

## TERMS AND CONDITIONS OF CONSIGNMENT NOTE

Between: Clein's Transport Pty Ltd (us, we, the Carrier) – (ACN 646 608 068)

And: The Consignor (you, your)

The following are the contractual Terms and Conditions upon which the Consignor agrees applies to all contracts for carriage of Stock or livestock from the Carrier:

### 1. Interpretation

In these Terms and Conditions, the following definitions will apply:

Agreement means the documents we supply you forming one agreement for carriage of your Stock and livestock, comprising the following:-

- (a) Consignment Note; and
- (b) these Terms and Conditions.

Carrier means Clein's Horse Transport (ACN 646 608 068) and includes only its servants, authorised agents and assigns.

Carriage shall mean where the context permits, the dispatch, pick up, carriage, transportation, storage, consignment, delivery, agistment, resting, temporary depasturing, livery or any other service performed by the Carrier in relation to the Stock.

The same meaning shall be attributed to the words "carry" and "carried" when used in this context.

Consignor means the person, firm, body or corporation who places an order with the Carrier for the carriage of the Stock or places Stock or livestock with the Carrier for transportation.

Stock means the Stock and livestock which are the subject of the Contract and shall include livestock of every description and any other incidental items or accessories with them and any person travelling with or attending upon the same.

GST means Goods and Services tax imposed under the GST Law;

GST Law has the meaning given in the A New Tax System (Stock and Services Tax) Act 1999 or any Act which amends or replaces that Act in the future, imposing or relating to GST.

In writing for the purpose of the Contract shall mean by way of letter, fax, or email sent to the last known business address, facsimile number or email address of the receiving party.

Sub-Contractor includes any person, firm or Company with whom the Carrier may arrange agistment, livery or storage including the respective railways of any State of the Commonwealth of Australia.

### 2. General

2.1 All quotes given by us and all orders for the carriage of Stock placed by you are accepted subject to these Terms and Conditions.

2.2 Any other terms and conditions not contained within these Terms and Conditions will not form part of any Agreement between us and you unless those other terms and conditions are in writing and attached to these Terms and Conditions.

### 3. Payment

The Consignor (notwithstanding that it may not be the owner of the stock) will be and remain responsible to the Carrier for its proper charges incurred for any reason whatsoever in relation to the Carriage of the Stock unless otherwise stipulated

by the Carrier, payment in full of charges due to the Carrier shall be paid prior to or on delivery of the consigned stock transported, unless prior arrangements have been made between the Carrier and the Consignor for a 7 day account to be

issued to the Consignor.

Payment will be made by cash, by bank cheque, or by direct credit, or by any method as directed by the Carrier. Any direct credits must appear as clear funds in the Consignors bank account prior to the delivery of the consigned livestock.

### 4. Risk of Carriage and Right to Refuse Carriage

The Carrier is deemed not to be a common carrier for the purposes of this Agreement and will accept no liability as such. All Stock is carried, transported, stored or agisted at the risk of the Consignor and under no account at the risk of the Carrier.

The Carrier accepts no responsibility at law in tort, contract or otherwise for any damage or expense incurred in the course of loading, carriage, delivery, storage, livery, or agistment and/or in arising from misdeliver or the failure to delivery.

The Consignor further acknowledges that the Carrier shall not be liable for the action or omission of any Sub-Contractor employed, appointed or obtained by the Carrier.

The Carrier reserves the right to refuse the Carriage of Stock for any person, firm, body, corporation or company at its discretion.

### 5. Carriage of Stock with Other Stock/ Alternate Route

The Carrier reserves the right at its absolute discretion to carry Stock by any route it thinks fit and either alone or with Stock belonging to any other person, firm, body, corporation or company. The Carrier at its absolute discretion and without

assigning any reason therefore, may deviate from or alter, at any time the route chosen by it of the Carriage of the Stock. The Consignor hereby authorizes any deviation(s) or alteration(s) which shall be deemed necessary and reasonable in

the circumstances.

### 6. Correct Address

6.1 It is the responsibility of the Consignor to give the Carrier the correct address for pick up and for delivery and to arrange for a responsible person to be present at those addresses at the time of pickup and delivery to enable the Carrier to pick up

the Stock and make effective delivery of the Stock.

6.2 The Carrier shall not be liable for any delay in onward carriage or delivery of loss or damage resulting from the Consignor's failure to comply with this condition.

### 7. Amended Address

If the Consignor or its representative, subsequent to dispatch of the Stock, directs the Carrier to deliver the Stock to an address ("the amended address") which is not the address for delivery originally given to the Carrier by the Consignor (the

"original address"), the Carrier will use its best endeavour to have the Stock redirected to the amended address. However the Carrier does not promise that it will be able to redirect the Stock and is not responsible for any delay that may be

caused by such redirection. If the Stock cannot be redirected and are delivered to the original address, the Carrier accepts no responsibility to arrange the Carriage of Stock from the original address to the amended address.

#### 8. Use of Sub-Contractor(s)

The Consignor hereby authorizes the Carrier if it should think fit to do so to arrange with a Sub-Contractor(s) for the carriage of the Stock. Any such arrangement shall be deemed to be authorized by the Consignor upon delivery of the Stock to

such Sub-Contractor(s) whether by the Consignor, the Carrier or a Sub-Contractor, and the Sub-Contractor who accepts delivery shall hereupon be entitled to full benefit of these terms and conditions to the same extent as the Carrier. The

Consignor hereby expressly agrees and acknowledges that, in so far as it may be necessary to ensure that such Sub-Contractor(s) shall be so entitled, the Carrier shall be deemed to enter into this Contract for its own benefit and also as agent

for the Sub-Contractor(s).

#### 9. Authority to Sign Consignment Note

It is agreed that the person delivering any Stock to the Carrier is authorized to sign the Consignment Note for the Consignor.

#### 10. Stock not Accepted for Delivery

If the Stock is not accepted for delivery when tendered, the Carrier may hold the Stock as bailee and shall be entitled to storage fees and other costs incurred at normal rates charged by the Carrier and as bailee shall not be under any liability for

loss or damage of Stock howsoever caused, or at its discretion, the Carrier may return the Stock to the Consignor at the cost and risk of the Consignor.

#### 11. Insurance

The Consignor acknowledges that:

(a) Stock is carried at the Consignor's sole risk and not at the risk of the Carrier or the Sub-Contractor;

(b) the Carrier is under no obligation to, and will not, arrange insurance of the Stock and it remains the Consignor's responsibility to ensure that the Stock is insured adequately or at all; and

(c) under no circumstances will the Carrier be under any liability with respect to arranging of any such insurance and no claim will be made against the Carrier for failure to arrange or ensure that the Stock is insured adequately or at all.

#### 12. Stock Health

12.1 The Consignor warrants that all stock are free from disease and have had all required vaccinations.

12.2 Prior to carriage of the stock, the Consignor must advise the Carrier of any underlying health conditions, prior illness, and/or history of illness of the livestock, and of any medication the livestock are currently on.

12.3 The Consignor indemnifies the Carrier from liability whatsoever due to the Consignor's failure to comply with this clause.

### 13. Lien

If the Consignor fails to pay any charges due under the Contract before or on the due date or on reasonable demand being made in accordance with this Agreement, the Carrier may without formal notice to the Consignor or the person, firm, body, corporation

or company to whom the Stock are being delivered pursuant to this Contract, "the Consignee", detail and exercise a lien over or sell any or all Stock which have been consigned by the Consignor or are owned by the Consignor and are in the

possession of the Carrier or a Sub-Contractor and out of the proceeds of such sale retain all charges and expenses so payable and arising from the detention and sale and shall render the surplus, if any of such proceeds and such of the Stock

as remain unsold to the Consignor or Consignee, as the Carrier sees fit. Any such sale shall be without prejudice to the right of the Carrier to recover from the person, firm, body, corporation or company liable to pay the same such charges due or

payable in respect of such service or the net detention or sale and without prejudice to the Carrier's right to lien over any remaining Stock.

### 14. Default

14.1 Where the Consignor is in default in the performance of any of their Obligations under the Agreement, the Carrier may, at their election and without prejudice to any of their other Rights, refuse the further carriage of any Stock for the Consignor.

14.2 All costs and expenses incurred by the Carrier in recovering monies due to them (including without limitation legal costs on a solicitor and own client basis, administrative and secretarial costs, debt collection agencies' commission or other

collection costs) will be payable by the Consignor within seven (7) days of written demand being made to the Consignor by or on the Carrier's behalf.

### 15. Warranties of Consignor

The Consignor expressly warrants with the Carrier that the Consignor is either the owner or agent of the owner or the legal representative of the owner of all Stock that are the subject matter of carriage. The Consignor agrees that the delivery

charges payable to the Carrier are incurred and considered payable at the uplifting of the Stock concerned and that the Consignor is deemed to accept these conditions of carriage at the commencement of any contract under consideration.

### 16. Force Majeure

The Carrier will be entitled to give notice to the Consignor to either extend the time for delivery of the Stock for a reasonable period or to terminate this Agreement if we are prevented from performing any of our Obligations including (without

limitation) making a delivery of Stock by reason of force majeure (for example, and without limitation, breakdown of plant or machinery, war, terrorist attack, strike, industrial dispute, government interference, transport delay, act of God, flood, fire,

accident, non-delivery or shortage of supplies of Stock or any other cause not under our control). The Carrier shall use its best endeavours to cure such default and to comply with the terms and conditions of this Contract as quickly as possible.

17. The Commonwealth Competition and Consumer Act 2010 and State Fair Trading Acts

This Agreement has the effect of contracting out of all applicable provisions of the Fair Trading Acts in each of the State and Territories of Australia (including any substitute to those Acts or re-enactment thereof), to the extent permitted by those

Acts. Liability of the Carrier arising out of any one incident whether or not there has been any declaration of value of the Stock, for breach of warranty implied into these terms and conditions by these Acts or howsoever arising, is limited to any of

the following as determined by the Carrier:

- (a) the supplying of the services again;
- (b) the payment of the cost of having the services supplied again; or
- (c) where the Consignor is a consumer as defined in the Competition and Consumer Act 2010,

then the Consignor may also be entitled to a refund.

18. Personal Properties Securities Act 2009 ("PPSA")

The Consignor acknowledges and warrants that the Carrier has a security interest for the purposes of the PPSA in the Stock and any proceeds described in clause 13 until title passes in accordance with the clause.

The Consignor must do all things and execute all documents necessary to enable the Carrier to register its security interest with the priority that the Carrier requires to perfect its security interest and to maintain that registration.

All payments received from the Consignor must be applied by the Carrier in accordance with s.14 (6) (c) of the PPSA.

19. Notices under PPSA

The Carrier does not need to give the Consignor any notice under PPSA (including a notice of verification statement) unless the notice is required by the PPSA and that requirement cannot be excluded.

20. Confidentiality

Subject to section 275(9) of the PPSA, neither party will disclose the information of the kind mentioned in section 275(2) of the PPSA.

21. Privacy Act Clause

All records maintained by us are collected and stored pursuant to our obligations under the Privacy Act (1988) Cth; and the National Privacy Principles.

22. Indemnity

The Consignor indemnifies the Carrier against any loss, damage or injury caused to the Carrier or any other person or any property of the Carrier or any other person of the Stock during the Carriage thereof and further agrees to indemnify and

keep the Carrier indemnified against all damages, actions, claims, suits and demands made by any person in respect of such loss, damage or injury arising from the breach of one or both of the warranties contained in the clauses concerning

ownership or deemed ownership of this Contract.

The Consignor indemnifies the Carrier against any and all injuries, actions, proceedings, claims, demands, liabilities, losses, damages, costs, penalties and all expenses legal or otherwise (including court costs and legal fees reasonably incurred)

and of whatsoever kind and nature arising out, of or alleged to arise out of, the delivery, acceptance or rejection, ownership, possession and or use or storage of the Stock.

23. Amendments to be in Writing

The Carrier is not bound by any Agreement purporting to carry these conditions unless such Agreement shall be in writing and signed by the Carrier.

24. Law of Contract

24.1 The Carrier, Consignor, Sub-Contractor, or any person, firm or company connected to the carriage hereby acknowledges and is deemed to be aware of the conditions irrespective of the signing name.

24.2 This Agreement is governed by the laws of Queensland. The parties submit to the jurisdiction of the Courts exercising jurisdiction in Queensland located nearest to the Carrier's Premises with respect to any dispute which may arise

between the parties concerning this Agreement, the delivery of Stock or any other matter arising out of the dealings between the parties including Stock.

25. Cancellation

The Carrier may cancel any contract which these terms and conditions apply or cancel the services at any time before the services are complete by giving written notice to the Consignor. On giving such notice the Carrier shall repay to the

Consignor any sums paid in respect of the Price. The Carrier shall not be liable for any loss or damage whatever arising from such cancellation.

In the event the Consignor cancels the services, then the Consignor shall be liable for any loss incurred by the Carrier (including but not limited to any loss of profits) up to the time of cancellation.

26. Miscellaneous

26.1 If any provision in this Agreement is or at any time becomes illegal, invalid or unenforceable, the remaining provisions will continue in full force and effect. Any illegal, invalid or unenforceable provision will, so far as possible, be read down to the

extent that it may be necessary to ensure it is not illegal, invalid or unenforceable. All Obligations of the Guarantor and you under this Agreement will survive the severance of any provision, or part of a provision, to the extent required to be fully

observed and performed.

26.2 This Agreement represents the entire agreement between the parties. No further or other covenants are implied between the parties by way of collateral or other agreement or by reason of any alleged promise, representation, warranty or

undertaking given or made by either party to the other on or before the execution of this Agreement. The existence of any implied, collateral or other agreement is negated.