

## CONDITIONS OF CARTAGE:

### Definitions

1. In this contract:

**"Carriage"** means and includes the whole of the operations and services undertaken by the Carrier in respect of the Goods.

**"Carrier"** means Northline NomineeCo Pty Ltd ACN 606 812 640 as agent for Northline Partnership ABN 18 677 809 229 and includes their successors, administrators and assigns and where not repugnant to the context includes their servants, agents and subcontractors.

**"Goods"** means the cargo accepted from the Consignor together with any container, packaging or pallets supplied by or on behalf of the Consignor, in respect of which the Carrier provides Services.

**"Subcontractor"** includes any person who pursuant to a contract or arrangement with any other person (whether or not the Carrier) performs or agrees to perform all or part of the Carriage.

**"Consignor"** means the person named as the Sender on the front of this contract and includes any person who delivers Goods to the Carrier for Carriage under this contract and who is the owner of the goods or warrants that it is the authorised agent of the owner of the goods.

**"Force Majeure Event"** means any cause or causes beyond the control of the party whose performance is directly affected by it, including but not limited to war (declared or undeclared), revolution, political disturbance, accident to or at wharf, motor vehicles or any part of the works from which the Goods are supplied or to which the Goods are destined, including loading and/or discharging facilities, installations and/or equipment at or en route, partial or total stoppage of roads, rivers or channels, national emergency, pandemics, epidemics, quarantine, strike, lockout, industrial disturbance, disputes or stoppages or restraint of labour from whatsoever cause whether partial or general, interference of trade unions, act of God, fire, floods, storm, earthquake, landslips, frost or snow, bad weather, intervention of sanitary, customs, and/or other constituted authorities, act of government (whether de-facto or de-jure) and supervening illegality, computer software or hardware breakdown, defect, problem, virus or cyber-attack, Act of government shall include, but is not limited to, any directive or mandate written or otherwise in connection with any of the causes described above, or the refusal to grant any necessary import or export licence

**"Freight Cover"** means the optional limited increase in the limitations on the Carrier's liability set out in condition 6.1(b) offered by the Carrier for Carriage of Goods within Australia, which is subject to the Carrier's Freight Cover Terms and Conditions described in condition 7 in these Conditions of Cartage.

**"Heavy Vehicle National Law"** means the *Heavy Vehicle National Law Act 2012 (Old)* and all regulations made under that Act, as well as the

associated State and Territory road transport acts and regulations adopting the *Heavy Vehicle National Law Act 2012 (Old)* and includes any subsequent replacement or modification or amendment to any of these acts and regulations.

**"Person"** includes individuals, partnerships, firms, trusts, associates or any body or bodies corporate;

**"Services"** means the whole of the services provided by the Company to the Customer and all matters necessarily related to the provision of the services or ancillary to the provision of the services;

### Not a Common Carrier

2. The Carrier IS NOT A COMMON CARRIER and will accept no liability as such. The Carrier reserves the right to refuse the Carriage of Goods or any class of Goods for the Consignor, at its discretion.

### Conditions of Acceptance of Goods for Carriage

3. The Goods are accepted by the Carrier subject to the following conditions:
- (a) The Consignor must ensure that the Goods comply with the requirements of any applicable laws, customs or government regulations relating to the nature, condition, packaging, carriage and delivery of the Goods and that the reasonable expenses and charges of the Carrier in complying with the provisions of any such laws, customs or government regulations or with any corresponding order or requirement or with the requirement of any harbour, dock, railway, shipping, Customs warehouse or other authority or company must be paid by the Consignor.
  - (b) If any of the Goods are subject to the control of Customs, all customs duty, excise duty and costs which the Carrier pays must be reimbursed by the Consignor.
  - (c) The Consignor must ensure that the Goods are fully described in the spaces provided on this contract including the name, nature, weight and dimensions of the Goods.
  - (d) The Carrier is not bound by any agreement purporting to vary this contract unless in writing and signed on behalf of the Carrier by an officer of the Carrier.

### 4. Consignor's Warranties and Indemnity

- 4.1. The Consignor warrants that except as shown in any accompanying certification the Goods do not contain any explosive or volatile spirits or other cargo of a dangerous inflammable or offensive nature or cargo the carriage of which by the Carrier would be illegal or prohibited by any law or regulation of any State, Territory or the Commonwealth due to its nature, packaging or labelling. The Consignor indemnifies the Carrier in respect of the Carrier's liability for death, bodily injury, loss and/or damage and against any loss or damage of the Carrier occurring wholly or partially as a result of or arising out of the Consignor's failure to

comply with this warranty.

- 4.2. The Consignor and Owner shall defend, indemnify and hold harmless the Carrier against all liability, loss, damage, costs and expenses howsoever arising:
- (a) from, or in connection with, the nature or characteristics of the Goods, other than to the extent caused by the Carrier's negligence,
  - (b) out of the Carrier acting in accordance with the Consignor's Instructions, or
  - (c) out of the Carrier acting or entering into contracts or incurring charges or expenses in order to meet the Consignor's Instructions,
  - (d) from a breach of warranty or obligation by the Consignor or arising from the negligence of the Consignor.
5. the Consignor warrants that it will ensure, so far as is reasonably practicable, the safety of any road transport performed for or on behalf of the Consignor and that it will meet its obligations under the Heavy Vehicle National Law Chain of Responsibility provisions as they may apply to a Consignor or Consignee or Loader or Packer of Goods.

**6. Limitation and Exclusion of Northline's Liability**  
**IMPORTANT NOTE:**

Where the Australian Consumer Law applies to any Services, it will apply regardless of any provisions in these Conditions of Cartage or whether you have elected Northline's Freight Cover.

- 6.1. Subject to all guarantees and laws which cannot be excluded, or which restrict the operation of terms limiting the Carrier's liability, including the Australian Consumer Law, the Carrier's liability is **limited and excluded** on the following basis:
- (a) the Goods and handled and consigned at the Consignor's risk;
  - (b) Unless the Carrier's liability cannot be excluded or limited by any mandatory applicable law, the Carrier is fully released from all claims relating to the Carriage of Goods for the Consignor, except to the extent that the Carrier, its Subcontractor, or any employee, contractor or agent of either of them is proven to have by its negligence, wilful misconduct or unlawful conduct caused any loss, damage, injury or death resulting in the Consignor incurring a direct loss, in which case, the liability of the Carrier is limited to the higher of:
    - i) supplying the Services again;
    - ii) five times the cost of having the Services supplied again; or
    - iii) AUD\$3 per kilo of Goods lost or damaged; or
    - iv) A single total payment of AUD\$250.
- 6.2. For the purposes of calculating the value of the Services as it is referred to in condition 6.1(b) above, it is limited to the Services provided under the

relevant Northline Consignment Note or Notes for the Goods lost or damaged and is inclusive at all losses and associated costs and expenses.

- 6.3. Subject to condition 6.1, the Carrier shall not be liable for loss or damage howsoever caused (whether or not direct, indirect or consequential) to property other than the Goods themselves and shall not be liable for any pure economic loss or loss of actual or anticipated profit or revenue, loss of goodwill or business or saving or opportunity, losses in connection with contracts, agreements or understandings the Customer has with third parties, delay or deviation howsoever arising.
- 6.4. The Carrier will not, under any circumstances or to any extent be liable to the Consignor or any other Person for any loss or damage whatsoever arising from any action or inaction of the Carrier, its officers, subcontractors, servants, or agents reasonably undertaken or otherwise in order to comply with the Heavy Vehicle National Law.

**7. Optional Increased Liability Cap (Freight Cover)**

- 7.1. Freight Cover (as set out in this condition 7.1) is an optional limited increase in the limitations on the Carrier's liability set out in condition 6.1(b). Freight Cover only applies where the Consignor has selected and paid for Freight Cover. Where the Consignor has not selected and paid for Freight Cover or where the events, conditions, risks or perils in condition 7.4 apply or where Goods include any goods specified in condition 7.3, then Freight Cover **will not** apply.
- 7.2. Where Freight Cover applies and subject to this condition 7:
- (a) the Carrier's liability (Including the liability of any sub-contractors) arising from or connected with the loss or damage to any Goods is limited to the amount set out in the following table corresponding to the level of Freight Cover held by the Consignor for the consignment where the Goods were lost or damaged as specified in the Consignor's Account Application, Sales Proposal or Quotation, as applicable; and

Level specified in Account Application or Quotation, as applicable	Limit on the Carrier's liability to the Consignor will be the <u>higher</u> of the limits specified in condition 6.1(b)(i), (ii), (iii) or (iv) of these Conditions of Cartage <b>PLUS:</b>
Level 1 Increased Liability Limit	\$500
Level 2 Increased Liability Limit	\$1,000
Level 3 Increased Liability Limit	\$2,000

Level 4 Increased Liability Limit	\$5,000
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- (b) condition 6.1 (b) will not apply to claims by the Consignor for loss or damage to Goods in the Carrier's care, custody or control (including sub-contractor's care, custody and control) and this condition 7 will apply.

7.3. Freight Cover **does not** apply to the following Goods:

- (a) Goods that are consigned outside Australia;
- (b) valuables including cash, banknotes, jewellery, precious gems, gold bullion, antiques, works of art and collectable items of value;
- (c) motor cars and motor bikes (crated bikes accepted);
- (d) glass or glass related products;
- (e) living animals and plants;
- (f) alcohol, cigarettes, tobacco and tobacco related products;
- (g) perishable goods; or
- (h) documents, electronic files or data.

7.4. Freight Cover **does not** apply to the following events, perils or types of loss or damage:

- (a) consequential loss or damage of any kind;
- (b) any loss or damage caused by the negligent or willful act of the Consignor and any receiver of the goods;
- (c) loss or damage where the Goods have been insufficiently packaged/protected to cope with general freight forwarding via road, rail or other means, including loading/unloading and general handling of the goods;
- (d) any wear and tear, ordinary leakage, ordinary loss in weight or volume of the Goods;
- (e) any loss or damage caused by the inherent vice of the goods (in other words, the intrinsic quality or property of the Goods has caused the Goods to destroy or damage itself);
- (f) any damage, mechanical failure, electrical breakdown or malfunction of Goods where there is no external evidence that an accident has occurred;
- (g) any loss claimed by the Consignor where the Carrier is in possession of a proof of delivery where the receiver of the Goods has acknowledged that the Goods have been delivered and received in good order and condition, and with no notation of damage; and
- (h) any loss resulting from the expropriation of the Goods which means the lawful seizure, confiscation, or requisition of the Goods.

7.5. Where Freight Cover applies:

- (a) claims by the Consignor against the Carrier or any sub-contractor (**Claims**) must be submitted by using the "Freight Cover Claims Portal" which is available from the Carrier's website.

- (b) Claims must be submitted in accordance with the procedure under this heading within 30 days from the consignment date. Claims that are submitted after 30 days from the consignment date will not be accepted where the delay to submit a claim has caused prejudice to the Carrier.
- (c) The Consignor shall make no more than one claim per consignment. Claims made in excess of this limit will not be accepted.
- (d) Claims will only be accepted from a Consignor. Claims from a sender or receiver that is not a Consignor of the Carrier will not be accepted.
- (e) The Consignor must provide all information reasonably required by the Carrier to assess the Consignor's claim. This includes documentary evidence to prove the value of damaged or lost goods when making a claim. Examples of such evidence include an invoice from the supplier of the affected goods, and evidence of the actual cost of manufacturing the affected goods. Each claim will be processed once the Consignor has provided all such information.
- (f) If the Carrier has a right to recover any costs paid from a third party, the Consignor shall provide the Carrier with reasonable assistance to recover such costs.
- (g) the Carrier reserves the right to assess goods claimed to be damaged, to obtain an independent quote for repairs, and to have damaged goods repaired if they are reasonably salvageable.
- (h) Claims will only be paid by the Carrier once the Consignor has paid all the outstanding amounts relating to the consignment that has incurred the loss or damage. This includes any outstanding Freight Cover charge that is applicable for that consignment.
- (i) the Carrier may pay the claim by providing the Consignor with a credit for an amount equal to the amount payable by the Carrier under conditions 6 and 7 above. The Carrier may apply this credit to any of the Consignor's accounts where there are outstanding amounts.
- (j) Claims paid will be exclusive of any Good and Services Tax (GST), unless the GST cannot be claimed as an Input Tax Credit (ITC) by the Consignor in which case the settlement will be inclusive of GST.
- (k) Where a claim has been paid in full for damaged goods, the Carrier reserves the right to take possession of such goods as salvage, and to dispose of such goods as it sees fit.

**Insurance**

- 8. The Consignor acknowledges the Carrier's recommendation that the Consignor insures the Goods for Carriage, or if the Goods are of low value, that the Consignor obtains Freight Cover.
- 9. Insurance of the Goods is the responsibility of the Consignor. The Carrier does not issue insurance. Upon request, the Carrier will provide the Consignor

with the contact details of insurance companies / brokers and assist the Consignor so that the Consignor can obtain insurance from them directly. All such insurances are subject to the usual exceptions and conditions of the policies of the insurance company or underwriters taking the risk.

#### **Subcontracting and method/requirements for Carriage**

10. The Consignor hereby authorises the Carrier (if the Carrier should think fit to do so) to arrange with a Subcontractor for the carriage of any Goods the subject of this contract. Any such arrangement shall be deemed to be ratified by the Consignor upon delivery of the Goods to such Subcontractor who shall thereupon be entitled to the full benefit of the terms and conditions of this contract to the same extent as the Carrier. Insofar as it may be necessary to ensure that such Subcontractor shall be so entitled, the Carrier shall be deemed to enter into this contract for its own benefit and also as trustee for the Subcontractor.
11. The Carrier may carry all Goods or have them carried by any method which the Carrier in its absolute discretion deems fit. If extraordinary care is necessary to handle or to consign the Goods, or if the Consignor has any other extraordinary requirement relating to the Carriage of Goods, the Consignor must seek the written approval of an operations manager of the Carrier for such care or other requirement to be taken by the Carrier. The Carrier will use reasonable endeavours to comply with the approved requirement.

#### **Goods in Transit**

12. Goods shall be deemed to be in transit notwithstanding that the carriage of the Goods may have been interrupted or the Carrier may have diverted from the usual route for such carriage.

#### **Delivery**

13. The Carrier is authorised to deliver the Goods at the address given to the Carrier by the Consignor for that purpose and it is expressly agreed that the Carrier shall be taken to have delivered the Goods in accordance with this contract if at that address he obtains from any person a receipt or signed delivery docket for the Goods.
14. Should the designated receiver of the Goods not be in attendance at the address given during normal trading hours when delivery is attempted (or at such other time as is booked for delivery), an additional charge may be payable by the Consignor, at industry rates, for each call (and any related storage costs) until delivery is accomplished.

#### **Payment for Carrier's Services**

15. The Carrier's charges shall be considered earned as soon as the Goods are loaded and dispatched from the Consignor's, the Carrier's or the Subcontractor's premises or depot, whichever occurs first, and shall be paid by the Consignor within 14 days. The

Consignor will be and will remain liable to pay the Carrier for all proper charges relating to the Carriage. If the Consignor disputes a payment is due to the Carrier, the Consignor must notify the Carrier of the dispute and provide the Carrier with full details of the dispute before the due date for payment. The Consignor must pay all undisputed amounts when due. The Carrier will endeavour to resolve the dispute with the Consignor as quickly as possible. The Consignor agrees to indemnify the Carrier for all losses suffered by the Carrier relating to any vexatious or unsuccessful claim the Consignor makes under this condition.

#### **Remedies**

##### **Sale of Goods**

16. If any person fails to pay charges to the Carrier in respect of any Carriage following reasonable demand the Carrier may detain and sell all or any of the Goods of the person which are its possession, and out of monies arising from the sale retain outstanding charges and all costs and expenses of the detention of sale but must render the surplus, if any, of the monies arising from the sale of and such of the Goods as remain unsold to the person entitled. Any such sale shall not prejudice or affect charges due or payable in respect of such service or the said detention and sale.

##### **PPSA**

17. For the purposes of condition 16 and for securing payment of the charges to the Carrier under this contract:
  - (a) the Consignor grants a security interest in the Goods to the Carrier. "Security interest" has the same meaning as defined in section 12(1) of the *Personal Property Securities Act 2009 (Cth)* (PPSA).
  - (b) To the extent that the Carrier has any security interest arising under or in connection with this contract, if requested by the Carrier, the Consignor must (at its expense) provide all assistance and information to enable the Carrier to register the security interest, and to ensure that it is fully effective, perfected, and enforceable with the priority required by the Carrier. In the event of any default under these terms by the Consignor, in addition to any rights of the Carrier under these terms, the Carrier may exercise any and all of its enforcement rights under the PPSA.
  - (c) The Consignor acknowledges that if these terms constitute a PPS lease under the PPSA, then for the purposes of section 109(1) of PPSA, that PPS lease security interest does not secure payment or performance of an obligation.
  - (d) To the extent permitted by law, the Consignor agrees:
    - i. that the Carrier may register a financing statement on the Personal Property Securities Register under the PPSA against the Consignor;
    - ii. not to change its name, address for service,

contact details or any other of its data used to register a financing statement without notifying the Consignor in writing of its intentions at least 10 business days prior to doing so; and

- iii. to waive its rights to receive any notice, statement or information under any provision of the PPSA.

#### **Authority to enter contract and acceptance of these conditions**

18. It is agreed that the Person delivering the Goods to the Carrier for carriage or forwarding is authorised to sign this contract for the Consignor.
19. The Consignor expressly warrants with the Carrier that the Consignor is either the owner or the authorised agent of the owner of any Goods the subject matter of this contract and that by entering into this contract the Consignor accepts these conditions of contract for such owner as well as for all other persons on whose behalf the Consignor is acting.

#### **Indemnity by Consignor**

20. Subject to conditions 6 and 7, The Consignor indemnifies the Carrier and its servants, agents and subcontractors against any loss in connection with the Carriage.

#### **Australian Consumer Law**

21. This contract shall be read having regard to the provisions of the Australian Consumer Law (set out in Schedule 2 of the *Competition and Consumer Act 2010*) (Cth) to the extent that those provisions are applicable to this contract. This contract does not have the effect of excluding, restricting or modifying rights under the Australian Consumer Law which cannot be excluded, restricted or modified by agreement. Liability of the Carrier arising out of any one incident, for breach of a warranty implied into this contract by the Australian Consumer Law, is limited to the following as determined by the Carrier:
  - (a) the supplying of the services again; or
  - (b) the payment of the cost of having the services supplied again.

#### **Governing law**

22. These conditions are governed by the laws of South Australia and any proceedings against the Carrier must be brought in that State only.

#### **Time for Claims**

23. Written notice of any claim against the Carrier must be given at the Carrier's Adelaide address as appearing on this form within six (6) months after delivery or in the event of non-delivery within six (6) months after the Consignor becomes aware of the loss or injury and unless notice is so given the claim shall not be enforceable against the Carrier.

#### **Survival of Terms**

24. All rights, immunities, indemnities and limitations of liability granted to the Carrier in the terms and conditions of this contract shall continue to have their full force and effect in all circumstances and notwithstanding any fundamental or other breach of this contract or any of its terms and conditions by the Carrier or any other person entitled to the benefit of such provisions.

#### **Severance**

25. If any provision or part of any provision of this contract is unenforceable, that unenforceable provision (or part thereof) will be severed from this contract and will not affect any other part of this contract.

#### **Binding contract and Enduring Terms**

26. The Consignor agrees that these general provisions, and all specific terms and conditions offered by Carrier (e.g. pricing) for any service, shall collectively govern all matters relating to that service; and that a legally binding contract between the Consignor and the Carrier will be deemed to arise and commence when the Consignor's representative places a work order for that service. This contract will end when the Carrier and the Consignor have each fulfilled all of their respective obligations in relation to that order, unless it is terminated earlier in accordance with these provisions. Notwithstanding the preceding, and notwithstanding any breach by the Carrier, all rights, immunities, waivers, indemnities, exemptions, and limitations of liability granted herein to the Carrier shall survive and shall continue to have their full force and effect under all circumstances.

#### **Force Majeure**

27. Notwithstanding any other clause of this contract, a party shall not be liable for loss or damage to property or personal injury, or any delay in or failure to perform any of its obligations under this contract (including damage to and destruction of any Goods) if such loss, damage or personal injury, delay or failure is caused by a Force Majeure Event or circumstances otherwise beyond that party's reasonable control, and that party took reasonable precautions against the Force Majeure Event and used its reasonable endeavours to mitigate its consequences; and gave the other party notice of the Force Majeure Event as soon as practicable after becoming aware of it.
28. Subject to clause 29:
  - (a) for the duration of the Force Majeure Event, the performance or fulfilment by either party of any obligation or condition required by this contract shall be suspended, for such time and only to the extent necessary for the cause of non-performance or non-fulfilment to be remedied, abated or removed and;
  - (b) the parties shall resume the obligations of this contract promptly on termination or abatement of the Force Majeure Event to an extent that allows resumption of the performance of obligations

under this contract.

29. If the parties are unable to resume the obligations of this contract in accordance with clause (b) 30 days after the affected party has provided notification to the other party of the Force Majeure Event in accordance with clause 27, either party may terminate this contract by written notification to the other party.