



## Consignment Conditions of Carriage

### 1. Definitions

In these conditions of carriage:

- (a) **"Carrier"** means:
- (i) Linfox Australia Pty Ltd (ABN 47 004 718 647), and its servants and agents;
  - (ii) Railways operated by the Commonwealth or any State or Territory or other body;
  - (iii) Any other person, company or legal entity with whom Linfox Australia Pty Ltd may arrange for the carriage of any goods the subject of the consignment; and
  - (iv) And any person who is now or hereafter a servant, agent, employee, or subcontractor of any of the persons referred to in subsections (i), (ii) or (iii) above.
- (b) **"Consignee"** means the person, company or legal entity listed as the "Receiver" on the consignment note.
- (c) **"Consignor"** means the person, company or legal entity listed as the "Sender" on the consignment note.
- (d) **"Dangerous Goods"** means goods which are, or may become, volatile, explosive or toxic or liable to damage any person or property whatsoever and includes those goods set out in the *Australian Code for the Transport of Dangerous Goods by Road or Rail*.

### 2. No Common Carrier

The Carrier is not a Common Carrier and will accept no liability as such. The Carrier reserves the right to refuse the carriage or transport of articles for any person, corporation or company and the carriage or transport of any class of articles at its discretion.

### 3. Subcontracting

The Consignor hereby authorises the Carrier (if it should think fit to do so) to arrange with a subcontractor or sub-contractors for the carriage of any goods the subject of the consignment. Any such arrangement shall be deemed to be ratified by the Consignor upon delivery of the said goods to such subcontractor or sub-contractors who shall thereupon be so entitled to the full benefit of these terms and conditions to the same extent as the Carrier.

### 4. Method of Carriage

If the Consignor expressly or impliedly requests the Carrier to use, or it is expressly or impliedly agreed that the Carrier will use, a particular method of handling or storing the goods or a particular method of carriage whether by road, rail, sea or air, the Carrier will give priority to that method but if it cannot conveniently be adopted by the Carrier, the Consignor hereby authorises the Carrier to handle or store or to carry or have the goods carried by another method or methods.

### 5. Liability for goods

The goods are transported at the risk of the Consignor and not the Carrier and unless expressly agreed otherwise in writing, the Carrier shall not be liable in tort or contract or otherwise for any loss of or damage to or deterioration of goods or misdelivery or failure to deliver or delay in delivery of goods including chilled, frozen, refrigerated or perishable goods either in transit or in storage, unless the loss of, damage to, or deterioration of the goods was directly caused by a negligent act or omission of the Carrier or a wilful act or default of the Carrier.

### 6. Liability Cap

In circumstances where the Carrier is liable for any loss of, damage to, or deterioration of the goods, the Carrier's liability is limited to a maximum of AUD\$5,000 per loss event. The Consignor may elect to notify the Carrier if the value of the goods being transported exceed AUD\$5,000, in which case an alternative liability cap may be negotiated and agreed in writing between the Carrier and Consignor and an additional fee will be payable by the Consignor.

### 7. Dangerous Goods

- (a) If the goods are, or include, Dangerous Goods:
- i. the Consignor warrants that the Consignor has complied, and will comply, with the *Australian Code for the Transport of Dangerous Goods by Road or Rail*; and
  - ii. the Consignor indemnifies the Carrier against any expenses, charges or losses sustained or incurred by the Carrier as a result of a breach of this warranty and also for any expenses, charges or losses (including, but not limited to, expenses and losses arising from damage to other goods or property and clean-up costs arising from spillage or the like howsoever caused) sustained or incurred by the Carrier in complying with the requirements of any law or regulation or of any authority as a

result of the dangerous nature of the Goods whether or not arising from any breach of contract or of any other fault on the part of the Consignor.

- (b) If in the opinion of the Carrier, the goods either by themselves or in combination with any other Goods, are likely for any reason (including, but not limited to, fire, explosion, seepage or any form of contamination) to cause injury to persons or damage to other Goods or to property (including, but not limited to property of the Carrier or of any Sub-contractor) or the environment, the goods may be retained, destroyed, disposed of, abandoned, removed or rendered harmless by the Carrier without compensation to the Consignor and without prejudice to the Carriers right to any charges hereunder including the cost of such action.

### 8. Lien over goods

The goods are accepted subject to a general lien for all charges now due or which may be due to the Carrier by the Consignor on any account whether in respect of the goods comprised herein or in respect of any other goods for which the Carrier provides transport or any other service. If the lien is not satisfied the Carrier may at its option, and without any notice, in the case of perishable goods forthwith and in any other case upon the expiration of the Carriers credit/payment terms either: (a) remove such goods or part thereof and store them in such place and manner the Carrier shall think proper and at the risk and expense of the Consignor or as the case may be; or (b) holds the right to retain goods until Consignor pays all overdue accounts; or (c) if payment is more than 180 days overdue, open any package and sell such goods or part thereof upon such terms as it shall think fit and apply the proceeds in or towards the discharge of the lien and costs of sale without being liable to any person for any loss or damage thereby caused.

### 9. Delivery

The Carrier is authorised to deliver the goods at the address given to the Carrier by the Consignor for that purpose and it is expressly agreed that the Carrier shall be taken to have successfully delivered the goods if at that address it obtains from any person a receipt, proof of delivery, or a signed delivery docket for the goods.

### 10. Authority to deal with goods

- (a) It is agreed that the person giving any goods to the Carrier for carriage or forwarding is authorised to sign this consignment note for the Consignor.
- (b) The Consignor expressly warrants with this Carrier that the Consignor is either the owner or the authorised agent of the owner of any goods or property the subject matter of these conditions of carriage and by using the Carrier's services, the Consignor accepts these conditions of carriage for the Consignee, as well as for all other persons on whose behalf the Consignor is acting.
- (c) The Consignor hereby authorises any deviation from the usual route or manner or cartage of goods which may in the discretion of the Carrier be deemed reasonable or necessary in the circumstances.

### 11. No consequential loss

Notwithstanding any other provision, it is expressly agreed that both the Carrier and Consignor will have no liability to each other for any consequential or indirect loss or damage that may arise in connection with these conditions of carriage and the performance of the transport services, including without limitation any loss of profit, loss of revenue, loss of use and/or operating time, business interruption, loss of data, pure economic loss, or lost opportunities, or any form of special, punitive or exemplary loss or damages, or any loss arising out of any claim by a third party (including but not limited to container detention or demurrage charges), whether or not a party was advised of the possibility of such loss or damage.

### 12. Time of Charging

The Carrier's charges shall be considered earned as soon as the goods arrive at the destination. The Consignor will be and remain responsible to the Carrier for all its proper charges incurred for any reason.

### 13. Pallets

Where the carriage of goods involves the use of hired pallets (e.g. Chep/Loscam), the Consignor is responsible to raise any pallet transfer docket to effect a transfer of pallets to the recipient of the goods. At no time will the hired pallets be transferred to the Carrer's pallet hire account throughout the performance of the transport services.

### 14. Application

These Consignment Conditions of Carriage apply to any and all services for the transport and storage of goods performed by the Carrier for the Consignor to the exclusion of all other terms and conditions, unless the Carrier and Consignor have negotiated and agreed alternative terms and conditions in writing that have been executed by duly authorized representatives which expressly apply to the performance of the relevant services.