MONDIALE VGL
GLOBAL LOGISTICS

Mondiale Warehousing & Distribution LTD Conditions of Contract

1. The following definitions apply unless the context requires otherwise.

Agreement means the agreement between the parties which is governed by these terms and conditions.

Business Day means the hours of 8.30am to 9pm on days other than a Saturday, Sunday or public holiday.

Charge means any charge or duty payable in connection to the provision of Services Company means Mondiale Warehousing & Distribution Ltd, its successors and assigns and any related company (as defined in the Companies Act 1993).

Customer means any person to whom the Client or its nominee sells or delivers Goods or with whom the Client or its nominee has an agreement to sell or deliver Goods.

Dangerous Goods means goods which are volatile or explosive or which are or may become dangerous, inflammable or offensive (including radioactive materials) or which may become liable to damage any person or property whatsoever and includes all goods which are likely to fall within the definition of hazardous, dangerous, explosive, inflammable or radioactive goods in any legislation, regulations, code or convention (whether or not legally enforceable) relevant to the Warehousing, storage or carriage of the Goods.

Goods means the Goods the subject of Warehousing Services pursuant to this Agreement.

Payment means any amount payable under or in connection with this agreement including any amount payable by way of indemnity, reimbursement or otherwise.

Premises means the premises where Goods are held, warehoused, stored, or removed from time to time.

Services means the warehousing and storage of the Goods at the Premises and includes all other services of any nature rendered by Mondiale Warehousing & Distribution Ltd in respect of the Goods.

Subcontractor means any entity or person whatsoever who is engaged by Mondiale Warehousing & Distribution Ltd to perform the services or any part of them and includes any employee, agent or subcontractor of any such person or entity.

2. In these terms and conditions, unless the context otherwise requires:
(a) words importing the singular include the plural and vice versa;
(b) words importing a gender include any gender;
(c) an expression importing a natural person includes any company, partnership, joint venture, association, corporation or other body corporate and any Governmental Agency and conversely;
(d) a reference to any thing includes a part of that thing.

3. These terms and conditions apply to the Agreement between the parties and to all Services which the Client requests the Company to undertake and provide in respect of the Goods and form the entire agreement between the parties.

4. (a) The Client shall pay for the Services in accordance with the Company's standard tariff or as advised to the Client from time to time.
(b) The Client shall reimburse the Company for any Charges incurred by the Company in the performance of Services.

5. The Company carries on business as a warehousing and logistics services provider. It is an independent contractor only. Nothing contained in this Agreement shall create a relationship between the Client and the Company of partners, joint venturers, or employer and employee.

6. The Client warrants that:
(a) it is the owner or person entitled to immediate possession of the Goods, and that it is authorised to accept or deal with the Goods and accepts these conditions on its own behalf, and on behalf of its servants and agents;
(b) the person giving instructions to the Company for the performance of the Services is authorised by the Client to do so;
(c) it has complied with and undertakes that it will continue to comply with all applicable laws, customs, conventions, codes and other regulations in any way relating to the Warehousing of the Goods;

(d) the description and particulars of the Goods is complete, accurate and correct;
(e) its orders, order forms and the information given therein are complete, accurate and correct and that all necessary information shall be provided to the Company in a timely manner in order for the Company to fulfil its obligations under this Agreement; and
(f) except where the Company has agreed to pack the Goods, the Client warrants that the Goods are properly and sufficiently prepared, packed, stowed, labelled and/or marked, and that the preparation, packing, stowage, labelling and marking are appropriate for any Services affecting the Goods.
(g) Where the Company has agreed to pack the Goods:

(i) unless otherwise previously agreed in writing, the Client shall at its own expense provide the Company with the appropriate quantity of suitable packing material for the preparation, packing, stowing, labelling or marking of the Goods;
(ii) the Client shall provide any necessary instructions and training to the Company's personnel in respect of the packaging and handling of the Goods, and requirements of Customers in respect of the same.

(h) It shall in a timely manner provide to the Company all such assistance, information, descriptions, valuations and documents as may be necessary or prudent to comply with any laws, customs, conventions, codes and regulations where the Client has not otherwise effected compliance with such.

7. The Company shall:
(a) keep accurate records of Goods received, and shall inspect the Goods and, to the extent that it is reasonably able to do so by external inspection, determine whether the Goods appear to be in good order and condition. Where Goods are received by the Company and it is apparent to the Company that the Goods are in a damaged state, the Company will advise the Client and quarantine the Goods until further notice. The fact that Goods may appear to be in good order and condition shall not be construed as a representation or warranty that they are in fact in good condition;
(b) ensure that Goods are stored in a suitable and secure environment;
(c) maintain and administer order and storage accounts in relation to the Services;
(d) dispatch Goods as agreed and in a timely manner;
(e) provide Services with reasonable care and skill;
(f) undertake cycle accounting and location counting using ABC method by value or turns.

8. The performance of any Services by the Company shall be at its sole discretion and determination.

9. (a) The Goods may be held at any Premises and may be removed from any Premises at which they are being held to be held at any other Premises at the sole discretion of the Company and in every case at the Client's risk and expense.
(b) The Client authorises the Company to enter into any sub-contract with any person for the performance of any of the Company's obligations under this Agreement.
(c) Any such arrangement:

(i) shall be deemed to be ratified by the Client upon the Goods being delivered to or collected by such Subcontractor who shall thereupon be entitled to the full benefit of the terms and conditions of this Agreement to the same extent as the Company.
(ii) shall apply for the benefit of the Company and also the Company's officers, employees, agents and representatives; and
(iii) the Company shall be deemed to enter into any contract for the provision of Services for its own benefit and also for the benefit of and as agent and trustee for any Subcontractor and its and the Company's officers, employees, agents and representatives.

10. (a) The Client shall not tender for Warehousing any Dangerous Goods without first presenting a full written description of the Goods and the nature and degree of their volatility so as to enable the Goods to be properly classified, described, packaged and labelled for Warehousing in accordance with the provision of all relevant laws, regulations, codes, customs and conventions.
(b) In default of so doing, the Client shall be liable for any loss or damage caused thereby or in connection therewith and shall indemnify the Company against all claims, liability, loss, damage, penalties and expense, which the Company may suffer or incur thereby or in connection therewith.
(c) In the event that the Goods are found to be explosive, inflammable, noxious or otherwise dangerous, hazardous or likely to cause damage without having been so described to the Company the Goods may be destroyed or otherwise dealt with by, and at the sole discretion of, the Company or any other person in whose custody they may be at the relevant time:

(i) without compensation to the Client;
(ii) without prejudice to the Company's right to freight and charges; and

(iii) At the cost of the Client.

(d) If such Goods are accepted under 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.

11. Where the Client has not complied with the applicable laws, customs, conventions, codes and other regulations in relation to the Services, any expenses and charges incurred by the Company in effecting compliance shall be invoiced to and payable by the Client.

12. In the event that the Company is requested by the Client to perform or undertake any Service but that request is cancelled by the Client prior to the Service being substantially performed, the Company may require the Client to pay all proper costs incurred by the Company prior to the cancellation of the Service.

13. The Company is authorised to accept, at the Client's risk, cheques in payment of 'C.O.D.' collections and accepts no responsibility or liability in respect of such acceptance.

14. The Company shall allow the Client access to the Premises on a Business Day:
(a) upon prior notice given by the Client to the Company;
(b) upon the Client providing the Company with a list of its representatives authorised to attend and inspect the warehouse on the Client's behalf; and
(c) at the sole risk of the Client.

15. (a) Where the Company arranges carriage or freight-forwarding services for or at the request of the Client, the Company will do so as agent only for the Client. The Client authorises the Company to enter into contracts on the Client's behalf, on the terms and conditions of the carrier or freight forwarder engaged by the Company. The Company's obligations are limited to making the appropriate arrangements and shall not be liable for any loss or damage to or in respect of the Goods that occurs once the Goods have left the Company's warehouse.
(b) To the extent that the Contract and Commercial Law Act 2017 may apply to any Services carried out or arranged by the Company, the Company's liability (if any) shall be at limited carrier's risk.
(c) Notwithstanding anything in sections 18 and 19 of the Contract and Commercial Law Act 2017, where the Act applies written notice of loss or damage must be given to the Company within three days of the date when the goods are delivered and suit must be commenced and notice given to the Company within thirty days. Failing compliance with both such time limits any action against the Company shall be absolutely barred

16. (a) The Company shall render to the Client an invoice [weekly/monthly/yearly] for the Services performed and Charges accrued in that period.
(b) Where the fee for any service rendered by the Company is not expressly provided for in the Company's tariff or agreed in advance with the Client, the Company shall invoice the Client for its reasonable fees in respect of that service.
(c) The Company reserves the right, upon notification to the client, to vary the terms of payment in any case at its discretion.

17. (a) The Client shall make payment in full within the time specified by the Company when accepting any application by the Client for credit. Where no such time is specified payment shall be made by the 20th of the month following the date of the Company's invoice. In all cases payment shall be made without deduction or deferment on account of any claim, counterclaim or set-off.
(b) On all amounts overdue to the Company, late payment interest shall be payable to the Company in respect of any invoice:
    (i) not paid by time payment was required under clause 7.2(a) above; and
    (ii) at the rate of 1.5% per month calculated on a daily basis, from the date such amount is overdue until payment is made in full.

The Company's right to receive interest is in addition to all other rights which it has in respect of the Client's default.
(c) Notwithstanding any indication that any payment or charge is made by another person, the Client shall remain responsible for all payments and charges whatsoever which may be or become ascertained and payable in connection with the Services including all costs and expenses incurred by the Company in enforcing payment of its charges.

18. (a) All amounts quoted and charges payable by the Client are GST exclusive and GST will be added to all amounts when invoiced.
(b) The Company shall have a general possessory lien upon all Goods and documents of the Client which are or which come into the possession or under the control of the Company or the Company's agents or subcontractors until all accounts due (whether or not overdue) to the Company by the Client, Customs Consignee or owner of such Goods are paid in full, including, without limitation, all costs and expenses incurred

by the Company in recovering or enforcing payment thereof.
(c) In the event that the Goods are partly or wholly lost or destroyed the Company shall have a lien and/or charge over any compensation and/or insurance proceeds in respect of the Goods.
(d) The Company has the right in respect of any such lien over the Goods to:
(i) sell all or any of the Goods by public auction or private treaty without notice to the Client; and
(ii) 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.
(e) Without limiting anything else in these terms and conditions (and without prejudice to the Company's right to assert that clause 8(a) above creates rights that are not subject to the Personal Property Securities Act 1999), the Client acknowledges that:
(i) these terms end conditions create, in favour of the Company, a security interest in all Goods and documents of the Client that are or which come into the possession of the Company or its agents or subcontractors to secure the payment by the Customer to the Company of all amounts due to the Company (whether or not overdue); and
(ii) the Security Interest shall continue until the Company gives the Client a final release.
(f) The Customer undertakes to:
(i) promptly do all things, sign any further documents and/or provide any information which the Company may reasonably require to enable the Company to perfect and maintain the perfection of its Security Interest (including by registration of a financing statement);
(ii) give the Company (addressed to the Financial Controller or equivalent) not less than 14 days' prior written notice of any proposed change in the Client's name and/or any other change in the Client's details (including, but not limited to, changes in the Customer's address, facsimile number, trading name or business practice).
(g) The Client waives its right to receive a verification statement in respect of any financing statement relating to the Security interest,
(h) To the extent permitted by law, the Client and the Company contract out of:
(i) section 114 (1)a of the PPSA; and
(ii) the Client's rights referred to in sections 107(2))c), (d), (h) and
(iii) of the PPSA.
(i) If an Event of Default occurs:
(i) the Company may suspend or terminate this Agreement;
(ii) all amounts owed shall immediately become due and payable notwithstanding that the due date has not arisen;
(iii) the Company may enforce the Security Interest; and
(iv) the Company may (without the consent of the Client) appoint a receiver in respect of any Goods and any receiver is authorised to do anything referred to in these terms and conditions and otherwise to exercise all rights and powers conferred on a receiver by law.
(j) The Client agrees that, at any time after an Event of Default has occurred and is continuing or at any time if any Goods are at risk, the Company may:
(i) take possession of any Goods; and/or
(ii) sell or otherwise dispose of any Goods,
In each case in such manner and generally on such terms and conditions and conditions as it thinks fit, and, in each case, otherwise do anything the Client could do in relation to those Goods.

19. (a) Except as may be otherwise provided by this Agreement, the Company shall not be liable for any loss or damage howsoever arising from:
(i) the act or omission of the Client or any person acting on its behalf;
(ii) its compliance with the instructions given to it by the Client or any other person entitled to give them;
(iii) insufficiency of the preparation, packing, storage, labelling, marking of the goods except where such service has been provided by the Company;
(iv) inherent vice of the goods; and
(v) any cause or event which the Company could not avoid and the consequences whereof it could not prevent by the exercise of reasonable diligence.
(b) In all other cases, the Company shall not be liable for loss of or damage to the Client's Goods unless the loss or damage was caused by the wilful act, neglect or default of the Company, its servants or agents.
(c) In relation to any loss of or damage to the Client's Goods, to the extent permitted by law the Company excludes any and all liability of any kind whatsoever except for the limited liability specified elsewhere in this provision. Not withstanding anything else in thisprovision or any other provision of this Agreement, under no circumstances whatsoever shall the Company be liable in respect of any indirect or consequential loss or

damage including loss of profit or loss of opportunity.
(d) In the event that the Company has not successfully excluded its liability and notwithstanding any other provision of this Agreement, the maximum aggregate liability of the Company for any loss of or damage to Goods or for any act or omission, including any default under this Agreement and any act or omission of its servants, agents or contractors, shall be limited to $10,000.
(e) To the extent permitted by law, all warranties, representations or undertakings implied by operation of law (including statute) and the Company's liability in respect of any breach or alleged breach of any such warranty, representation or undertaking are expressly excluded. To the extent that any such warranty, representation or undertaking, or the Company's liability in respect of any breach thereof, cannot be expressly excluded, the Company's liability for any breach of such warranty, representation or undertaking is limited to the cost of supplying the services again.

20. (a) The Goods shall be and remain at the risk of the Client or owner of the Goods.
(b) The Company shall not insure the Goods for the benefit of the Client or the owner of the Goods except upon:
(i) receipt of express written instructions from the Client or the owner of the Goods including a signed declaration as to the value and nature of the Goods; and
(ii) at the expense of the Client or owner.
Any such insurance effected by the Company will be subject to the terms and conditions imposed by the insurance company or underwriter accepting the risk.
(c) The Company 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. The Company may include the additional charge within the cost of the premium charged to the Client and the Client agrees that such charge need not be separately disclosed.
(d) The Company is not the insurer and no deduction or set-off may be made from any charges or other moneys due to the Company on any account pending settlement by the insurance company.

21. Either party may terminate this agreement at any time, on giving the other sixty days' written notice of its intention to do so. No notice is however required if:
(a) a petition has been filed for the winding up, or a notice has been issued for the summoning of a meeting at which is to be moved a resolution proposing the winding up, of the other party;
(b) a receiver, receiver and manager, official manager or provisional liquidator is appointed with respect to the other party or any of its assets;
(c) the other party makes an assignment in favour of, or a composition or arrangement, or enters into a scheme of arrangement (otherwise than for the purposes solely of a solvent corporate reconstruction), with its creditors or any class of its creditors;
(d) the other party becomes unable or is deemed by law to be unable to meet its debts as and when they fall due;

22. If this Agreement is terminated or otherwise comes to an end for any reason:
(a) the Company shall forthwith cease to carry on performing the Services; and
(b) the Company shall (at the Client's cost and subject to clause 8 hereof) deliver the Goods to the Client or as the Client may direct.

23. This Agreement shall be governed by and interpreted in accordance with the laws of New Zealand and any claim or dispute arising under it shall be solely determined by the Courts of New Zealand.

24. (a) Waiver of a breach of this Agreement must be in writing and signed by the party granting the waiver.
(b) A breach of this Agreement is not waived by any failure or delay in exercise, or partial exercise, of any power.
(c) A right created or arising upon breach of this Agreement is not waived by any failure or delay in the exercise, or partial exercise, of that or any other right.

25. These terms and conditions may not be released, discharged, supplemented, interpreted, amended, varied or modified in any manner except by an instrument in writing signed by each of the parties, or by its duly authorised officer or representative.