



**McCull's Operations Pty Ltd trading as McCull's Transport**

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**GENERAL TERMS AND CONDITIONS**

<b>Definitions</b>	<ul style="list-style-type: none"> <li>▪ Terms that are Capitalised have the meaning given in these General Terms and Conditions (<b>General Terms</b>) and any agreed schedule of Rates.</li> <li>▪ For the avoidance of doubt, the:             <ul style="list-style-type: none"> <li>▪ <b>“Agreement”</b> means the terms that apply to the Services, being these General Terms, any agreed schedule of Rates and Charges, McCull’s “Credit Application”, or any other letter from McCull’s or Agreement by the parties that incorporates Special Conditions. Where there is any conflict then, to the extent of any inconsistency, terms will prevail in the following order: (i) agreed Special Conditions; (ii) Rates and Charges; (iii) General Terms; (iv) Credit Application.</li> <li>▪ <b>“Customer”</b> is any person or entity to whom McCull’s agrees to provide Services from time to time, and includes that person’s officers, employees, agents and contractors.</li> <li>▪ <b>“McCull’s”</b> means McCull’s Operations Pty Ltd (ACN 630 416 867).</li> <li>▪ <b>“Party”</b> means McCull’s and its Customer.</li> </ul> </li> </ul>
<b>Services</b>	<ul style="list-style-type: none"> <li>▪ The Customer has requested that McCull’s provide bulk liquid transport services (<b>Services</b>).</li> <li>▪ Services will be provided by McCull’s from time to time following adequate notice from the Customer, and subject to compliance with this Agreement and McCull’s capacity (which may vary from time to time).</li> <li>▪ Unless otherwise agreed, each request for Services is subject to confirmation and acceptance by McCull’s and each will, if accepted, form a separate agreement based on these General Terms.</li> <li>▪ McCull’s will:             <ul style="list-style-type: none"> <li>▪ Perform the agreed Services professionally and in a competent, diligent and business-like manner in accordance with all laws and reasonable instructions given by the Customer, but subject to McCull’s operational, safety and compliance requirements;</li> <li>▪ Collect product from designated loading points and deliver to nominated delivery points in accordance with the schedule agreed from time to time, subject to McCull’s operational, safety and compliance requirements;</li> <li>▪ Perform the Services safely and legally, including without limitation, complying with the chain of responsibility legislation and all laws and regulations related to heavy vehicles and, where appropriate, the transport of dangerous goods;</li> <li>▪ Discuss any issues relating to the Services with the Customer as they arise.</li> </ul> </li> </ul>
<b>Customer responsibilities</b>	<ul style="list-style-type: none"> <li>▪ The Customer will:             <ul style="list-style-type: none"> <li>▪ Pay the Rates and Charges to McCull’s and comply with the Payment Terms.</li> <li>▪ Provide safe and reasonable access for loading and unloading of product;</li> <li>▪ Maintain communication with McCull’s to facilitate safe and expeditious performance of the Services, including, where reasonably possible, promptly providing notice of any potential disruptions or other circumstances that may impact the Services;</li> <li>▪ Without limiting any other obligation, do all things necessary to comply with any relevant obligations under the chain of responsibility legislation;</li> <li>▪ Provide reasonable access to the Customer’s sites for McCull’s to carry out safety audits;</li> <li>▪ Provide McCull’s with all necessary documentation required to transport the product and any other information reasonably required by McCull’s from time to time in relation to the Services;</li> <li>▪ Provide McCull’s with notice immediately upon becoming aware of any material change to its business (including, but not limited to, a change in directors, company officers, executive management, or shareholders representing a controlling interest in the company) or its ability to pay its debts when they fall due.</li> </ul> </li> </ul>

## Rates and Charges

- McColl's will notify the Customer of "**Rates and Charges**" for the Services from time to time.
- The Rates and Charges will include transport fees, fuel and other levies and any applicable ancillary charges.
- Rates and Charges are expressed exclusive of GST and any other relevant government surcharges which may be required to be levied.
- The Customer acknowledges that McColl's has developed Rates and Charges by having regard to a range of factors impacting the Services (including, but not limited to, available road networks, regulatory and compliance requirements, collection or delivery time windows, equipment and operational requirements or constraints, and third party wash or other costs incurred in connection with the Services) and including the Customer's representations relating to expected volumes, the distribution of collection and delivery points, the expected frequency of collection and delivery.
- McColl's reserves the right to review Rates and Charges at any time. On a formal basis, this will be done at least each quarter for transport fees and ancillary charges, and monthly for fuel and other levies. On an ad hoc basis, this will be done if there are material changes to the Customer's request for Services or operational requirements to deliver those Services, or if there are any regulatory changes which impact the cost of the Services.
- Where any Rates or Charges change, McColl's will provide Customer with notice prior to the changes taking effect.

### Additional Charges – all Services

Subject to any Special Conditions or specific Rates and Charges for Services agreed with the Customer, and without limiting anything in these General Terms, the following provisions apply to all Services:

- All loads cancelled after an agreed order cut-off time or within 24 hours of collection (whichever is the earlier) will incur a cancellation fee.
- Redirected loads will receive a redirection fee depending on their original and revised destinations.
- Where demurrage charges apply for excessive loading or unloading time, these will be charged in 15 minute intervals (or part thereof).
- Tanker wash and (any applicable) waste disposal charges will be invoiced after each Service at prevailing rates.
- Unless otherwise agreed, road toll charges incurred in the course of providing Services will be invoiced.
- Services performed on a public holiday will incur a surcharge across all Rates and Charges.

### Additional Charges – Farm Milk Collection (Dairy) Services only

Subject to any Special Conditions or specific Rates and Charges for Services agreed with the Customer, and without limiting anything in these General Terms, the following provisions apply to all Dairy Services:

- Minimum load sizes and charges for quantity breaks:
  - 0 - 28,000L: Minimum 24,000L
  - 28,001 - 33,000L: Minimum 30,000L
  - 33,001 - 42,000L: Minimum 38,000L
  - 42,001 - 47,000L: Minimum 45,000L
- Minimum per-farm collection charge: 3,000 litres
- Where McColl's is required to hold a loaded tanker overnight before final delivery, a fee will be applied.
- If a location requires a single tanker to attend for access reasons, that load will incur a 20% surcharge.
- A surcharge will apply for any collection Services where optimal collection plans determined by McColl's are constrained by customer requirements (eg selective farm runs).

## Payment Terms

- McColl's will provide invoices setting out the Services performed and the total amount owed based on the Rates and Charges. These invoices may be provided monthly or at other intervals. Any delay in providing an invoice does not invalidate the invoice.
- Unless otherwise agreed, the Customer must pay the invoiced amount within 14 consecutive calendar days from the date of invoice by EFT into McColl's nominated bank account.
- If there is a dispute over any amount in any invoice, the Customer may withhold payment on only the disputed amount. Subject to this provision, the Customer acknowledges and agrees that it will otherwise make payments in full and will not – without McColl's prior written agreement – set-off any claims it may have against payments due to McColl's for Services.

<b>Credit</b>	<ul style="list-style-type: none"> <li>▪ If the Customer has signed a “Credit Application” with McColl’s, the terms of that application are incorporated into these General Terms.</li> <li>▪ McColl’s reserves the right to withdraw – or amend the terms of – any agreement to provide Customer with credit at any time. If McColl’s makes such a decision, it will notify the Customer in writing. If such a decision imposes a condition that is more restrictive on Customer than these General Terms (say, for example, reduced payment terms), then that condition will prevail over these General Terms as a Special Condition.</li> </ul>
<b>Late Payments</b>	<ul style="list-style-type: none"> <li>▪ Late payments will incur interest from the due date for payment at the then current rate prescribed by the <i>Penalty Interest Rates Act 1983</i> (Vic).</li> </ul>
<b>GST</b>	<ul style="list-style-type: none"> <li>▪ If some or all of any amount payable under this Agreement is the consideration for a taxable supply for which the supplying party is liable to pay GST, McColl’s may charge the Customer, and the Customer must pay McColl’s concurrently with the amount payable under this Agreement of that amount, an additional amount equal to the GST payable in respect of the taxable supply, calculated on the basis that the value of the taxable supply is the amount payable for the taxable supply excluding GST.</li> <li>▪ The recovery of consideration for any taxable supply made under this Agreement is subject to McColl’s issuing to the Customer a tax invoice in respect of the taxable supply, calculated on the basis that the value of the taxable supply is the amount payable for the taxable supply excluding GST.</li> <li>▪ Any reference to a cost or expense incurred by a party in this Agreement excludes any amount of GST forming part of the relevant cost or expense when incurred by the party for which the party can claim an input tax credit.</li> </ul>
<b>Non-Exclusive</b>	<ul style="list-style-type: none"> <li>▪ Unless otherwise agreed, McColl’s is not providing the Services exclusively to Customer. Accordingly, McColl’s provision of Services is subject to its acceptance of any request for Services from the Customer.</li> </ul>
<b>Contractors</b>	<ul style="list-style-type: none"> <li>▪ McColl’s may use contractors to perform any part of the Services.</li> </ul>
<b>Title</b>	<ul style="list-style-type: none"> <li>▪ Title to Product remains at all times with the Customer.</li> </ul>
<b>Insurance</b>	<ul style="list-style-type: none"> <li>▪ During the Term, McColl’s will maintain following insurances: <ul style="list-style-type: none"> <li>▪ compulsory third-party insurance as required by law for all vehicles engaged in the Services;</li> <li>▪ public liability insurance to a minimum of \$10,000,000 per occurrence; and</li> <li>▪ workers' compensation insurance as required by law.</li> </ul> </li> <li>▪ Upon request, McColl’s will make available for inspection by the Customer certificates of currency for the above insurances.</li> </ul>
<b>Liability</b>	<ul style="list-style-type: none"> <li>▪ Except to the extent otherwise required by law that cannot be excluded by contract, neither party will have liability to the other whatsoever in relation to any indirect, special or consequential loss or damage, which may include, but is not limited to, loss of revenue or profit; loss of production; loss or denial of opportunity; loss of goodwill; loss of business reputation, future reputation or publicity; loss of use; and indirect, remote or abnormal loss; or any similar loss whether or not in the reasonable contemplation of the parties at the time of execution of the contract.</li> <li>▪ Except to the extent (i) otherwise required by law and which cannot be excluded by contract and (ii) Services are provided by rail, McColl’s will have no liability to the Customer in respect of any loss or damage which may be suffered or incurred or which may arise directly or indirectly in respect of Services provided pursuant to this Agreement, other than due to fraud, wilful conduct or gross negligence by McColl’s. McColl’s liability to the Customer will, in all cases, be reduced to the extent such liability (i) arose due to the acts or omissions of the Customer or any third party and (ii) can be mitigated by the Customer taking reasonable commercial steps.</li> <li>▪ Where Services are provided by rail, McColl’s will have no liability to the Customer whatsoever in respect of any loss or damage which may be suffered or incurred or which may arise directly or indirectly in respect of the component of the Services provided by rail. This will include, but is not limited to, loss or damage caused by rail accident, delays or mishandling of product by a third party whether engaged directly by McColl’s or otherwise.</li> <li>▪ Except to the extent otherwise required by law, McColl’s liability to the Customer under this Agreement will in all cases be limited, at the option of McColl’s, to either (a) the cost of supplying of the Services again, or (b) the payment of the cost of having the Services supplied again.</li> <li>▪ McColl’s is not a common carrier.</li> </ul>

<b>Warranties</b>	<ul style="list-style-type: none"> <li>▪ The Customer warrants that it has not relied on any representation made by McColl’s which has not been stated expressly in this Agreement. The Customer acknowledges that to the extent McColl’s has made any representation which is not expressly stated in this Agreement, the Customer has been provided with an opportunity to independently verify the accuracy and appropriateness of that representation.</li> <li>▪ The Customer acknowledges and agrees that McColl’s Services come with guarantees and warranties that are not able to be excluded by law. All other warranties with respect to those Services are excluded.</li> </ul>
<b>Confidential Information</b>	<ul style="list-style-type: none"> <li>▪ <b>“Confidential Information”</b> means information relating to a Party’s current or future business interests and affairs, including financial or taxation information, information relating to customers or suppliers, business and marketing plans, particulars of employees or contractors, product formulations and manufacturing processes, the terms of this agreement and any other information which the party identifies as confidential.</li> <li>▪ Each Party must maintain the confidentiality of the other’s Confidential Information and only use that Confidential Information in connection with the Services, except where: <ul style="list-style-type: none"> <li>▪ The information becomes part of the public domain (other than through a breach of confidence owed to the disclosing party);</li> <li>▪ The information was already in the recipient’s possession prior to disclosure or is provided to the recipient by a third party (other than in circumstances resulting in a breach of confidence to the disclosing party);</li> <li>▪ Required by law or regulation, including a stock exchange regulation; or</li> <li>▪ The disclosing party provides prior written consent.</li> </ul> </li> <li>▪ Each Party may request that the other Party returns, destroys or deletes (as appropriate) all documents containing the other Party’s Confidential Information except for any information captured through routine systems back-ups or information incorporated into management and board papers retained for record keeping purposes.</li> </ul>
<b>Intellectual Property</b>	<ul style="list-style-type: none"> <li>▪ Each Party acknowledges and agrees that: <ul style="list-style-type: none"> <li>▪ the intellectual property rights of the other Party at the Commencement Date remain the exclusive property of the other Party; and</li> <li>▪ there will be no transfer of intellectual property rights from one party to the other (eg through the provision of Services) without specific written agreement.</li> </ul> </li> </ul>
<b>Force Majeure</b>	<ul style="list-style-type: none"> <li>• A Party will not be liable for performance of any obligation under this Agreement to the extent that the failure resulted from any events or circumstances which are beyond the control of the Party relying on them and which could not have been avoided by taking any precaution which it might reasonably be expected to have taken.</li> <li>• Such an event or circumstance will include, without limitation, fire, flood, lightning, storm and tempest, pandemic, strikes, lockouts or other industrial disputes, acts of war, riots, terrorism, explosions or government restrictions.</li> <li>• A Party affected by such an event will notify the other Party as soon as reasonably practicable after becoming aware of such event.</li> </ul>
<b>Dispute Resolution</b>	<ul style="list-style-type: none"> <li>▪ The Parties will use reasonable endeavours to resolve any disputes arising between them in good faith and within seven days of either party giving written notice of the dispute to the other party. If a matter is not resolved within seven days, either Party may, by written notice, call for the submission of the dispute to a suitably qualified independent mediator (<b>Mediator</b>).</li> <li>▪ If the Parties cannot determine an appropriate Mediator by agreement within seven days of the notice, the Mediator shall be nominated by the President of the Law Institute of Victoria.</li> <li>▪ The Parties must brief the Mediator within a further seven days. The Mediator will be requested to consider the matter and bring the Parties together in an expeditious manner.</li> <li>▪ Each party will be responsible for their own costs and expenses associated with any dispute. The costs of the Mediator will be borne equally by both parties.</li> <li>▪ The Parties agree that they will not resort to court proceedings until they have first attempted to resolve the dispute under these provisions. However, nothing will deny any Party the right to seek injunctive relief from an appropriate court where failure to obtain such relief would cause irreparable damage to the party concerned.</li> </ul>

<b>Related Entities and Agents</b>	<ul style="list-style-type: none"> <li>▪ References in this agreement to the Parties include their respective related bodies corporate. Each Party agrees to procure that its related bodies corporate, employees, contractors and agents involved in the Services adhere to this agreement as if they were named as a Party.</li> <li>▪ Notwithstanding this, the Agreement is not able to be assigned or novated to a related body corporate (or any other person) without prior written consent, which will not be unreasonably withheld.</li> </ul>
<b>Termination</b>	<ul style="list-style-type: none"> <li>▪ If the Agreement sets out parameters for ongoing Services, either Party may terminate the Agreement by providing at least seven days' notice if the other Party: <ul style="list-style-type: none"> <li>▪ Has an application made to a court for an order, or an order is made, that the corporation be wound up;</li> <li>▪ Has an official or provisional liquidator, trustee, administrator (whether voluntary or otherwise), receiver or controller appointed in relation to the corporation or any of its assets or any action is taken for the appointment of such a person;</li> <li>▪ States that it is, or becomes unable to pay its debts when they fall due or is deemed unable to pay its debts under the <i>Corporations Act 2001 (Cth)</i>;</li> <li>▪ Breaches any term of this agreement and that is not remedied within seven days, provided that the Party must first have regard to all of the circumstances of the relevant breach and the capability of remedy before exercising any right to terminate; or</li> <li>▪ Does not perform any of its obligations as a result of a Force Majeure that extends for a period of two months or more.</li> </ul> </li> </ul>
<b>Modern Slavery</b>	<ul style="list-style-type: none"> <li>▪ Each party agrees that it complies, and will assist the other party to comply, with its obligations under the Modern Slavery Act 2018. This will include, but is not limited to: <ul style="list-style-type: none"> <li>▪ investigating, assessing and addressing risks of modern slavery in its operations and its supply chain;</li> <li>▪ notifying the other party as soon as possible of any confirmed instances of modern slavery and the actions undertaken to remedy the issue;</li> <li>▪ including a clause similar to this clause in all contracts it enters into with its suppliers.</li> </ul> </li> <li>▪ Each party represents and warrants to the other that neither it, nor its officers or employees, have been convicted or investigated for modern slavery or human trafficking offences.</li> <li>▪ Each party must maintain complete records evidencing its compliance with this clause and grants the other party the right to audit its compliance with this clause.</li> </ul>
<b>General</b>	<ul style="list-style-type: none"> <li>▪ This Agreement is the entire agreement, and supersedes and replaces any previous agreement, between the Parties relating to the Services.</li> <li>▪ McColl's may at any time, and from time to time, alter this Agreement by written notice to the Customer provided that the amendment: <ul style="list-style-type: none"> <li>▪ does not apply to any order accepted by McColl's prior to the date of change stipulated in the notice; and</li> <li>▪ does not affect the Customer's or McColl's accrued rights or obligations, except to the extent that the change is made to comply with a mandatory legal requirement.</li> </ul> </li> <li>▪ No provision of this Agreement will be interpreted against a party merely because it was responsible for drafting that provision.</li> <li>▪ If any provision (or part thereof) of this Agreement is, for any reason, held to be invalid, illegal or unenforceable in any respect and such invalidity, illegality or unenforceability does not affect any other term or provision, this Agreement will be interpreted and construed as if such provision, to the extent it may be invalid, illegal or unenforceable, had never been contained in the Agreement.</li> <li>▪ Nothing in this agreement creates any fiduciary, agency or employment relationship between the parties. The Parties are independent contractors.</li> <li>▪ This Agreement is governed by the laws of Victoria and the parties submit themselves to the jurisdiction of the courts in that state.</li> <li>▪ All references to "\$" or "dollars" is a reference to Australian currency.</li> <li>▪ Notice in writing shall include references to documents or notices by personal service, sent by post or email to the address set out at the start of this Agreement, but only if such notice or document is clearly legible and if the meaning of the notice is clear and unambiguous.</li> <li>▪ If the date by which any act must be done under this Agreement is not a business day in Melbourne, Victoria, the act must be done by the next business day in Melbourne, Victoria.</li> </ul>