

# TERMS & CONDITIONS OF CARRIAGE URGENT COURIERS LIMITED

<p><b>DEFINITIONS</b></p> <p>1.1 All terms used in this contract shall have the meanings set out in the Carriage of Goods Act 1979</p> <p>1.2 "Final Invoice" - means an invoice detailing the outstanding balance owed by the Contracting Party to the Contracting Carrier under this contract.</p> <p>1.3 "The Act" shall mean the Carriage of Goods Act 1979.</p> <p>1.4 "Contracting Carrier" shall mean Urgent Couriers Limited ("Urgent Couriers") its duly authorised employees or agents</p> <p><b>2 APPLICATION OF THESE TERMS AND CONDITIONS</b></p> <p>2.1 The Contracting Party agrees that the terms and conditions of this contract shall apply only to the carriage of goods within New Zealand.</p> <p><b>3 COLLECTION AND USE OF INFORMATION</b></p> <p>3.1 The Contracting Party authorises Urgent Couriers to collect, retain and use any information about the Contracting Party, or for the purpose of assessing the Contracting Party's credit worthiness, enforcing any rights under this contract, or marketing any goods and services provided by Urgent Couriers to any other party.</p> <p>3.2 The Contracting Party authorises Urgent Couriers to disclose any information obtained to any person for the purposes set out in clause 3.1.</p> <p>3.3 Where the Contracting Party is a natural person the authorities under clauses 3.1 and 3.2 are authorities or consents for the purposes of the Privacy Act 1993.</p> <p><b>4 RIGHT TO REFUSE CARRIAGE</b></p> <p>4.1 The Contracting Carrier reserves the right to refuse carriage for any person or for any class of goods.</p> <p><b>5 KIND OF CONTRACT</b></p> <p>5.1 The goods are to be carried at 'owners risk' pursuant to the Act, meaning that the Contracting Carrier will not be liable for the loss or damage to any goods except where loss or damage is intentionally caused by the Contracting Carrier.</p> <p><b>6 QUOTATIONS</b></p> <p>6.1 Where a quotation is given by the Contracting Carrier for the carriage of any goods:</p> <p>6.1.1 The quotation shall be specific to the goods and services contained in the quotation.</p> <p>6.1.2 The quotation is based on the ordinary working hours of 7:00am to 7:00pm, Monday to Friday, excepting public holidays.</p> <p>6.1.3 Work carried on outside the hours referred to in clause 6.1.2 will be subject to additional charges.</p> <p>6.1.4 The Contracting Party agrees that the Contracting Carrier may make an additional charge where there is a delay in the loading or unloading of goods which is not the fault of the Contracting Carrier and that the Contracting Carrier will pay this charge.</p> <p>6.1.5 The quotation may be based on the weight, measurement or value, and the Contracting Carrier may at any time re-weight or re-value or re-measure or require the goods to be re-weighted, re-valued or re-measured and make additional charges as necessary.</p> <p>6.1.6 The quotation is subject to changes in:</p> <p>6.1.6.1 Currency exchange rates,</p> <p>6.1.6.2 Any required licence fees,</p> <p>6.1.6.3 Taxes</p> <p>6.1.6.4 Shipping charges</p> <p>6.1.6.5 Airline charges</p> <p>6.1.6.6 Any other cost outside of the control of Contracting Carrier.</p> <p>6.2 The additional charges to which clause 6.1 refers may apply from the date of the quotation until the date payment is made to Urgent Couriers in final payment of the outstanding amounts under this contract.</p> <p>6.3 If goods or services are required in addition to those contained in the quotation in order to meet requirements of the Contracting Party, the Contracting Party agrees to pay for the cost of those goods or services.</p> <p>6.4 Where the Contracting Carrier determines that additional charges are payable they will appear in the final invoice and the Contracting Party agrees to pay those additional charges.</p> <p><b>7 INSURANCE</b></p> <p>7.1 Where the Contracting Party or its agent expressly requests in writing as a term of this contract that the Contracting Carrier arrange for insurance for the goods and Contracting Carrier subsequently enters into a contract of insurance with an insurer of its choosing, the limit of the cover of the insurance shall be the amount on the face of this contract and the following exclusions will apply:</p> <p>7.1.1 All claims resulting from wear, tear, moths, vermin, damp, mildew, or loss of market, loss damage, or expense proximately caused by delay or inherent vice or nature of the subject matter insured;</p> <p>7.1.2 Gradual deterioration, rust and/or oxidation unless due to or consequent upon fire, collision, overturning or other accident to the conveyance.</p> <p><b>8 AGENCY</b></p> <p>8.1 The Contracting Party authorises the Contracting Carrier to contract either as Principal or Agent for the carriage, storage, or protection of the goods and any such contract will be made upon the terms and subject to the conditions of any bill of lading or any other forms or terms of contract for carriage, whether by sea, road, rail or air.</p> <p>8.2 Where the Contracting Party enters into a contract of the type referred to in clause 8.1 it shall be read with and form part of this agreement and the Contracting Party agrees to pay and amounts due under that contract.</p> <p><b>9 WARRANTIES BY CONTRACTING PARTY</b></p> <p>9.1 The consignor expressly warrants that it is either the owner or the authorised agent of the owner of the goods, and enters into this contract on its own behalf and also as agent for the owner of the goods.</p> <p>9.2 The consignor expressly warrants that the person signing this contract has the authority to do so and by entering into this contract accepts these conditions as or for the Contracting Party as well as all other persons for whom the Contracting Party is acting.</p> <p>9.3 Where the Contracting Party packages its own goods the Contracting Party warrants:</p> <p>9.3.1 That the goods are fit to be carried and stored in accordance with the contract in the condition and in the manner in which they are tendered for carriage.</p> <p>9.3.2 That the provisions of every enactment relating to the carriage, storage or possession of the goods, has been complied with.</p> <p>9.3.3 That the goods contain no dangerous, hazardous or illegal materials whatsoever.</p> <p>9.4 Failure to comply with these warranties will give the Contracting Carrier (as the case may require) the right to, refuse to carry the goods, cancel the contract, destroy the goods, undertake any other action which in the opinion of the Contracting Carrier may be necessary.</p> <p><b>10 LIABILITY OF CONTRACTING CARRIER</b></p> <p>10.1 Subject to the to the limitation contained in Section 15(1) of the Act</p> <p>10.1.1 The Contracting Carrier shall not be under any liability, however caused or arising and (without limiting the generality of the foregoing) whether caused or arising as the result of the negligence of the Contracting Carrier or otherwise for any damage to, loss, deterioration, mis-delivery of the goods (whether the goods are or have been in the possession of the Contracting 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 any consequential or indirect loss, loss of market or consequences of delay; and</p> <p>10.1.2 The Contracting Party will indemnify the Contracting Carrier against all claims of any kind whatsoever, however caused or arising and (without limiting the generality of the foregoing) whether caused or arising as a result of the negligence of the Contracting Carrier or otherwise, brought by any person in connection with any matter or thing done, said or omitted by the Contracting Carrier in connection with the goods.</p> <p><b>11 DELIVERY</b></p> <p>11.1 The Contracting Party agrees that the Contracting Carrier shall only deliver or arrange for the delivery of the goods to the Contracting Party or to the person the Contracting Party duly authorises in writing as capable of receiving the goods.</p>	<p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p>	<p><b>PAYMENT</b></p> <p>12.1 All charges, payments or costs detailed in the quotation must be paid by the Contracting Party before the goods are delivered into the possession of the Contracting Carrier OR where a credit account has been agreed to on or before the 20<sup>th</sup> of the month following receipt of the invoice.</p> <p>12.2 Where this contract includes a term that requires the Contracting Carrier to arrange for insurance for the goods, all premiums and other expenses related to that insurance must be paid before the goods are delivered into the possession of the Contracting Carrier.</p> <p>12.3 Any outstanding balance must be paid either:</p> <p>12.3.1 In the case where the goods are delivered to the consignee,-</p> <p>12.3.1.1 When they are tendered to the consignee in the manner expressed in this contract; or</p> <p>12.3.1.2 Where any amount by way of freight or other charges are due and payable to the Contracting Carrier under this contract either before or at the time which the goods are to be tendered to the consignee under this contract and that amount has not been paid when the Contracting Carrier is capable of tendering the goods in accordance with this contract and the Contracting Carrier has given notice to any person liable to pay the outstanding balance.</p> <p>12.3.2 In the case of goods to be collected by the consignee,-</p> <p>12.3.2.1 When the goods are collected by the consignee,-</p> <p>12.3.2.2 On the expiry of the 5th day (excluding any day on which the carriers premises are not open for the collection of goods) after the date on which the Contracting Carrier or the last carrier (as the case may require) notifies the consignee that the goods are available for collection.</p> <p>12.4 Any expenses, disbursements and legal costs incurred by the supplier in the enforcement of any rights contained in this contract shall be paid by the customer, including any reasonable solicitor's fees or debt collection agency fees.</p> <p>12.5 At the absolute discretion of the Contracting Carrier interest at a rate of 2.5% per month may be charged on any outstanding amount on any outstanding amount.</p> <p><b>UNDELIVERED GOODS</b></p> <p>13.1 If for any reason whatsoever goods intended for carriage under this contract are not delivered into the possession of the Contracting Carrier for carriage, the Contracting Carrier shall have no responsibility or liability in respect of those goods.</p> <p>13.2 Where goods remain undelivered after the time at which the outstanding balance falls due or due to default or the Contracting Carrier will hold the goods as bailee and shall be entitled to storage fees at normal rates charged by the Contracting Carrier AND as bailee shall not be liable for any loss of damage to the goods however caused. OR at its discretion return the goods to the Contracting Party at the risk and expense of the Contracting Party.</p> <p>13.3 Where a charge becomes due under clause 13.1 it will be in addition to the quotation and the Contracting Party agrees to pay these charges.</p> <p><b>CLAIMS BY CONTRACTING PARTY AGAINST CONTRACTING CARRIER</b></p> <p>14.1 The Contracting Carrier shall be under no liability whatsoever unless:</p> <p>14.1.1 Written notice of the claim, giving reasonable particulars of the event giving rise to the claim and any alleged damage or loss, is received by the Contracting Carrier within 7 days after the delivery, or in the case of non-delivery within 14 days of the Contracting Carrier receiving the goods.</p> <p>14.1.2 An action shall have been commenced by the Contracting Party in a Court of competent jurisdiction within 6 months of delivery or, in the case of non-delivery, within 6 months and 14 days.</p> <p>14.2 A claim against the Contracting Carrier will not be a reason to defer or stop payment of any outstanding amount due and owing under this contract.</p> <p><b>GENERAL LIEN</b></p> <p>15.1 The Contracting Party agrees that the Contracting Carrier may exercise a general lien against the goods for all sums outstanding under this contract and any other contract to which the Contracting Carrier and the Contracting Party are parties.</p> <p>15.2 If the lien is not satisfied within 7 days of any sum outstanding in clause 14.1 falling due the Contracting Carrier may having given notice of the lien at its option either:-</p> <p>15.2.1 Remove such goods or part thereof and store them in such a place and in such a manner as the Contracting Carrier shall think fit and proper and at the risk and expense of the Contracting Party or as the as might be, or;</p> <p>15.2.2 Open any package and sell such goods or part thereof upon such terms as it shall think fit and apply the proceeds in or towards discharge of the lien and costs of sale without being liable to any person for damage caused.</p> <p><b>APPLICATION OF CONSUMER GUARANTEES ACT 1993</b></p> <p>16.1 The guarantees contained in the Consumer Guarantees Act 1993 are excluded where the customer acquires goods or services from the supplier for the purposes of a business in terms of section 2 and 43 of that Act.</p> <p><b>PREVAILING</b></p> <p>17.1 Where the terms of this contract are at variance with the order or instruction from the customer, this contract shall prevail.</p> <p>17.2 Where the conditions of this contract differ from the provisions of the Act then so far as the parties are able the contract prevails over any statutory provision and the parties are deemed to have contracted out of the provisions of the Act and the Contracting Carrier shall not be bound by any agreement varying these conditions unless such agreement is in writing and signed with due authority on behalf of the Contracting Carrier.</p> <p><b>JURISDICTION</b></p> <p>18.1 The law of New Zealand shall apply to this contract except to the extent expressly negated or varied by this contract.</p> <p><b>NON-WAIVER</b></p> <p>19.1 Failure by the Contracting Carrier to enforce any of the terms and condition contained in this contract shall not be deemed to be a waiver of any of the rights or obligations that the Contracting Carrier has under this contract or under any other enactment.</p> <p><b>CANCELLATION</b></p> <p>20.1 The Contracting Carrier shall, without any liability, and without any prejudice to any other right it has in law or equity, have the right by notice to suspend or cancel in whole or in part this contract if:</p> <p>20.1.1 The Contracting Party fails to pay any money owing after the due date.</p> <p>20.1.2 The Contracting Party commits an act of bankruptcy as defined in section 19 of the Insolvency Act 1967.</p> <p>20.1.3 The Contracting Carrier is unable to meet any date or deadline contained in this contract, or if in the opinion of the Contracting Carrier (which will be final) there is a good reason for doing so.</p> <p>20.2 Where the contract is cancelled under clause 20.1.3 the Contracting Party agrees that neither the Contracting Carrier nor the Contracting Party will have any claim against the other.</p> <p>20.3 Any cancellation under clause 20.1.1 or 20.1.2 of this agreement shall not effect the Contracting Carrier's claim for money due at the time of cancellation or for damages for any breach of any terms of this contract.</p> <p><b>FORCE MAJEURE</b></p> <p>21.1 The Contracting Carrier shall not be liable for delay or failure to perform its obligations if the delay or failure is beyond its control.</p> <p><b>ASSIGNMENT</b></p> <p>22.1 The Contracting Party shall not assign all or any of its rights or obligations under this contract without the written consent of the Contracting Carrier.</p>
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