

GEODIS NEW ZEALAND LIMITED

Standard Trading Conditions – Operative 1 July 2018

Part I: General Conditions

1 Application

- 1.1 Subject to Clause 1.2, all Services of the Company whether gratuitous or not are undertaken subject to these Conditions and not otherwise and:
 - 1.1.1 the provisions of Part I shall apply to all the Services.
 - 1.1.2 the provisions of Part II shall only apply to the extent that the Services are provided by the Company as an agent.
 - 1.1.3 the provisions of Part III shall only apply to the extent that the Services are provided by the Company as a principal.
- 1.2 Where a document is issued by or on behalf of the Company and bears the title of, or includes the words, "bill of lading" (whether or not negotiable), or sea or air "waybill" and provides that the Company contracts as carrier, the provisions set out in that document, if inconsistent with these Conditions, shall be paramount and prevail over these Conditions to the extent that such provisions are inconsistent but no further.
- 1.3 Any variation, cancellation or waiver of these Conditions (or any of them) must be in writing signed by a director of the Company. No other person is authorised to agree to any variation, cancellation or waiver of these Conditions and any variation, cancellation or waiver not signed by a Director of the Company will be invalid.
- 1.4 Any Instructions received by the Company from a Customer for the supply of Services is an acknowledgement by the Customer that it has received, understands and agrees to be bound by these Conditions and authorisation for the Company to act on behalf of the Customer in accordance with these Conditions.

2 Provision of Services

- 2.1 All Services are provided by the Company as agents only, except in the following circumstances where the Company acts as principal:
 - 2.1.1 where the Company performs any carriage, handling or storage of Goods, but only to the extent that the carriage is performed by the Company itself or its servants and the Goods are in the actual custody and control of the Company;
 - 2.1.2 where, prior to the commencement of the carriage of Goods, the Customer in writing demands from the Company particulars of the identity, services or charges of persons instructed by the Company to perform part or all of the carriage, and the Company fails to give the particulars demanded within 28 days. However, for the purposes of this sub-clause, the Company shall only be deemed to be contracting as a principal in respect of that part of the carriage which the Company fails to give the particulars demanded;
 - 2.1.3 to the extent that the Company expressly agrees in writing to act as a principal; or
 - 2.1.4 to the extent that the Company is held by a court of law to have acted as a principal.

- 2.2 Without prejudice to the generality of clause 2.1:
- 2.2.1 the charging by the Company of a fixed price for any Services shall not in itself determine or be evidence that the Company is acting as an agent or a principal in respect of those Services;
 - 2.2.2 the supplying by the Company of its own or leased equipment shall not in itself determine or be evidence that the Company is acting as agent or a principal in respect of any carriage, handling or storage of Goods;
 - 2.2.3 the Company acts as an agent where the Company procures a bill of lading, sea or air waybill or other document evidencing a contract of carriage between a person, other than the Company, and the Customer or Owner; and
 - 2.2.4 the Company acts as an agent and never as a principal when providing Services as a customs broker in respect of or relating to customs requirements, taxes, licenses, consular documents, certificates of origin, inspection certificates and other similar services or when obtaining insurances for or on behalf of the Customer or relating to the Goods (other than where by law the Company is deemed to be an agent of the insurer) or when providing any other services for or on behalf of the Customer.
- 2.3 The Company is not a common carrier and will accept no liability as such and it reserves the right to accept or refuse the carriage of any Goods or to provide any other Service at its discretion. All Services are performed subject to only these Conditions (and where applicable but subject to clause 22.6, the conditions on any bill of lading, sea waybill or air waybill issued by the Company as principal.

3 Definitions

In these Conditions:

Authority means a duly constituted legal or administrative person, acting within its legal powers and exercising jurisdiction within any nation, state, municipality, port or airport;

Company means Geodis New Zealand Limited (Company Number: 631438) and its successors in title, administrators and assigns;

Container includes any container, flexitank, trailer, transportable tank, flat, pallet or any article of transport used to carry or consolidate goods and any related equipment;

Consequential loss means loss or damage arising from breach of contract, tort (including negligence), under statute or any other basis in law or equity and includes loss of revenue or profit, loss of use, loss of production, loss of business, loss of reputation, loss of goodwill and loss of anticipated savings, indirect, remote, abnormal or unforeseeable loss, whether or not in the reasonable contemplation of the parties at the time of agreeing to these Conditions or the provision of any Services;

Customer means any person at whose request or on whose behalf the Company provides a Service;

Dangerous Goods includes goods which are or may become of a dangerous, inflammable, radio-active or damaging nature and goods likely to harbour or encourage vermin or other pests;

Force Majeure Event means any cause or causes beyond the control of the party whose performance is directly affected by it, including but not limited to war (declared or undeclared), rebellion, revolution, tumults, political disturbance, accident to wharf, accidents at works or wharf, at receiver's works or wharf, breakdown or stoppage of slurry pipeline, transfer vessels, motor vehicles or any part of the works from which the Goods are supplied or to which the Goods are destined, including loading and/or discharging facilities, installations and/or equipment at or en route, partial or total stoppage of roads, rivers or

channels, riot, insurrection, civil commotion, epidemics, quarantine, strike, lock-out, blockade, industrial disturbance, labour/industrial disputes or stoppages of miners, workmen, lighter-men, tugboat-men or other hands essential to the working, carriage, delivery, shipment or discharge of the Goods whether partial or general, interference of trade unions, act of God, fire, flood, storm, tempest, volcanic eruption, earthquake, landslips, frost or stow, bad weather, intervention of sanitary, customs and/or other constituted authorities, act of government (whether de-facto or de-jure) and supervening illegality;

Goods includes the cargo and any container not supplied by or on behalf of the Company, in respect of which the Company provides a Service;

Hague-Visby Rules means the provisions of the International Convention for the Unification of Certain Rules of Law Relating to Bills of Lading signed at Brussels on 25 August 1924 as amended by the Visby Protocol of 23 February 1968 and the SDR Protocol of 21 December 1979;

Incidental Matters means anything done or to be done in relation to the Goods or the provision of any services ancillary to the Goods including but not limited to moving, storing or leaving the Goods at any warehouse, terminal, yard, wharf or other place or area, loading or unloading the Goods from any vehicle, vessel or other conveyance, stowing or packing the Goods or fumigating, transshipping, inspecting or otherwise handling the Goods or related activities;

Instructions means a statement of the Customer's specific requirements;

Law means the laws of New Zealand and includes any statutes, regulations, ordinances, by-laws and other statutory instruments issued under any legislation including any modification or re-enactment of any legislation, the rules of common law and equity;

Montreal Convention means the Convention for the Unification of Certain Rules for International Carriage by Air signed in Montreal in 1999 as adopted by New Zealand;

Owner includes the owner, shipper and consignee of the Goods and any other person who is or may become interested in the Goods and anyone acting on their behalf;

Person includes individuals, partnerships, firms, trusts, associations or any body or bodies corporate, whether having a separate legal identity or not;

PPSA means the Personal Property Securities Act 1999;

Security Interests has the meaning given to it in the PPSA;

Services means the whole of the services provided by the Company to the Customer and all matters necessarily related or ancillary to the provision of the services;

SOLAS means the International Convention for the Safety of Life at Sea 1974 published by the International Maritime Organisation;

Sub-contractors means and includes direct and indirect sub-contractors and their respective employees, servants and agents;

VGM means verified gross mass for the purposes of SOLAS;

Warsaw Convention means the Convention for the Unification of Certain Rules Relating to International Carriage by Air dated 12 October 1929 as amended at the Hague, 1955 and supplemented by the Guadalajara Convention dated 18 September 1961 as applied by the legislation of New Zealand.

4 Obligations of Customer

4.1 The Customer warrants that it is either the Owner or the authorised agent of the Owner of the Goods and that it is authorised to accept and accepts these Conditions, not only for itself, but also as agent for and on behalf of the Owner.

4.2 The Customer shall give sufficient and executable Instructions to the Company.

- 4.3 The Customer warrants that the description and particulars of the Goods provided to the Company including the nature, number of packages and weight of the contents of the container are complete and correct.
- 4.4 The Customer warrants that the Goods are properly packed and labelled, except where the Company has accepted instructions in respect of packaging and/or labelling.
- 4.5 The Customer warrants that the Goods comply with the requirements of any applicable law relating to the consigning and packaging of the Goods and the expenses and charges of the Company in complying with the provisions of any such law or with any order or requirement thereunder or with the requirement of any harbour, dock, railway, shipping, customs warehouse or other authority or company shall be paid by the Customer.
- 4.6 The Customer warrants that any gross verified container weight declaration provided to the Company under SOLAS is timely and accurate and has been calculated in accordance with an approved method and the Customer indemnifies the Company against any loss, damage and expenses arising from a failure to supply a timely and accurate VGM and related declaration.

5 Special Instructions, Goods and Services

- 5.1 Unless agreed in writing, the Customer shall not deliver to the Company, or cause the Company to deal with or handle, Dangerous Goods.
- 5.2 Where the Company agrees to accept Dangerous Goods, the Customer warrants that it has complied with all applicable laws relating to those Goods by fully describing in writing whether on the consignment note or separately the name and nature and the value of those Goods of a noxious, dangerous or inflammable nature or capable of causing damage or injury to any other goods, to any person or animal, or to any store, vessel, vehicle, wagon, aircraft or conveyance with which they may be loaded, carried, packed or stored which are liquid or partly liquid and additional freight charges shall be paid on such Goods if deemed necessary by the Company.
- 5.3 If the Customer is in breach of Clauses 5.1 or 5.2:
 - 5.3.1 the Customer shall be liable for all loss or damage caused by or to or in connection with the Goods;
 - 5.3.2 the Customer and Owner shall defend, indemnify and hold harmless the Company against all penalties, claims, damages, losses costs and expenses arising in connection with the Goods; and
 - 5.3.3 the Company (or any other person in whose custody the Goods may be at the relevant time) may, at the Company's sole discretion (without notice and without liability), have the Goods destroyed or otherwise dealt with at the expense of the Customer or Owner.
- 5.4 If the Company agrees to accept Dangerous Goods and then it (or any other person) reasonably forms the view that those Goods constitute a risk to other goods, property, life or health, it may (without notice and without liability) have the Goods destroyed or otherwise dealt with at the expense of the Customer or Owner. The Company shall not be liable to the Customer or Owner for any claim arising from such destruction or dealing. The Customer and Owner shall defend, indemnify and hold harmless the Company against any third party claim arising from such destruction or dealing.
- 5.5 The Customer undertakes not to tender for transportation any Goods which require temperature control without previously giving written notice of their nature and the particular

temperature range to be maintained and, in the case of a temperature controlled Container packed or stuffed by or on behalf of the Customer, the Customer further undertakes that:

5.5.1 the Container has been properly packed or pre-cooled or pre-heated as appropriate;

5.5.2 the Goods have been properly stuffed in the Container; and

5.5.3 the Container's thermostatic controls have been properly set by the Customer.

5.6 The Company shall not be liable for any loss of or damage to the Goods caused or contributed to by the Customer's failure to comply with clause 5.5. The Customer and Owner shall defend, indemnify and hold harmless the Company against all penalties, claims, damages, costs and expenses arising, caused or contributed to by the Customer's failure to comply with clause 5.5.

5.7 Unless agreed in writing, the Company shall not be obliged to make any declaration for the purposes of any statute, convention or contract as to the nature or value of any Goods or as to any special interest in delivery or to make any declaration as to specific stowage requirements of any Goods.

5.8 Unless agreed in writing by a Director of the Company or otherwise provided for under the provisions of a document signed by the Company, instructions relating to the delivery or release of Goods against payment or against surrender of a particular document shall be in writing and the Company's liability shall not exceed that provided for in respect of mis-delivery of Goods.

5.9 Unless agreed in writing that the Goods shall depart by or arrive by a particular date, the Company accepts no responsibility for departure or arrival dates of Goods or for any loss or damage occasioned by delay.

6 Insurance

6.1 No insurance shall be effected except upon express instructions given in writing by the Customer.

6.2 All insurances effected by the Company are effected as agent only for the Customer (other than where by law the Company is deemed to be an agent of the insurer) and not an insurer, insurance broker or other form of intermediary.

6.3 All insurances effected by the Company are subject to the usual exceptions and conditions of the policies of the insurance company or underwriters taking the risk.

6.4 Should the insurers dispute their liability for any reason the insured shall have recourse against the insurers only and the Company shall not be under any responsibility or liability in relation thereto, notwithstanding that the premium upon the policy may not be at the same rate as that charged by the Company or paid to the Company by the Customer.

7 General Indemnities and Liabilities of the Customer and Owner

7.1 The Customer and Owner shall defend, indemnify and hold harmless the Company against all liability, loss, damage, costs and expenses arising:

7.1.1 from the nature of the Goods, other than to the extent caused by the Company's negligence;

7.1.2 out of the Company acting in accordance with the Customer's or Owner's instructions;
or

7.1.3 from a breach of warranty or obligation by the Customer or arising from the negligence of the Customer or Owner; or

7.1.4 from any failure to supply an accurate VGM as required by SOLAS.

7.2 Except to the extent caused by the Company's negligence, the Customer and Owner shall be liable for and shall defend, indemnify and hold harmless the Company in respect of all duties, taxes, imposts, levies, deposits and outlays levied by any Authority and for all payments, fines, costs, expenses, loss and damage incurred or sustained by the Company in connection therewith.

7.3 Advice and information, in whatever form it may be given, is provided by the Company for the Customer only and the Customer shall defend, indemnify and hold harmless the Company for all liability, loss, damage, costs and expenses arising out of any other person relying on such advice or information.

7.4 The Customer shall be liable for the loss, damage, contamination, soiling, detention or demurrage before, during and after the carriage of property of:

7.4.1 the Company (including, but not limited to, Containers);

7.4.2 the Company's servants, Sub-contractors or agents;

7.4.3 independent contractors engaged by the Company for performance of part or all of the Services;

7.4.4 any other person; or

7.4.5 any vessel,

caused by the Customer or Owner or any person acting on behalf of either of them or for which the Customer is otherwise responsible and will defend, indemnify and hold harmless the Company in respect of the same.

7.5 Instructions to collect payment on delivery in cash or otherwise are accepted by the Company on the condition that the Company in the matter of such collection will be liable for the exercise of reasonable diligence and care only. Unless express written instructions are received that the Goods are not to be delivered without payment, the Company accepts no liability if, upon delivery of the goods, payment is not made.

8 Subcontractors

8.1 The Customer undertakes that no claim will be made against any servant, sub-contractor or agent of the Company which imposes or attempts to impose upon any of them any liability in connection with the Goods. If any such claim should nevertheless be made, the Customer shall defend, indemnify and hold harmless the Company against all consequences thereof.

8.2 Without prejudice to Clause 8.1, every servant, sub-contractor or agent of the Company shall have the benefit of all provisions herein as if such provisions were expressly for their benefit. In entering into this contract, the Company, to the extent of those provisions, does so not only on its behalf, but as agent and trustee for such servants, Sub-contractors and agents.

8.3 The Customer shall defend, indemnify and hold harmless the Company from and against all claims, costs and demands and by whomsoever made or preferred, in excess of the liability of the Company under these Conditions.

8.4 Without limiting the generality of this Clause 8, the indemnity referred to in Clause 8.3, shall cover all claims, costs and demands arising from or in connection with the negligence of the Company, its servants, Sub-contractors and agents.

9 Charges

9.1 The Customer shall pay to the Company in cleared funds or as agreed, all sums immediately when due without deduction or deferment on account of any claim, counterclaim or set-off.

9.2 When the Company is instructed to collect freight, duties, charges or other expenses from any person other than the Customer, the Customer:

9.2.1 shall remain responsible for these amounts; and

9.2.2 shall pay these amounts to the Company on demand where these amounts have become due and have not been paid by such other person.

9.3 On all accounts overdue to the Company, the Company shall be entitled to charge interest, at the rate of 4 percent per annum above the base interest rate of the Company's bank applicable during the periods that such amounts are overdue calculated on a daily basis from the due date for payment to the actual date of payment in full.

9.4 The Customer shall be liable for and pay to the Company any additional costs or expenses the Company may incur and for any loss or damage occasioned either directly or indirectly to the Company as a result of the Company relying upon the description and particulars provided by the Customer or by reason of any illegal, incorrect or insufficient marking, numbering or addressing of the Goods.

9.5 The Company may charge freight by weight, measurement, or value and may at any solely for the purpose of confirming the amount of freight payable, re-weigh or re-measure or re-value or require the Goods to be re-weighed, re-measured or re-valued and charge proportional additional freight accordingly.

9.6 The charging by the Company of a fixed price for any Services shall not in itself determine or be evidence that the Company is acting as an agent or a principal in respect of those Services. The Company shall under no circumstances be precluded from raising a debit in respect of any fee or disbursement lawfully due to it, notwithstanding that a previous debit or debits (whether excluding or partly including the items now sought to be charged) had been raised and whether or not any notice was given that further debits were to follow. Where any amount charged by the Company is described as a disbursement (or similar expression), such amount will include the Company's handling and administration fee in respect of the same and the fee is not required to be separately disclosed.

9.7 Unless otherwise agreed, all charges quoted are exclusive of goods and services tax (GST).

10 Liberties and Rights of the Company

10.1 Unless otherwise agreed in writing, the Company shall be entitled to enter into contracts on behalf of itself or the Customer and without notice to the Customer for the:

10.1.1 carriage of Goods by any route, means or person;

10.1.2 carriage of Goods of any description, whether containerised or not, on or under the deck of any vessel;

10.1.3 storage, packing, transshipment, loading, unloading or handling of Goods by any person at any place whether on shore or afloat and for any length of time;

- 10.1.4 carriage or storage of Goods in containers or with other goods of whatever nature; and
- 10.1.5 performance of its own obligations, and to do such acts as the Company reasonably considers may be necessary or incidental to the performance of the Company's obligations.
- 10.2 The Company shall be entitled (without incurring any additional liability), but shall be under no obligation, to depart from the Customer's instructions in any respect if the Company considers there is good reason to do so in the Customer's interest.
- 10.3 The Company may at any time comply with the orders or recommendations given by any Authority (without incurring any additional liability). The responsibility and liability of the Company in respect of the Goods shall cease on the delivery or other disposition of the Goods in accordance with such orders or recommendations.
- 10.4 The Company shall be entitled (but under no obligation) at any time and from time to time to inspect the Goods and for this purpose to open or remove any Containers.
- 10.5 If at any time the Company reasonably considers that the carriage of the Goods should not be undertaken or continued or only continued after effecting any necessary Incidental Matters or incurring additional expense or risk, the Company shall be entitled to:
 - 10.5.1 abandon the carriage of such cargo or to effect such additional Incidental Matters and incur such additional expense, as may be reasonably necessary in order to enable the carriage to be effected or further effected; and
 - 10.5.2 be reimbursed by the Customer for the cost of all such additional Incidental Matters and all such additional expense incurred.
- 10.6 If the Company considers that:
 - 10.6.1 the performance of the Company's obligations, or those of any person whose services the Company makes use of, are likely to be affected by any hindrance, risk, delay, difficulty or disadvantage; and
 - 10.6.2 the hindrance, risk, delay, difficulty or disadvantage cannot be avoided by reasonable endeavours of the Company or such other person,the Company may (upon giving not less than 24 hours' notice in writing to the Customer or Owner except where it is not reasonably possible to give such notice) treat the performance of its obligations as terminated and may, at the Customer's expense, place the Goods or any part of them at the Customer's or Owner's disposal at any place which the Company deems safe and convenient whereupon the responsibility and liability of the Company in respect of the Goods shall thereupon cease absolutely.
- 10.7 Where the Company (or any person whose services the Company makes use of) is entitled to call upon the Customer or Owner to take delivery of the Goods at a designated time and place and delivery of the Goods, or any part thereof, is not taken by the Customer or Owner at the designated time and place the Company (or such other person) shall be entitled to store the Goods in the open or under cover at the sole risk and expense of the Customer and the Customer shall pay any costs or expenses incurred by the Company on demand.
- 10.8 Notwithstanding Clauses 10.6 and 10.7, the Company shall be entitled (but under no obligation) without any responsibility or liability to the Customer and Owner, to sell or dispose of:

- 10.8.1 all Goods which the Company considers cannot be delivered as instructed, but only upon giving 21 days' notice in writing to the Customer; and
- 10.8.2 without notice, Goods which have perished, deteriorated or altered, or are in immediate prospect of doing so in a manner which has caused (or may be reasonably expected to cause) loss or damage to any person or property or to contravene applicable regulations.
- 10.9 Where the Company sells or disposes of Goods pursuant to Clause 10.8 the Customer shall be responsible for any costs and expenses of the sale or disposal and the Customer shall pay any costs or expenses incurred by the Company on demand.
- 10.10 The Company shall be entitled to retain and be paid all brokerages, commissions, allowances and other remunerations customarily retained by or paid to freight forwarders without notice to the Customer.
- 10.11 The Company shall have the right to enforce against the Owner and the Customer jointly and severally any liability of the Customer under these Conditions or to recover from them any sums to be paid by the Customer which upon demand have not been paid.
- 10.12 The Customer and Owner shall defend, indemnify and hold harmless the Company against all penalties, claims, damages, costs and expenses rising in connection with the exercise of any of its rights under this clause 10.

11 Lien and Security Interest

- 11.1 The Company shall have a lien on all Goods and documents relating to Goods in its possession which are the property of the Customer or Owner for all sums due at any time from the Customer or Owner (whether those sums are due from the Customer on those Goods or on any other Goods).
- 11.2 The Company shall be entitled (without liability to the Customer and Owner) to sell or dispose of such Goods by public auction or by private treaty at the risk and expense of the Customer and Owner and to apply the proceeds of any such sale or disposal in or towards the payment of any amounts for freight, demurrage, container detention charges, duty, fines, reasonable legal fees, penalties, salvage, average and for any and all debts, charges, expenses or other sums due and owing by the Company.
- 11.3 The Customer acknowledges that the Company holds a Security Interest in the Goods, the documents relating to the Goods and any proceeds of the sale of the Goods and the documents relating to the Goods pursuant to section 17 of the PPSA and that the Company may register a financing statement in respect of the Goods, the documents relating to the Goods and any proceeds of the sale of the Goods and the documents relating to the Goods in accordance with the provisions of the PPSA.
- 11.4 The Customer shall provide all information, execute or arrange for the execution of all documents and do all other things that the Company requires for the purposes of ensuring that the Company's Security Interest is enforceable, perfected, first in priority and otherwise effective under the PPSA. Without limiting the foregoing, the Customer shall immediately notify the Company of any change in the Customer's name, address details and any other information provided to the Company to enable the Company to register a financing change statement if required.
- 11.5 The Customer waives its rights to receive a verification statement in respect of any financing statement or financing change statement registered by the Company under the PPSA.
- 11.6 The Customer agrees that as between the Company and the Customer, the Customer shall have no rights under (or by reference to) sections 114(1)(a), 116, 117(1)(c), 119, 120(2),

121, 125, 129, 131, 132, 133 and 134 of the PPSA and where the Company has rights in addition to those in part 9 of the PPSA, those rights shall continue to apply.

- 11.7 The provisions of clauses 11.3 to 11.6 (inclusive) are separate and in addition to and do not affect, and are not affected by, any lien or other Interest arising in the Company's favour under these Conditions or at Law. The Company may choose whether to exercise rights under these Conditions and/or any rights it may have at Law, as it sees fit.

12 Containers

- 12.1 If a Container has not been packed or stuffed by the Company, the Company shall not be liable for loss of or damage to the contents if caused by:
- 12.1.1 the manner in which the Container has been packed or stuffed;
 - 12.1.2 the unsuitability of the contents for carriage in Containers, unless the Company has approved the suitability;
 - 12.1.3 the unsuitability or defective condition of the Container, provided that where the Container has been supplied by or on behalf of the Company this Clause 12.1.3 shall only apply if the unsuitability or defective condition arose:
 - (a) without any negligence on the part of the Company; or
 - (b) would have been apparent upon reasonable inspection by the Customer or Owner or person acting on behalf of either of them; or
 - 12.1.4 the fact that the Container is not sealed at the commencement of the carriage, except where the Company has agreed to seal the Container.
- 12.2 The Customer shall defend, indemnify and hold harmless the Company against all liability, loss, damage, costs and expenses arising from one or more of the matters referred to in Clause 12.1.
- 12.3 Where the Company is instructed to provide a Container, in the absence of a written request to the contrary, the Company is not under an obligation to provide a Container of any particular type or quality.
- 12.4 The Customer warrants that it will return the empty Container in a clean and cargo worthy condition to the nominated delivery address within the time specified by the owner of the Container, which is usually, but not always, 10 days for general Containers and five days for other Containers. The Customer agrees and acknowledges that the Customer will pay any Container detention charges to the Company as agent for the owner. Detention charges will commence the day after the Container is due to be returned to the owner of the Container at the nominated delivery address. Copies of the relevant provisions of the applicable Container owner's tariff can be obtained from the carrier or its agents upon request.
- 12.5 The Customer shall defend, indemnify and hold harmless the Company from and against all charges and liabilities arising in connection with any use of any Container including repair costs, cleaning costs and/or detention charges. The Customer's indemnity will include any reasonable costs, expenses or legal fees incurred in recovering from the Customer any amounts owing pursuant to this indemnity.
- 12.6 The Customer shall defend, indemnify and hold harmless the Company against all losses, damages and expenses arising from any inaccuracies and particulars provided for the purposes of SOLAS declarations and VGM.

13 General Liability

- 13.1 The Company will not be liable to the Customer or any other party for any Consequential Loss incurred by the Customer in connection with Services or these Conditions.
- 13.2 The Company's liability pursuant to these Conditions shall be reduced proportionally to the extent the Customer, the Customer's personnel or a third party contributed to the relevant liability.
- 13.3 Except where otherwise provided in these Conditions, the Company shall not be liable for any loss or damage arising from:
- 13.3.1 any act or omission of the Customer or Owner or any person acting on their behalf;
 - 13.3.2 compliance with the Instructions given to the Company by the Customer, Owner or any other person entitled to give them;
 - 13.3.3 insufficiency of the packing or labelling of the Goods, except where such service has been provided as a Service by the Company;
 - 13.3.4 handling, loading, stowage or unloading of the Goods by the Customer or Owner or any person acting on their behalf;
 - 13.3.5 inherent vice of the Goods; or
 - 13.3.6 any Force Majeure Event.
- 13.4 Subject to Clause 5.9, the Company shall not be liable for loss or damage caused to property other than the Goods themselves, Consequential Loss, delay or deviation arising.
- 13.5 Save for any assurances, warranties and conditions conferred in writing by the Company on the Customer or Owner the Company gives no assurance, condition or warranty of any kind to the Customer or Owner (including any assurance, condition or warranty implied by law to the extent that the assurance, condition or warranty can be excluded) in relation to the Goods or the Services and accepts no liability for any assurance, condition, warranty, representation, statement or term not expressly set out in these Conditions.
- 13.6 These Conditions shall continue to apply and remain in full force and effect in all circumstances notwithstanding any breach or departure by the Company from these Conditions.

14 Limits of Liability

- 14.1 To the maximum extent permitted by law all warranties that are not expressly set out in these Conditions are excluded. If any implied warranties cannot be excluded, those implied warranties will apply to these Conditions and to the extent that those implied conditions conflict with these Conditions, the implied conditions shall prevail.
- 14.2 Except in so far as otherwise expressly provided by these Conditions, to the maximum extent permitted by law, the liability of the Company, arising, shall not exceed the following:
- 14.2.1 in respect of all claims (other than those subject to the provisions of Clause 14.2.2) the lesser of:
 - (a) the value of; or

- (b) the equivalent of US\$2.00 per gross kilogram in the currency of the loss or damage, (the exchange rate to apply being the rate as at the date of the delivery of the Goods) of,

the Goods lost, damaged, misdirected, mis-delivered or in respect of which a claim arises; and

14.2.2 in respect of claims for delay where not excluded by the provisions of these Conditions, the amount of the Company's charges in respect of the Goods delayed.

14.3 The limitation of liability referred to in Clause 14.1 shall apply notwithstanding that the cause of the loss or damage is unexplained.

14.4 If agreed in writing prior to receipt of the Goods, the Company may accept liability in excess of the limits set out in these Conditions upon the Customer agreeing to pay the Company's additional charges for accepting such increased liability. Details of the Company's additional charges will be provided upon request.

14.5 The value of the Goods shall be calculated by reference to the invoice value of the Goods plus freight and insurance if paid.

14.6 If there is no invoice value for the Goods, the value of the Goods shall be calculated by reference to the value of such Goods at the place and time when they were delivered to the Customer or Owner or should have been so delivered. The value of the Goods shall be fixed according to the current market price, or, if there be no commodity exchange price or current market price, by reference to the normal value of goods of the same kind and quality.

14.7 Unless agreed in writing prior to receipt, the Company will not accept or deal with bullion, coin, precious stone, jewellery, antiques, works of art or other valuable Goods. Should any Customer nevertheless delivery any such Goods to the Company or cause the Company to handle or deal with any such Goods the Company shall be under no liability for or in connection with such Goods arising.

15 Notice of Loss, Time-bar

15.1 The Company shall be discharged of all liability for a claim under these Conditions or otherwise in respect of the Services unless:

15.1.1 notice of any claim is received by the Company or its agent in writing within 14 days after the date specified in Clause 15.2, or within a reasonable time after that date if the Customer proves that it was impossible to so notify; and

15.1.2 suit is brought in the proper forum and written notice thereof received by the Company within 9 months after the date specified in Clause 15.2.

15.2 For the purposes of Clause 15.1, the applicable dates are:

15.2.1 in the case of loss or damage to Goods, the date of delivery of the Goods;

15.2.2 in the case of delay or non-delivery of the Goods, the date that the Goods should have been delivered; and

15.2.3 in any other case, the event giving rise to the claim.

16 General Average

16.1 The Customer shall defend, indemnify and hold harmless the Company in respect of any claims of a General Average nature, including any claims or demands for General Average

security which may be made on the Company, and the Customer shall forthwith provide such security as may be required by the Company in this connection.

17 Privacy

- 17.1 The Company commits to take all the necessary measures to respect the Customer's privacy and protect data the Customer communicates to the Company in accordance with the Company's Privacy Policy which is located at <http://www.geodis.com.au/privacy-@/en/view-10833-article.html/6292>. To the extent the Company collects personal information from the Customer, it will only be used for the purposes for which it is collected or in accordance with the Privacy Act 1993.

18 Miscellaneous

- 18.1 Any notice served by post shall be deemed to have been given on the third day following the day on which it was posted to the address last known to the Company to be the address of the recipient of the notice.
- 18.2 The defences and limits of liability provided in these Conditions shall apply in any action against the Company whether founded in contract or in tort or otherwise founded.
- 18.3 If any legislation is compulsorily applicable to any business undertaken, these Conditions shall, as regards such business, be read as subject to such legislation and nothing in these Conditions shall be construed as a surrender by the Company of any of its rights or immunities or as an increase of any of its responsibilities or liabilities under such legislation and if any part of these Conditions is held to be repugnant to such legislation to any extent such part shall as regards such business be over-ridden to that extent and no further.
- 18.4 All references to legislation are (unless stated otherwise) references to New Zealand legislation and include all subordinate legislation, any re-enactment of, or amendment to, that legislation and all legislation passed in substitution for that legislation.
- 18.5 If any provision of these Conditions is invalid, illegal or unenforceable in any respect the validity, legality and enforceability of the remaining provisions will not be affected and such invalid, illegal or unenforceable provision is to be severed from these Conditions.

19 Governing Law and Jurisdiction

- 19.1 These Conditions and any claim or dispute arising out of or in connection with the services of the Company shall be subject to the laws of New Zealand and any such claim or dispute shall be determined by the Courts of New Zealand and no other Court.
- 19.2 The United Nations Conventions on Contracts for the International Sale of Goods shall not apply to these Conditions.
- 19.3 The Services provided by the Company as a carrier (within the meaning of the Contract and Commercial Law Act 2017) are provided at limited carrier's risk in accordance with these Conditions and the provisions of that Act shall prevail over any inconsistency in these Conditions to the extent of such inconsistency but no further.
- 19.4 Any dispute, controversy or claim arising out of, or relating to or in connection with these Conditions shall be resolved by arbitration in accordance with the Arbitration Act 1996. The seat of the arbitration shall be Auckland, New Zealand. The language of the arbitration shall be English.
- 19.5 Nothing in this clause will prevent the Company from applying to any appropriate Court for an injunction or other like remedy to restrain the Customer from committing any breach or anticipated breach of these Conditions and for consequential relief.

- 19.6 Notwithstanding anything in these Conditions, the Company shall be subject to any warranties implied by law to the extent that it is not possible to exclude, restrict or modify such warranties.

Part II: Company As Agent

20 Special Liability and Indemnity Conditions

- 20.1 To the extent that the Company acts as an agent, the Company does not make or purport to make any contract with the Customer for the carriage, storage or handling of the Goods nor for any other physical service in relation to them and acts solely on behalf of the Customer in securing such services by establishing contracts with third parties so that direct contractual relationships are established between the Customer and such third parties.
- 20.2 The Company shall not be liable for the acts and omissions of third parties referred to in Clause 20.1.
- 20.3 The Company, when acting as an agent, has the authority of the Customer to enter into contracts on the Customer's behalf and to do acts which bind the Customer in all respects.
- 20.4 Except to the extent caused by the Company's negligence, the Customer shall defend, indemnify and hold harmless the Company in respect of all liability, loss, damage, costs or expenses arising out of any contracts made in the procurement of the Customer's requirements in accordance with Clause 20.1.

21 Choice of Rates

- 21.1 Where there is a choice of rates according to the extent or degree of liability assumed by persons carrying, storing, or handling the Goods, no declaration of value (where available) will be made by the Company unless previously agreed in writing between the Customer and the Company.

Part III: Company as Principal

22 Special Liability Conditions

- 22.1 Where the Company contracts as principal for the performance of the Customer's instructions, the Company undertakes to perform, or in its own name to procure, the performance of the Customer's instructions and, subject to the provisions of these Conditions, shall be liable for the loss of or damage to the Goods occurring from the time that the Goods are taken into its charge until the time of delivery.

- 22.2 Where:

22.2.1 the Company contracts as a principal and sub-contracts the performance of the Company's services; and

22.2.2 it can be proved that the loss of or damage to or in respect of the Goods arose or was caused whilst the Goods were in the care or custody of the sub-contractor;

the Company shall have the full benefit of all rights, limitations and exclusions of liability available to the sub-contractor in the contract between the Company and the sub-contractor and in any law, statute or regulation and the liability of the Company shall not exceed the amount recovered, if any, by the Company from the sub-contractor.

- 22.3 Notwithstanding other provisions in these Conditions, if it can be proved where the loss of or damage to the Goods occurred, the Company's liability shall be determined by the provisions contained in any international convention or national law, the provisions of which:
- 22.3.1 cannot be departed from by private contract, to the detriment of the claimant, and
 - 22.3.2 would have applied if the claimant had made a separate and direct contract with the actual provider of the particular service in respect of that service or stage of carriage where the loss or damage occurred and received as evidence thereof any particular document which must be issued if such international convention or national law shall apply.
- 22.4 Notwithstanding other provisions in these Conditions, but subject to clause 22.5, if it can be proved that the loss of or damage to the Goods occurred at sea or on inland waterways and the provisions of Clause 22.2 do not apply, the Company's liability shall be determined by the Hague-Visby Rules. Reference in the Hague-Visby Rules to carriage by sea shall be deemed to include reference to carriage by inland waterways and the Hague-Visby Rules shall be construed accordingly.
- 22.5 Notwithstanding the provisions of Clauses 22.2, 22.3 and 22.4, if the loss of or damage to the Goods occurred at sea or on inland waterways, and the Owner, charterer or operator of the carrying vessel is entitled to limit its liability at law and establishes a limited fund, the liability of the Company shall be limited to the proportion of such limitation fund as is allocated to the Goods.
- 22.6 In the event of any inconsistency between these Conditions and the Conditions of any bill of lading, sea waybill or air waybill issued by or on behalf of the Company as principal, the Conditions of such bill of lading, sea waybill or air waybill shall prevail to the extent of such inconsistency but no further.

23 Both-to-Blame Collision Clause

- 23.1 The Both-to-Blame Collision Clause as recommended by BIMCO as at the date of the provision of the Services is incorporated into and forms part of these Conditions.

24 USA and/or Canada and Additional Responsibility Clause

- 24.1 With respect to transportation within the USA or Canada, the responsibility of the Company shall be to procure transportation by carriers (one or more) and such transportation shall be subject to such carrier's contracts and tariffs and any law compulsorily applicable. The Company guarantees the fulfilment of such carrier's obligations under their contracts and tariffs.
- 24.2 If and to the extent that the provisions of the Harter Act of the USA 1893 would otherwise be compulsorily applicable to regulate the Company's responsibility for the Goods during any period prior to loading on or after discharge from the vessel on which the Goods are to be or have been carried, the Company's responsibility shall instead be determined by these Conditions. If such provisions are found to be invalid such responsibility shall be determined by the provisions in the Carriage of Goods by Sea Act of the USA Approved 1936.
- 24.3 If and to the extent that the provisions of the Regulations made pursuant to the Carriage of Goods by Sea Act 1991 (as amended) of the Commonwealth of Australia (or any amendments to such Regulations) would otherwise be compulsorily applicable to regulate the Company's responsibility for the Goods during any period prior to loading on or after discharge from the vessel on which the Goods are to be or have been carried, the Company's responsibility shall be determined by these Conditions. If such provisions are

found to be invalid such responsibility shall be determined by the provisions of the said Carriage of Goods by Sea Act.

- 24.4 If the Hamburg Rules should be held to be compulsorily applicable to any carriage of goods by sea undertaken by the Company as principal, these Conditions shall be read subject to the provisions of the Hamburg Rules and any term of these Conditions that is repugnant to the Hamburg Rules shall be void to the extent of such repugnancy but no further.

25 Air Carriage

- 25.1 Where the Company acts as a principal in respect of a carriage of Goods by air, the following notice is given:

If the carriage involves an ultimate destination or stop in a country other than the country of departure, the Warsaw Convention or the Montreal Convention may be applicable and the Convention governs and in most cases limits the liability of carriers in respect of loss of or damage to Goods. Agreed stopping places are those places (other than the places of departure and destination) shown under requested routing and/or those places shown in carrier's timetables as scheduled stopping places for the route. The address of the first carrier is the airport of departure.

- 25.2 Notwithstanding any other provision of these Conditions, where the Company acts as a principal in respect of a carriage of Goods by air, the Company's liability in respect of loss of or damage to such Goods shall be determined in accordance with the Warsaw Convention or the Montreal Convention.