

BEACON GLOBAL FREIGHT SOLUTIONS LTD
“Your Freight Needs. Our Solutions.”

GENERAL TRADING TERMS

Mediation

If a dispute arises, the parties will try to settle the dispute by mediation before resorting to litigation or arbitration. Any party may initiate mediation by giving written notice to the other. Mediators should be agreed upon by the parties, but if the parties cannot agree on one within 7 days after the mediation has been initiated, then the mediator shall be appointed by the chairperson of the New Zealand chapter of lawyers engaged in alternative dispute resolution.

Cancellation

You may not cancel any order for Goods or Services or part of it without our written consent. If you do so, in addition to any other rights we may have, we may retain any deposit paid. We shall have the right to cancel any orders for Goods or Services which we have accepted, if due to circumstances beyond our control it would be impractical or unreasonable to fill the order, if any information supplied by you is materially incorrect, or if in our opinion a satisfactory servicing or repair cannot be achieved.

Waiver or variation

Waiver or variation of these Terms by us will only be effective if given in writing by an authorised person. If we waive any of these Terms the waiver will not affect our rights under these Terms at any future time.

Governing law

These terms will be interpreted in accordance with and governed by the laws of New Zealand and the New Zealand courts will have non-exclusive jurisdiction in respect of all matter between us.

The Privacy Act

You and any guarantor (if relevant) authorise us to collect and hold personal information from any source we consider appropriate to be used for the purposes of determining credit worthiness, for communicating promotional activities and product information, for debt collection purposes, or for any other related purpose. You further authorise us to disclose personal information held by us for the purposes set out above to any other parties. You understand that you have a right of access and may request correction of personal information held by us about you.

Consumer Guarantees Act (CGA)

If the CGA applies, these terms and conditions shall be read subject to your right under the CGA, provided that where you are acquiring goods or services for business purposes the CGA shall not apply.

STANDARD TRADING CONDITIONS

1. All and any business undertaken between BEACON (and its subsidiary and associated companies thereof, hereinafter referred to as "the Company") and the receiver of any services from the company (hereinafter referred to as "the customer") is transacted subject to the conditions hereinafter set out and each and every condition hereinafter set out shall be deemed to be a condition of any agreement between the Company and its customers.
2. The Company is NOT A COMMON CARRIER and will accept no liability as such and it is hereby expressly agreed by and between the Company and the customer that the Company shall not be liable to be sued in like manner as if it had actually undertaken to carry the goods as a common carrier for hire. All articles are carried, moved, lifted or transported and all storage or other services are performed by the Company subject only to these Conditions AND THE COMPANY RESERVES THE RIGHT AT ITS DISCRETION TO REFUSE THE CARRIAGE MOVEMENT OR TRANSPORT OF ARTICLES FOR ANY PERSON, FIRM OR COMPANY AND THE CARRIAGE OR TRANSPORT OF ANY CLASS OF ARTICLES and shall not be bound or required to give any reason for so doing.
3. Subject to and in accordance with the terms and conditions and instructions contained in this contract the Company agrees and the customer hereby employs and authorises the company as agent for the customer to contact either in its own name as Principal or as agent with any person, firm or company (hereinafter referred to as "the sub-contractor") for the carriage, movement, transport or storage of the goods or for the performance of any other service to be performed by the company pursuant to or ancillary to this contract.
Any such contract may be made upon the terms of contract used by the sub-contractor with whom the Company may contract for such carriage, movement, transport, storage or other services and may be made upon the terms and subject to the conditions of any special contract which the sub-contractor may in any particular case require, including in every case any term that the sub-contractor may employ any person, firm, or company for performance of the transport, movement, carriage, storage or other services so contracted for.
4. The Company may, and is hereby expressly authorised by the customer, to delegate its authority hereunder to contract for the carriage, movement, transport and storage of the goods, and the performance of any of its obligations hereunder, to such other person, firm or company as it may think fit and also if it thinks fit may, and is hereby expressly authorised by the customer, to constitute the relation of principal and agent between the customer and any such person, firm or company for the purpose of contracting for such carriage, movement, transport or storage or for the performance of any such obligation.

5. Pending forwarding the goods may at any time and from time to time be warehoused or otherwise held at any place or places or at any time and from time to time be removed from any place or places at which they may be warehoused or otherwise held at the sole discretion of the Company and in every case at customer's risk and expense as a charge or charges of and incidental to or in connection with the carriage of the goods hereunder.
6. The Company shall not be liable for any loss of or damage to or mis-delivery, delay in delivery, failure to produce or non-delivery of goods either in transit or in storage or occurring during the term of this contract or whether caused by the negligence of the Company or by some other cause, whether the cause of damage or loss, mis-delivery, delay in delivery, failure to produce or non-delivery is known or unknown to the Company, except as provided in these Conditions and its liability is limited accordingly. It is specifically agreed that all rights, immunities and limitations of liability granted to the Company by the provisions set forth in these Conditions of Contract shall continue to have their full force and effect in all circumstances and notwithstanding any breach of the contract or any conditions hereof by the Company.
7. If the customer instructs the Company to use a particular method of route for movement of the goods, the Company will give priority to the method or route designated but if that method or route cannot conveniently be adopted by the Company, the customer shall be deemed to authorise it to move or have the goods moved by another method or methods or by any other route.
8. Customers entering into transactions of any kind with the Company expressly warrant that they are either the owners or the authorised agents of the owners of any goods or property the subject matter of the transaction, and by entering into the transaction they accept these conditions for themselves as well as for all other parties on whose behalf they are acting.
9. The Company is entitled to retain and be paid all brokerages, commissions, allowances and other remuneration customarily retained by or paid to Shipping and Forwarding Agents and Insurance Brokers.
10. Quotations are given on the basis of immediate acceptance and subject to the right or withdrawal or revision. If any changes occur in the rates of freight, insurance premiums or other charges applicable to the goods, quotations and charges shall be subject to revision accordingly with or without notice.
11. The Senders, Owners and Consignees of any goods and their agents, if any, shall be deemed to be bound by and to warrant the accuracy of all descriptions, values and other particulars furnished to the Company for customs, consular and other purposes and they undertake to indemnify the Company against all losses, damages, expenses and fines arising from any inaccuracy or omission, even if such inaccuracy or omission is not due to any negligence.
12. The Senders, Owners and Consignees shall indemnify the Company against any duties or other moneys which the Company is called upon or obliged to pay in respect of the goods to any person or body and howsoever arising. Without in any way limiting the generality of this indemnity it is to include liability on the part of the Senders, Owners and Consignees to indemnify the Company in respect of any payment they may be called upon or obliged to pay to the crown, the Collector of Customs or any other statutory body or authority whether representing the Crown or not as well as any private body company or person and whether the obligation to pay the said duties or moneys arises by reason of any statute proclamation declaration rule by-law or other legislative or quasi-legislative act or by reason of liability arising in contract or in tort or by reason of the existence of any Lien charge bill of sale mortgage or other hypothecation of the goods or under any hire purchase agreement or by reason of the law relating to companies, bankruptcy, insolvency or executions or otherwise. The indemnity hereby conferred upon the proprietors shall continue in full force and effect whether or not the goods are or have been pillaged, stolen, lost, damaged or destroyed and shall not be affected in any way if such pillaging, stealing, loss, damage or destruction has occurred or been brought about wholly or in part by the negligence or the alleged negligence or any default omission, neglect or default or any breach of duty or obligation of the company its servants or agents.
13. No insurance will be effected except upon express instructions given in writing by the customer and 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. The Company shall not be under any obligation to effect a separate insurance on each consignment but may declare it in any open or general policy. 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 hereto, 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 its customer.
14. The Company shall not be liable for loss of or damage to goods unless such loss or damage occurs whilst the goods are in the actual custody of the Company and under its actual control and unless such loss or damage is due to the wilful neglect or default of the Company or its own servants.
15. It is hereby agreed by and between the Consignor and the Company that any liability of the Company on whatsoever ground arising shall in every case be limited in amount to the sum of \$20 in respect of all the goods listed in these Forwarding instructions whether or not there have been any declaration of value of the goods or of any of them by the Consignor for the purpose of carriage of otherwise.
16. (a) In the case of goods of a value exceeding \$200 per package or unit or the equivalent of that sum in other currency, the value will not be declared or inserted in the Bill of Lading for the purpose of extending the Shipowners' liability under Article IV, Rule 5 of the Sea Carriage of Goods Act, 1924, except upon express instructions given in writing by the customer.
(b) In the case of Carriage by Air, no optional declaration of value to increase the Air Carrier's liability under the Carriage by Air Act, 1935, Article 22 (2) of the First Schedule will be made except on express instructions given in writing by the customer.
(c) In all other cases where there is a choice of tariff rates according to the extent of the liability assumed by carriers, warehousemen or others no declaration of value (where optional) will be made for the purpose of extending liability and goods will be forwarded or dealt with at owners' risk or other minimum charges, unless express instructions in writing to the contrary are given by the customer.
17. Instructions to collect payment on delivery (C.O.D.) in cash or otherwise are accepted by the Company upon the condition that the Company in the matter of such collection will be liable for the exercise of reasonable diligence and care only.

18. Perishable goods, which are not taken up immediately upon arrival or which are insufficiently addressed or marked or otherwise not identifiable, may be sold or otherwise disposed of without any notice to the Senders, Owners or Consignees of the goods and payment or tender of the nett proceeds of any sale after deduction of charges shall be equivalent to delivery.

19. Non-perishable goods, which cannot be delivered either because they are insufficiently or incorrectly addressed or because they are not collected or accepted by the Consignee may be sold or returned to the Company on delivery of the goods. All charges and expenses arising in connection with the sale or return of the goods shall be paid by the customer. A communication from any agent or correspondent of the Company to the effect that the goods cannot be delivered for any reason shall be conclusive evidence of that fact.

20. Except under special arrangements previously made in writing the Company will not accept or deal with any noxious, dangerous, hazardous or inflammable or explosive goods or any goods likely to cause damage. Any person delivering such goods to the Company or causing the Company to handle or deal with any such goods (except under special arrangements previously made in writing) shall be liable for all loss or damage caused thereby and shall indemnify the Company against all penalties claims damages costs and expenses arising in connection therewith and the goods may be destroyed or otherwise dealt with at the sole discretion of the Company or any other person in whose custody they may be at the relevant time. If such goods are accepted under arrangements previously made in writing they may nevertheless be so destroyed or otherwise dealt with if they become dangerous to other goods or property. The expression "goods likely to cause damage" includes goods likely to harbour or encourage vermin or other pests.

21. Except under special arrangements previously made in writing the Company will not accept bullion, coins, precious stones, jewellery, valuables, antiques, pictures, firearms, ammunition, livestock or plants, and the Company will not accept any liability whatever for any such goods except under special arrangements previously made in writing.

22. All goods (and documents relating to goods) shall be subject to a particular and general lien for moneys due either in respect of such goods or for any particular or general balance or other moneys due from the Senders, Owners or Consignees to the Company. If any moneys due to the Company are not paid within one calendar month after notice has been given to the person from whom the moneys are due that such goods are detained, they may be sold by auction or otherwise at the sole discretion of the Company and at the expense of such person, and the proceeds applied in or towards satisfaction of such particular and general lien.

23. It is hereby expressly agreed that no servant or agent of the Company (including every independent contractor from time to time employed by the Company) shall in any circumstances whatsoever be under any liability whatsoever to the Consignor, Consignee or owner of the goods for any loss or damage or delay of whatsoever kind arising or resulting directly or indirectly from any act, neglect or default on his part while acting in the course of or in connection with his employment and without prejudice to the generality of the foregoing provisions in this clause, every exemption, limitation, condition and liberty herein contained and every right, exemption from liability defence and immunity of whatsoever nature applicable to the company or to which the Company is entitled hereunder shall also be available and shall extend to protect every such servant or agent of the Company acting as aforesaid and for the purpose of all the foregoing provisions of this clause the Company is or shall be deemed to be acting as agent or trustee on behalf of and for the benefit of all persons who are or might be its servants or agents from time to time (including independent contractors as aforesaid) and all such persons shall to this extent be or be deemed to be parties to this contract.

24. All agreements between the Company and its customers shall be governed and construed according to the laws of New Zealand in which this agreement is entered into and shall be subject to the exclusive jurisdiction of the courts of New Zealand.

25. The Company shall not be liable for -

(a) Any loss, injury or damage in respect of the goods caused by destruction, fire, explosion, stealing, fraud, burglary, theft, storm, flood, tempest or water or by any other cause whatsoever whether brought about wholly or in part by the negligence or alleged negligence of any act, omission, neglect, default, breach of duty or breach of obligation of the Company its servants or agents or not.

(b) Any loss, injury or damage suffered by delayed delivery of goods.

(c) Any loss, injury or damage in respect of the goods resulting from or contributed to by the contract of the goods with or proximity to other goods or sweating, evaporation, leakage, breakage, shrinkage, deterioration, fermentation, wasting, decay, putrefaction, contamination, vermin, strikes, lockouts, shortage of labour or resulting from or contributed to by any circumstances beyond the reasonable control of the Company.

26. The Company shall not under any circumstances be liable for loss or damage resulting from or attributable to any quotation statement representation or information whether oral or in writing howsoever wheresoever or to whomsoever made or given by or on behalf of the Company as to the classification of or the liability for amount scale or rate of customs duty excise duty or other impost or tax applicable to any goods or property whatsoever.

27. Use of the Company store facilities will require the customer to effect their own specific insurance cover for the duration of the time said goods remain in the store custody of the Company.

Credit and Interest

1. Where the company agrees to extend credit by way of the operation of a ledger account, payment for each and every invoice is to be made in full no later than the 20th of the month following invoice with the exception of invoices indicating other terms of payment or for which other payment terms have been agreed in writing by both the company and the customer.

2. If any amount is not paid by the due date, the company reserves the right to charge interest at 5% per month compounding above the company's existing commercial overdraft rate, calculated on a daily basis on all overdue amounts from the date on which payment was due and until payment in full of all monies overdue.

3. All payments received by the company shall be applied first in reduction of any interest payable and then in reduction of the remaining balance outstanding.

4. In the event of the customer defaulting on payment terms as agreed herein, the company will be entitled to stop credit, recover all debt collection, recovery, court costs and other expenses incurred arising as a result of the default.

The use of Client's own forms is no derogation of these Conditions.