

TERMS AND CONDITIONS (Carriage of Goods - Domestic)

This document details the terms and conditions of the service that Booth's provides to the Customer to ensure the compliance of both the Customer's Goods and Booth's operations with all applicable government legislation and regulations in New Zealand.

These Terms apply to the domestic Carriage of Goods by Booth's for the Customer and do not apply to any other services provided by Booth's for the Customer, including warehousing or international carriage. Words capitalised in these Terms are defined in **clause 14**.

Booth's reserves the right at any time to vary or add to these Terms, provided any variation or amendments are notified to the Customer.

1 CONTRACT FOR CARRIAGE

- 1.1 The contract for Carriage between the Customer and Booth's is comprised of these Terms and any relevant commercial agreements made by the parties (if applicable).
- 1.2 By using Booth's domestic Carriage service, the Customer is agreeing to these Terms.

2 LIABILITY OF BOOTH'S

- 2.1 The contract for Carriage of Goods between the Customer and Booth's is "at limited carrier's risk" pursuant to the provisions in the CCLA, unless the Customer has signed a written contract for Carriage of Goods with Booth's that is expressed to be "a contract for carriage at owner's risk", meaning that Booth's will pay no compensation if the Goods are lost or damaged unless Booth's intentionally loses or damages the Goods.
- 2.2 Subject to the provisions of the CCLA imposing liability in respect of the loss of or damage to the Goods:
 - (a) Booth's shall not be under any direct or indirect liability (whether in contract, tort or otherwise) for any direct or indirect losses, penalties, damages, costs or expenses of any kind whatsoever (including indirect or consequential loss or damage) brought, claimed, suffered or incurred by the Customer or any third party, in connection with, or resulting from, the Carriage of the Goods or any matter or thing done, said or omitted by Booth's, in connection with the Carriage of Goods howsoever caused or arising and (without limiting the generality of the foregoing) whether caused or arising as a result of negligence of Booth's, deterioration, mis-delivery, delay in delivery or non-delivery of the Goods (whether the Goods are or have been in the possession of Booth's 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; and
 - (b) the Customer indemnifies Booth's against all losses, penalties, claims, damages (including damage or deterioration by or to any other consignment), costs and expenses of any kind whatsoever, howsoever caused or arising and (without limiting the generality of the foregoing) whether caused or arising:

- (i) out of any default or negligence of the Customer (including but not limited to a failure to comply with these Terms);
- (ii) as a result of the negligence of Booth's or otherwise;
- (iii) by any third person as a result of or in connection to the Carriage of the Goods;
or
- (iv) brought by any person in connection with any matter or thing done, said or omitted by Booth's in connection with the Goods.

3 NOTIFICATION OF CLAIMS AND LIMITATION OF ACTIONS

- 3.1 If the Customer wishes to make a claim against Booth's for damaged or missing Goods, the Customer will follow the claims process set out in the Schedule on the last page of these Terms.
- 3.2 Booth's will not be liable to the Customer for any claim, except as set out in the Schedule of these Terms.

4 LABELLING AND PACKING GOODS

- 4.1 The Customer warrants that all Goods:
 - (a) have been labelled correctly and are adequately and securely packed, wrapped and cushioned for transportation; and
 - (b) comply with the requirements of any applicable law or regulation relating to the nature, labelling and packaging of Goods.
- 4.2 Booth's is entitled to charge the Customer for any costs and expenses incurred (or to be incurred) by Booth's in complying with:
 - (a) the provisions of any applicable law, regulation, order or requirement; or
 - (b) the requirement of any harbour, dock, railway, shipping or customs agent,
including any excise duty, sales tax and any expenses, charges, levies or fines arising out of the Customer's breach of any applicable law.

5 CARRIAGE OF GOODS

- 5.1 Booth's may carry or on-forward all Goods or have them carried by any method or any person which Booth's deems fit and notwithstanding any instructions that the Goods are to be carried or on-forwarded by another method.
- 5.2 The Customer authorises Booth's to contract either as principal or as an agent of the Customer for the Carriage of Goods and any such contract will be made upon the terms and subject to the condition of any bill of lading or other forms or terms of contract for Carriage, whether by sea, rail, road or air.
- 5.3 From the date on which Booth's responsibility for the Goods ends (as provided by section 258 of the CCLA), Booth's may hold any undelivered Goods as bailee and shall be entitled to storage fees at normal rates charged by Booth's. As the bailee, Booth's:

- (a) shall not be under any liability for any loss of or damage to the Goods however caused; and
- (b) may, in its discretion, return the Goods to the Customer at the risk and expense of the Customer.

5.4 The provisions set out in clause 7 of these Terms for recovery of interest and costs on outstanding freight shall apply also to storage fees which remain unpaid seven days after demand for payment has been made.

6 OWNERSHIP OF GOODS

6.1 The Customer expressly warrants to Booth's that it is either the owner of the Goods or the authorised agent of the owner of the Goods and by entering into the contract for Carriage with Booth's, the Customer accepts these Terms for itself and for and on behalf of any other persons on whose behalf the Customer is acting.

7 PAYMENT FROM CUSTOMER

7.1 Freight shall be considered earned and becomes chargeable as soon as the Goods are collected for dispatch by Booth's.

7.2 The Customer must pay all freight on the 20th of the month following the date of invoice without any deduction or set-off by direct payment to Booth's or as Booth's may direct. The Customer must not withhold, defer or set-off payment of freight on account of any claim or counter claim.

7.3 Booth's may charge freight by weight, measurement or value, and may at any time re-weigh or re-value or re-measure or require the Goods to be re-weighed, re-valued, or re-measured and charge proportional additional freight accordingly.

7.4 Booth's reserves the right to refuse to accept any Goods for Carriage unless the freight is prepaid.

7.5 If payment of all freight and other costs payable under these Terms is not made to Booth's in full within seven days after the due date for payment then:

- (a) the Customer shall pay interest on all amounts outstanding under these Terms at a rate of 5% per annum above the then current official cash rate;
- (b) Booth's shall be entitled to sue the Customer for the recovery of all outstanding freight, other costs payable under these Terms and interest thereon and section 283 of the CCLA shall not apply; and
- (c) any costs incurred by Booth's in connection with any recovery action taken in respect of outstanding freight and other costs shall be payable by the Customer on demand.

7.6 If the Customer is the consignor, then any special instruction from the Customer to Booth's to the effect that freight and other costs shall be paid by the consignee shall be deemed to include a stipulation that if the consignee does not pay the freight within seven days of the date on which the Goods are loaded and dispatched, then the Customer shall pay the same and all other charges incurred by Booth's.

- 7.7 The Customer is liable to Booth's for all costs and expenses incurred by Booth's in accordance with these Terms. Booth's may charge the Customer in respect of any delay in excess of 30 minutes in loading or unloading occurring, other than from the default of Booth's. Such permissible delay period shall commence upon Booth's reporting for loading or unloading.
- 7.8 Labour to load or unload Booth's vehicle shall be the responsibility and expense of the Customer or the consignee and should the Customer or the consignee not be present at the address given during normal trading hours when delivery is attempted, an additional charge may be made at ruling rates for each call until delivery is completed.

8 **LIEN**

- 8.1 The Goods are provided to Booth's and then immediately become subject to a general lien for all freight and other costs due now or in the future on any account. If the lien is not satisfied within seven days of such payment becoming due, Booth's may at its option, after giving notice of the lien, either:
- (a) remove the Goods (or any part of the Goods) and store them in such place and manner as Booth's thinks fit and at the risk and expense of the Customer; or
 - (b) sell such Goods (or any part of the Goods) upon such terms as it thinks fit and apply the proceeds in or towards discharge of the lien and costs of sale without being liable to any person for damage thereby caused.

9 **INSURANCE**

- 9.1 In the event that the Customer requires specific insurance of the Goods, Booth's as the Customer's agent will, at the cost of the Customer, arrange insurance of the Goods. The limit of the cover provided by such insurance as arranged by Booth's for the Customer shall be the amount specified in the contract of Carriage and the following exclusions will apply:
- (a) all claims resultant from wear, tear, moths, vermin, pests, damp, mildew, loss of market, loss damage or expense proximately caused by delay or inherent vice or nature of the subject matter insured; and
 - (b) gradual deterioration rust and/or oxidation unless due to or consequent upon fire, collision, overturning or other accident,

and such insurance shall be otherwise on the terms and conditions normally offered for such class of business by the underwriter with whom such insurance is affected provided however that the said limit shall not be construed as an agreed value.

- 9.2 The agreed value of the insurance shall be the amount representing the value of the Goods as invoiced by the Customer with a limit in any event of the amount specified on the contract of Carriage, provided that any amount received by the Customer under such contract of insurance shall be applied in extinguishing any liability of Booth's.

10 **CONTRACTING OUT**

- 10.1 Sections 274, 275, 276, 277, 278, 279, 280 and 281 of the CCLA (which relate to the notice, limitation, and other matters relating to proceedings against carriers) shall not apply to the contract of Carriage between Booth's and the Customer.

10.2 Where the conditions contained in these Terms differ from the provisions of the CCLA then, where possible, these Terms prevail over the CCLA provisions.

11 HAZARDOUS GOODS

11.1 Booth's will not, except where Booth's and the Customer have made special arrangements in writing, accept or deal with any Dangerous Goods. If the Customer delivers Dangerous Goods to, or causes Dangerous Goods to be handled or dealt with by Booth's, the Customer shall be liable for all loss or damage whatsoever caused by or to in connection with the Dangerous Goods however caused or arising and indemnifies Booth's against all penalties, claims, damages, costs and expenses whatsoever arising in connection therewith, and the Dangerous Goods may be destroyed or otherwise dealt with at the sole discretion of Booth's or any other person in whose custody they may be at the expense of the Customer without Booth's or such other person being responsible or accountable for the value thereof.

12 ACCEPTANCE OF TERMS

12.1 The Customer accepts these Terms.

12.2 The Customer warrants that the packaging used for the Goods is of an approved type, labelled or stencilled to indicate the name and class of the Goods and the nature of the danger, and that the Goods are packed in accordance with all applicable requirements and governmental laws so as to withstand adequately the ordinary risks to handling and Carriage by the transport. In respect of sea voyages, the IMO International Maritime Dangerous Goods Code including Annex 1 shall apply, in accordance with the requirements of the International Convention for the Safety of Life at Sea 1960.

13 GENERAL

13.1 Booth's reserves the right to refuse Carriage for any class of Goods or any person.

13.2 Failure by Booth's to enforce any of the Terms on any occasion is not a waiver by Booth's of its rights under these Terms.

13.3 The Customer is not entitled to assign or transfer any of its rights or obligations under these Terms without the prior written consent of Booth's.

13.4 The laws of New Zealand govern these Terms and the courts of New Zealand have exclusive jurisdiction in any proceedings relating to these Terms.

14 INTERPRETATION AND DEFINITIONS

14.1 In these Terms, unless the context requires otherwise:

Booth's means Booths Logistics Limited (company number 8296561), and, unless the context provides otherwise, includes its subsidiaries, agents, sub-contractors and "actual carriers" (as that term is defined in section 246 of the CCLA);

Carriage means the carriage, storage, dispatch, forwarding, unpacking, packing, handling of Goods and any service related to or ancillary to the foregoing;

CCLA means the Contract and Commercial Law Act 2017;

Customer means the person at whose request Booth's is to provide the Carriage of Goods;

Dangerous Goods includes firearms, noxious, dangerous or inflammable Goods or any Goods likely to cause damage, or which it is unlawful to carry;

Goods has the meaning given to it in section 246 of the CCLA; and

Terms means these terms and conditions, as they may be amended in writing by an authorised officer, agent, or employee of Booth's.

14.2 In these Terms, unless the context requires otherwise:

- (a) references to the "Customer" includes the Customer's:
 - (i) successors and permitted assigns; and
 - (ii) employees, contractors, subcontractors, agents, representatives and invitees;
- (b) headings are for ease of reference only;
- (c) the words "includes" or "including" do not imply any limitation; and
- (d) a "person" includes any individual, company, corporation, firm, partnership, joint venture, association, organisation, trust, estate, government, agency of state, municipal authority or statutory body, whether or not having separate legal identity.

SCHEDULE - CLAIMS PROCESS

Booth's transports thousands of consignments throughout New Zealand every day on time and without issue. However, in the event that a Customer wishes to lodge a claim with Booth's, the process that needs to be followed to ensure the Customer's claim is investigated and handled quickly and efficiently is set out below.

Investigation and Claim Timeframes:

- In the event of damaged Goods, a [Booths Logistics Claim Form](#) must be completed and lodged with Booth's within seven days of dispatch from the collection point. It's also important that the Customer holds the damaged Goods complete with the original packaging for the purpose of investigation and determining the cause of the damage.
- In the event of missing Goods, a [Booths Logistics Claim Form](#) must be completed and lodged with Booth's within fourteen days of dispatch from the warehouse.
- If the Customer needs any further assistance relating to its claim or needs help completing the relevant Claim Form, please contact the Booth's Claims Team using the following email address: claims@booths.co.nz.
- Booth's will acknowledge the receipt of the Claim Form on the same day as it is received.
- The Booth's Claims Team will review the details on the Claim Form and contact the Customer if further information is required.
- Booth's will endeavour to advise the Customer of the outcome of the Customer's claim within 5 working days of receipt of the Claim Form.

If, as a result of the investigation into the Customer's claim, it is determined that the Goods were delivered and signed for as being complete and in good order, damage resulted from insufficient packaging or your claim was received out of the time frame set out above, notification that the claim will not proceed will be sent to the Customer within 5 working days.

Other:

Should the claim be for damaged Goods, the damaged items must be returned to Booth's before payment will be made.

PLEASE NOTE: Under the Contract and Commercial Law Act 2017, the maximum liability of Booth's is \$2,000.00 including GST per unit of travel.

Should you disagree with Booth's decision relating to your claim, you can write to the Booth's Claims Team with your reason(s) for wanting the file to be reviewed as this will enable us to complete further investigation into your claim.