

OCS

OVERSEAS COURIER SERVICE

STANDARD TERMS AND CONDITIONS OF CARRIAGE

1. In these terms and conditions "OCS" shall mean OCS (Australia) Pty. Limited, which expression shall include, unless the context requires otherwise, its officers, servants, agents and sub-contractors, and "documents or goods" shall mean all documents or goods which OCS has agreed to carry or deliver for the customer.
2. OCS is not a common carrier and will accept no liability as such. All goods are carried and all other services are performed by OCS only subject to these terms and conditions which can only be altered in accordance with clause 3 below. OCS reserves the right to refuse the carriage or transportation of any class of documents or goods at its absolute discretion and shall not be bound to give any reason for such refusal.
3. Any business undertaken by OCS is carried out subject to the terms and conditions hereof, each of which shall be deemed to be incorporated in and to be a condition of any agreement whether written, oral or implied between OCS and the customer. OCS shall not be bound by any agreement purporting to vary these conditions unless such agreement shall be in writing and signed on behalf of OCS by a competent officer thereof.
4. OCS is authorised to deliver the documents or goods at the address given to OCS by the customer and it is agreed that OCS shall be taken to have duly delivered the documents or goods upon obtaining from any person a receipt or signed delivery docket at that address.
5. OCS reserves the right to carry the customer's documents or goods by any means, route and procedure according to its handling, storage and transportation methods. Furthermore, the customer expressly acknowledges that OCS is authorised to arrange for the carriage, delivery or storage of the documents or goods by an independent contractor or sub-contractor of OCS or by such other means as OCS shall see fit subject to any conditions imposed by such independent contractor or sub-contractor or accompanying any such other means. The customer shall be bound by such conditions and shall release OCS from and indemnify and keep indemnified OCS against any claim arising out of or in connection with OCS entering into any such arrangement referred to in this clause.
6. OCS reserves the right to inspect the documents or goods consigned by its customers to ensure that all documents or goods are capable of carriage to the countries of destination within the standard operating procedures, customs declaration and handling methods of OCS. In making this reservation OCS does not warrant that any particular item to be carried is capable of carriage and delivery without infringing the law of any country or state from, to or through which the item may be carried.
7. Any rates quoted by OCS for carriage are exclusive of any tax, duties, levies, imposts, deposits or outlays incurred in respect of the carriage of the customer's documents or goods. Should the customer indicate that the addressee of the consignment of any documents or goods shall be liable for such customs duty, the customer shall be liable for such customs duty in the event of default in payment by such addressee. OCS will not be liable for any penalties imposed or loss or damage incurred due to the customer's documents or goods being impounded by customs or similar authorities and the customer hereby indemnifies and will keep indemnified OCS against any such penalty or loss.
8. The packaging of the customer's documents or goods for transportation including the placing of the documents or goods in any container which may be supplied to the customer by OCS is the customer's responsibility. OCS accepts no responsibility for loss or damage to documents or goods caused by inadequate or inappropriate packaging. It is the sole responsibility of the customer to address adequately each consignment of documents or goods to enable effective delivery to be made. OCS shall not be liable for delay in forwarding or delivery resulting from the customer's failure to comply with its obligations in this respect.
9. The customer is liable for all losses, damages and expenses arising as a result of its failure to comply with its obligations under these terms and conditions or as a result of its negligence.
10. OCS will only carry documents or goods which are the property of the customer and the customer warrants that it is authorised to accept these terms and conditions for itself and also as agent for and on behalf of all other persons who are or may hereafter become interested in the documents or goods. The customer hereby undertakes to indemnify and keep indemnified OCS against any damages, costs and expenses resulting from any breach of this warranty.
11. Notwithstanding the provisions of any other clauses to the contrary hereof OCS and the customer hereby agree that:
 - (a) Subject to sub-clause 11(c) and 11(d) hereof, the documents and goods are at all times at the risk of the customer and OCS shall not be liable to the customer or to any person claiming through the customer for any damage, delay, loss (whether profits or otherwise), claim or proceedings whatsoever or for any costs, charges or other expenses incurred by the customer or any person claiming through the customer for any such damage, delay, loss (whether profits or otherwise), claims or proceedings whatsoever whether arising in contract or tort, including the tort of negligence, or otherwise and whether arising directly or indirectly or as a consequence of or in connection with the hauling, storage, carriage, delivery or misdelivery of the documents or goods or failure to deliver or delay in the delivery of the documents or goods or any other act (including wilful acts) or omission incidental thereto done or omitted to be done by or under the direction and/or control of OCS, its officers, servants, agents or sub-contractors or the servants of OCS's agents or sub-contractors.
 - (b) Subject to sub-clauses 11(c) and 11(d) hereof, OCS excludes all liability for breach of all and/or any conditions and/or warranties expressed or implied including those implied by any laws, ordinances or regulations thereunder of any of the Australian States or Territories or the Commonwealth of Australia with respect to the services provided by OCS hereunder.
 - (c) Notwithstanding anything contained in sub-clauses 11(a) and 11(b) but subject to sub-clause 11(d) hereof, OCS may at its discretion compensate the customer in respect of physical loss or damage to the documents or goods consigned as a result of gross negligence or wilful misconduct of OCS. Such compensation by OCS shall be limited in amount to the sum of the relevant replacement or reconstitution value of the consignment or A\$100 per consignment, whichever is the lesser. For the purposes of establishing the amount of OCS's compensation under this sub-clause the value of the documents or goods shall be ascertained by reference to their replacement or reconstitution value at the time and place of shipment without reference to their commercial utility to the customer and other terms of consequential loss.
 - (d) Nothing contained herein shall be read or implied so as to purport to exclude, restrict or modify or have the effect of excluding, restricting or modifying the application in relation to the supply of services herein contemplated all or any of the provisions of Part V of the Trade Practices Act, 1974 (as amended) or any relevant state Act or territorial Ordinance which by law cannot be excluded, restricted or modified. To the extent that any such Act (including the said Trade Practices Act) or Ordinance permits OCS to limit its liabilities to compensate or indemnify any person for breach of a condition or warranty implied thereby, then the liabilities of OCS for such breach shall be limited to:
 - i. In the case of the said Trade Practices Act, the resupplying of the service provided hereunder or the payment of the cost of having the said service supplied again, and
 - ii. In the case of any other Act or Ordinance, the maximum extent permitted by such Act or Ordinance.
12. Any claim brought by the customer against OCS hereunder in respect of duties and liabilities must be notified by the customer to an office of OCS in writing within 28 days of the day when the documents or goods should have reached their destination.
13. Except under special arrangements previously made in writing with the customer, OCS will not carry (in addition to those items mentioned in clause 2 hereof) dangerous, hazardous, combustible or explosive materials, gold and silver bullion, coin, dust, cyanides, precipitates, or any form of uncoined gold and silver ore bullion, platinum and other precious metals, precious and semi-precious stones including commercial carbons or industrial diamonds, currency (paper or coin) of any nationality, negotiable securities, stocks, bonds, certificates, uncancelled postage or revenue stamps, war savings or thrift stamps, blank or endorsed in blank cashier's cheques, money orders or travellers cheques, letters, antiques, pictures, livestock or plants and in the event that the customer should consign such items with OCS the customer shall indemnify OCS for all claims, damages and expenses arising in connection therewith and OCS shall have the right to deal with such items as it shall see fit including the right to abandon carriage of the same immediately upon OCS having knowledge that such item infringes these conditions. The right of inspection referred to in clause 6 shall also apply for the purposes of this clause.
14. It is hereby agreed that if any provision or part of any provision of the terms and conditions herein is unenforceable it shall not affect any other part of such provision or any other provision hereof.