



Location: 7 Steel Street, Blacktown, NSW 2148
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Phone: + 61 2 9627 9722
Email: Ash.Ryan@coldlogistics.com.au
www.coldlogistics.com.au
ACN: 102 260 006

S and D Logistics PTY LTD

Terms and Conditions of storage

S And D Logistics Pty Ltd (S&D) provides storage facilities for goods to third parties on the following terms and conditions.

Definitions

“business day” means a day that is not a Saturday, a Sunday or a public holiday in Australia.

“Cold storage” means goods stored pursuant to these terms

“Facility” means the cold storage facility operated by S & D Logistics PTY LTD.

“Storage Company” means the cold storage facility operated by S and D Logistics PTY LTD

“Storage” means from the time the goods arrive within the facility until they exit the facility.

“Storer” means the person in whose name the goods are for at the time being stored but where the context reasonably permits, shall include any person being the beneficial owner or mortgagee of the goods and any person holding any legal or equitable interest in all or any of the name of the goods. The storage company may, at its discretion, act upon instructions received from the person in whose name the goods are stored or from the beneficial owner or from the mortgagee. In case of partnership or joint ownership, each co-owner shall be deemed to have the authority to bind all co-owners. Liability of the responsible (including the beneficial owner and mortgagee) shall be joint and several.

“You” refers to the storer.

“We” refers to the storage company.

Where the context permits, singular includes plural, and male gender includes female and neutral gender.

Term of the Agreement

1. These terms and conditions are taken to be accepted by the return of the enclosed acceptance form or upon use by the storer of the storage facility.



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2. The term of this Agreement shall continue pursuant to these Terms and Conditions, until suitable notice is provided. Upon commencement of Storage it is understood you have read and agreed to these Terms and Conditions.
3. Unless otherwise agreed in writing these Terms apply to all dealings between the Storage Company and the Storer. It is acknowledged that no servant or agent of the storage company is authorised to vary or modify these conditions in any way or make representations concerning these conditions or their effect; any variation or modification on the part of the storage company may only be made in writing and signed by the manager of the storage company.
4. This Agreement contains the entire agreement between the parties

Cost of storage

5. The storer acknowledges the current storage company's schedule of charges and agrees to be bound by such charges.
6. The Storer must pay the consideration to S&D in accordance with the terms of that quotation by direct debit to S&D' bank account or in such other manner as S&D may advise.
7. S&D reserves the right to vary its prices. Should this occur, S&D must give written notice thereof to the Storer. In the event that the Storer does not agree to the new prices it shall be entitled to terminate this Agreement upon 60 days' notice without penalty and the new prices shall not apply during the period of that notice. Annual CPI increase should otherwise be expected.
8. Where S&D is requested to assist the Storer in stocktaking, S&D shall be entitled to charge the Storer for so doing either at S&D' standard charge.
9. Any unforeseen costs incurred on behalf of the Storer without limit may be forwarded by invoice to the Storer payable in standard terms. These may include but not limited to additional container hold over charges, labels, quarantine charges, disposal, and transport or audit fees.
10. Agreed terms is strictly 30 days from date of invoice, unless specific arrangements are made to vary this in writing.



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11. By the discretion of the Storer; once a customer is outside terms, stock may be put on hold, and or; a late payment fee is charged at .5% of amount due per week. This is an ongoing charged per week and payable with balance due, before stock is released.
12. All repacking project quoting is indicative until the arrival of stock and packaging allows for a real time trial to be conducted.
13. For consignments/repacking projects that are late or take longer for the Storage Company to perform these may incur a fee without prior notice to the Storer.

Delivery

14. The storage company shall be deemed to have received in good order and condition unless notice in writing to the contrary, specifying details, be given to the customer from the storage company within 1 business day of such delivery.
15. The storer shall be responsible for ensuring that all goods and/or packages shall be clearly, distinctively and indelibly branded.
16. The goods will be stored in bulk or in assorted lots at the discretion of the storage company.
17. All the goods shall be tallied into the storage company. If the storer or his representative is not present at the time of receipt, the storage company's tally shall be accepted as final.
18. The storer warrants:
 - a. That the goods are owned by the storer and that the storage company has full right, power and authority to store the same with storage company and if more than one storage company, to bind each storage company to these standard conditions.
 - b. That the goods are, and will remain free of any deleterious or objectionable matter or odour, which may prejudicially affect any other goods in Storage Company.



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19. The Storer must notify S&D in writing from time to time of any change in its address or ownership of the goods.
20. S&D at its discretion may require the Storer's written instructions relating to the surrender, delivery or disposal of the goods but shall also be entitled to rely upon oral instructions given by the Storer, its servants or agents. In respect of all goods which are delivered by S&D in accordance with oral or written instructions of the Storer, the Storer must indemnify S&D against all claims whatsoever in respect of the receipt of such goods.
21. At any time S&D may require the Storer to remove the goods from storage and to pay all outstanding storage and other charges up to the time of removal.
22. Upon re-delivery of the goods by S&D to the Storer, the Storer must immediately notify S&D in writing of any discrepancy relating to the goods. In the event that the Storer fails to notify S&D of the discrepancy S&D has the right to remove the goods from storage at the expense of the Storer.
23. S&D will rely on the details provided to us of the description, items pallet space, quantity, value and measurement of the goods received into cold storage but do not admit their accuracy, nor the condition of the goods when received.

Delivery into/Out of the Storage Company

24. The Storer is responsible for the delivery of the Goods into (and out of) the Storage company and for all associated costs and risks.
25. Delivery takes place when the Storer's Goods are taken into the Storage company and are received into storage strictly on a "quality, quantity, contents and condition unknown" basis.

If the Goods are delivered to the Storage Company by a transporter or any other party other than the Storer the deliverer warrants that they are duly authorised to bind the Storer to these Terms.



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26. The Storer is responsible for ensuring that all Goods received into the Storage Company are in a condition acceptable to the Storage Company at the time of delivery and are clearly labelled in durable freezer-resistant indelible ink and where required in packaging suitable for chiller and/or freezer bulk storage.
27. The Storage Company and/or associates or storage overflow contractors shall not be liable for any costs, reimbursements or other liabilities for non-delivery or delayed delivery of the Storer's Goods into/out of the Storage Company.
28. Where the Storage Company is contracted by Storer to deliver the goods out of storage by a transport company, the Storer acknowledges that transport company is bound by these terms and conditions.
29. Where the delivery of goods out of storage is arranged by the Storage company, the Storage company will not be liable in tort or contract or otherwise for any loss or damage to the goods, loss of market value, loss of use or consequential loss for any deterioration, misdelivery, failure or delay of the goods including freezing, thawing or failure to maintain the required temperature for any reason whatsoever, including negligence.
30. The Storer warrants that the deliver address and person are authorised to accept delivery of the goods. Any delayed delivery may result increased charges by the storage company.

Storage

31. Storage Company may refuse to provide cold storage services or any part of the requested services at our discretion.
32. Storage Company are authorised to arrange for a sub-contractor to store the goods. If we do that the sub-contractor will be entitled to the full benefit of these conditions to the same extent as we are and we are deemed to act as its agent and trustee in entering into this agreement on its behalf.
33. If at the time of entering into the agreement you request us to store the goods at a particular temperature, Storage Company will make reasonable efforts to maintain the temperature of the



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goods at that temperature but will not be liable for any failure to maintain the goods at the requested temperature.

34. The Storer warrants that:

(a) they are either the owner or the authorise agent of the owner of the goods and by entering into this agreement you do so on you own behalf and for all other on whose behalf you are acting.

(b) they have properly described the nature, size and weight of the goods and correctly noted the number of items and accurately labelled the goods.

35. Storage company will not be liable in tort or contract or otherwise for any loss or damage to the goods, loss of market value, loss of use or consequential loss for any deterioration, misdelivery, failure or delay of the goods including freezing, thawing or failure to maintain the required temperature for any reason whatsoever, including negligence.

36. The Storer, unless otherwise agreed between the parties, is responsible for organising all necessary permits and inspections of goods held in the storage facility.

Insurance

37. Goods are stored at storer's sole risk. Insurance shall be the responsibility of the Storer.

38. The storer shall also be responsible for effecting insurance against liability of the customer and/or the storage company for personal injury or property damage caused to the storage company, its servants or agents or any third party by or as a result of the goods or any state or condition of the goods or any deterioration or escape of the goods or any part thereof.

Liability

39. The storage company shall not be liable to the **storer** for any loss, injury or damage whether direct or indirect suffered by the storer as a result of any damage from any cause whatsoever to the goods stored and in particular arising from damage or destruction by fire, theft, storm, flood, tempest or water or from negligence or alleged negligence or any act of omission or commission



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of the storage company or its servants or agents and with prejudice to the generality of the foregoing the storage company shall not be liable for any loss or damage

- a. Suffered by non-delivery or delayed delivery of the goods stored.
- b. Resulting from or contributed to by chilling, freezing or storage of the goods or from the contact of the goods with the proximity to the other goods or variations in or wrong temperatures or sweating, evaporation, breakage, shrinkage, deterioration, fermentation, wasting, decay. Putrefaction or contamination of the goods or by vermin.
- c. Resulting from the contributed to by strikes, lockouts, shortage of labour, shortage of equipment, defect in or break down of plant or premises;
- d. Caused or contributed to the storage company using or not using labour, machinery or plant the use or non-use of which it is in absolute discretion considered might precipitate, cause or aggravate a strike or entail risk to the goods or business of the storage company or to any one or more of its customers:
- e. Arising from or contributed to by any circumstances within or beyond the reasonable control of the storage company.

Dangerous Goods

40. Goods are considered to be dangerous if they are classified as such either under any Australian Dangerous Goods code or if they might in the reasonable opinion of S&D injure or damage people, property or the environment. This will include goods that are or may become poisonous, corrosive, volatile, explosive, flammable or radioactive.
41. The Storer must inform S&D if goods to be stored are dangerous. S&D in its absolute discretion may refuse storage of them.
42. In the event that the Storer fails to notify S&D under clause 34, then S&D has the right to terminate the agreement immediately.



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43. The Storer must indemnify S&D in respect of all actions, claims, suits and demands and suits whatsoever that arise out of or relate to goods which are dangerous.

Deterioration of Goods

44. At any time and without notice, and at the expense of the Storer, S&D may remove and if it thinks fit, sell or destroy goods or any part thereof which S&D at its absolute discretion has determined to be or likely to become contaminated, deteriorated, objectionable or unwholesome or a source of contamination or danger to S&D, its servants or agents or to other goods stored by other storer's or which the Storer has failed to remove having been given not less than 24 hours' notice by S&D that the goods may have or be about to be so deteriorated.
45. In the event that S&D believes that the goods pose a danger to the storage facility then it has the right to remove without notice the goods.
46. The storer will indemnify S&D in respect of all actions, claims, suits and demands and suits whatsoever that arise out of or relate to goods which have deteriorated.

Handling of Goods

47. S&D is authorised by the Storer to use such method for the handling of the goods as S&D in its absolute discretion deems appropriate.
48. S&D will also be entitled to use its own discretion in relation to where the goods are stored and whether the goods need to be stored in bulk, sorted into separate lots, or any other aspect of their storage. This might also include off site from time to time, due to sudden overflow. S&D is not obligated to inform the Storer of such.

Liability to Payment

49. The Storer shall be liable for all storage and other charges payable to S&D up to and including the day of delivery of goods from storage and payment must be made to S&D either before removal of goods or in accordance with arrangements made between S&D and the Storer



from time to time

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50. Storage and other charges payable to S&D whether in respect of the subject goods or other goods of the Storer which are held by S&D shall be a charge upon such goods as are held by S&D from time to time, and it shall have a general lien upon such goods including the right to sell them upon failure on the part of the Storer to comply with a demand for payment made by S&D.
51. The storer is liable to pay our charges and agree to work under the S&D Terms and Conditions as agreed which are earned and imposed when goods are requested to be stored and goods are received for storage. The storage company may charge by weight, measurement or value and may reweigh, remeasure or revalue goods at any time and charge an additional proportional amount if previously under charged.
52. The Storer must pay all tax imposts or other charges which may apply to the storage of the goods from time to time by any governmental or similar authority.
53. All amounts payable by the Customer Under these Terms and Conditions are payable within 30 days of the date of invoice unless otherwise agreed by S&D in writing. Late payment may incur interest at a rate of 18.5% per annum calculated on a daily basis if demanded by us. Interest shall be payable on any moneys outstanding under these Terms and Conditions from the date payment was due until the date payment is received by us without prejudice to other rights or remedies in respect to the customers failure to pay on time.
54. If you fail to pay our charges on reasonable demands being made, we may exercise a lien over the Goods and may detain or sell any of the Goods which are in our possession or that of our employees, agents or sub-contractors and may retain from the sale proceeds the amount of our unpaid charges and all costs of the detention and sale.
55. Charges are exclusive of Goods and Services Tax (GST), you must pay GST in addition to the agreed charges if such tax is applicable to the cold storage services provided.

Termination



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56. S&D shall have the right to terminate this agreement without notice where the goods stored are dangerous or likely to cause harm to the storage facility or the good working of the storage facility.
57. In all other cases S&D is entitled to terminate this Agreement where the Storer is in default of one or more of the terms of this Agreement in which case S&D must give to the Storer not less than 7 days written notice of its intention to terminate this Agreement.

Force Majeure

58. If S&D or any of its servants or agents are wholly or partially prevented from performing its obligations under this Agreement by a Force Majeure event, then the obligation to perform in accordance with this Agreement will be suspended for the duration of the Force Majeure event.
59. If the Force Majeure event continues for a period longer than seven **30 ?** days from its initial occurrence either party shall be entitled to terminate this agreement by written notice to the other and without prejudice to any rights or obligations that either party may have accrued prior to such termination.
60. A Force Majeure event affecting a party means anything outside that party's reasonable control including, without limitation, flood, fire, theft, storm, tempest, act of God, war, strike, lockout and shortage of labour.

Notices

61. Any notice required to be given under these conditions must be in writing and sent to a party's last known address/ email account or facsimile number.
62. A notice will be taken to have been received and served on:
- a. If delivered by hand on the date of delivery;
 - b. If sent by post, three working days after posting;
 - c. If sent by facsimile before 4:00pm a working day, on the date of such transmission



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or otherwise at 8.00am on the next working day following the transmission (but only in the case that the facsimile machine records a successful transmission of the facsimile);

- d. Notices may not be given by way of email. However the parties agree that email shall be an acceptable method of communication under these conditions for all matters.

Applicable Law

63. These conditions shall be governed and construed in accordance with the laws of the State of New South Wales and any proceedings which may be brought by the Storer, its servants, agents or representatives must be brought within the State of New South Wales.