Car Shop to a third party without the consent of the Australian Client or owner/s in the event of a sale or other transfer of some or all of the assets for United Car Shop.

**12. Jurisdiction**

12.1 These terms and conditions shall be governed by and construed in accordance with the laws of the State of Queensland, Australia and the parties irrevocably submit to the exclusive jurisdiction of the courts of Queensland, Australia.

**13. Invalidity**

13.1 The provisions of this agreement as severable and if any provision is held to be invalid or unenforceable, such provision may be removed and the remaining provisions will be enforced.