

The Stepping Stone Trust Trading as Freight Hub Transport & Directory Services (& Freight Hub Logistics) – Contract terms and Conditions of Service:

## **Contract – Terms and Conditions of Service**

### **1. DEFINITIONS AND INTERPRETATION**

1.1 In these terms and conditions unless expressed otherwise:

(i) "Freight Hub Transport & Directory Services" (FHTDS) is the trading name of "The Stepping Stone Trust Pty Ltd" – ABN 71 419 470 141. The entity also trades with the short form name "Freight Hub Logistics" for convenience and marketing purposes. These contract terms and conditions of service (CTCS), shall apply equally and severally under the trust, its trading name, and its short form name as stated, and henceforth shall be referred to in these CTCS, wholly as FHTDS for brevity, and includes its officers, employees, servants, subcontractors, and agents.

(ii) "Charges" or "Charge" means the charges payable for services in transport, surcharges, consultation, or other supply chain services in logistics as calculated under FHTDS's quote schedules or other agreed rates, and any tax including a goods and services tax ('GST') levied directly on a transaction or supply.

(iii) "Customer" means the "Client" or "Consignor" or "Consignee" and means any person, organisation, company, government or statutory body or authority, or any group or combination of these individuals or entities with whom this contract is made or on whose behalf this contract is entered into or whom FHTDS contracts to provide services.

(iv) "Goods" or "Cargo" or "Consignment" shall mean that which is requested to be transported by the client of FHTDS by its sub contractors for the purpose of carriage to the place or destination of delivery, such place or destination to be as instructed by the Customer to FHTDS. It also means the goods accepted from the Consignor with any container, packaging or pallets supplied by or for the Consignor.

(v) The "Consignment Note" is the effectual contract document, issuance of which to the Customer in person or in writing, or by email, or by automatic generation from the FHTDS web site, activates and ratifies the contract of service under these CTCS. No other method shall activate a contract of trade with FHTDS, and all other methods shall be invalid and carry no right to claim for the Customer.

(vi) "Storage" means the whole of the storage operations and services undertaken by FHTDS for the Goods but does not include collection of the Goods or their redelivery when taken out of storage.

(vii) "Sub-Contractor" shall mean and include:

(a) All companies which are related body corporates of FHTDS within the meaning of that expression as defined in the Corporations Act 2001 (Commonwealth);

(b) Railways operated by the Commonwealth or any State or territory;

(c) Any person, organization, company, government or statutory body or authority with whom FHTDS may arrange for the carriage or storage of any Goods the subject of these terms and conditions;

(d) Any person who is now or hereafter a servant, agent, employee, or sub-contractor of any of the persons as referred to in paragraphs 1.1 (i) and 1(iii) above; and

(e) Any person with whom FHTDS arranges storage of the Goods and any person who is a servant, agent, employee or sub contractor of FHTDS.

1.2 Headings are for reference only and do not effect the interpretation of these terms and conditions.

### **2. EXCLUSIONS AND LIMITATION OF FHTDS'S LIABILITY**

2.1 FHTDS is not a common carrier and accepts no liability as such. All Goods are carried, handled, and transported and all Storage and other services are performed by FHTDS subject to these terms and conditions.

2.2 Subject to clause 2.10, FHTDS excludes from these terms and conditions all conditions, warranties and terms implied by statute and general law.

2.3 Subject to clause 2.10, FHTDS accepts no liability to the Customer for acts or omissions of the Carrier for loss of, damage to or deterioration or contamination of the Goods, or any delay, non-delivery, misdirection of Goods, or other failure to supply the Goods, or supply the Goods in time, or arising out of the Goods, or these terms and conditions.

2.4 Subject to clause 2.10 FHTDS accepts no liability for, and the Customer releases and indemnifies FHTDS against all loss, damage, costs and expense from any claim by the Customer in tort (including negligence), contract, bailment or otherwise for loss or damage to any property, injury to, or death of any person arising out of the acts or omissions of FHTDS, or any or all of the Goods, any delay, non-delivery or other failure to supply the Goods, deterioration, damage, contamination or loss of Goods or any failure arising or delay out of the storage of the Goods.

2.5 The exclusions, releases and indemnities in clauses 2.2, 2.3 and 2.4 extend to loss of profits, loss of sales, interest, business, trade, brand value, or anticipated savings or any other indirect or consequential damage, and to economic loss, even if FHTDS knows they are possible or otherwise foreseeable.

2.6 These terms and conditions apply in all circumstances arising from a fundamental breach of contract or breach of a fundamental term.

2.7 FHTDS in addition to acting for itself, also acts for each of its servants, agents, and Sub-Contractors so these conditions, including any exclusions or limitations of liability herein apply and extend wholly to FHTDS Sub-Contractors, and those CTCS of

The Stepping Stone Trust Trading as Freight Hub Transport & Directory Services (& Freight Hub Logistics) – Contract terms and Conditions of Service:

the Sub-Contractors shall form a part of, and apply in full force under these terms and conditions also, and all the rights, immunities and limitations of liability in these terms and conditions continue to have their full force and effect in all circumstances.

2.8 FHTDS is not liable for, nor bound by, any instructions to collect cash on delivery or any other payments for the Customer, nor any cost for failure to act on an instruction.

2.9 Notwithstanding anything herein contained, FHTDS shall continue to be subject to any implied warranty provided by the Trade Practices Act 1974 (as amended) if and to the extent that the said Act is applicable to these terms and conditions and prevents the exclusion restriction or modification of that warranty.

2.10 The provisions governing all arrangements and agreements between the parties are subject to Force Majeure. Force Majeure shall include but not be limited to an act of God, strike, lockout, act of public enemy, war, blockade, act of terrorism, revolution, riot, insurrection, civil commotion, lightning, fire, storms, flood, explosion, act of State, government restraints and restrictions, embargoes, availability or equipment, plant, goods and the like, or any other cause, all such events not being reasonably within the control of the party claiming benefit of the same.

### **3. CLAIMS & INSURANCE**

3.1 Subject to clause 3.2, the parties agree that FHTDS is not liable for damages or loss of the Goods or any part of the Goods, or for trade losses arising from consulting services, recommendations, direct acts of commercial intervention, or instruction relied upon.

3.2 The parties agree that the Customer must lodge any notice of claim for consideration and determination by FHTDS within seven (7) days of the date of delivery, non-delivery, or other instance-giving rise to such claim.

3.3 The failure to notify a claim within the time limit under clause 3.2 is evidence of satisfactory performance by FHTDS of its obligations.

3.4 FHTDS will acknowledge and accept liability for import container detention where it deems itself to be at fault up to a limit of \$800.00 only, and the Customer agrees to make no claim beyond this limit for such costs arising from late wharf collection, including any immediate or future consequential losses whatsoever extending from late container collection, late dehire, loss of profit, loss of custom, action for recovery by another party, or degradation of brand value.

3.5 The Customer accepts without limitation that:

(i) The Goods and Services are provided, carried, handled, and stored solely at the Customers risk, and FHTDS is under no obligation to arrange insurance to cover Goods and Services for the Customer against any form of direct or consequential loss arising, nor shall it arrange such insurance of any kind whatsoever, unless effected in writing by special arrangement.

(ii) No claim may be made against FHTDS for failure to arrange insurance on behalf of a Customer, or for not insuring goods in transit, handling, and storage, or for outcomes of consulting service advice it provides.

(iii) FHTDS is NOT a common carrier, and strongly urges all Customers to arrange appropriate insurances prior to engaging FHTDS services.

### **4. QUOTATIONS AND CHARGES**

4.1 Any quotation given by FHTDS to the Customer is valid for the period of 30 (thirty) days from the date of the quotation.

4.2 Acceptance of a quotation is effective only upon signing and receipt by FHTDS of the signed quotation within the said time period, or upon commencement of trade before or after this date.

4.3 Charges will commence on the date the signed quotation is received by FHTDS, or when commercial trade commences.

4.4 Quotations and FHTDS's Standard Rate Schedule may be varied from time to time, and FHTDS reserves its right to make such variance with written notice to the Customer of not less than seven (7) calendar working days. The varied rates will apply from the date specified by FHTDS.

4.5 Charges are from FHTDS unless otherwise quoted. FHTDS on forwarding Charges (deliveries to and from country areas as determined by FHTDS) apply for all deliveries and pick-ups not within the local area.

4.6 Unless otherwise specified in writing by FHTDS, the Customer must pay FHTDS the Charges within 14 days of the date of the FHTDS tax invoice.

4.7 FHTDS may, at its discretion, charge interest on any overdue amount at the maximum commercial overdraft interest rate for amounts not exceeding \$100,000.00 (one hundred thousand dollars) as charged by FHTDS's banking institution or exercise its right to a lien over the Customer's Goods.

4.8 The FHTDS Quotation and any Standard Rate Schedules arising, form part of these terms and conditions, and acceptance of a quotation either in writing, or otherwise enforced through the commencement of trade (with or without the return of a signed quotation), invokes by default these CTCS in their entirety and with immediate effect.

4.9 Refund of Charges by FHTDS is not applicable under any circumstances.

The Stepping Stone Trust Trading as Freight Hub Transport & Directory Services (& Freight Hub Logistics) – Contract terms and Conditions of Service:

## **5. TRANSPORT SERVICE CHARGES**

5.1 The Customer must:

- (i) Pay reasonable surcharges as arising and in accordance with FHTDS's written or verbal communication of a requirement to do so to ensure safe, compliant, profitable, carriage of Goods.
- (ii) Pay reasonable Charges arising and in accordance with FHTDS's written or verbal communication of a requirement to do so for freight services arising that have not been quoted by FHTDS.
- (iii) Pay additional Charges which are to be agreed by the parties whether verbally or in writing where the service requires a specialised vehicle to complete the task, such as a tailgate or tail-lift, hand unload, upper level delivery, or other exception where additional costs arise.
- (iv) Pay demurrage Charges in accordance with the Customers quotation where a vehicle is unduly delayed at collection or delivery.
- (v) Pay additional Charges for express freight where such service is requested by the Customer and Charges are agreed.
- (vi) Pay additional Charges for express priority freight where such service is requested by the Customer and Charges are agreed.
- (vii) Pay additional Charges for dangerous goods, container tailgates, AQIS and customs services and inspections, futile delivery, couriers, weekend, public holiday, or out of business hours transport, and any other services as required by the Customer and Charges are agreed.
- (viii) Pay statutory fines arising from non-compliance, misstatements of weight, dimension, or composition of goods, or falsely declared or missing documentation.
- (ix) Pay fees without notice or prior agreement between FHTDS and the Customer, where charges are reasonably levied by FHTDS for unforeseen circumstances, or are incurred to directly mitigate a higher consequential cost to the client (perceived or real), or if the client cannot be contacted during or after business hours and action is required to avert higher potential cost or losses.
- (x) Pay for Charges arising for the hire, recovery and or replacement of all pallets listed on consignment notes by FHTDS for transportation of the Goods, where the Customer's, Consignor, and or Consignee's equipment exchange or transfer procedures fail and consequential costs arise.
- (xi) Pay additional Charges for container detention (for late off-hire), Container wharf storage (for late import container collection), Container late lodgement (for late export container delivery), or other related costs for container cleaning, or container repair due to damages, where it is obliged to do so.

## **6. PALLET PRICING METHODOLOGY**

6.1 FHTDS at all times maintains the right to apply freight Charges in accordance with standard freight units as outlined below:

- (i) Pallet Space or Standard Pallet = 2.2(H) x 1.2(L) X 1.2(W) and 1,000kg.
- (ii) Less than a standard pallet, is charged at minimum of 1 Standard Pallet.

## **7. PAYMENT OF ACCOUNT**

Unless prior consent is granted in writing by FHTDS to the Customer for an extension of their terms of account, being fourteen (14) days from date of invoice, then if the Customer makes no or partial payment to FHTDS on its account, FHTDS may place a stop service on the Customer's account. The Customer agrees and acknowledges that FHTDS is not liable for any resulting loss or damage caused to the Customer and or its Goods as a consequence of the stop service.

## **8. RIGHT TO REFUSE CARRIAGE OR STORAGE OF GOODS**

FHTDS reserves the right to refuse at its discretion the provision of any service it provides for whatever reasonable cause it may deem necessary to do so, and this shall extend to work in progress services where there are sudden debtor risks arising, or concern for safe work practice, or the environment. The Customer agrees and acknowledges that FHTDS is not liable for any resulting loss or damage caused to the Customer and or its Goods or services as a consequence of such refusal of service.

## **9. SUB-CONTRACTING**

9.1 The Customer hereby authorises FHTDS (if FHTDS in its discretion thinks fit to do so) to arrange with a Sub-Contractor for the carriage, storage, and handling of any Goods. Any such arrangement shall be deemed to be ratified by the Customer upon provision of a consignment note to the Customer and secondly via uplift of the said Goods to such Sub-Contractor who shall thereupon be entitled to the full benefit of these terms and conditions to the same extent as benefiting FHTDS as if such provisions were expressly for their benefit. Additionally, and without exception the Customer agrees and undertakes that the specific terms and conditions of cartage of the Sub-contractor apply wholly and equally herein as part of these CTCS's.

9.2 The Customer undertakes that that no claim or allegation shall be made against any person wheresoever by whom the carriage, handling, or storage or part thereof is performed or undertaken and if such claim or allegation is nonetheless made then the Customer agrees to indemnify and to keep FHTDS indemnified against all consequences thereof.

The Stepping Stone Trust Trading as Freight Hub Transport & Directory Services (& Freight Hub Logistics) – Contract terms and Conditions of Service:

## **10. METHOD OF CARRIAGE**

10.1 If the Customer expressly or impliedly instructs FHTDS to use, or it is expressly or impliedly agreed that FHTDS will use a particular method of handling or storing the Goods or a particular method of carriage whether by road, rail, sea or air, FHTDS will give priority to that method but if that method cannot conveniently be adopted by FHTDS for any reason whatsoever, the Customer hereby authorises FHTDS to handle or store or to carry, or have the Goods carried by any other method, or methods FHTDS in its discretion thinks fit.

10.2 The Customer hereby authorises any deviation from the usual route or manner of carriage and or storage and handling of Goods, which may in the absolute discretion of FHTDS be deemed reasonable or necessary in the circumstances.

10.3 FHTDS relies on the Customer to supply details of description, pallet/space, weight, items, quantity, value and measurement and condition of the Goods as supplied by the Customer however FHTDS cannot verify and does not admit their accuracy.

## **11. DELIVERY**

11.1 FHTDS is authorised to deliver the Goods at the address given to FHTDS by the Customer for that purpose and it is expressly agreed that FHTDS shall be taken to have delivered the Goods in accordance with the CTCS between FHTDS and the Customer if at that address FHTDS obtains from any person a receipt or a signed docket for delivery of the Goods.

11.2 If the address given to FHTDS for the purposes of delivery is unattended at the time of delivery, or if delivery cannot be effected by FHTDS (other than by reason of the negligence) then FHTDS may deposit the Goods at that address (which shall be deemed to be delivery under the Contract) or store the Goods at a place where FHTDS deems necessary or appropriate to store those Goods, and if the Goods are stored the Customer shall pay FHTDS for all costs and expenses incurred of and incidental to that Storage and redelivery.

11.3 It is agreed that the person delivering any Goods FHTDS for carriage or transportation and or Storage is authorised to sign the documentation evidencing this agreement for or on behalf of the Customer.

## **12. STORAGE BASIS**

12.1 FHTDS reserves the right to refuse at its discretion the Storage of Goods, subject to Clause 8.

12.2 The Goods are Stored entirely at the risk of the Customer, and FHTDS accepts no liability for the Goods whatsoever.

12.3 FHTDS relies on the Customer to supply details of description, pallet/space, weight, items, quantity, value and measurement and condition of the Goods as supplied by the Customer however FHTDS cannot verify and does not admit their accuracy.

12.4 If the Customer requests a preferred method of Storage, handling or carriage that is not offered by FHTDS within standard practice, FHTDS will make every reasonable attempt to adopt the preferred method however if it is not achievable FHTDS may use any method of Storage, handling or carriage which is practical and safe.

## **13. PALLET SERVICES**

13.1 It is agreed by the Customer without exception, that FHTDS has no obligation or right, nor liability, to manage pallet equipment hire on behalf of the Customer, the consignee, the consignor, or its Sub-contractors. FHTDS will record pallet equipment details on its consignment notes if they are provided by the Customer, however FHTDS cannot verify and does not admit to the accuracy of this information.

13.2 The Customer indemnifies FHTDS without limitation against claims for any loss or costs arising from pallet equipment control errors and failed practise in pallet management by any party.

## **14. CUSTOMER WARRANTIES AND INDEMNITIES**

The Customer warrants to FHTDS that:

14.1 It has in place whether prior to or at the time of entering into these CTCS adequate insurance coverage over the Goods for the carriage and/or handling and Storage of the Goods, and acknowledges and agrees that FHTDS does not take responsibility for such insurance.

14.2 It has fully and adequately described the Goods, their nature, weight and measurements and complied with all applicable laws and regulations (inclusive of the Australian Code for Transport of Dangerous Goods by Road and Rail and Civil Aviation Regulations and the International Maritime Dangerous Goods Code) about the notification, classification, description, labelling, transport and packaging of the Goods and that, given their nature, the Goods are packed in a proper way to withstand the ordinary risks of transport.

14.3 It is either the owner or the authorised agent of the owner of the Goods and has full power and authority to deal with the Goods.

14.4 It is authorised to accept these CTCS for itself and the receiver as well as any other person for whom the Customer is acting or any other person having an interest in the Goods.

14.5 Neither it nor any other person will make an allegation or claim against FHTDS or any other person about the transport, handling, and the Storage of the Goods, AND the Customer indemnifies FHTDS from any loss, damage, expense, penalty, fine or

The Stepping Stone Trust Trading as Freight Hub Transport & Directory Services (& Freight Hub Logistics) – Contract terms and Conditions of Service:

liability arising from a breach of these warranties, the Customer's obligations or these terms and conditions; and

14.6 The person requesting the Goods to be carried, handled and stored is authorised to do so for and on behalf of the Customer.

## **15. DANGEROUS ARTICLES**

15.1 Before or at the time of entering into these CTCS the Customer shall provide to FHTDS in writing the precise details of the class, volume and packaging type of dangerous or hazardous Goods by way of an appropriate Material Safety Sheet and Emergency Procedure Guide so that FHTDS in its absolute discretion may accept or decline to proceed with the transaction, and should it proceed, accordingly notify all parties as required to ensure compliance in the transport storage and handling of dangerous class goods.

15.2 In the event of discovery by FHTDS of hazardous or dangerous Goods not being disclosed FHTDS may hold the discovered dangerous Goods at a nominated depot, at the expense of the Customer, for the Customer to then arrange appropriate measures to rectify the non-compliance and allow resumption of transport services.

15.3 In the event that the Customer fails or neglects to notify FHTDS of dangerous goods presented for carriage, handling or Storage, then the Customer will be liable for all and any loss or losses attributable to that non-disclosure to FHTDS.

## **16. CUSTOMER OBLIGATIONS**

The Customer must:

16.1 Not tender for FHTDS services any explosive or volatile Goods without prior consent and by arrangement.

16.2 Not tender for FHTDS services any Goods which are or may become dangerous, inflammable or offensive.

16.3 Notify FHTDS immediately of any change in its address or contact details.

## **17. SERVICE OF NOTICES**

Any notice given under these CTCS may be provided to the Customer by post, email or facsimile at the last known address of the Customer as known by FHTDS.

## **18. SEVERABILITY**

If a clause of these terms and conditions is unenforceable, the unenforceability does not affect any other part of the terms and conditions or any other term or condition.

## **19. VARIATIONS AND WAIVER**

19.1 FHTDS is not bound by any waiver, discharge or release of a condition or any agreement which varies these terms and conditions unless it is in writing and signed for FHTDS by an authorised officer.

19.2 If FHTDS waives a breach of a condition the waiver does not operate as a waiver of another breach of the same or any other condition or as a continuing waiver.

## **20. JURISDICTION**

These terms and conditions are governed and must be construed under the laws of the State of South Australia and the parties submit to the exclusive jurisdiction of the courts of that State.