

21 Palmer Place, Murarrie, QLD 4172  
PO Box 495, Morningside QLD 4170

**T (07) 3890 2367**

**F (07) 3890 2498**

[www.murarriecoldstores.com.au](http://www.murarriecoldstores.com.au)

## MURARRIE COLDSTORES TERMS & CONDITIONS

### A. Definitions & Interpretation

1.

- "Coldstores" means the freezer/chiller storage facilities owned by Murarrie Coldstores Pty Ltd ACN 140 912 385 and is situated at 21 Palmer Place, Murrarie, Queensland, 4172.
- "Customer" means the person or entity that places the Goods with the Coldstores for storage.
- "Goods" means any perishable item or items delivered to Murarrie Coldstores for freezer and/or chiller storage.
- "Murarrie Coldstores" means Murarrie Coldstores Pty Ltd ACN 140 912 385.

#### 2. A 'Force Majeure Event' affecting either you or us means:

- anything outside the reasonable control of Murarrie Coldstores or the Customer, including, without limitation, flood, fire, theft, storm, tempest, power failure, major mechanical repairs/replacement, machinery breakdown, refrigerant leaks, act of God, war, act of terrorism, strike, lockout and shortage of labour.

#### 3. Products means:

- The Goods; and
- Any packaging, pallets or containers delivered with the Goods.

4. Headings are used for convenience only and do not affect the interpretation of these Terms and Conditions.

5. Words importing the singular include the plural and vice versa and words importing one gender include the other and neuter genders.

### B. Receipt

#### 1. Murarrie Coldstores must:

1. Reconcile all Goods received into the Coldstores against documentation provided by the Customer and/or its agent. Transport consignment notes will not be accepted as Customer documentation.
2. Externally examine all Goods delivered to the Coldstores for damage and to ensure that the number of packages conform to the description and details provided by the Customer or its agent. In the event that the Customer or its agent is not present at the time of delivery, the assessment by Murarrie Coldstores as to the quality and number of packages shall be final. Only an external examination of each pallet will be conducted. If further examination is required then a fee may be applied.

3. Provide the Customer with an inward movement advice and/or equivalent documentation confirming all relative details of the Goods received.
4. Notify the Customer, in writing, of all Goods which do not conform to the documentation provided by the Customer and/or its agent.
5. Isolate such non-conforming Goods, pending written directions from the Customer.

## **2. The Customer acknowledges that:**

1. It must provide at least twenty-four (24) hours notice before delivering Goods to the Coldstores. Delivery and/or dispatch times must be reserved by Murarrie Coldstores' administration office. All Goods must be received by 2.30 pm Monday to Friday, unless agreement is reached from Murarrie Coldstores prior to delivery.
2. An inward movement advice (or equivalent) does not constitute a document of title.
3. Murarrie Coldstores is not bound to recognize any person other than the Customer as owner of the Goods or as having an interest in them.
4. Murarrie Coldstores does not make any warranty, acknowledgement or undertaking with respect to the actual contents of the Goods, save to the extent referred to in clause B.1.2.

## **3. The Customer agrees to:**

1. Reconcile its records with the inward movement advice issued by Murarrie Coldstores and advise Murarrie Coldstores of any perceived discrepancies within seven days of receipt. After this time Murarrie Coldstores has no liability to report or investigate any discrepancies.
2. Inform Murarrie Coldstores of any intention to store Products that may be utilised for export purposes so that any regulatory requirements can be considered.
3. Provide written instruction regarding the temperature at which the Goods are to be received, stored and handled.
4. Provide product code, carton dimensions, pallet configuration, net and gross weight on existing and new product lines.
5. Provide written notice of any change to instructions provided to Murarrie Coldstores, including specific requirements for the storage, handling and dispatch of the Goods.

## **4. The Customer warrants that:**

1. The Goods are, and will remain, free of any perishable, dangerous, odorous or objectionable matter, which may affect the Coldstores or any other goods stored in the Coldstores.

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2. Any Proof of Delivery (P.O.D) request in respect of the Products must be made within fourteen (14) days of receipt of the Products. Otherwise a document recovery fee may be charged.

## C. Storage

### 1. The Customer acknowledges and agrees that:

1. It has the responsibility to clearly and distinctively label or brand all Goods.
2. It must comply with Murarrie Coldstores policies and procedures while in the vicinity of the Coldstores.
3. The Goods are stored and/or carried and all services are performed at the sole risk of the Customer. Murarrie Coldstores shall not be liable either directly or vicariously for any loss whatsoever howsoever and by whom it may be caused and wherever it arises whether in contract, quasi-contract or for negligence, inadvertence, breach of statutory duty or any other tort or torts or as a carrier bailee or otherwise. Without in any way limiting the generality of the foregoing Murarrie Coldstores shall in no way be liable for any loss arising from or contributed to by Acts of God, act of war, civil commotion, strikes, lockouts, shortages of labour, burglary, warehouse break-in, larceny, theft, pillage, stealing, fraud, malicious damage, mis-delivery, failure to deliver, delayed delivery, mechanical breakdown, major mechanical repairs and replacement, road accident, fire, explosion, water, lightning, tempest, rain, earthquake, exposure, flooding (from any source), damp, heat, sweat, mould, mildew, decay, deterioration, vermin, rats, mice, moth, insects, leakage, inherent vice in any goods, deviation in route, mode or place of storage, wear, tear, loss of market, loss of profits, negligent advice, rust, oxidation or any other cause whatsoever. This paragraph shall apply whether the loss is due to the Goods being stored and/or carried with those of another person or persons or otherwise.
4. Coldstores shall continue in full force and effect whether or not the Goods are or have been pillaged, stolen, lost damaged or destroyed or any of the events mentioned in clause C.1.3 hereof have occurred and shall not be affected in any way if such pillaging, stealing, loss, damage, destruction or events have or has occurred or been brought about wholly or in part by the negligence or any default omission neglect or default or any breach of duty or obligation by Murarrie Coldstores or its servants and agents.
5. It indemnifies Murarrie Coldstores otherwise against:
  - a) any claim or demand from any person in connection with this contract or the handling or storage of the Products; and
  - b) any loss or damage caused to any person including property damage, as a result of its breach of this contract.

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- 6 It must provide more than twenty-four (24) hours notice to Murarrie Coldstores' manager if site access is required.
7. It must inform Murarrie Coldstores of an intention to undertake Goods assessment, monitoring and/or inspection prior to site access.

## **2. Murarrie Coldstores:**

1. Will only exchange Chep and Loscam pallets on a one for one basis.
2. Calculates storage fees on a weekly basis, commencing Midnight Sunday.
3. Will issue invoices weekly.
4. Has a minimum weekly fee as specified in the Storage Proposal issued to the Customer prior to the storage commencing.
5. May charge for any delay in the exchange of empty pallets or the transfer of any empty pallets to your designated delivery point/s account. This charge will be for cost recovery only. Murarrie Coldstores reserve the right to increase this charge at any time in accordance with charges levied against Murarrie Coldstores for the hire of pallets.

## **3. Goods & Services Tax:**

1. In addition to the charges referred to at the time of quotation, the Customer must pay any assessment or imposition of a goods & Service Tax (GST) which is imposed or assessed against Murarrie Coldstores.
2. GST must be paid promptly when such GST is imposed.

## **4. Control of the Products:**

1. Murarrie Coldstores has the right to decide whether the Products need to be stored in bulk or sorted in separate lots and any other aspect of the storage.
2. Murarrie Coldstores may remove at any time at its discretion and at the Customer's expense:
  - o Any Products that have or will become deteriorated, objectionable, unwholesome, offensive or a source of contamination;
  - o Any Products that have not removed in accordance with Murarrie Coldstore's request under paragraph C.1.4; or;
  - o Subject to clause G, any Products where the Customer has not paid the relevant charges under this contract.
- 3 Products will be stored one product line per pallet unless otherwise agreed by both parties.

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- 4 Murarrie Coldstores may at any time require the Customer to remove any Products (and surrender any storage documentation relating to those Products).
- 5 All pallets of stock received must be no higher than 1.4 meters including pallet height and must not exceed gross weight of one thousand (1000) kgs including pallet and packaging weight.
- 6 A stocktake will be conducted at least once a year. Any further stocktake that is requested will be charged at an hourly rate.
- 7 Murarrie Coldstores is permitted to subcontract storage of the Products to other premises where it has insufficient storage space on hand at any time.

## D. Dispatch

### 1. Murarrie Coldstores:

1. Must provide the Customer with an outward movement advice confirming all relevant details of Goods delivered.
2. Must release Goods in accordance with the written instructions of the Customer.
3. Accepts no responsibility once the Goods have been released from the Coldstores.
4. Does not accept liability for any loss sustained by the Customer in relation to the Goods which occurs during delivery of the Goods from the Coldstores to the Customer or to the Customer's direction.

### 2. The Customer:

1. Must endeavour to provide at least twenty-four (24) hours notice, before seeking the release of Goods. Orders for next day deliveries must be received by 2.30pm (at the latest) the day prior to dispatch. No guarantee will be given for next day delivery if orders are received after this time.
2. Must reconcile its records with the outward movement advice issued by Murarrie Coldstores within seven days of receipt, after which Murarrie Coldstores has no liability to report or investigate discrepancies.
3. Acknowledges that if the Customer instructs Murarrie Coldstores to deliver Goods from the Coldstores to the Customer or to the Customer's direction that such delivery will be undertaken by subcontractors engaged by Murarrie Coldstores and not by Murarrie Coldstores itself.
4. Releases Murarrie Coldstores from any liability for loss in relation to the Goods occurring during delivery of the Goods from the Coldstores to the Customer or to the Customer's direction.



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5. Accepts the quantity and number of the packages of the Goods as stated in the outward movement advice, as being in a condition similar to the condition upon receipt, subject to any advice by Murarrie Coldstores to the contrary.
6. Must not instruct Murarrie Coldstores to send out any single pallet of stock over 1000kgs gross weight or as designed by any Chain of Responsibility (C.O.R) legislation.
7. Must give a minimum of four (4) hours notice for the collection of same day orders, unless agreed otherwise. That is, orders that are placed and picked up on the same day.
8. Acknowledges that P.O.D request must be made within fourteen (14) days of dispatch. Otherwise a document recovery free may be charged.

## E. Cold Storage Charges

### 1. Murarrie Coldstores:

1. Will charge storage and other charges at the Murarrie Coldstores schedule of charges outlined in the Storage Proposal or quote initially provided.
2. Requires payment, in full, within 14 days net from the end of month.
3. Reserves the right to adjust the quoted prices if –
  - o The assumptions upon which the quotation was based have significantly changed; and / or
  - o The circumstances have materially changed.
4. Rate reviews will be conducted annually and Customers will be duly informed of changes. Murarrie Coldstores reserves the right to increase charges to recover any increase in costs that are beyond its control including but not limited to electricity, rates, water levies.

### 2. Customer:

1. Must pay all storage and other charges, in respect of the Goods, before such Goods are removed from the Coldstores.

## F. Warranties & Liabilities

1. The Customer warrants to Murarrie Coldstores that the person delivering or consigning any goods to Murarrie Coldstores for storage and/or carriage or collecting or receiving goods from Murarrie Coldstores is fully authorized to do so and to sign Murarrie Coldstores' consignment note or receipt.
2. The Customer warrants that the Customer is either the owner or authorized agent of the owner of any goods or property the subject matter of this contract and by entering into this contract the Customer accepts these conditions itself and on behalf of other persons on whose behalf the Customer is acting.

3. It is expressly agreed that all the rights and immunities and limitations of liability granted to Murarrie Coldstores its servants and sub-contractors by these conditions shall continue to have their full force and effect notwithstanding any breach of contract or of any of these conditions hereof by Murarrie Coldstores regardless of the extent or seriousness of the breach.
4. Murarrie Coldstores is not liable for any delay, loss or damage caused by:
  - o The Customer's failure to keep any of its promises;
  - o Any unreasonable request made by the Customer;
  - o Any particular characteristic of part or all of the Products (even if that was obvious or if we knew about it).
5. Notwithstanding clauses C.1.3 or F.3, where by operation of law Murarrie Coldstores becomes responsible for damage to goods unless the law does not permit JBD's liability to be limited, no claim for such damage will be allowed unless lodged in writing at an office of Murarrie Coldstores within seventy-two (72) hours after the damage is discovered and no amount in excess of \$2000 shall be recoverable.
6. The Customer releases Murarrie Coldstores from any liability for loss in relation to the Goods occurring during delivery of the Goods to the Coldstores from the Customer or from any third party at the Customer's direction.

## G. Rights of Murarrie Coldstores

1. Murarrie Coldstores shall have a general lien on the Goods and any title documents or other documents relating thereto for all debts now or which may hereafter become due to Murarrie Coldstores in respect of the Goods and the costs of recovering the same. For the purpose of this lien Murarrie Coldstores shall have the right after giving two months notice in writing to the Customer to sell the Goods at the expense of the Customer and to hold the proceeds of such sale in partial or (where such proceeds are adequate) full satisfaction of the debt or debts.
2. Upon notice in writing being given by or on behalf of Murarrie Coldstores to the Customer requiring the Customer to remove the Goods or any part of them the Customer must within one month from the date of giving such notice pay any charges to which the lien of Murarrie Coldstores extends and remove and take away such goods or part thereof. Such notice may be given by sending the same through the post to or by leaving the same for the person or persons to whom it is addressed at his or their last known place of business. If upon the expiration of one month from the giving of such notice the person or persons to whom it is addressed has or have

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failed to pay such charges as aforesaid and to remove the goods or part thereof referred to in the notice, Murarrie Coldstores:

- a) may remove such goods or part thereof and store them in such place and in such manner as Murarrie Coldstores thinks proper and at the risk and expense of the person or persons to whom such notice is addressed;
  - b) deal with the Goods in the manner set out in clause G.1.
3. For the purposes of clauses G.1 and G.2 Murarrie Coldstores can sell or dispose of any Products held by it for outstanding payments by public auction, private sale or by dumping, at the Customer's expense without any notice to the Customer.

## H. Force Majeure

1. If the Force Majeure Event (and consequential inability to perform this contract) continues for a period longer than seven (7) days from its initial occurrence, then either party may terminate this contract by written notice to the other. This will not prejudice any rights or obligations either party may have accrued prior to such termination.

## I. Insurance

1. The Customer is responsible for arranging and maintaining insurance in relation to the Products from the time of delivery to the Coldstores.

## J. Operating Hours

1. Operating hours from the Coldstores are between 6.00am to 3.00pm Monday to Friday. The Coldstores will be closed on all relevant public holidays, unless otherwise specified.

## K. Termination of Contract

1. Either party may terminate this contract by giving thirty (30) days written notice, which may also be applied in the event of unresolved issues and/or disputes. If the contract is over a period of more than one (1) year the contracted time/agreement will take precedent.



## L. Confidentiality

1. Information provided to the Customer via proposals, quotes or any other material created as part of any contract remain the intellectual property and copyright of Murarrie Coldstores.
2. Murarrie Coldstores will take reasonable steps to protect the privacy of personal or company information supplied by the Customer that may be used for operational purposes. Murarrie Coldstores will ensure any information held is accurate and up-to-date. All reasonable steps will be taken to ensure the Customer's information is protected and access restricted to authorized personnel.

## M. Trade Practices Act

1. Each provision of this Agreement is severable under common law. Severance does not affect any other provisions.
2. Where a provision of this Agreement purports to exclude, restrict or modify a provision of the Trade Practices Act 1974 or has that effect then that provision shall be severed from this Agreement without affecting any other provision.

## N. Governing Law

1. These conditions shall be governed and constructed by the laws of the State of Queensland irrespective of where the contract was made and any proceeding in respect of any claim matter or thing against Murarrie Coldstores shall only be instituted or carried on in the State of Queensland.