

Goods	
Description of Goods, including the volume and type of Goods and the Maximum value of the Goods	
Fees (Reference to Schedule 2, cl 4.1)	Monthly Fee The Customer will be invoiced monthly at a rate of \$[X] excluding GST (as at the date of this Agreement). NDL Transport may establish, remove and/or revise the Fees for any or all services obtained through the Customer's use of the Services at any time in NDL Transport's sole discretion.
Invoice Timing	In advance of providing the Services NDL Transport shall send the Customer an invoice for the Fees which shall be due monthly, in advance of the Start Date until termination or expiry of this Agreement.

SCHEDULE 2
GENERAL TERMS AND CONDITIONS FOR SERVICES

1. INTERPRETATION

1.1 **Definitions:** In this Agreement unless the context otherwise requires:

Agreement means this legal agreement between the Customer and NDL Transport comprising Page 1 (the front sheet), Schedule 1, this Schedule 2, and any additional terms agreed between the parties in writing.

Bill Rate means in respect of any rate of interest to be calculated pursuant to this Agreement the mid or "FRA" rate for 90 day bank accepted bills (expressed as a percentage) as quoted on Reuters page BKBM (or any successor page) at or about 10.45 am on the first Business Day of the period in respect of which such rate of interest is to be calculated, and thereafter at intervals of 90 days from that Business Day.

Business Day means any day other than a Saturday, Sunday, or a statutory public holiday in Tauranga, New Zealand.

Confidential Information has the meaning given to it in clause 8.1.

Fees means the total amount, including service charges and any expenses, payable by the Customer to NDL Transport as set out in Schedule 1.

Goods means any item or thing provided by or on behalf of the Customer, which NDL Transport has approved to be brought on to NDL Transport's premises in connection with the Services.

GST means the goods and services tax payable in accordance with the New Zealand Goods and Services Tax Act 1985.

Party means each of the Customer and NDL Transport, and together they are the Parties.

Start Date means the date when this Agreement starts as stated in Schedule 1.

Services has the meaning set out in Schedule 1.

Storage Unit has the meaning set out in Schedule 1.

1.2 **References:** In this Agreement unless the context otherwise requires:

- (a) reference to a clause or sub-clause is a reference to that clause or sub-clause in this Schedule 2 of the Agreement;
- (b) the singular includes the plural and vice versa;
- (c) headings are to be ignored in construing this Agreement;
- (d) the words "including" and "include" mean "including, but not limited to";
- (e) reference to a party, person or entity includes a company, other corporations and also a body of persons (corporate or incorporate) and an employee, agent, successor, administrator and other representative of such party, person or entity.

2. TERM

2.1 **Term:** This Agreement commences on the Start Date and shall continue for an initial minimum term of one month. After this, the Agreement will continue to run for an indefinite period and may be terminated by the Customer by providing one months' written notice.

3. LICENCE

3.1 NDL Transport grants the Customer a licence to occupy and use the Storage Unit in accordance with the terms of the Agreement for the sole purpose of storing Goods. The Customer may not use the Storage Unit for any another purpose unless agreed by NDL Transport in writing.

3.2 The Customer acknowledges and expressly agrees that nothing in the Agreement shall be construed so as to create a lease of, or any legal right or title to, the Storage Unit. NDL Transport shall not for any purpose whatsoever act as a warehouse keeper, guardian or custodian of the Storage Unit or of the Goods.

4. OBLIGATIONS

4.1 **Customer obligations:** The Customer will:

- (a) provide NDL Transport with details of the Goods, including all information set out in Schedule 1;
- (b) provide NDL Transport with any information it has requested in connection with the Services and otherwise comply with any directions of NDL Transport in connection with the Services;
- (c) maintain insurance with a reputable insurance provider for the full replacement value of the Goods;
- (d) ensure that the Customer's Goods do not cause damage to NDL Transport's premises or property, or the property of other customers within NDL Transport's premises;
- (e) comply with the terms of this Agreement;
- (f) comply with NDL Transport's policies and procedures and otherwise comply with all applicable laws, including when on NDL Transport's premises, the Health and Safety at Work Act 2015; and
- (g) pay NDL Transport the Fees for the Services in accordance with this Agreement.

4.2 **Customer Warranties:** The Customer warrants that:

- (a) any Goods stored in a Storage Unit are at the Customers sole risk and NDL Transport provides no guarantees regarding the security of the premises or Storage Unit;
- (b) it has visited, inspected and found the Storage Unit in good and dry condition, free from mould and mildew;
- (c) it will maintain the Storage Unit with due care and use the Storage Unit only in accordance this Agreement;
- (d) it will keep the Storage unit clean, free of moisture and ensure that any dirt and waste is removed from the Storage Unit;
- (e) it will not share its authorisation code with any person;
- (f) it will ensure that the Storage Unit is secure by providing a padlock for the Storage Unit; and
- (g) it will store Goods in a safe manner.

- 4.3 The Customer acknowledges and agrees that NDL Transport is under no obligation to inspect or maintain the Storage Unit once the Agreement is in force. The Customer agrees that it will immediately advise NDL Transport of any maintenance requirements to the Storage Unit and consents to inspection and entry of the Storage Unit by NDL Transport.
- 4.4 **Restrictions on Conduct:** The Customer must not:
- (a) cause NDL Transport to breach, any applicable laws;
 - (b) license, lease, resell or otherwise exploit the Services except as expressly permitted by NDL Transport;
 - (c) use the Services in a manner that causes any nuisance, annoyance, inconvenience or is otherwise illegal or causes damage or injury to any person or property;
 - (d) access NDL Transport's premises without first checking into the office;
 - (e) dispose of waste or Goods (or any part of the Goods) on NDL Transport's premises (including, where applicable, in a Storage Unit); and
 - (f) permit any person (other than an authorised representative of the Customer) access to NDL Transport's premises (including a Storage Unit).
- 4.5 **Access to NDL Transport's premises:** The Customer must:
- (a) Sign in at the Office upon entry to NDL Transport's premises.
 - (b) Close all gates when entering or leaving NDL Transport's premises.
 - (c) Not drive on the lawn at NDL Transport's premises.
- 4.6 **No obligations:** NDL Transport:
- (a) may reject an order for services from the Customer for any reason in its sole discretion;
 - (b) may make changes to the Services and is not required to provide the Customer with notice of any such changes; and
 - (c) accepts no risk in connection with the Goods and Services, nor insurance of the same.
- 4.7 **Compliance with Orders:** NDL Transport may at any time and without notice to the Customer comply with any orders or recommendations given by any government, authority or any person or body acting or purporting to act as or on behalf of such government or authority.
- 5. PROHIBITED GOODS AND CONDUCT**
- 5.1 NDL Transport will not accept the following goods as part of the Services, unless it has provided the Customer with its prior written consent and such goods are listed in Schedule 1:
- (a) damp or wet goods;
 - (b) any goods that are worth more than \$5,000 (in aggregate);
 - (c) objects that emits any scent, smell or odour;
 - (d) birds, fish, animals or other living creatures;
 - (e) refuse and other waste (including animal waste and toxic/hazardous waste);
 - (f) food and other perishable goods (subject to decay) unless such goods are securely packed so that they are protected and do not attract vermin or cause any other form of nuisance;
 - (g) dangerous goods;
 - (h) firearms, explosives, weapons or ammunition;
 - (i) illegal substances such as drugs, illegal items or goods illegally obtained such as smuggled or stolen goods;
 - (j) chemicals, radioactive substances, biological agents;
 - (k) asbestos and/or processed asbestos;
 - (l) (artificial) fertiliser;
 - (m) gas bottles or other compressed gases and/or batteries;
 - (n) fireworks;
 - (o) combustible or flammable materials or liquids including diesel and petrol;
 - (p) any other toxic, flammable or hazardous substances or preparations that are classified as such under applicable law;
 - (q) items which are irreplaceable, such as currency, jewellery, furs, deeds, paintings, works of art, or items of personal sentimental value; and
 - (r) any other goods notified by NDL Transport to the Customer as being prohibited.
- 5.2 The following are prohibited uses of the Storage Unit by the Customer, without prior written consent of NDL Transport:
- (a) subletting or sharing the Storage Unit with any other party;
 - (b) use as a workplace;
 - (c) any commercial activity;
 - (d) use as a registered office or seat of a company;
 - (e) use for any illegal, criminal or immoral activities or tax evasion; or
 - (f) fixing any objects in or on the Storage Unit.
- 5.3 If the Customer's Storage Unit permits the Customer to access and use electrical plugs, the Customer acknowledges that the electrical supply to the Storage Unit automatically terminates upon expiry or termination of this Agreement.

6. CHARGES AND PAYMENT

6.1 Charges:

- (a) The Customer shall pay NDL Transport the Fees for NDL Transport providing the Services. The Customer shall at all times remain liable for the Fees.
- (b) NDL Transport will charge the Customer monthly in advance for the Storage Services.

- (c) If an invoice remains unpaid after the Due Date NDL Transport may:
 - (i) Deny the Customer access to the Storage Unit until the invoice is paid in full; and
 - (ii) 30 days after the Due Date, treat the Goods as Abandoned Goods.

- 6.2 **Invoice:** NDL Transport shall invoice the Customer in accordance with the invoice timing set out in Schedule 1.
- 6.3 **Payment:** The Customer shall pay NDL Transport the Fees detailed in the invoice issued by NDL Transport by the first of the month following the date of the invoice.
- 6.4 **GST:** The Fees do not include GST. In addition to the Fees, the Customer shall pay NDL Transport the amount of all GST chargeable on any taxable supply by NDL Transport under this Agreement.
- 6.5 **Default interest:** If the Customer does not pay any amount payable under this Agreement on the due date for payment ("**Due Date**") the Customer shall pay to NDL Transport, at NDL Transport's discretion:
 - (a) interest on that amount, calculated as the Bill Rate plus 3% per annum on a daily basis from and including the Due Date until the unpaid amount is paid in full; or
 - (b) NDL Transport's then-current late payment fee applicable to the Services.
- 6.6 **Additional Fees:** In addition to the Fees, NDL Transport may invoice the Customer for any costs incurred by NDL Transport in connection with the Customer's breach of this Agreement, including but not limited to:
 - (a) costs associated with debt collection or other enforcement of the Agreement;
 - (b) costs associated with disposing of the Customer's waste, or Abandoned Goods; and
 - (c) remedying any damage caused by the Customer (including to a Storage Unit).

1. ACCESS TO THE STORAGE UNIT

- 1.1 NDL Transport may enter the Storage Unit, without notice to the Customer, at any time in the following circumstances:
 - (a) if entry is required in connection with the maintenance, repair or renovation of the Storage Unit or NDL Transport's premises;
 - (b) an emergency situation exists, such as fire, flood or electrical emergency;
 - (c) if the Customer is, or NDL Transport suspects that the Customer is, in breach of this Agreement; or
 - (d) NDL Transport receives a request in connection with any applicable laws, regulations, rules or governmental orders and NDL Transport may provide access to the relevant authority in connection with the same.
- 1.2 The Customer is not entitled to withhold Fees or any other reduction in Fees due to NDL Transport enforcing its rights pursuant to this Agreement, including where NDL Transport enters the Storage Unit or otherwise withholds the Customer's access to the Storage Unit.
- 1.3 NDL Transport may notify the relevant legal authority, and provide access to the Storage Unit, if the Customer is suspected of breaching the terms of this Agreement.

2. INDEMNITY

- 2.1 **Indemnity:** The Customer agrees to indemnify, and will keep indemnified, NDL Transport and its officers, directors, employees and agents ("**Indemnified Parties**") harmless from any and all claims, demands, losses, liabilities, and expenses (including legal costs and expenses) suffered or incurred by the Indemnified Parties, or for any claim brought against the Indemnified Parties, that arises out of or in connection with the Customer's:
 - (a) use of the Services, including any claims by the Customer's insurance provider against NDL Transport;
 - (b) breach or violation of any of this Agreement;
 - (c) violation of the rights and/or property of NDL Transport; and
 - (d) violation of the property and/or rights of any third party.

3. LIABILITY

- 3.1 **No Warranties:** The Services are provided to the Customer "as is" and "as available" and the Customer agrees that it is solely responsible for its use of the Services. Other than as expressly set out in these Terms, all warranties, guarantees or obligations imposed on NDL Transport, or a third party provider in relation to the Services, are excluded to the maximum extent permitted by law. NDL Transport makes no representation, warranty, or guarantee regarding the reliability, timeliness, quality, suitability or availability of the Services or any services, goods or information obtain by the Customer through its use of the Services, or that the Services, will be uninterrupted or error-free.
- 3.2 **Exclusion:** NDL Transport shall not be liable to the Customer for any losses, liabilities, damages, costs or expenses, including but not limited to damage or loss to the Goods, any loss of profits, loss or bargain or business opportunity, loss of anticipated savings, loss of reputation, or any consequential, indirect or special loss or damages suffered by the Customer, arising directly or indirectly in connection with this Agreement, including from any breach by NDL Transport of this Agreement or any act or omission of NDL Transport.
- 3.3 **Monetary Limit:** Nothing in this Agreement operates to exclude, restrict or modify any warranties, guarantees or other rights provided by law that cannot be excluded. NDL Transport's liability for a breach of any such warranties, guarantees or rights arising out of any claim, demand, proceedings or caution whether in contract, negligence or otherwise, in any way connected with the Services shall not exceed the amount of Fees paid by the Customer for the particular Services to which the claim relates over the 12 months immediately preceding the date that the relevant claim arose or as otherwise agreed with the Customer in writing.

- 3.4 **Mitigating damage:** NDL Transport's liability for any claim relating to this Agreement will be reduced to the extent to which the Customer contributed to, or failed to mitigate (but only to the extent of such failure to mitigate), the loss or damage arising from the claim.
- 4. WARRANTIES**
- 4.1 **Customer Warranties:** The Customer warrants to NDL Transport that the information it has provided, and will provide, NDL Transport is true and accurate and that the Customer will comply with the terms of this Agreement.
- 4.2 **Warranties:** Each Party warrants to the other Party that:
- (a) it has full power and authority to enter into, and perform its obligations under, this Agreement; and
 - (b) it has exercised its own judgement in entering into this Agreement and has not relied on any warranty or representation made by the other Party, its officers, employees or agents, save as specifically set out in this Agreement.
- 5. TERMINATION**
- 5.1 **Termination by NDL Transport:** NDL Transport may terminate this Agreement, or generally cease offering or suspend or deny access to the Services or any portion thereof, at any time for any reason (including, for example, for non-payment of the Fees by the Customer).
- 5.2 **Effect of Termination:** Expiry or termination of this Agreement:
- (a) is without prejudice to any other right, power or remedy under this Agreement, at law, or otherwise, that either Party has in respect of a default by the other Party;
 - (b) shall not terminate clauses which are intended to survive termination including but not limited to this clause 5.2 and clauses 5 to 10, which will remain in full force and effect notwithstanding expiry or termination.
- 5.3 **Removal of Goods:** Upon termination or expiry of this Agreement the Customer must immediately remove all Goods from NDL Transport's premises and return the Storage Unit to NDL Transport in a clean, tidy, unlocked condition.
- 6. LIEN AND ABANDONED GOODS**
- 6.1 **Grant of Lien Over Goods:** The Customer grants a contractual lien over the Goods in the event any moneys are owing under this Agreement.
- 6.2 **Abandoned Goods:** All Goods left behind by the Customer after the termination or expiry of this Agreement, will be considered by NDL Transport as abandoned by the Customer ("**Abandoned Goods**").
- 6.3 **NDL Transport's Rights with Abandoned Goods:**
- (a) NDL Transport will endeavour to contact the Customer to advise the Customer that the Customer is in breach of this Agreement and that the Goods are considered Abandoned Goods.
 - (b) If the Customer does not remedy the relevant breach of the Agreement within 30 days of the Goods becoming Abandoned Goods, NDL Transport may (in its sole discretion) arrange the disposal, alternative storage or sale of any or all of the Abandoned Goods, on such terms as NDL Transport decides.
 - (c) Any costs incurred by NDL Transport in dealing with the Abandoned Goods will be a debt due and payable by the Customer.
 - (d) Should NDL Transport sell the Goods, the proceeds of the sale shall first be applied by NDL Transport on account of such general or particular lien for any costs owed to NDL Transport by the Customer.
 - (e) NDL Transport will endeavour to pay the Customer any amounts received by it from the sale of the Abandoned Goods (less any amounts the Customer owes NDL Transport) by using reasonable efforts to contact the Customer.
- 6.4 **Customer Consent:** For the purposes of this clause 6, by using the Services the Customer consents to and authorises the sale or disposal of all the Abandoned Goods regardless of their nature or value.
- 7. DISPUTES**
- 7.1 **Dispute:** If a dispute arises between the Parties as to the meaning or application of any part of this Agreement or any other matter in connection with, or which may have an effect on, this Agreement, the Parties will endeavour to resolve the dispute by negotiation in good faith. A representative of each of the Parties will attend at least one meeting with a view to resolving the dispute before taking any other steps concerning the dispute.
- 7.2 **Continuing obligations:** Pending resolution of any dispute, the Parties shall continue to perform their respective obligations under the Agreement.
- 8. CONFIDENTIALITY**
- 8.1 **Confidential information:** Subject to clause 8.2, the Customer must keep confidential and not divulge either directly or indirectly to any person any information relating to the business, processes, systems or affairs of NDL Transport which is of a confidential nature or which is not otherwise in the public domain, including the terms of this Agreement (together "**Confidential Information**"). For the avoidance of doubt, the existence of this Agreement is not Confidential Information.
- 8.2 **Exceptions:** Confidential Information may be disclosed by the Customer to the extent that:
- (a) disclosure is required by law;
 - (b) disclosure is necessary to fulfil obligations under this Agreement;

- (c) that Confidential Information already is, or becomes, public knowledge other than as a result of a breach of clause 8.1 by the Customer; or
- (d) disclosure is made to a bona fide financier or potential financier of the Customer, or to a bona fide purchaser or potential purchaser of all or part of the business of, or the shares in, the Customer, so long as:
 - (i) the Customer has notified NDL Transport of the proposed disclosure; and
 - (ii) the person to which disclosure is to be made has entered into a confidentiality agreement in a form reasonably acceptable to NDL Transport, or
- (e) disclosure is made to a lawyer or accountant for the Customer.

8.3 **Prior notification and consultation:** If the Customer is required by clause 8.2(a) to make a disclosure or announcement, it shall, before doing so:

- (a) give to NDL Transport the maximum notice reasonably practicable in the circumstances, specifying the requirement under which it is required to disclose Confidential Information, and the precise Confidential Information which it is required to disclose;
- (b) comply with all reasonable directions by NDL Transport to contest or resist the requirement to disclose Confidential Information; and
- (c) consult in good faith with NDL Transport with a view to agreeing upon the form and timing of the disclosure or announcement.

9. NOTICES

9.1 **Notice:** Every notice or other communication for the purposes of this Agreement shall be in writing and be given by:

- (a) delivery to the physical address of the relevant Party; or
- (b) posting by pre-paid post to the postal address of the relevant Party; or
- (c) sending it by email to the email address of the relevant Party.

9.2 **Address for notice:** The initial contact details for notices are set out in Schedule 1 for each Party. The Parties will promptly notify each other of any changes to these details as required from time to time.

10. FORCE MAJEURE

10.1 **Excusable delay:** NDL Transport shall not be liable for any failure or delay in complying with any obligation imposed on it under this Agreement if the failure or delay arises directly or indirectly from an event or circumstance reasonably unforeseeable or beyond NDL Transport's control and not arising from the fault or insolvency of NDL Transport ("**Event**"). The following are included as, but not limited to, events or circumstances reasonably unforeseeable or beyond NDL Transport's control:

- (a) act of God;
- (b) earthquake, flood, fire, storm and adverse weather conditions or natural events for which provision could not reasonably have been made;
- (c) interruption or failure of any utility services, or unpredictable delays which could not reasonably be prevented in delivery of materials, equipment or services necessary for the compliance by NDL Transport with an obligation under this Agreement;
- (d) sabotage, riot, civil disturbance, explosion, terrorist acts, insurrection, epidemic, pandemic, national emergency (whether in fact or law) or act of war (whether declared or not);
- (e) act or omission of any authority not directly or indirectly arising from any act or omission by NDL Transport, its agents, representatives or advisors;
- (f) governmental restraint, sanction, expropriation, prohibition, intervention, direction or embargo; and/or
- (g) strike, lockout, work stoppage or other labour hindrance.

10.2 **Cancellation:** If NDL Transport is unable to comply with any obligation imposed on it under this Agreement as a result of an Event, NDL Transport may cancel this Agreement by giving written notice to the Customer. Cancellation of this Agreement under this clause shall not prejudice the rights of either Party against the other Party in respect of any matter or thing occurring under this Agreement prior to cancellation.

11. GENERAL

11.1 **Consumer Guarantees Act:** If the Consumer Guarantees Act 1993 ("**Act**") applies to the Customer, the Customer acknowledges that NDL Transport is providing a licence to use the Storage Unit for the sole purpose of storing Goods. In particular, no other undertakings or commitments are given or undertaken by NDL Transport whether in tort, contract or other legal principle. If the Act applies, NDL Transport's services come with non-excludable guarantees. Otherwise, to the extent permitted by law, the Goods are stored at the sole risk and responsibility of the Customer who is responsible for any and all theft, loss, damage to, and deterioration of the goods, and shall bear the risk of any and all damage caused by flood, fire, leakage or overflow of water, mildew, heat, spillage of material from any other space, removal or delivery of the Goods, pest or vermin or any other reason and the damage that the Customer may suffer.

11.2 **NDL Transport Terms:** NDL Transport's Terms of Service and Privacy Policy, as amended from time to time and available on its website, shall apply to and are incorporated into the terms of this Agreement. In the event of inconsistency, the terms of this Agreement shall prevail.

11.3 **Assignment:** The Customer may not assign or otherwise transfer all or any of its rights or obligations under this Agreement without the prior written consent of NDL Transport.

11.4 **Subcontracting:** NDL Transport may subcontract the performance of the Services or any other obligation of NDL Transport under this Agreement, or engage external advisors in the course of providing Services to the Customer.

- 11.5 **Relationship:** Nothing in this Agreement shall create or evidence any partnership, joint venture, agency, trust or employer/employee relationship between the Parties, and a Party may not make, or allow to be made, any representation that any such relationship exists between the Parties.
- 11.6 **Variations:** The Customer acknowledges that NDL Transport may vary the Agreement as it relates to the Storage Services at any time without the Customer's approval. NDL Transport will notify the Customer of any such change (such notification may include providing the updated terms on NDL Transport's website) and the Customer will be deemed to have accepted the updated terms unless it provides NDL Transport with written notice that it does not accept the terms. In the event that the Customer does not accept the updated terms, it shall be entitled to terminate the Agreement upon 30 days written notice to NDL Transport.
- 11.7 **Entire agreement:**
- (a) This Agreement, as well as NDL Transport's Terms and Conditions, constitutes the entire agreement between the Parties relating to the subject matter of this Agreement and supersedes and cancels any previous agreement, understanding or arrangement whether written or oral.
 - (b) Where there is any overlap in the coverage of the applicable terms of this Agreement, NDL Transport may elect to rely upon terms at its sole discretion.
- 11.8 **Counterparts:** This Agreement may be executed in two or more counterparts, each of which is deemed an original and all of which constitute one and the same agreement. This Agreement will be effective upon the exchange (including by email) of executed signature pages.
- 11.9 **Waiver:** No failure or forbearance by a Party to exercise, or delay in exercising, (in whole or in part) any right, power or remedy under, or in connection with, this Agreement shall operate as a waiver of that right, power or remedy. A waiver of any breach of any provision of this Agreement shall not be effective unless that waiver is in writing and is signed by the Party against whom that waiver is claimed. A waiver of any breach shall not be, or be deemed to be, a waiver of any other or subsequent breach.
- 11.10 **New Zealand law, currency and time:** This Agreement is governed by the laws of New Zealand and the Parties submit to the non-exclusive jurisdiction of the courts of New Zealand in respect of any dispute or proceeding arising out of this Agreement. All money is in New Zealand dollars, unless otherwise specified. Dates and times are New Zealand time.
- 11.11 **Severance:** If any provision of this Agreement is or becomes unenforceable, illegal or invalid for any reason it shall be deemed to be severed from this Agreement without affecting the validity of the remainder of this Agreement and shall not affect the enforceability, legality, validity or application of any other provision of this Agreement.