

**Please read the following conditions carefully and in their entirety. You will be bound by these conditions if we carry goods for you. In particular, please note that:**

- **You should take out your own insurance cover over goods.**
- **Our services are priced based on the exclusions and limits in these conditions.**
- **We will not be liable for any loss of or damage to goods, unless you prove that such loss or damage was caused by our negligence or wilful misconduct.**
- **The conditions provide for various limits on our liability for loss of or damage to goods, depending on whether you or the consignee or both are operating a business. These limits are set out in clauses 10 and 11.**
- **The effect of these limits is that, even if you do prove we have been negligent, you may not be able to recover the full value of the lost or damaged goods.**

## **JOHN WEST LOGISTICS PTY LTD TERMS AND CONDITIONS OF SERVICE**

### **1 Application of Conditions**

1.1 We are not a common carrier and will accept no liability as such. All Services We or a Subcontractor performs for You are subject to these Conditions. We reserve the right to refuse to provide Services in relation to goods for any Person and any class of goods.

1.2 To be valid, any variation to these Conditions must be:

- (1) in writing; and
- (2) signed by Our managing director and Your Person of delegated authority.

### **2 Your Obligations**

2.1 You and any Owner are bound by these Conditions.

2.2 You and any Owner warrant that:

- (1) You have the authority of all Owners or Persons interested in the Goods to enter and agree to these Conditions;
- (2) The Goods and Containers including their description, weight, contents, measure, quantity, condition, marks, numbers and value are complete and correct and are labelled in accordance with any applicable Law or Requirement;
- (3) The Goods and Containers are properly packed in a manner adequate to withstand normal handling or carriage and to comply with any applicable Law or Requirement;
- (4) You have and will comply with all Laws in relation to loading, handling and unloading of Goods and for ensuring that proper facilities and safeguards are in place for collecting, delivering, loading, handling and unloading of the Goods;
- (5) You will provide Us with full and safe access to the Goods and to the premises to which the Goods are to be delivered;
- (6) There is a suitable practicable road and approach for Us and Our vehicles to any premises from which the Goods are to be collected or to which the Goods are to be delivered;
- (7) Any premises from which the Goods are to be collected or to which the Goods are to be delivered will have safe and adequate loading facilities and equipment available;
- (8) The Services are supplied to You for the purpose of a business, trade or profession or occupation engaged in by You;
- (9) Where the Goods are Regulated Waste, You will provide all necessary documentation required by Law to allow the transport of the Goods by Us;
- (10) Where required by Law, You have accurately completed and supplied container weight declaration;
- (11) Unless specifically declared in writing prior to the performance of the Services, the Goods are not Dangerous Goods or Regulated Waste.

2.3 You must give Us sufficient instructions to enable Us to adequately perform the Services.

2.4 You must provide Us with any information concerning the nature of the Goods and their packaging that We reasonably request.

### **3 Receipt of Goods**

3.1 We are not deemed to receive any Goods until:

- (1) The Person delivering them has reported to Our reception office;
- (2) We have specifically agreed to receive the Goods; and
- (3) We have verified the physical condition, quantity and description of the Goods at the time of delivery.

3.2 Goods and Containers are received on the basis of tendered documentation and We accept no liability for the condition, quality, weight or suitability of the Goods or Containers.

#### **4 Inspection**

4.1 We will inform You of any discrepancies to the Goods that We discover on receipt by Us or delivery from Us and which are apparent on reasonable inspection without opening up any packaging of the Goods.

4.2 You authorise Us to open the Goods or Containers to determine the nature or condition of the Goods or for any other purpose which We consider reasonably necessary.

4.3 We are not obliged to carry out an inspection of the Goods.

4.4 If We elect not to carry out an inspection of the Goods We are not liable for any failure to carry out an inspection.

4.5 If by Law or Requirement by Authorities at any place, a Container has to be opened for the Goods to be inspected, We will not be liable for any Loss, damage or delay incurred as a result of any opening, unpacking inspection or repackaging. We will be entitled to recover the cost of such opening, unpacking, inspection and repackaging from You.

#### **5 Delivery and Disposal**

5.1 We will use reasonable endeavours to:

- (1) Promptly and carefully deliver the Goods to the address nominated by You;
- (2) Follow any instructions You have given Us in relation to the Services; and
- (3) Effect delivery at the date and time that You request, subject to compliance with Chain of Responsibility Laws.

5.2 We are entitled to depart from Your instructions (including deviating from the usual method of Service or route of carriage) if We in our absolute discretion think it necessary in the circumstances. If You express or impliedly instruct Us to use, or it is expressly or impliedly agreed that the We will use, a particular method of handling the Goods or a particular method of carriage, We will give priority to that method. If, however, in Our reasonable opinion, that method cannot be practicably adopted by Us, You authorise Us to handle or carry or to have the Goods handled or carried by another method or methods.

5.3 A failure to deliver in accordance with clause 5.1 does not Confer a right of cancellation or refusal of acceptance of delivery by You.

5.4 If the nominated delivery site is unattended or if delivery cannot otherwise be effected by Us, We may at Our absolute discretion:

- (1) Deposit the Goods at the delivery site (which is conclusively presumed to be due delivery); or
- (2) Store the Goods in the manner determined in Our absolute discretion. You agree to indemnify Us for all reasonable costs and expense incurred in relation to that storage. In the event that the Goods are stored by Us, We will be at liberty to redeliver them to the You from the place of storage at Your expense.

5.5 We are conclusively presumed to have delivered the Goods in good order and condition if We obtain a receipt or signed delivery docket for the Goods.

5.6 Instructions contained in Your bill of lading, delivery order or other documents entitle Us to deliver to the bearer of that document despite that document providing for delivery to a named party or to their order.

We are entitled to assume that the Person presenting the document is the Person lawfully entitled to take delivery. We are not required to verify signatures appearing on any document.

5.7 If in Our opinion or the opinion of any Authority, Goods constitute a risk to other Goods, property, life or health those Goods may be destroyed, disposed of or otherwise dealt with at Our discretion and at Your risk and expense.

#### **6 Subcontracting**

6.1 We and any Subcontractor are entitled to subcontract or on forward, on any terms, the whole or any part of the Services.

6.2 Every exemption, limitation, condition and liberty herein contained and every right, exemption from liability, defence and immunity of whatsoever nature for Our benefit or to which We are entitled hereunder is also available and will extend to protect:

- (1) All Subcontractors;
- (2) All of Our servants, agents and every other Person by whom the Services or any part thereof are performed or undertaken; and
- (3) All Persons who are or might be vicariously liable for the acts or omissions of any Person referred to in Clause 6.2(1) and (2).

6.3 For the purpose of this Clause 6, We are or will be deemed to be acting as agent or trustee on behalf of and for the benefit of all such Persons and each of them will to this extent be or be deemed to be parties to this Contract.

#### **7 Your Indemnities to Us**

7.1 You must indemnify Us against:

- (1) All Losses, costs and expenses that We incur, and all Claims which We may sustain or incur or for which We may become liable, in providing the Services except to the extent You prove that such Losses, costs and expenses were caused by Our negligence or wilful misconduct;
- (2) All Claims by any Person who claims to have or has any interest in the Goods and/or Containers;

and

(3) All costs actually payable by Us to Our own legal representatives (whether or not under a costs agreement) and other expenses that We incur in connection with a demand, action, arbitration or other proceeding (including mediation, compromise, out of court settlement or appeal), in connection with any Loss, damage, death or injury arising directly or indirectly as a result of or in connection with:

(a) Your breach of these Conditions or any warranty You provide in these Conditions;

(b) The nature or condition of the Goods;

(c) Any negligence, wilful misconduct or recklessness by You, the Owner or any Person acting on Your behalf or the Owner's behalf; or

(4) Any duties, taxes, penalties or fines in relation to the Goods.

7.2 You warrant that no Claim will be made against Us which imposes or attempts to impose on Us any liability in connection with the Goods or Containers other than in accordance with these Conditions. To the extent that You breach this warranty the indemnities You give in these Conditions operate.

## **8 Dangerous Goods**

8.1 You must give Us full written details of any Dangerous Goods (in accordance with the manner prescribed by any Laws or Requirements if applicable) prior to Us providing Services.

8.2 You warrant that:

(1) The description of the Goods provided by You to Us is accurate;

(2) Unless described under clause 8.1, the Goods are not:

a) Infested with vermin or pests;

b) Explosive, radioactive or of unlawful nature and are only noxious, dangerous, hazardous, inflammable, volatile or offensive to the extent disclosed under clause 8.1; or

c) Of a kind reasonably capable of causing Loss, damage or injury to Us or any third party.

8.3 You will be liable for, and indemnify Us against, all Losses, however caused arising out of the tender of or the transport of any Dangerous Goods, whether declared or otherwise, and whether or not You are aware that the Goods consigned were Dangerous Goods.

8.4 If You breach a warranty in clause 8.2, the Goods may at Your cost, be destroyed, disposed of, abandoned or rendered harmless by Us without compensation to You and without prejudice to Our right of payment.

8.5 You must declare in writing to Us any Goods which may be liable to customs duties or official restrictions.

8.6 You warrant that You have complied with all Laws and Requirements relating to the nature, packaging, labelling or carriage of the Dangerous Goods (including but not limited to the Australian Code for the Transport of Dangerous Goods by Road & Rail) and that the Dangerous Goods are packed in a manner adequate to withstand the ordinary risks of carriage having regard to their nature and hereby indemnify Us for any liability whatsoever as a result of or arising out of Your failure to comply with this warranty.

8.7 The indemnities in this clause 8 extend to Consequential Loss.

## **9 Crane/Lifting Services**

9.1 Where We provide Crane Services at Your request, You warrant that:

(1) The ground at the site where the Crane will be used is adequate to support the Crane;

(2) The ground giving access to the site is stable and firm and of a gradient to allow the Crane to be operated safely;

(3) Sufficient clearance is afforded in respect of all overhead wires;

(4) The specifications and size of the Crane are suitable for the site and for the purpose required by You; and

(5) The road surfaces, access and egress to the site are clear of obstacles at all times and will allow safe movement of the Crane.

9.2 We will supply a standard selection of slings, lugs and chains but accept no responsibility for Loss or delay if any slings, lugs or chains are found to be unsuitable for the purpose required by You.

9.3 You warrant that the weight of the Goods to be lifted in any one lift and the radius of the proposed lift, measured from the radial point of the Crane, will not exceed the limits of the Crane.

## **10 Our Liability**

10.1 The Goods are at Your risk and You acknowledge and agree that neither We nor any Person on Our behalf who undertakes the Services pursuant to these Conditions will be under any liability for:

(1) Any loss of or damage to, deterioration, evaporation or contamination of the Goods; or

(2) Misdelivery, delay in delivery or non-delivery of the Goods or any of them,

unless You prove that such loss, damage, deterioration, evaporation or contamination, misdelivery, delay in delivery or non-delivery was caused by Our negligence or wilful misconduct.

10.2. Any liability of Ours under clause 10.1 will be reduced proportionately to represent the extent to which Your negligent or wrongful acts or omissions caused the loss, damage, deterioration, evaporation or contamination; and

10.3 To the extent permitted by Law, Our maximum aggregate liability under clause 10.1 will be limited to \$2,000.00 per load of Goods consigned.

10.4 Notwithstanding any other provision in these Conditions, We will not be liable for any Loss of or damage to Goods caused by:

- (1) A Force Majeure;
- (2) Our following of Your instructions;
- (3) Vermin, infestation or mould;
- (4) Vibration, road conditions, weather or weather events of any kind whatsoever, including but not limited to stone, rain, hail or storm damage;
- (5) The Goods being inherently defective or in such a condition that they cannot be loaded, unloaded or transported by road without damage;
- (6) The inherent vice or the nature of the Goods; or
- (7) Insufficiency or unsuitability of packing or preparation of the Goods to withstand the ordinary incidents of carriage.

10.5 Notwithstanding any other provision in these Conditions, We will under no circumstances be liable for any claim for Consequential Loss.

10.6 You agree that the terms of these Conditions will continue to apply notwithstanding any deviation, intentional or otherwise, in the carriage of the Goods.

## **11 Australian Consumer Law**

11.1 If We are liable for breach of a condition or guarantee implied by the Competition and Consumer Act 2010 or the Australian Consumer Law, and if clauses 10.1, 10.2, 10.3, 10.4 or 10.5 cannot legally operate, to the extent permitted by Law, Our liability will be limited, at Our option, to:-

- (1) The supplying of the Services again; or
- (2) The payment of the cost of having the Services supplied again.

11.2 Notwithstanding anything herein contained We will continue to be subject to any guarantee provided by the Competition and Consumer Act 2010 and The Australian Consumer Law as amended if and to the extent that that Act is applicable to these Conditions and prevents the exclusion, restriction and modification of such condition or guarantee.

## **12 Risk and Insurance**

12.1 You acknowledge that You are responsible for ensuring that no Goods required to be carried are left behind or omitted.

12.2 You acknowledge that We bear no liability if any Goods are carried due to any mistake, accident, error or otherwise by You.

12.3 You acknowledge that We are under no obligation to arrange insurance of Goods.

## **13 Charges**

13.1 Charges are deemed fully earned as soon as either the Goods are signed for by a Person authorised to do so on Our behalf, whether picked-up by Us or delivered into Our depot or when the Services commence and will be payable and non-refundable in any event.

13.2 You must pay Us all agreed amounts as soon as they are due without any deduction or deferral for any Claim or set-off.

13.3 Notwithstanding acceptance by You of any quotation or estimate of Charges, We make reasonable additional Charges in the event that:

- (1) The Goods are of a different weight, mass, density, length, width or general nature (than as previously described by You to Us) or differ in any respect to the description of the Goods provided to Us;
- (2) There is any change or alteration by You or the Owner to the agreed date or time for commencement or completion of the Services;
- (3) Additional Goods are provided for carriage other than those previously advised to Us;
- (4) The Goods are not delivered to Us for transport on the agreed date or at the agreed time;
- (5) There is any delay in loading, unloading or adjustment of loads by reason other than Our own default.

13.4 You shall be liable for and shall pay Us, in addition to any Charges contemplated under this Contract:

- (1) All freight storage Charges as notified to You;
- (2) Any fuel levy imposed, which may be adjusted by Us at any time on reasonable grounds to reflect various current market factors from time to time;
- (3) Any fee imposed by a governing road Authority for the provision of escorts, pilots or supervisors for heavy or over-dimensional transport;
- (4) Any additional costs arising from heavy or over-dimensional transport including those associated with permits, escorts, equipment, bridge/road works, detours and/or otherwise complying with Law or Requirement.
- (5) All statutory charges including, but not limited to, Customs charges and excises (whether Australian or foreign) in relation to the transport of the Goods or the provision of the Services; and
- (6) All taxes including, but not limited to, GST (whether Australian or foreign).

## **14 GST**

14.1 This clause 14 applies if We are or may become liable to pay GST in relation to any Services under these Conditions:

(1) Unless otherwise stated, all Charges quoted are exclusive of GST. In addition to such charges, You must pay GST on the Taxable Supply to Us of an amount equal to the GST exclusive consideration multiplied by the GST Rate. GST shall be payable by You without any deduction or set off for any other amount at the same time as the GST exclusive consideration is payable. In all other respects, GST shall be payable by You to Us upon the same basis as the GST exclusive consideration is payable by You under these Conditions.

(2) We must issue an Invoice or Invoices to You for the amount of GST referable to the Taxable Supply. We must include in any such Invoice such particulars as are required by the GST Law in order that You may obtain an input tax credit for the amount of GST payable on the Taxable Supply.

(3) If any part of the consideration is referable to both a Taxable Supply and anything that is not a Taxable Supply, the amount of GST payable by You shall be determined by Us and shall be the same amount of GST that would be payable if the Taxable Supply were the only Supply made to You.

(4) If You default in the payment on the due date of any amount payable pursuant to clause 14.1(1) then without prejudice to any other remedies We have, You shall pay to Us upon demand an amount equal to the amount of any damages or interest or additional GST that may become payable by Us arising out of Your default.

## **15 Chain of Responsibility**

15.1 Both parties must comply with all applicable Laws, including Chain of Responsibility Law.

15.2 You must not impose any requirement on Us that would directly or indirectly encourage or require Us or any Person on Our behalf to speed, drive while fatigued or otherwise perform the Services in an unsafe manner.

## **16 Lien**

16.1 We have a special and general lien over the Goods and any related documents in Our possession for all sums payable by You to Us for Services performed, costs incurred and all other monies payable or owing to Us (whether or not those sums have been Invoiced and whether or not those sums are overdue for payment).

16.2 If Charges are not paid when due or the Goods are not collected when so required or designated, We may at Our option and without giving You notice:

(1) Remove the Goods or documents, or part thereof and store them at a charge in such place and in such manner as We think proper and at Your risk and expense; or

(2) Sell the Goods or documents on such terms as We think fit (whether by private treaty or public auction) and apply the proceeds in or toward discharge of the lien without being liable to any Person for any Loss or damage thereby caused. This does not affect any other rights We may have.

16.3 Until full payment in cleared funds as well as all other amounts You owe Us under these Conditions or any other contract is received, in addition to any rights We may have under Chapter 4 of the PPSA, We are entitled at any time to exercise Our rights under clauses 16.2(1) and 16.2(2). If there is any inconsistency with Our rights under clauses 16.2(1) and 16.2(2) and Our rights under the PPSA, clauses 16.2(1) and 16.2(2) prevail.

16.4 You are liable to Us for the costs of any notice, publication, storage, sale or attempted sale under this clause.

16.5 On a sale under clause 16.2 We may apply the proceeds towards the payment of the expenses of sale and the balance towards payment of outstanding Charges and costs due by You.

## **17 Security Interest**

17.1 You agree to grant Us a Security Interest in the Goods in respect of these Conditions or any Contract between the parties until full payment of all amounts owing to Us are received in cleared funds.

17.2 You irrevocably authorises Us and Our solicitors to do the following:

(1) Register one or more financing statements or financing change statements (electronically or otherwise) on the Personal Property Securities Register established under section 147 of the PPSA in connection with this or any Contract between the parties; and

(2) Register and record this or any other Contract between the parties (electronically or otherwise) in such other places as We or Our solicitors may at any time consider necessary or desirable to perfect this or any other Contract between the parties or to protect Our rights under this or any other Contract between the parties.

17.3 You agree to provide Us with all information and do anything reasonably required by Us, to enable Us to register Our Security Interest with the priority that it requires and to maintain that registration.

17.4 The Security Interest under clause 17.1 attaches to the Goods when We obtain possession and the parties confirm that they have not agreed that the Security Interest arising under clause 17.1 attaches at any later time.

17.5 Our rights under clause 17.1 secure Our right to receive payment of all amounts owing to Us by You under this or any other Contract.

17.6 You must not, without Our prior consent, do, or agree to do, any of the following in respect of the Goods:

(1) Vary or create another Security Interest in favour of a third party;

(2) Sell, assign or otherwise dispose of the Goods;

(3) Lease or license the Goods, or allow a surrender or variation of any lease or licence;

(4) Give control of the Goods to another Person;

- (5) Part with possession of the Goods (including any chattel paper) other than by giving Us possession;
  - (6) Allow a set-off or combination of accounts;
  - (7) Change the nature of the Goods;
  - (8) Abandon, settle, compromise, or discontinue or become nonsuited in respect of any proceedings against any Person (other than Us) in respect of any of the Your rights in connection with the Goods;
  - (9) Exercise or waive any of Your rights or release any Person from its obligations in connection with the Goods;
  - (10) Allow any personal property to become an accessory to, or commingled with, any property that is not Goods;
  - (11) Move any Goods outside Australia; or
  - (12) Deal in any other way with the Goods or any interest in it, or allow any interest in it to arise or be varied.
- 17.7 You agree to perfect and continuously maintain perfection of any Security Interest that itself forms part of the Goods and do everything necessary to ensure that a third Person cannot acquire an interest in any of the Goods free of Our Security Interest.
- 17.8 All payments received from You must be applied by Us in accordance with section 14(6)(c) of the PPSA.
- 17.9 Subject to section 275(7) of the PPSA, neither party will disclose information of the kind mentioned in section 275(1) of the PPSA.
- 17.10 If Chapter 4 (enforcement of security interests) of the PPSA applies:
- (1) You waive the right to receive a notice or statement arising by virtue of sections 129, 130, 132, 134 and 135 of the PPSA;
  - (2) We need not comply with section 125 or any other provisions of the PPSA that the parties may contract out of in relation to the Collateral; and
  - (3) You may not exercise rights under sections 142 (redemption of collateral) or 143 (reinstatement of security agreement) of the PPSA to the extent the Law permits those rights to be excluded.
- 17.11 We need not give You any other notice required under the PPSA (including a notice of verification statement under section 157 of the PPSA) unless the notice cannot be excluded.

## **18 Force Majeure**

- 18.1 Where We are unable to carry out any obligation under the Contract due to a Force Majeure, We will be excused from such obligation to the extent of such prevention, restriction or interference so caused.
- 18.2 We will use all possible diligence and reasonable endeavours to remove the Force Majeure, but we will not be obliged to settle any labour or other dispute creating the Force Majeure on terms contrary to Our wishes.
- 18.3 Nothing in these Conditions requires us to engage in any act that would cause Us or any Person on Our behalf to be in breach of any applicable Law, including Chain of Responsibility Law.

## **19 Time limits on Claims for damage or Loss**

- 19.1 If We are liable for damage to or Loss of the Goods or any part thereof, no Claim in respect of such Loss or damage may be made unless notice of the Claim is lodged in writing to Our address in clause 22.1, as soon as reasonably practicable but in any event not later than thirty (30) days after delivery was effected or would in the ordinary course of business have been effected. For the purposes of this clause, time is of the essence.

## **20 Suspend Service**

- 20.1 We may suspend or stop performing the Services while any Charges and costs due to Us are unpaid.

## **21 Privacy**

- 21.1 You agree to Us using Your personal information for the primary purpose of providing You with the Services or any related secondary purpose.
- 21.2 We agree not to disclose Your personal information to any third party without Your consent unless We are required or authorised to do so by Law.
- 21.3 You must notify Us in writing if You require Us to change Your details or if You would like access to Your personal information.
- 21.4 To the extent and as required by Law, the Parties will comply with the Privacy Act 1988 (Cth). Any personal information obtained or supplied in connection with the Services will be collected, used, stored, disclosed, transferred and destroyed in accordance with the Australian Privacy Principles and the Law.

## **22 Notices**

- 22.1 Our address for correspondence is: Address: PO Box 1594, Eagle Farm Qld 4009 Telephone: (07) 3868 1011 Facsimile: (07) 3868 1055
- 22.2 Unless You notify Us otherwise Your address for correspondence will be any address or contact details contained in any delivery document You provide to Us.
- 22.3 Any notice sent by post is deemed to have been given on the third day following the day of posting.

## **23 Definitions**

- 23.1 In these Conditions:

- (1) **"Authority"** includes any legal or administrative authority acting within its legal powers and exercising any jurisdiction within any nation, state, municipality, port or airport;
- (2) **"Chain of Responsibility Law"** means the Heavy Vehicle National Law as enacted in any Australian state, the Road Traffic (Administration) Act 2008 (WA) and the Road Traffic (Vehicles) Act 2012 (WA) and any other state, territory or Commonwealth legislation dealing with the obligations of parties involved in road transport activities, such as consignors, transport operators, loaders, drivers and schedulers;
- (3) **"Claim"** includes any damage, liability, Loss, claim or legal action;
- (4) **"Charges"** are any costs payable by You to Us in relation to, but not limited to, the Goods carried by Us and Services provided by Us;
- (5) **"Conditions"** means these Terms and Conditions of Service;
- (6) **"Consequential Loss"** means any indirect or consequential Loss; Loss of use; Loss of product or production; delayed, postponed, interrupted or deferred production; inability to produce, deliver or process; Loss of profit, revenue or anticipated revenue; Loss of bargain, contract, expectation or opportunity; punitive or exemplary damages; in each case arising from or in connection with the performance of the Services and whether or not foreseeable at the time of entering into these Conditions;
- (7) **"Container"** means any container used to carry Goods or any equipment comprised in or connected to a container in respect of which We perform or are requested to perform Services or which enters Our premises in connection with a Service;
- (8) **"Contract"** means the contract between Us and You as set out in these Conditions;
- (9) **"Crane"** includes any machine used for lifting Goods, including a forklift and sideloader;
- (10) **"Dangerous Goods"** means Goods which are or may become of a dangerous, inflammable, noxious radio-active, volatile, explosive or damaging nature;
- (11) **"Force Majeure"** means (but is not limited to) any acts of God, fires, floods, storms, lightning, cyclones, earthquakes, landslides, maritime disasters, explosions or nuclear accidents, any wars (declared or undeclared), acts of public enemies, rebellions, revolution, public disorder, riots, civil commotion, malicious damage, vandalism, sabotage, insurrections or acts of terrorists, any acts of Government bodies (including but not limited to legislative bodies, courts, executive and administrative officers or agencies), any quarantine or custom restrictions, any road closures or congestion of roads, any interruption of power supply or scarcity of fuel, any strikes, boycotts, lockouts or other labour disturbances, any accidents, collisions or breakdowns of vehicles, machinery or equipment, any other matters of a similar or dissimilar nature which are beyond Our reasonable control, or any weather conditions that are so severe as to cause present or potential threats to Our personnel or equipment;
- (12) **"Goods"** means the cargo and its packaging in respect of which We provide or are requested to provide Services in accordance with the terms of this Agreement;
- (13) **"GST"** has the same meaning as in A New Tax System (Goods and Services Tax) Act 1999 (Cth);
- (14) **"GST Law"** means the same as in the A New Tax System (Goods and Services Tax) Act 1999;
- (15) **"GST Rate"** means the rate of GST under the GST Law;
- (16) **"Invoice"** means the tax invoice under the GST Law;
- (17) **"Law"** includes the provision of any statute, rule, regulation, proclamation, ordinance or by-law;
- (18) **"Loss"** means but is not limited to any loss or damage to Goods, Equipment or any other thing, liability, cost or expense;
- (19) **"Owner"** includes the owner, consignor and consignee of any Goods or Container and any other Person who is or may become interested in any Goods or Container and anyone acting on their behalf;
- (20) **"Person"** includes (but is not limited to) any person, partnership, firm, body corporate (being a company registered under the Corporations Act 2001 (Cth)), incorporated association, co-operative, Owners' corporation or statutory body and any other entity recognised by Law as a legal person.
- (21) **"PPSA"** means the Personal Property and Securities Act 2009 (Cth);
- (22) **"Regulated Waste"** includes the meaning of that term as in the Environmental Protection Regulation 2008 (Qld) and includes any other commercial or industrial waste (whether or not it has been immobilised or treated) where dealings with that waste are regulated by any Law;
- (23) **"Requirement"** means any requirement, notice, order or direction received from or given by any statutory, public or competent Authority and includes the relevant Australian Standard;
- (24) **"Services"** means the services We provide to You under these Conditions whether provided gratuitously or otherwise including but not limited to carriage, transportation, packaging, storage, lifting, handling services and distribution of Goods, the towing of a trailer and other services which You and Us may agree in writing are to be Services;
- (25) **"Subcontractor"** means any Person We use to perform all or part of the Services instead of Us including any employee, agent or subcontractor;
- (26) **"Taxable Supply"** has the same meaning as in GST Law.
- (27) **"Us, We or Our"** means John West Logistics Pty Ltd (ACN 095 949 830) trading under its own name or any other business name and where the context permits includes Our servants, employees, any related body corporate, agents and Subcontractors; and
- (28) **"You or Your"** means any Person at whose request or on whose behalf We provide Services.

## **24 Interpretation**

24.1 References to:

- (1) A corporation have the same meaning as in the Corporations Act 2001 (Cth); and
- (2) A statute include all regulations, ordinances, by-laws and orders made under that statute and include all statutes, regulations, ordinances, by-laws and orders amending, consolidating or replacing that statute.

24.2 Words importing:

- (1) Any gender include all other genders; and
- (2) The singular include the plural and vice versa.

24.3 Terms used but not defined have the same meaning as under the PPSA.

24.4 Headings are inserted for guidance and do not affect the interpretation of these Conditions.

24.5 These Conditions are governed by and are to be construed in accordance with the Law of the State of Queensland. Each party irrevocably and unconditionally submits to the non-exclusive jurisdiction of the Courts of Queensland and Courts entitled to hear appeals from those Courts.

24.6 These Conditions have effect, whether or not You have signed an acknowledgment of their application.

24.7 If You commence or continue to engage in any dealings with Us, these Conditions will be deemed to apply to Our dealings, whether or not You have signed an acknowledgment of their application.

24.8 If it is held by a Court that any part of these Conditions is void, illegal, voidable or unenforceable (or would be unless severed) then that part is severable from the Conditions and will not affect the continued operation of the rest of the Conditions.

24.9 If there is any inconsistency between these Conditions and the terms and conditions contained in any other document issued by or on behalf of Us in connection with the provision of the Services then these Conditions shall prevail.

24.10 Where You or the Owner comprise two or more Persons, an agreement or obligation to be performed or observed by You or the Owner binds those Persons jointly and severally.

24.11 The indemnities in these Conditions survive the termination or expiration of any agreement incorporating these Conditions.

24.12 These Conditions represent the entire agreement between the parties and supersede all prior representations, agreements, statements and understandings between the parties.