Crown Worldwide (NZ) Ltd

CSII TERMS AND CONDITIONS OF CONTRACT

- The customer warrants as follows:
 - That the property to or from which goods are removed by the company is owned by the customer or that the customer has obtained prior to the commencement and (a) carrying out of the work by the company all necessary permits and approvals and authorisations to enable the company's vehicles and/or employees to enter upon such property with or without vehicles for the purposes of carrying out the company's obligations hereunder and the customer hereby indemnifies the company in respect of any loss, claim or damage suffered, brought against or caused by the company in entering upon such property with or without vehicles.
 - (b) That the goods to be removed, packed, transported and/or stored pursuant to the request of the customer in accordance with the provisions of this contract are owned by the customer or that the customer has full right, power and authority to procure such removal, packing, transportation, and/or storage by the company and that no other person, firm or corporation has any other interest therein or lien or charge thereover or any power or authority to prevent the company from carrying out its obligations hereunder.
- The quotation is based on:
 - The rates of exchange, government levies, scales of wages, railway and shipping rates and charges ruling and/or in force at the date of the quotation. Additional costs (a) or charges incurred by the company as a result of any change in such levies, scales or rates after the date of the quotation shall be recoverable by the company and payable by the customer in accordance with the terms and conditions for payment of all other moneys payable by the customer pursuant to the provisions of this contract whether or not the customer shall have previously paid the whole or any part of the original contract price.
 - The assumption that the customer's goods will comprise less than sufficient to fill a container and that the company has a right to fill such container with goods belonging to other customers and to ship the same at the company's convenience. If the customer requires a container exclusively for the customer's own goods (b) (whether or not such goods will fill the container) and/or if such container is to be shipped on a specific date then the customer will pay the rate payable for a full container and such further costs as the company may incur by shipping on a specific date and/or ship.
- 3 (a) The quotation is based on:
 - The condition that there is a suitably practical road and approach for the vehicles and workmen of the company to the door of the building or other places to and from which the goods are to be removed and that the same are available to the vehicles of the company and, if the goods are to be delivered to a building, that they are to be delivered on the ground floor, otherwise an extra charge will be made.
 - П. The condition that all doors and stairways are adequate to allow the work to be conveniently carried out but the company may at its discretion use any balcony, window and/or tackle and make an extra charge therefor and the customer will indemnify the company against all claims in respect thereof and also release the company from any liability for damage either to goods so handled or to the building or buildings to or from which such goods may be taken or delivered or
 - to any pathway, drive, grounds or accessway leading to or serving such building or buildings.

 The company will not under any circumstances be liable for damage to any driveway, road, kerb, crossing, path or accessway caused by any vehicle of the company in carrying out its obligations under the contract unless prior to collection or delivery of goods the company shall have received a written direction from the customer that any such path, road, kerb, crossing, driveway or access is unsuitable and that such prior written notice shall have specifically directed the company not to cross any (a) such path, driveway, kerb, road or accessway with vehicles. In the absence of any such specific written direction the customer shall have been deemed to have directed and authorised the company to cross such path, driveway, kerb, road or accessway with appropriate vehicles and the company shall under no circumstances be liable for any damage thereto or destruction thereof.
- The amount quoted covers the services set out in the quotation but does not include the following services or work. If such services or work are carried out all of the conditions of the contract apply thereto and an extra charge to cover such work will be payable. The services and work excluded are as follows:
 - Any customs duties, consular fees, quarantine costs or charges, municipal dues or other levies, duties, dues, charges or fines payable to public or other authority, any
 - storage or related charges or any premium for insurance unless such charges or insurance premiums are expressly stipulated and referred to in the signed quotation. The taking down or putting up of fixtures, gas, electric or other apparatus or fittings or blinds or lifting or laying of carpets, linoleums or other floor coverings, dismantling (b)
- or installing or reassembling any refrigerators, washing machines or similar equipment and the removal and re-erecting of any television aerial.

 The company will not accept for removal any goods or substance which are dangerous, explosive, corrosive of otherwise likely to cause damage, loss or injury to any person or property and the customer shall be liable for any such damage, loss or injury, or costs that may be incurred by the company or by any third party through the presence of any such goods or substance. If any such goods or substance are discovered by the company it may at its discretion remove sell destroy or otherwise dispose of the same at the expense of the owner, consignor, consignee or shipper and it shall not be responsible or accountable for the value thereof.
- The responsibility for the company's vehicle and its contents remain with the driver. He has the right at all times to refuse to put his person or his vehicle and its contents at risk. If the owner, consignor, consignee or shipper considers that the driver's non-acceptance of his/her instructions is unreasonable, such person has authority to place a collect call to the head office of the company in order to discuss the matter with the company's quality assurance manager.
- When a quotation is for specific items and/or a specific quantity and additional goods are removed, transported or stored an extra charge to be fixed by the company will be made and all these conditions will apply to such additional goods.
- 8 It is the responsibility of the customer to see that no article required to be removed is left behind, that no goods or fixtures are taken away in error and that articles left in unoccupied premises are protected. The company accepts no liability in respect of any such matter and the customer shall indemnify the company against all claims in respect
- 9 This contract is made on the understanding that it is able to be performed during ordinary working hours namely between 7.30am to 5.00pm Monday to Friday inclusive but excluding public holidays. The company shall be entitled to charge for any extra costs incurred by it as a result of any delay experienced by the company in performing its obligation arising from any cause whatsoever (other than the neglect or default of the company) including but without limitation the act or omission of the owner consignee or consignor of the goods and/or the failure of the customer to provide access to or from the property to or from which the goods are to be removed.

 This contract is subject to all the conditions, stipulations and exceptions expressed in any regulation, bill of lading, consignment note or contract of any railway, shipping
- 10 company, airway or other carrier under which the goods are carried and to the charges levied by such railway shipping company, airway or other carrier inder which the goods are carried and to the charges levied by such railway, shipping company, airway or other carrier in the time and to all alterations to any of these conditions, stipulations, exceptions, or to the charges levied by any railway, shipping company, airway or other carrier before the work in the terms of this contract has been physically completed.
- The company's liability shall be that of a forwarding agent. The company shall not be liable for any loss of, damage to or failure to produce any goods under removal caused by any delay in transit by rail, sea or air, by any strike, labour trouble, riot, civil commotion, war, invasion, Act of God, flood, stress of weather or by moths, borer, vermin, white ants, 11. termites or other insects, damp, mildew, rof, rust, burglary, housebreaking, storm, tempest or explosion or the act of any third party or cause beyond the control of the company nor for any consequential loss. The company shall not be responsible for compensating the customer for any loss or damage which the customer may suffer arising from the loss of value of any goods as a result of repair, replacement or loss of use or any costs which the customer may incur in obtaining either permanently or temporarily the use or enjoyment of substitute goods, any loss of profit or any other consequential loss whatsoever arising from delays in delivery, loss of or damage to or failure to produce the goods for any cause whatsoever.
- The company may arrange with any other contractor, railway, shipping company, airline, dock or transport company or authority to carry out all or any part of the work and the terms of all bills of lading, consignment notes and other documents issued by such other parties may be accepted by the company as agents for the customer and shall be 12 deemed to form part of this contract. The company shall transfer to the customer at the customer's expense the benefit of such rights (if any) as the company may have against such other parties in respect of the customer's property.
- The company shall act as agents for the customer and/or the owner of the furniture and effects and may take any action which appears to be in the interests of the customer and/or owner for the protection of the goods and the costs of such action if taken shall be additional to the contract.

 It is acknowledged agreed and declared that the contract of carriage evidenced hereby is a contract for carriage at owner's risk and the company as carrier shall not be liable for
- 14 the loss of or damage to any goods except where the loss or damage is intentionally caused by the company.
- Unless at the time the quotation is accepted the customer expressly requests the contractor as the customer's agent to arrange insurance in respect of the goods and pays the premium for such insurance prior to shipment then it shall be the sole responsibility of the customer to arrange his own insurance if required. Whether the customer arranges his 15 own insurance or whether the customer requests the company to arrange insurance on his behalf the contract of carriage shall nevertheless remain a contract for carriage at owner's risk as defined in clause 14 hereof.
 - If the customer specifically requests the company in writing at the time that the quotation is accepted to insure the effects, furniture and goods, the subject of (a) this contract and simultaneously with the delivery of the written acceptance of the quotation delivers to the company a signed and completed insurance proposal provided by the company and pays the appropriate premium then the company will as agent for and on behalf of the customer arrange for the issue of the appropriate insurance policy
 - (b) The customer acknowledges that any insurance cover arranged by the company on behalf of the customer shall be issued subject to the following conditions namely:
 - That such cover is specifically subject to the terms and conditions contained in the appropriate policy of insurance issued pursuant to the proposal, signed by the customer and is limited to the amount specified therein.
 - 11. The insurance cover will extend for the period commencing with the removal of the customer's goods from the place of origin to the delivery by the company to the destination specified in the quotation

- III. Where such insurance does not specifically extend cover while the goods are placed in any store either at the place of origin or the place of discharge or the place of destination, then such transit insurance ceases immediately if the goods are placed in such store and in such case special in store insurance must be arranged by the customer either direct with the insurance company or through the company as the insurance company's agent as detailed on the policy It is the liability and obligation of the customer to arrange such in store insurance extension or any other additional insurance which may be required
- Whether or not the insurance is arranged by the company at the customer's request and as the customer's agent the contact of carriage evidenced hereby
- shall remain a contract for carriage at owner's risk as defined in clause 14 hereof.

 Removal charges are payable prior to collection of goods at origin unless at the absolute discretion of the company alternative arrangements have been made with the customer in writing prior to the collection of such goods. Payment will include the whole of the quoted amount covering charges for packing, transportation, delivery and insurance 17
- All charges for storage are due and payable quarterly in advance with a proportionate adjustment for a broken period and all additional and related charges (if any) are payable with the next instalment for storage after the same are incurred. The company shall be entitled to charge interest on all accounts more than thirty (30) days overdue at the 18 overdraft rate charged by the company's bank at such date.
- If any rent, removal charges or other amount due to the company in respect of any goods stored by the company is not paid within three calendar months after the same shall have become due the company may give notice to the customer of its intention to sell such goods in the manner provided by these conditions for the giving of notice. If all 19 amounts due to the company are not paid within fourteen days after the giving or publication of such notice the company may examine the goods (and if necessary break open any container) and sell them or any part thereof at public auction and for that purpose place the sale and all matters relating thereto in the hands of any auctioneer without being liable for any act or omission of such auctioneer and the company may apply the proceeds of sale in or towards payment of the expenses thereof and the amount owing to the company in respect of such goods by the customer and any balance shall be payable to the customer. The provisions of this clause shall be read and construed subject to the provisions of any law governing the contract relating to Warehousemen's Liens which law shall in all respects have full force and effect.

 All property received by the company will be subject to a general lien for all moneys owing to or liabilities incurred by the company and the delivery or sale of part thereof shall not
- 20 affect such lien in respect of the remainder. In respect of any period during which a lien is being asserted, the company shall be entitled to charge rent and other expenses incurred (by or on behalf of the customer) and all these conditions shall apply and the company shall not be required to deliver possession of the goods or any part of them to the customer so long as any sum of money remains owing by the customer to the company pursuant to the provisions of this contract.
- 21 Any increase in the price of storage during the time the goods are in storage shall be payable by the customer upon notice thereof being served on the customer in manner
- provided by these conditions and the contract shall thereupon be deemed to be varied accordingly.

 Any notice or other communications to be given or served upon the customer including any receipt or inventory may be given or served to or upon the customer personally or by 22 ordinary prepaid post addressed to the customer at the last address of the customer known to the company and if posted shall be deemed to have been received by the customer on the seventh day following the day on which it shall have been posted.

 The company shall not be bound to deliver any goods except to the customer or to a person authorised by the customer in writing to receive the goods and the company shall not
- 23 be bound to deliver any goods from the warehouse without:
 - The written order of the customer or his attorney; and (a)
 - Payment of all amounts owing in respect of such goods
- If the goods are delayed en route for any reason, or if the customer or consignee is unable to receive the goods in the premises or at the place where they are to be delivered immediately on their arrival, the company shall be at liberty to unload them into it's own or any other storage place. Delivery at any such storage place shall be deemed to be delivery in accordance with the contract. The company shall have lien on such goods for all storage and other charges incurred up to the time that the customer shall have taken 24 delivery of such goods.
- 25 If the customer fails to pay any sum of money payable to the company as and when the same falls due and if such default shall continue for 30 days from the due date (a) of payment thereof then the company shall be entitled to charge interest calculated at the company's current bank overdraft rate and computed daily from the due date
 - of payment to the actual date of payment thereof without prejudice however to the company' other rights and remedies.

 If the customer shall default in making payment of the whole or any part of the contract price or other monies properly payable by the customer pursuant to the provisions hereof then the company shall be entitled to recover from the customer all costs and disbursements which it incurs in recovering or endeavoring to recover (b) such money including the fees and disbursements of any debt collection agency, court costs and legal fees in connection therewith.
- The customer will remain personally liable for payment of all costs, charges and fees payable pursuant to this contract notwithstanding either (a) the receipt by the company of an acknowledgement from any third party that such third party will be liable for payment of such sums; (b) the receipt by the company of any direction from the customer requesting 26 the company to direct accounts for payment to any person other than the customer, or (c) any acceptance of this contract by the customer where such acceptance purports to be made by the customer as agent for any third party.

 No agent of or person employed by the company shall have any authority to alter, waive or qualify in any way these terms and conditions and any such purported alteration,
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- waiver or qualification shall be of no legal effect, unless done so in writing by the Regional Manager of the company.

 The customer shall not be entitled to commence any proceeding against the company unless and until all moneys payable by the customer have been paid in accordance with 28 these conditions. Any such action or suit must be commenced in a N.Z Court and N.Z Law will apply.
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- Acceptance of the quotation for removal must be signed by the customer on the company's form of acceptance.

 The customer shall notify the company in writing, in the case of loss of goods within seven (7) days after the goods would in the ordinary course have been delivered, and in the 30 case of damage to goods within seven (7) days after deliver or tender of delivery. Further:
 - Whenever the company may be liable for loss or damage to goods under removal it shall have the option of replacing or repairing the goods but under no circumstances shall its liability exceed the actual cost of replacement or repairing of the said goods and the company shall under no circumstances be responsible for any consequential loss or damage.
 - (b) A claim against the company shall not be made the reason for deferring or withholding payment of any monies payable by the customer to the company pursuant to this contract.
- In any instance where the company has at the request of and as agent for the customer arranged a policy of insurance any claim by the customer under such policy of insurance 31 must be lodged with the company as agent for the insurer, in the case of the loss of goods within seven days after the goods would in the ordinary course have been delivered, or, in the case of damage to goods, within seven days after delivery or tender of delivery to the customer as required in terms of the contract. 32 Cancellation
 - This contract may be cancelled by the Company or the Customer provided that notice of such cancellation is given in writing and received by the recipient no later than 5.00 pm on the 7th working day prior to the date of due performance of the work/services by the Company.

 If the customer gives notice of cancellation later than 5.00pm on the 7th working day prior to the date of due performance of the work/services by the Company then a late
 - cancellation fee of \$250 shall be payable by the Customer to the Company, payment of such sum being due within 5 working days of the date of cancellation of the contract by
 - In the event that the contract is cancelled and the Customer has paid the contract price or any part thereof the Company shall be entitled to deduct from such payment all or any monies owing by the Customer to the Company including (but not limited to) all charges due and payable irrespective of cancellation, and late cancellation fees, and the balance of any such payment shall be refunded to the Customer within 5 working days of the date of cancellation of the contact.
 - Dispute Resolution In the event of any dispute arising between the parties as to the construction of this Agreement, the provisions of this Agreement, or any matter relating to or arising out of the provisions of this Agreement, then such dispute shall be resolved in accordance with the provisions of this clause. (a)
 - The parties will do their utmost to ensure that any disputes between them are settled in the first instance equitably and amicably and in a spirit of compromise and (b) co-operation and (hopefully) without resort to mediation or arbitration. The parties acknowledge that one of the principal objectives of the procedure described in this clause is to achieve a non-litigious determination of any matters arising out of this Agreement.
 - Without prejudice to any other right or entitlement they may have under this Agreement or at general law, the parties shall attempt to resolve any dispute in good faith (c) by negotiation between them. If any dispute cannot be resolved within 10 working days of the dispute arising, then the parties will refer the dispute to a mediator in a non-binding dispute resolution process in which an independent mediator facilitates negotiation between parties. Mediation may be initiated by either party writing to the other and identifying the dispute which is being proposed for mediation. The other party hereby agrees to either proceed with such mediation or to at least attend a preliminary meeting with a mediator to discuss whether mediation would be helpful in the circumstances. If the parties cannot agree on a suitable person to act as a mediator, they will request that the Arbitrator and Mediators Institute of New Zealand appoint a mediator. The mediation will be conducted in accordance with the Mediation Protocol of the Arbitrators and Mediators Institute of New Zealand Inc.
 - Any disputes arising out of or relating to this Agreement which is not resolved by mediation may be determined by arbitration pursuant to the Arbitration Act 1996. (d)

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