

**NEXUS LOGISTICS LIMITED**  
**STANDARD TERMS AND CONDITIONS OF CARRIAGE**

**1. Application and provision of Services**

- 1.1 These Terms apply to all Services provided by the Carrier (unless expressly agreed otherwise in writing by the Carrier) and by engaging the services of the Carrier the Contracting Party is deemed to have accepted these Terms (as amended from time to time in accordance with clause 28).

**2. The Contract and Commercial Law Act 2017, Part 5, Subpart 1**

- 2.1 Where the conditions contained in these Terms differ from the provisions of the Act, then so far as the parties are able, the parties agree that these Terms prevail over any relevant provisions of the Act and the parties are deemed to have contracted out of the relevant provisions of the Act. Without limiting the foregoing, subject to the provisions of the Act, Sections 284 through section 292 (inclusive) of the Act shall apply only to the extent that they extend or enlarge the Carrier's rights and powers.

**3. Consumer Law**

- 3.1 If the Contracting Party is using the Carrier for business purposes none of the rights or remedies provided under the Consumer Guarantees Act 1993 apply. The Contracting Party further agrees that where it is in trade and the Services are acquired in trade, sections 9, 12A and 13 of the Fair Trading Act 1986 do not apply.

**4. Orders for Services**

- 4.1 No order of Services by the Contracting Party will be binding on the Carrier unless and until the Carrier's acceptance has been confirmed (which may be verbal confirmation or in writing, including email).
- 4.2 The Carrier is not obliged to accept an order.
- 4.3 Any order placed by the Contracting Carrier is deemed to be an order under these Terms.
- 4.4 The Contracting Party may not cancel an order once it has been accepted by the Carrier, except with the prior written agreement of the Carrier.
- 4.5 The Carrier may require the Contracting Party to be approved for credit purposes prior to accepting and order. In such cases, the Contracting Party is required to complete a credit application.
- 4.6 Any time for delivery stated by the Carrier is an estimate only and the Carrier will use all reasonable endeavours to deliver by any requested delivery date, it does not warrant that such date will be met.

**5. Limited Carrier's Risk**

- 5.1 The Services are supplied by the Carrier at "limited carrier's risk" pursuant to the Act unless:

- (a) The Contracting Party or its agent has signed on a copy of these Terms or any other document relating to the carriage of the Goods a statement in the following terms:
- "These goods are to be carried at owner's risk. This means that the Carrier will pay no compensation if the goods are lost or damaged unless it intentionally causes loss or damages them".
- (b) There is a contract in writing expressed to be "at owners risk", signed by the parties or their agents relating to, but not necessarily exclusively to, the carriage of goods, in which case the contract shall be at "Owners Risk".

**6. Limited liability of the Carrier**

- 6.1 Without negating the liability imposed on the Carrier pursuant to section 259 of the Act in respect of the loss of or damage to Goods carried at "limited carrier's risk":
- (a) the Carrier shall not be under any liability, howsoever caused or arising and (without limiting the generality of the foregoing) whether caused or arising as a result of the negligence of the Carrier or otherwise for any damage to, loss, deterioration, misdelivery, delay in delivery or non-delivery of the Goods (whether the Goods are or have been in the possession of the Carrier or not) nor for any instructions advice, information or service given or provided to any person, whether in respect of the Goods or any other thing or matter, nor for any loss of profits, consequential or indirect loss, loss of market or consequences of delay; and
  - (b) the Contracting Party will indemnify the Carrier against all claims of any kind whatsoever, howsoever caused or arising and (without limiting the generality of the foregoing) whether caused or arising as a result of the negligence of the Carrier or otherwise, brought by any person in connection with any matter or thing done, said or omitted by the Carrier in connection with the Goods.
7. **Notification of claims and limitation of actions**
- 7.1 The Carrier shall be under no liability to the Contracting Party whatsoever unless:
- (a) written notice of any claim, giving reasonable particulars of the event giving rise to the claim and any alleged damage or loss, is received by the Carrier within 7 days after delivery of the Goods or, in the case of non-delivery, within 14 days after the date of despatch of the Goods; and
  - (b) legal proceedings against the Carrier have been commenced by the Contracting Party in a Court of competent jurisdiction within 6 months of delivery of the Goods or, in the case of non-delivery, within 6 months and 14 days of the date of despatch of the Goods.
- 7.2 Sections 274, 275, 276, 277, 278, 279, 280 and 281 of the Act shall not apply to these Terms.
8. **Right to refuse carriage**
- 8.1 The Carrier reserves the right to refuse carriage for any person or for any class of goods.
9. **Rights of inspection**
- 9.1 The Carrier retains the right to inspect and/or undertake any testing or analysis of any Goods. Without limiting the rights of the Carrier pursuant to clause 8, the Carrier may refuse carriage to any person in respect of any consignment that by reason of the dangerous or other character of its contents is likely, in the sole judgment of the Carrier, to soil, taint, or otherwise damage other goods or equipment carried by the Carrier.
10. **Acceptance of Goods for carriage**
- 10.1 The Goods are accepted for carriage by the Carrier at the later of:
- (a) the time the Carrier receives a Consignment Note containing all the information the Carrier requires; or
  - (b) the time that the Carrier takes possession of all Goods referred to in the Consignment Note.
- 10.2 In accordance with Section 257 of the Act, the Carrier's liability to the Contracting Party for carriage of the Goods commences when the Carrier accepts the Goods for carriage in accordance with clause 10.1 above. The Carrier shall have no liability whatsoever in respect of the Goods prior to that time.
11. **Delivery of Goods**
- 11.1 Unless agreed otherwise by the Carrier in writing, delivery of the Goods occurs when the Goods are physically delivered to the address given to the Carrier by the Contracting Party for that purpose (whether unloaded or not). The Contracting Party accepts that no form of acknowledgment that delivery

has occurred is required to be obtained except those instances where the Contracting Party has specified and the Carrier has agreed in writing that the Carrier will obtain proof of delivery.

11.2 If the address given to the Carrier for delivery is unattended or if delivery cannot otherwise be effected by the Carrier at that address, delivery will still deemed to have been made by the Carrier for the purposes of these Terms, and the Carrier may at its option:

- (a) deposit the Goods at that address; or
- (b) at the Contracting Party's cost, store the Goods and require the Contracting party to collect the Goods.

11.3 In accordance with Section 258 of the Act, the Carrier's liability to the Contracting Party for carriage of the Goods ceases when the Carrier delivers the Goods in accordance with clause 11.1. The Carrier shall have no liability whatsoever in respect of the Goods after that time.

11.4 From the time that the Carrier's responsibility for the Goods ceases in accordance with these Terms and Section 258 of the Act, the Carrier may hold the Goods if uncollected as bailee and shall be entitled to storage fees at normal rates charged by the Carrier and as bailee shall not be under any liability for any loss of or damage to the Goods caused, or in its discretion return the Goods to the Contracting Party at the risk and expense of the Contracting Party.

## 12. **Methods of carriage**

12.1 The Carrier may carry or on-forward all Goods or have them carried by any method or any person which the Carrier deems fit and notwithstanding any instructions that the Goods are to be carried or on-forwarded by another method.

## 13. **Obligations of the Contracting Party**

13.1 Without limiting any other obligations of the Contracting Party as set out in these Terms, the Contracting Party must:

- (a) Fully and accurately describe the Goods.
- (b) Give prior written notice to the Carrier if any of the Goods are Dangerous Goods, high value Goods or require special handling.
- (c) Ensure that the Goods are safely and properly packaged and labelled (including, without limitation, the nature and value of the Goods) for pickup, transport and delivery. Failure to safely and properly package or label or to fully describe any Goods shall render the Contracting Party liable for any loss or damage whatsoever caused to, or by, such Goods and whether such loss or damage is suffered by the Contracting Party, the Carrier, or any third party.
- (d) Ensure that the Goods comply with all applicable standards and laws, including (without limitation) the requirement of any applicable law or regulation relating to the nature, labelling and packaging, and carriage of goods. All expenses and charges of the Carrier in complying with the provisions of any such law or with any order or requirement thereunder (including, without limitation, any levies or fines arising out of the breach of any applicable law or regulation) shall be paid by the Contracting Party.
- (e) Ensure that the Goods are ready for pickup so that the Carrier at the agreed time so that the Carrier is not delayed in performing the Services.
- (f) If the Contracting Party or its workers are involved in any loading or unloading of Goods, the Contracting Party must ensure that the health and safety of its workers and the health and safety of other persons (including the Carrier's workers) is not put at risk. The Contracting Party will cooperate and coordinate with the Carrier with regard to all health and safety matters. Should the Contracting Party, or workers, fail to meet the requirements detailed above, the failure will constitute a breach of these Terms, which may lead to the suspension or termination of the Terms.

**14. Contracting Party responsible for charges**

- 14.1 If the Contracting Party is the consignor, then any special instruction to the effect that the freight charges shall be paid by the consignee shall be deemed to include a stipulation that if the consignee does not pay the freight charges by the date on which they are due and payable, then the Contracting Party shall pay the same and all other charges incurred by the Carrier.

**15. Warranty of authority**

- 15.1 The Contracting Party warrants that:

- (a) it has authorised any person who delivers any Goods to, or collects any Goods from, the Carrier for and on its behalf to do so; and
- (b) it is the owner or the authorised agent of the owner of the Goods,

and by entering into this contract the Contracting Party accepts these Terms for the Contracting Party as well as for all other persons on whose behalf the Contracting Party is acting.

**16. Carrier's authorisation to contract**

- 16.1 The Contracting Party authorises the Carrier to contract either as principal or as agent for the carriage of Goods and any such contract will be made upon the terms and subject to the conditions of any bill of lading or other forms or terms of contract for carriage, whether by sea, rail or road or air.

**17. Charges and payment terms**

- 17.1 The Carrier may charge freight by weight, measurement or value and may at any time re-weigh or re-value or re-measure or require the Goods to be re-weighed, re-valued or re-measured and charge proportional additional freight accordingly.
- 17.2 The Contracting Party agrees to pay the Carrier's fuel adjustment factor (FAF) where applicable.
- 17.3 Invoices are issued upon the Goods being accepted for carriage by the Carrier or at such later time as the Carrier may elect and, unless the invoice provides otherwise, are payable by the Contracting Party on the 20th of the month following each invoice.
- 17.4 Unless otherwise stipulated by the Carrier, the Contracting Party will pay for the Services in New Zealand dollars.
- 17.5 The charges do not include any applicable taxes (including but not limited to goods and services tax, import duties and export duties). The Contracting Party must pay any taxes payable in connection with the Goods and/or the Services in addition to and at the same time as it pays the charges for those Services.
- 17.6 The Carrier reserves the right to increase the charges from time to time by giving notice in writing to the Contracting Party. Notice in writing is deemed to have been provided if it is placed on the Carrier's website.
- 17.7 The Carrier reserves the right to impose charges on the Contracting Party to account for any fines or similar costs incurred by the Carrier as a result of undeclared, over weight, dangerous goods and/or improperly packaged items being included with any Goods given to the Carrier by the Contracting Party.
- 17.8 Quotations, if given by the Carrier, are given on the basis of immediate acceptance and may be withdrawn by the Carrier at any time.
- 17.9 Charges shall be deemed to be earned as soon as the Goods are loaded for carriage and dispatched (whether or not the Goods are delivered, damaged or lost).
- 17.10 The Contracting Party may not for any reason defer or delay payment of the charges or set off any monies against the charges.

- 17.11 The Carrier may incur any expenses it considers reasonably necessary or desirable in order to preserve the Goods or to secure the safety, storage, carriage or shipment of the Goods. The Contracting Party will upon demand pay to the Carrier the amount of any such expenses.
- 17.12 The Carrier may charge the Contracting Party interest on any overdue amount calculated daily at 4% above the current bank rate commencing from the due date of payment. The Contracting Party indemnifies the Carrier from and agrees to pay all costs and expenses which the Carrier may incur recovering from the Contracting Party any overdue account (including solicitor-client costs and debt recovery costs). Any failure or delay by the Carrier to charge interest on any unpaid account or to exercise any of its other rights will not operate as a waiver of such rights. The Carrier may apportion payments to outstanding accounts as it sees fit.
- 17.13 Should the Carrier at any time deem the credit of the Contracting Party to be unsatisfactory, it may require pre-payment or an alternative method of payment and may also suspend or cancel any existing credit arrangement and withhold current orders.

**18. Additional charges due to delay**

- 18.1 The Carrier may apply additional charges if the Carrier is required to wait in excess of 30 minutes for the loading or unloading of the Goods (except where the delay arises from the default of the Carrier) from the time that the Carrier reports at the agreed location for loading or unloading. Labour to load or unload the vehicle shall be the responsibility, and at the expense, of the Contracting Party. If the Contracting Party (or a person authorised on its behalf) is not in attendance at the address given for pick up or delivery (as the case may be) when pickup or delivery is attempted an additional charge may be made at ruling rates for each call until pick up or delivery is accomplished.

**19. Credit applications**

- 19.1 The Contracting Party authorises:
- (a) any person or company to provide the Carrier with such information as the Carrier may require for the purposes of its credit enquires in relation to the Contracting Party; and
  - (b) the Carrier to provide to any third party any information required for the purposes of any credit application made by the Contracting party.

**20. Insurance**

- 20.1 Insurance of the Goods is at all times the responsibility of the Contracting Party (including, without limitation, while the Goods are being carried by the Carrier).

**21. Dangerous Goods**

- 21.1 Except where previously agreed in writing, the Carrier will not accept for carriage any Dangerous Goods. If the Carrier agrees to provide Services in respect of any Dangerous Goods, this may be subject to additional freight charges.
- 21.2 The Contracting Party shall be liable for all loss or damage whatsoever caused by or in connection with the Carrier's carriage or handling of the Contracting Party's Dangerous Goods and shall indemnify the Carrier, its sub-contractors and the agents against all penalties, claims, damages, costs and expenses arising in connection with such carriage or handling of the Dangerous Goods.
- 21.3 If Dangerous Goods are presented for carriage without the Carrier's prior written agreement, the goods may be destroyed or otherwise dealt with at the sole discretion of the Carrier, its sub-contractors or any other person in whose custody the Dangerous Goods may be, at the expense of the Contracting Party and without the Carrier, the sub-contractors or such other person being responsible or accountable for the value thereof.

**22. Storage of Goods**

22.1 Where the Carrier stores Goods on behalf of the Contracting Party or pursuant to the exercise of a lien under clause 24, the Goods are stored at the Contracting Party's risk and expense in all respects and the Contracting Party indemnifies the Carrier against any loss or damage it suffers as a direct or indirect result of the storage.

23. **Subcontracting**

23.1 The Carrier and any subcontractor may subcontract the performance of all or any part of the Services (including through the engagement of independent third party logistics providers).

24. **Lien**

24.1 The Goods are accepted subject to a general lien for all charges now due or which may become due to the Carrier by the Contracting Party in respect of the Services. If the lien is not satisfied within 7 days of such payment becoming due in accordance with these Terms, the Carrier may at its option, and upon the expiry of 7 days' notice to the Contracting Party or immediately in the case of perishable Goods, either:

- (a) remove such Goods or part thereof and store them in such place and manner as the Carrier determines (at its sole discretion) at the risk and cost (including any commercial costs on a commercial basis) of the Contracting Party; or
- (b) sell such Goods or part thereof on such terms as it shall think fit and apply the proceeds in or towards discharge of the lien and the costs of sale (including any storage costs on a commercial basis) without being liable to any person for any loss or damage thereby caused.

The lien claimed by this clause is additional to and not in substitution for any other lien right that may be available to the Carrier at common law or under statute. The Carrier reserves the right to elect, where necessary, whether to rely on the lien rights conferred by this clause 24 or any other lien right available to it. The Carrier will not be liable to the Contracting Party for any direct loss, loss of profits, consequential or indirect loss (including but not limited to demurrage and detention charges), loss of market or consequences of delay resulting from the exercise of any lien available to the Carrier.

25. **Force majeure**

25.1 The Carrier shall not be liable to the Contracting Party for any failure to carry out its obligations or for any loss or damage suffered by the Contracting Party where such failure or such loss or damage is caused by mechanical breakdown of any equipment, weather conditions, strikes, lockouts, labour disputes or restraint of labour, act of God, war (whether declared or not), any act, regulation or restriction imposed by Government, riot or civil commotion, any act or omission of the Contracting Party, its servants, subcontractors or agents, or any other cause beyond the reasonable control of the Carrier.

26. **Dispute resolution procedure**

26.1 Where any dispute arises in connection with these Terms the complaining party must promptly give full written particulars of the dispute to the defaulting party. The parties will then endeavour to meet and resolve the dispute in good faith.

26.2 Where any dispute remains unresolved within 20 working days of written particulars being given either party is free to seek resolution of the dispute by whatever means available at law.

26.3 This clause 26 does not apply to:

- (a) any dispute arising in connection with any attempted renegotiation of these Terms; or
- (b) an application by either party for urgent interlocutory relief.

26.4 Pending resolution of any dispute, the parties will perform these Terms in all respects including performance of the matter which is the subject of the dispute, but a payment due may be withheld if it is in dispute.

## 27. **Privacy**

- 27.1 The Contracting Party authorises the Carrier to collect, retain and use personal information from it in accordance with the Privacy Act 2020 and the Privacy Policy of the Carrier (from time to time). This includes the Carrier collecting, retaining and using personal and credit information about the Contracting Party in accordance with clause 19 to assess the Contracting Party's credit worthiness, credit history, for debt collection or any related purpose, including the enforcement of these Terms, or for providing the Contracting Party with information about the Services, or similar services. Where the Contracting Party is an individual, they may access and request correction of any personal or credit information that the Carrier has collected about them as an identifiable individual, subject to the restrictions in the Privacy Act 2020.

## 28. **Amendments to these Terms**

- 28.1 The Carrier may amend these Terms from time to time by posting the revised version of the Terms on its website.

## 29. **Definitions**

- 29.1 In this Agreement, unless the context requires otherwise:

“**Act**” means the Contract and Commercial Law Act 2017, Part 5, Subpart 1 as amended, replaced or re-enacted from time to time.

“**Carrier**” means Nexus Logistics Limited trading as Nexus Logistics and, unless the context requires otherwise in these Terms, shall include its servants, agents, sub-contractors and actual carriers.

“**Consignment Note**” means any document issued by the Carrier or any statement satisfactory to and recorded by the Carrier (including in electronic form) which the Carrier receives in connection with the Services.

“**Contracting Party**” means the person at whose request the Carrier is to provide the Services and includes any “Contracting Party” in terms of the Act.

“**Dangerous Goods**” includes goods which are or may become of a dangerous, inflammable, radioactive, volatile, explosive, offensive or damaging nature or which are otherwise advised by the Carrier from time to time to be dangerous goods.

“**Goods**” means the goods to be carried by the Carrier under these Terms at the request of the Contracting Party.

“**Services**” means the services the Carrier provides to the Contracting Party under these Terms.

“**Terms**” means these terms and conditions of Carriage.

## 30. **General terms**

- 30.1 **Terms shall prevail:** The terms and conditions set out herein shall prevail over the terms and conditions set out in any document used or put forward for use by the Carrier (unless expressly stated otherwise in writing by the Carrier), the Contracting Party, or the owner of (or any other person having an interest in) the Goods, whether or not such document purports to have a contractual effect.
- 30.2 **Severability:** If for any reason a provision of these Terms shall be invalid or unenforceable, the validity and enforceability of all other provisions shall in no way be affected and these Terms shall otherwise continue to be of full force and effect and shall be construed subject only to such invalidity or unenforceability.
- 30.3 **Notices:** Any notice necessary or required to be given by either party shall be served by sending the same by email or facsimile transmission (in which case it shall be deemed to have been served at the time of transmission), or by post (in which case it shall be deemed to have been served 4 business days after posting), to the last known email address, fax number or postal address of the other party.

- 30.4 **Waiver:** A provision of or right under these Terms in favour of the Carrier may not be waived or varied except in writing signed by an authorised person of the Carrier.
- 30.5 **Variations:** The Carrier shall not be bound by any agreement varying these Terms unless such agreement shall be in writing and signed with due authority on behalf of the Carrier.
- 30.6 **Governing Law:** These Terms shall be governed by New Zealand law. The parties submit to the non-exclusive jurisdiction of the Courts of New Zealand.