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## STL Linehaul Ltd - General Terms and Conditions of Trade

The following terms and conditions alone shall apply to and shall govern all contracts entered by STL Linehaul Ltd for the provision of Services by STL Linehaul Ltd, provided however that:

- a) If there is any inconsistency between these Terms and Conditions and the terms and conditions contained in any other document issued by or on behalf of STL Linehaul Ltd in connection with the Services (which terms and conditions are hereby incorporated in these Terms and Conditions for the purposes of that particular contract), then these Terms and Conditions will prevail; and
- b) If any such other document referred to in paragraph (a) above deals with any matter not dealt with in these Terms and Conditions, the provisions of that other document dealing with those matters not dealt with in these Terms and Conditions shall apply to the Services provided by STL Linehaul Ltd.

These Terms and Conditions are subject only to any mandatory contrary provision of law and shall be read and construed as valid and enforceable except to the extent of such mandatory contrary provision. Sections 6-10 Contractual Remedies Act 1979 are hereby excluded.

### **Definitions**

**Carriage** means the carriage, storage (whilst in transit), dispatch, forwarding, packing, unpacking, or handling of Goods, the provision of any container packing or unpacking service, and any Service related or ancillary to any of the foregoing.

**Monthly Storage agreements** refer 1-4 Liabilities and Warranties 1-10 ( pages 7 -9)

**STL Linehaul Ltd** means STL Linehaul Limited (trading as STL Linehaul Limited) and includes any related, associated, or subsidiary companies of STL Linehaul Limited.

**Charges** mean STL Linehaul Ltd charges for providing the Services.

**Customer** means the Customer(s) named in this application for credit account and shall include the Customer's trustees and executors if an individual or its successors, assigns or administrators.

**PPSA** means that Personal Property Securities Act 1999, and associated regulations, as amended from time to time.

**Goods** means all goods or products held by STL Linehaul Ltd for the Customer for the purpose of performing any of the Services, or which are the subject of Services provided by STL Linehaul Ltd

**Premises** means any warehouse or other building or storage area which STL Linehaul Ltd may use from time to time.

**Services** includes without limitation; all services and activities carried out by STL Linehaul Ltd on the Customer's behalf and includes all incidental or indirect services and activities.

### **Interpretation**

- (a) Headings are for convenience only and shall not affect the interpretation of this agreement
- (b) The singular includes the plural and vice versa
- (c) A gender includes all genders
- (d) Any reference to a natural person includes bodies corporate and unincorporate, partnerships, trusts, local or public authorities and any other entities or combinations thereof
- (e) References to 'dollars' and '\$' are references to New Zealand currency
- (f) References to any statute or regulation will with all necessary modifications apply to any modification or re-enactment of that statute or regulation
- (g) References to the Customer and STL Linehaul Ltd or either of them include their respective successors and permitted assigns

### **Services**

- 1 STL Linehaul Ltd agrees to carry out such Services for the Customer as STL Linehaul Ltd and the Customer have mutually agreed. All such Services shall be carried out solely on the Terms and Conditions herein.
- 2 STL Linehaul Ltd carries on business as a provider of warehousing, distribution, freight forwarding, domestic carriage and vehicle hire services (vehicle hire services may also include the hire of the vehicle driver). In providing such Services STL Linehaul Ltd is an agent only for the Customer and/or the owner of Goods. Services may include the Carriage of Goods; it is acknowledged that STL Linehaul Ltd is not a common carrier and reserves the right in its absolute discretion to refuse the Carriage of Goods or any class of Goods for any person. Further, STL Linehaul Ltd is an agent only for the Customer and/or the owner of the Goods. STL Linehaul Ltd is not the actual carrier unless the Goods are carried on a conveyance owned or operated by and the obligations of STL Linehaul Ltd are limited to arranging Carriage of the Goods by a reputable carrier. The Goods are carried at the Customer's risk and the Customer authorizes STL Linehaul Ltd to act as its agent to arrange on any terms the Carriage of Goods by any subcontractor and to enter the terms and conditions in a transport document on behalf of the Customer.

- 3 Unless otherwise instructed, STL Linehaul Ltd may adopt any means, mode, route, or procedure whatsoever for the Carriage of Goods. STL Linehaul Ltd will give priority to any instructions of the Customer in relation to the means, mode, route, or procedure but if such cannot in STL Linehaul's Ltd reasonable opinion be conveniently adopted the Customer shall be deemed to authorise STL Linehaul Ltd to carry or have the Goods carried by such other means, mode, route, or procedure as STL Linehaul Ltd determines in its discretion.
- 4 The Customer expressly warrants to STL Linehaul Ltd that it is either the owner or authorised agent of the owner of the Goods and by entering into this contract the Customer accepts these Terms and Conditions for and on behalf of itself and all other persons having an interest in the Goods and expressly indemnifies STL Linehaul Ltd against any delay in delivery, failure to produce, mis-delivery or non-delivery arising out of or incidental to the Carriage of the Goods or any consequential or indirect loss arising in connection therewith.
- 5 The Customer agrees to indemnify STL Linehaul Ltd against any claim or allegation made against it by any person in connection with any liability arising out of or relating to the Goods or the provision of Services in respect of the Goods.
- 6 Goods belonging to the Customer may at any time and from time to time be held at any Premises and may at any time and from time to time be removed from any Premises at which they are being held to any other Premises at STL Linehaul Ltd sole discretion and in every case at the Customer's sole and entire risk and expense.
- 7 All Services will be invoiced to the Customer in accordance with STL Linehaul Ltd tariff and charges in force from time to time or as agreed. Payment shall be made by the Customer within such period as has been agreed between STL Linehaul Ltd and the Customer; and shall be made in full, without any deduction or set-off whatsoever. The Customer acknowledges that any third-party charge incurred by STL Linehaul Ltd on the Customer's behalf will, even if described as a disbursement or similar, be invoiced to the Customer with STL Linehaul Ltd handling fee included. The Customer agrees that the handling fee need not be separately identified.
- 8 If any amount invoiced to the Customer has not been paid within seven days of the due date for payment the Customer will be in default and, whether or not any demand has been made by STL Linehaul Ltd the Customer shall pay interest on the amount outstanding at the rate of 10%, calculated on a daily accruing and compounding basis from the due date of the payment until payment has been made in full and including both before and after any judgment, whether or not STL Linehaul Ltd is at any material time in overdraft. Without limitation to any other right of remedy STL Linehaul Ltd may have at law or in equity or otherwise, while any payment remains in default STL Linehaul Ltd may suspend or, at STL Linehaul Ltd sole and absolute discretion, terminate any one or more or all other Goods and/or Service provision arrangement(s) with the Customer and shall have no liability to the Customer in connection therewith (all limitation and exclusions for STL Linehaul Ltd benefit under these Terms and Conditions applying to their maximum effect in such event).
- 9 Notwithstanding any indication that any Services are to be paid for by another person, the Customer shall remain responsible for all payments and charges whatsoever which be or become ascertained and payable in connection with the Services including, without limitation, any applicable costs of freight,

insurance, salvage, storage and the like, and any costs of collection incurred by STL Linehaul Ltd.

- 10 STL Linehaul Ltd shall have a general possessory lien upon all Goods (which in this Clause shall include any documents relating to those Goods) of the Customer whatsoever that are in the possession or under the control of STL Linehaul Ltd until all accounts due to STL Linehaul Ltd by the Customer, consignee or owner of such Goods are paid in full (including, without limitation, all costs and expenses incurred by STL Linehaul Ltd in recovery or enforcing payment thereof). Where such payment is not made before such Goods (whether or not they are the subject of an overdue account) would be delivered or otherwise dealt with in the ordinary course then such Goods may be detained by STL Linehaul Ltd and STL Linehaul Ltd shall have the right to sell all or any of the Goods by public auction or private treaty without notice to the Customer and to apply such part of the proceeds of the sale as are necessary to satisfy the unpaid accounts (including all costs of detaining and selling the Goods).
- 11 The Customer acknowledges that clause 11 creates a security interest in the Goods, that these terms and conditions constitute a security agreement securing all amounts payable from time to time by the Customer to STL Linehaul Ltd, and that STL Linehaul Ltd may register a financing statement to protect its security interest, and the Customer agrees that sections 114(1)(a), 133, and 134 of the PPSA will not apply to the security interests created by these terms and conditions, and agrees to contract out of the customers rights referred to in sections 116, 119, 120(2), 121, 125, 126, 127, 129, 131, 132 of the PPSA, and waives its right to receive a verification statement under Section 148 of the PPSA.

In relation to cartage of goods or services supplied, when Goods or services have been loaded and carried any distance, freight/service shall be deemed to have been earned whether the Goods/service are delivered to the addressee and whether damaged in any way or otherwise. Under no circumstances will any freight be refunded.

- 12 Any dates or times specified for departure or arrival at the point of delivery or collection, or for the performance of any Services by STL Linehaul Ltd are estimates only and shall not be binding on STL Linehaul Ltd.
- 13 Any claim for loss or damage must be notified to STL Linehaul Ltd in writing within seven days (time being of the essence) of delivery of the Goods or the date upon which the Goods should have been delivered or the date on which the Goods are or should have been collected by the Customer failing which STL Linehaul Ltd shall be discharged from all liability howsoever arising.
- 14 STL Linehaul Ltd shall in any event be discharged from all liability unless suit is filed and served on it within nine months after completion of the Services, delivery of the Goods or the date when the Goods should have been delivered, or the date when the Goods are or should have been collected by the Customer, whichever occurs first. STL Linehaul Ltd hereby expressly contracts under the Contract & Commercial Law Act 2017.
- 15 To the maximum extent permitted by law:
  - (a) STL Linehaul Ltd shall not be liable whether in negligence, any other tort or in contract or on any other basis whatsoever for:
    - (i) Any loss or destruction of or damage to the Goods (including, without limitation, any deterioration, contamination, or evaporation

- of any chilled, frozen, refrigerated, or perishable Goods either in transit or in storage); or
    - (ii) Any non-delivery, mis-delivery, delay in delivery of, or failure to produce the Goods; or
    - (iii) Any advice, representation, information (not being a quotation, advice, etc. to which paragraph (c) of this clause applies), any assistance, or any Service of any kind provided in any form by or on behalf of STL Linehaul Ltd during or in connection with the Goods; or
    - (iv) Any consequential or indirect loss whatsoever arising from or in connection with any of the matters or things referred to in 16(i) (ii) or (iii) above (including, without limitation, loss of profit or loss of market), in any circumstances and for any reason whatsoever and whether or not occurring in the course of events which are at any time in the contemplation of or foreseeable by the Customer and/or STL Linehaul Ltd, and whether or not caused by the negligence, default or misconduct of STL Linehaul Ltd or by any other cause (whether known or unknown) whatsoever.
  - (b) STL Linehaul Ltd shall not under any circumstances be liable in any way for any loss, damage, cost or penalty sustained or incurred by the Customer, the owner of the Goods or any other person resulting from or in connection with any quotation, advice, prediction, forecast, statement, representation or information given or made by or on behalf of STL Linehaul Ltd (whether negligently or otherwise and whether verbally or otherwise and howsoever, wheresoever and to whomsoever) as to liability of the Goods for customs duty, excise duty or any other impost or tax or as to the particular tariff or classification applicable thereto under any legislation imposing or concerning customs duties, excise duties, tariffs or any other impost or tax. In giving or making any such quotation, advice, prediction, forecast, statement, representation, or information, STL Linehaul Ltd relies solely on the information provided by the Customer who warrants that the information provided by it to STL Linehaul Ltd accurately and completely describes all aspects of the Goods and the transaction or transactions relating to the acquisition, sale, importation and/or export of the Goods.
  - (c) In all cases where liability has not been effectively excluded, whether by this agreement or by statute, Convention or otherwise, the total liability of STL Linehaul Ltd to the Customer or to any other person shall be limited to the lesser of:
    - (i) \$100
    - (ii) the value of the Goods at the time the Goods were received by STL Linehaul Ltd
    - (iii) a resupply of the Goods or payment of the cost of resupplying the Goods.
    - (iv) in any case to which the Contract & Commercial Law Act 2017 applies, STL Linehaul Ltd.'s liability shall at "limited carrier's risk" and the amount of such liability shall be calculated accordingly.
- 16 All customs duty, excise duty, costs, expenses, and penalties which STL Linehaul Ltd becomes liable to pay for any reason whatsoever in respect of or in connection with the Goods and any documents relating to the Goods pursuant to any legislation governing customs and/or excise or the importation, export or Carriage of Goods shall be paid by the Customer (whether such customs duty, excise duty costs, expenses or penalties arise directly or indirectly from or in connection with the negligence of STL Linehaul Ltd or otherwise). If it is necessary to make customs entry of Goods at any place, the Goods shall be

deemed to be consigned at that place to the Customer, STL Linehaul Ltd or any person STL Linehaul Ltd designates as Customs Consignee.

- 17 None of STL Linehaul Ltd, its subcontractors or the officers, employees, and agents of STL Linehaul Ltd and its subcontractors shall be liable for any accident, injury, death, damage or loss to any Goods, machinery, persons or property arising from the use of any vehicle, cargo handling appliances or other equipment and will use such vehicle, appliances and equipment at the sole risk of the Customer. The Customer shall indemnify each entity and person identified in the preceding sentence against all claims, loss, damages, and expenses arising from or in connection with the use of such vehicle, appliances, and equipment whether due to the negligence, misconduct, or willful default of or by any officer, employee, agent, or subcontractor of STL Linehaul Ltd or otherwise. This indemnity shall not however apply in respect of any claim, loss, damage, or expense of or by any officer, employee, agent, or subcontractor of STL Linehaul Ltd where such claim, loss, damage, or expense arises from the negligence, misconduct, or willful default of or by that officer, employee, agent, or subcontractor of STL Linehaul Ltd.
- 18 The Customer warrants that it has complied with and undertakes that it will continue to comply with all laws, customs, conventions, codes and other regulations relating to the nature, condition, packaging, handling, storage and Carriage of the Goods and that the Goods are packed to withstand the ordinary risks of handling, storage and Carriage, having regard to their nature and indemnifies STL Linehaul Ltd for all liability and for all costs incurred as a result of or arising out of a breach of this warranty. Further, the Customer shall provide to STL Linehaul Ltd all such assistance, information, descriptions, valuations, and documents as may be necessary or prudent to enable STL Linehaul Ltd to comply with such laws, customs, conventions, codes, and regulations in a timely manner. The expenses and charges of STL Linehaul Ltd in complying therewith and with the requirements of any harbor, dock, airport, railway, shipping, customs, warehouse, or other authority shall be paid by the Customer.
- 19 STL Linehaul Ltd shall not insure the Goods for the benefit of the Customer or the owner of the Goods except upon receipt of express written instructions from the Customer or the owner of the goods (including a signed declaration as to the value and nature of the Goods) and at the expense of the Customer or owner and any such insurance effected by STL Linehaul Ltd may be subject to such exceptions and conditions as may be required by the insurance company or underwriter accepting the risk. STL Linehaul Ltd may make an additional charge for arranging such insurance but shall have no liability or responsibility whatsoever (whether in negligence, contract or otherwise) in respect of any insurance policy. STL Linehaul Ltd is not the insurer and no deduction or set-off may be made from any charges or other moneys due to STL Linehaul Ltd on any account pending settlement by the insurance company.
- 20 The Customer shall not tender for Carriage any Dangerous Goods without first presenting a full written description of the Goods and the nature and degree of their volatility to enable the Goods to be properly classified, described, packaged, and labelled for Carriage in accordance with the provisions of all relevant laws, regulations, codes, customs, and conventions. In default of so doing, the Customer shall be liable for any loss or damage caused thereby or in connection therewith and shall indemnify STL Linehaul Ltd against all claims, liability, loss, damage, penalties, and expense which STL Linehaul Ltd may suffer or incur thereby or in connection with herewith. In the event that the Goods are found to be explosive, flammable, noxious or otherwise dangerous, hazardous or likely to cause damage without having been so described to STL Linehaul Ltd(as hereby required), then the Goods may be destroyed or

otherwise dealt with by, and at the sole discretion of, STL Linehaul Ltd or any other person in whose custody they may be at the relevant time without compensation to the Customer and without prejudice to STL Linehaul Ltd right to freight and charges. If such Goods are accepted under the arrangements previously made in writing, they may nevertheless be destroyed or otherwise dealt with if they become dangerous to any person, other goods, or property.

- 21 The Customer shall not assign or attempt to assign any of its rights and interests or obligations under this Agreement without the prior written consent of STL Linehaul Ltd.
- 22 Failure or omission by STL Linehaul Ltd at any time to enforce or require strict or timely compliance with any provision of this Agreement shall not affect or impair the provision in any way or the rights of STL Linehaul Ltd to avail itself of the remedies it may have in respect of any breach of that provision.
- 23 The invalidity or unenforceability of any clause or any part of any clause in this Agreement shall not affect the enforceability of the remaining clauses or remaining parts of clauses.
- 24 The terms and conditions of this Agreement may be modified only by the agreement of both parties in writing.
- 25 This Agreement shall be construed and interpreted according to the laws of New Zealand. The parties submit to the exclusive jurisdiction of the Courts of New Zealand.

## **Monthly Storage Agreements Liability and Warranties**

### **LIABILITY**

1. STL Linehaul Ltd undertakes to the Customer, if and only if there is any damage to Goods while in storage with STL Linehaul Ltd that results from the reckless or intentionally wrongful conduct of STL Linehaul Ltd, its employees or agents, or any damaged caused to the goods by building failure (e.g. roof leak or water damage), to refund an amount required to replace or repair those goods up to maximum of the storage Charges paid by the Customer in respect of those damaged Goods. The Customer agrees that the remedy provided under this clause is the Customer's sole and exclusive remedy against STL Linehaul Ltd in connection with the Services, and that to the extent permitted by law, the Customer has no other claim, demand action or remedy against STL Linehaul Ltd under this Agreement, at law or otherwise and the Customer warrants that it shall not take any steps to pursue any such claim, action, or demand against STL Linehaul Ltd.
2. In no event shall STL Linehaul Ltd be required under this Agreement to pay for any loss or damage incurred by the Customer resulting from the provision of the Services by STL Linehaul Ltd to the extent that such loss or damage exceeds the replacement cost (or at the election of STL Linehaul Ltd, the repair cost) for any "lost Goods" and for any defective or damaged Goods. For the purposes of ascertaining what are "lost Goods" the parties agree STL Linehaul Ltd shall be responsible for all Goods received from the Customer up to the point in time where the specified item of Goods is correctly dispatched to the customer nominated by the Customer and the dispatch is signed for by the Customer's nominated courier. In no event shall STL Linehaul Ltd be under any liability for any

indirect or consequential losses or the loss of profits or costs, charges, and expenses on the part of the Customer or any other person other than to reimburse for, replace or repair as described above.

3. Except for the warranties set out herein, STL Linehaul Ltd makes no other warranty to the Customer in connection with the Services or this Agreement, and all other warranties, whether expressed or implied by law, are hereby excluded by STL Linehaul Ltd, to the maximum extent permitted by law.
4. In no event shall STL Linehaul Ltd.'s total aggregate liability to the Customer under or in connection with this Agreement exceed the total Charges actually paid by the Customer in any 12-month period.

### **Warranty**

STL Linehaul Ltd warrants that all the Services performed under this Agreement will be performed in a proper, professional, and workmanlike manner.

The Customer warrants and undertakes as follows:

1. That the Customer has full legal rights of ownership and/or possession over the Goods.
2. That all information (written and oral) provided by the Customer to STL Linehaul Ltd (including the classification of the Goods under the Dangerous Goods Act 1974 or other such enactment replacing it), is true, complete, and accurate in all respects, and is not otherwise misleading.
3. That the Goods fall within only Classes 2, 3, 4, 5, 6, 8 or 9 under the Schedule of Goods Act, or are of a non-hazardous nature.
4. That the Goods and any container or packaging concerning the Goods fully comply with all the requirements of the Dangerous Goods Act 1974, the Toxic Substances Act 1974, the HASNO Act 1996, MAF requirements and such other legislation, regulation or by-laws as may apply.
5. That the Customer will obtain, and provide STL Linehaul Ltd's Warehouse, in accordance with the HASNO Act 1996.
6. That the risk in the Goods always remains with the Customer and the Goods are insured by the Customer against destruction, damage by fire or any other event whatsoever to their full replacement value for the period of storage by STL Linehaul Ltd and that such policy is not voided, limited, or otherwise adversely affected by the storage and provision of the Services by STL Linehaul Ltd or the terms and conditions herein. For the avoidance of doubt, the Customer bears all risk in relation to the transportation and delivery of its Goods by any carrier or other contractor arranged or nominated by the Customer, or otherwise acting in accordance with the Customer's instructions. If the Customer defaults in the performance of its obligations under this clause, STL Linehaul Ltd shall be entitled insure the Goods and



the cost of effecting such insurance shall be payable by the Customer to STL Linehaul Ltd upon written demand.

7. That if the Goods or any part of the Goods require any special case or method of storage, such information has been fully and fairly disclosed in writing to STL Linehaul Ltd before the Goods are taken into storage.
8. That if any damage or leakage or seepage occurs due to inadequate packaging or defects in containment of the goods, the customer shall indemnify STL Linehaul Ltd for all loss, damage, cost, and expense which may result consequently. All costs relating to the cleaning up of the leakage or seepage, including any damage done to the goods of third parties, damage to the Warehouse and other costs incurred by STL Linehaul Ltd; (including legal costs) shall be paid by the Customer.
9. That the Customer shall indemnify and hold STL Linehaul Ltd harmless from all losses, damage (whether direct or indirect), costs, expenses, suits, actions and proceedings whatsoever arising out of STL Linehaul Ltd becoming the bailee of the Customer.
10. That the Customer has full power and right to enter into this Agreement.