



## TERMS & CONDITIONS OF CARRIAGE

### 1. Definitions

"**You and Your**" means the person or company requesting Carriage Services, and includes the consignor or the consignee of the Goods.

"**We, Our and Us**" means Scott's Refrigerated Logistics and any business operated by Scott's Refrigerated Logistics and each of its employees and agents and Sub-contractors.

**Scott's Refrigerated Logistics** means Scott's Refrigerated Logistics Pty Ltd (ACN 009 180 983) atf the ScottsRL Unit Trust, Scott's Refrigerated Freightways Pty Ltd (ACN 162 034 326), Scott's Refrigerated Logistics (Qld) Pty Ltd (ACN 148 136 270) and their affiliates and subsidiaries.

"**Goods**" means the goods for which We are requested to provide Carriage Services and includes any packaging, container or pallet in or on which the goods are packed.

"**Dangerous Goods**" means any explosive, flammable or otherwise dangerous or damaging Goods.

"**Carriage Services**" means the entire service We are requested to provide in relation to the Goods, including loading, carriage, unloading and storage incidental to the ordinary transit of the Goods.

"**Chain of Responsibility Laws**" means all chain of responsibility laws operating in Australia, as amended from time to time (including the HVNL) and any related codes of practice, standards, notices and directions issued by any relevant authority or industry body (including the National Heavy Vehicle Regulator and NSW RMS) applicable in the jurisdiction or jurisdictions in which We have a base of operations or are operating a relevant vehicle in performance of its obligations under these Terms & Conditions.

"**HVNL**" means the *Heavy Vehicle National Law 2013* (NSW) as adopted in each State or Territory in Australia in which We have a base of operations or are operating a relevant vehicle.

"**Small Business**" means a business that employs less than 20 people, including casual employees employed on a regular and systematic basis.

"**Sub-contractor**" means any person or company We arrange to provide Carriage Services for the Goods and his/her/its employees, agents and sub-contractors.

"**Pallet Process Agreement**" means a document provided by Us to You setting out a pallet transfer and control process agreed by Us and You including but not limited to agreement to accept pallet transfers, imposition of transfer delay days and arrangements to avoid or resolve any matters We may encounter when transferring or attempting to transfer pallets to a receiver, consignee or person or organisation located at the address given by You for delivery.

"**Proof of Delivery**" means such evidence that We deem acceptable from time to time to confirm Our delivery of the Goods.

"**Claim Form**" means Our current claim form (as amended from time to time) published on Our website.

"**Rate Table**" means Our current rate table (as amended from time to time) which is available upon request by You.

"**Terms & Conditions**" means the current terms & conditions (as amended from time to time) published on Our website.

## 2. General

- a. We are not a common carrier and will not accept liability as such.
- b. We reserve the right to accept or refuse to provide Carriage Services to You at Our sole and absolute discretion, without giving any reason for so doing.
- c. Unless expressly stated otherwise, these Terms & Conditions of Carriage comprise the entirety of the agreement between You and Us. These Terms & Conditions may only be varied by written agreement which is to be signed by a person authorised to do so on Our behalf and signed by a person authorised to do so on Your behalf.
- d. You agree to be bound by these Terms & Conditions and any express or implied condition, statement, or warranty, statutory or otherwise, not stated in these conditions, is hereby excluded to the extent permitted by law.
- e. You acknowledge and agree that the Terms & Conditions may be amended by Us from time to time without notice. The current version of the Terms & Conditions will be published on Our website. Your subsequent request for Us to provide Carriage Services will constitute Your acceptance of Our current Terms & Conditions.

## 3. Our Rights & Obligations

- a. Subject at all times to the application of these Terms & Conditions, We will provide Carriage Services with respect to the Goods as noted on the relevant consignment note or otherwise agreed in writing.
- b. We are entitled to inspect the Goods at any time in order to determine either their nature or condition or to determine their ownership or destination where any consignment note or identifying document or mark is lost, damaged, destroyed or defaced and We are entitled, for those purposes, to open any document wrapping package or other container in which the Goods are placed or carried.
- c. In the event that Our driver is not provided with access or opportunity to inspect the Goods at the point of collection, Our liability shall be limited to the manufactured cost of Goods relating to damages that are proven, upon investigation via Our claims policy, to be the result of incorrect temperature setting of the equipment utilised during transportation.
- d. We may in Our absolute discretion engage a Sub-contractor to perform all or part of the Carriage Services.
- e. We will deliver Goods at the address given by You for delivery. If delivery cannot be made at that address during normal trading hours then You will be liable to Us for the reasonable cost and expense of any storage and further delivery attempts.
- f. We reserve the right to vary the Rate Table from time to time and to introduce new fees or charges (including but not limited to demurrage, excess turnaround time, loading, unloading or waiting times and futile charges) at Our discretion, but any changes will not apply to You until We have provided reasonable notice to You. Your subsequent request for Us to provide Carriage Services will constitute Your acceptance of Our current Rate Table
- g. We reserve the right to make an additional charge for every call made or for the amount of time of any delay until delivery is effected should the consignee named in the consignment note not be in attendance during trading hours or at the time specified, or if We arrive to effect delivery at the consignee's premises and We are delayed in effecting prompt delivery at the said premises for any reason whatsoever outside Our control.

#### 4. Your Rights & Obligations

- a. Our agreement with You is divisible. Each time We provide the Carriage Services to You in accordance with a consignment note or as otherwise agreed in writing, We will be deemed to do so under a separate contract and You will be separately charged. In consideration for the provision of Carriage Services, You agree to pay Us the rates for the Carriage Services as specified in the Rate Table.
- b. We are entitled to Our fees and charges for the Carriage Services as soon as the Goods are collected for carriage. We may issue You an invoice for the Carriage Services at any time including but not limited to at the time the Goods are collected by Us, after the Goods are collected by Us or after the Carriage Services for the Goods are completed by Us. You agree to pay all charges for the Carriage Services in full within fourteen (14) days of the date the invoice is issued by Us. Each invoice for Carriage Services must be paid in full without reference to and despite any defect or default in any other Carriage Services or any other services We provide under any other terms and conditions document.
- c. You agree that when the Goods are accepted by Us for Carriage Services, the Goods are subject to both a storer's lien and general lien to Our benefit as security for payment of any money owed by You to Us. You acknowledge that We may but are not obliged to register such liens on the *Personal Properties Securities Register*.
- d. You agree that if You fail to pay any moneys (including but not limited to Our charges for Carriage Services) on the payment terms extended to You, We will be entitled to:
  - i. charge interest on such outstanding moneys at ten per cent (10%) per annum compounding daily calculated from the due date for payment of such outstanding moneys until payment of such money is received by Us in full; and
  - ii. exercise a lien over the Goods and detain or sell all or any of the Goods which are in Our possession and retain from the sale proceeds the amount of Our unpaid charges and all costs of the detention and sale.
- e. You agree that We may charge freight by the greater of weight, pallet space, cubic measurement or value in accordance with the Rate Table.
- f. You agree to pay a fuel surcharge as set out in the Rate Table.
- g. You will be responsible for the provision of labour to load or unload any carrying vehicle. When We are, without prior arrangement with You, called upon to load or unload Goods We shall be under no liability whatsoever to You or other owner of the Goods for any damage whatever, however, caused, arising out of such loading or unloading and You shall indemnify Us in respect of all claims, entitlements, suits, causes of action, debts, dues, damages, expenses, demands, consequences, loss or injury whatever and howsoever arising in connection with Our loading or unloading of the Goods.
- h. You agree that You have fully, accurately and adequately described the Goods on the consignment note.
- i. We will use reasonable endeavors to arrange for a Proof of Delivery of the Goods. You agree that We are not obliged to provide a Proof of Delivery, You have no right to demand a Proof of Delivery and We are not liable to You for failing to provide a Proof of Delivery. You agree that You will not withhold payment of any invoice if We do not provide a Proof of Delivery.
- j. You agree that You have complied with all applicable laws (including the Chain of Responsibility Laws and where necessary the Australian Code for the Transport of Dangerous Goods by Road and Rail, Air Navigation Orders Pt 33 and the International Maritime Dangerous Goods Code) relating to the notification, description (on the consignment note or separately) consigning and packaging of the Goods.
- k. You agree that Our expenses and charges in complying with 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 You and You agree to pay any additional charges on such Goods if such charges are incurred by Us.
- l. You authorise Us to deviate from Your chosen mode or route of carriage of the Goods if We consider it to be reasonably necessary.

### **Your Rights & Obligations (continued)**

- m. You agree that the description, quantity and value of the Goods shown in the consignment note or the quotation relating to the Goods (as the case may be) were represented to Us by the consignor and We do not admit to the accuracy thereof and shall require, in the case of any claim, proof thereof. The consignor or other party who may claim against Us shall retain the relevant evidence thereof and shall bear the burden of proof in respect thereof.
- n. You shall not tender for carriage any Dangerous Goods whatsoever. You shall be liable for all claims, entitlements, penalties, suits, causes of action, debts, dues, damages, expenses, demands, consequences, loss or injury caused by the tender of carriage of any Dangerous Goods and the Dangerous Goods may be destroyed or otherwise dealt with at Our absolute discretion.
- o. You warrant that You are either the owner or the authorised agent of the owner of the Goods and by entering into this agreement You do so on Your own behalf and for all others on whose behalf You are acting.
- p. You warrant that You have properly described the nature, size and weight of the Goods and correctly noted the number of items and accurately labelled the Goods.
- q. You warrant to Us that You are not a Small Business.

### **5. Liability**

- a. We shall not be liable in tort or in contract or otherwise howsoever for:
  - i. Any loss, damage, cost or expense incurred as a result of non-delivery or missed-delivery of the Goods or any part thereof;
  - ii. Any loss, damage, cost or expense incurred as a result of delay in the delivery of the Goods or any part thereof;
  - iii. Any loss, damage, cost or expense incurred as a result of damage to the Goods or any part thereof ;
  - iv. Any loss, damage, cost or expense incurred as a result of Us not being able to inspect the Goods at the point of collection;
  - v. Any loss, damage, cost or expense incurred as a result of the deterioration of chilled, frozen, refrigerated or perishable Goods; or
  - vi. Any loss, damage, cost or expense incurred after movement and/or transit has ceased,

except in so far as such loss or damage is solely caused directly by Our misconduct, negligence or a breach of these Terms & Conditions.

- b. If We incur liability under sub-clause 5a, Our liability shall not exceed the manufactured cost of the Goods reduced by the amount or to the extent of Your misconduct, negligence or breach of these Terms & Conditions. You must mitigate any loss, damage, cost or expense incurred in relation to the Goods or Carriage Services including but not limited to taking reasonable steps to salvage any Goods.
- c. Our liability under sub-clause 5.a shall not under any circumstances include loss, damage, cost or expense which is consequential or not direct or does not flow naturally from the relevant breach of these Terms & Conditions even if at the time We and You agreed to these Terms & Conditions the loss, damage, cost or expense may reasonably be supposed to have been contemplated by both Us and You as a probable result of the breach. For the avoidance of doubt, loss which is not direct shall include loss of revenue, loss of sales, damages for breach of contract with third parties, legal costs, expenses, the cost of replacement Goods, the cost and expense of the provision of replacement or alternate services and the cost of destruction, dumping or disposal of Goods.

## 6. Indemnity

You shall indemnify Us and hold Us harmless from and against:

- a. all claims, entitlements, suits, causes of action, debts, dues, damages, expenses, demands, consequences, loss or injury arising out of:
  - i. any error, omission, misstatement or misrepresentation by You or any other owner of the Goods;
  - ii. insufficient or improper packaging, labeling or addressing of the Goods;
  - iii. fraud;
  - iv. Your failure to comply with any laws, rules, standards or regulations applicable in relation to the Goods;
  - v. Your failure to comply with the Chain of Responsibility Laws;
  - vi. Your failure to notify Us of any facts or circumstances which come to Your attention which may give rise to a breach of any laws including but not limited to the Chain of Responsibility Laws in connection with the Carriage Services;
  - vii. Your failure to notify Us of any potential liabilities or dangers associated with the Goods;
  - viii. carriage by Us of Dangerous Goods whether or not such Goods are or were declared by You as Dangerous Goods; and
  - ix. any act, omission, negligence, recklessness by You or any of Your representatives, employees or agents; and
  - x. any breach by You or any of Your representatives, employees or agents of these Terms & Conditions;
- b. all claims, entitlements, suits, causes of action, debts, dues, damages, expenses, demands, consequences, loss or injury whatsoever by whoever made in excess of Our liability under these Terms & Conditions or arising out of Our engagement of a Sub-contractor;
- c. all customs duty, excise duty, taxes and costs which We become liable to pay or which are payable in respect of any Goods.

## 7. Claims Policy

- a. We must be notified of any circumstances that might give rise to a claim within 48 hours of the scheduled delivery time by emailing [claims@scottsr.com.au](mailto:claims@scottsr.com.au) (**Notification**)
- b. You must tell Us whether the Goods are to be returned, disposed of or donated. You agree to bear the reasonable costs of disposal or donation. If You fail to comply with this clause, We will decide whether the Goods will be disposed of or donated and You agree to pay all costs of disposal or donation plus transport charges and fees. You must take all reasonable steps to minimise any further loss or damage.
- c. If You request that the Goods be returned to You, We will only bear the reasonable costs of returning the Goods to You if We accept a claim in accordance with this clause 7. In any other event, You agree to bear the reasonable costs of returning the Goods to You.
- d. We must receive a properly completed Claim Form for loss or damage within seven (7) days of the scheduled delivery day.
- e. Subject to You complying with this clause 7, We will act reasonably when determining any claim. If We accept a claim, We will issue a credit note in the amount of the claim.
- f. If We do not receive a properly completed Claim Form including any supporting documentation which is reasonably necessary or You have not complied with this clause 7, You acknowledge and agree that We have the absolute discretion to refuse such claim.
- g. For the avoidance of doubt, You are not entitled to withhold payment or apply a set-off, counterclaim, deduction or withholding in respect of any claimed amount, disputed amount or disputed invoice.
- h. Any legal proceedings must be commenced against Us within six (6) months of the date of the completion of the Carriage Services or the date upon which the Carriage Services should have been completed, failing which We are discharged from any liability.
- i. If We accept liability including under sub-clause 5.a, Our liability shall not exceed the manufactured cost of the Goods reduced by the amount or to the extent of Your misconduct, negligence or breach of these Terms & Conditions. You must mitigate any loss, damage, cost or expense incurred in relation to the Goods or Carriage Services including but not limited to taking reasonable steps to salvage any Goods.
- j. We will not be liable for any liability in respect of Goods in relation to which matching signed receipts of delivery and collection exist.

## 8. Pallets

- a. We will not accept transfer to our CHEP or Loscam pallet accounts of wooden pallets or any other pooled or hired equipment used for carriage of Goods unless there is agreement between Us and You and such agreement is documented in the Pallet Process Agreement. We will not be liable for any costs, loss or damage caused by or incurred by You arising from Your failure to comply with the Pallet Process Agreement.
- b. We will not provide empty pallets to exchange on pickup or accept empty pallets on delivery of goods, unless expressly agreed and documented in the Pallet Process Agreement.

## 9. Governing Law

- a. These Terms & Conditions and any contract incorporating these Terms & Conditions made by Us shall be governed by and construed in accordance with the law of the state of New South Wales irrespective of where the contract is made or is deemed to be made.
- b. Any action including, without limitation, summons, application, statement of claim, statutory demand or other legal process in respect of any matter or thing against Us shall be instituted and carried on only in the appropriate court in the state of New South Wales.

## 10. Conditions to have full force in all circumstances

All rights, immunities and limitations of liability in these Terms & Conditions shall continue to have their full force and effect in all circumstances and notwithstanding any breach of contract or of any of these conditions by Us.

## 11. Insurance

You agree that that We are not obliged to insure the Goods and You will take out and maintain appropriate insurance in respect of any Goods.

## 12. Severability

Each and every right, immunity, limitation of liability, covenant, obligation and restriction and each and every part thereof contained in these conditions of carriage shall be deemed to be severable and an independent right, immunity, limitation of liability, covenant, obligation and restriction. If the provisions or part of any provision in these conditions of carriage is held by a Court of competent jurisdiction to be void, invalid or otherwise unenforceable, then such provision or part thereof shall be deemed eliminated or modified to the extent which, in the Court's opinion, it is necessary to make the remainder of the clause enforceable.

## 13. Consumer Legislation

To the extent that any Law granting unfair contract terms protections to consumers or Small Business applies to these Terms & Conditions, if:

- a. such Law would otherwise make a provision of these Terms & Conditions illegal, void or unenforceable; or
- b. a provision of these Terms & Conditions would otherwise contravene a requirement of such Law or impose an obligation or liability which is prohibited by such Law,

the Terms & Conditions are to be read as if that provision were varied to the extent necessary to comply with such Law or, if necessary omitted.



## Pallet Process Agreement – Carriage

Between (INSERT ENTITY) trading as Scott's Refrigerated Logistics (ScottsRL)

And

(Insert Customer Name and ABN)

ScottsRL accepts transfers of CHEP and Loscam standard wooden pallets, provided pallets are subsequently transferable by ScottsRL to a receiver with an active pallet account. Wooden pallets that are not transferrable to a receiver will not be accepted onto a ScottsRL pallet account – any such transfers made to ScottsRL will be rejected.

All pallet transfers on CHEP equipment will automatically have an electronic delay added to them by CHEP; this is a standard 30 days (unless agreed otherwise). All Loscam transfers must have an effective date of 30 days from the date of pickup; any docket transfer not adhering to this will be corrected.

No other pooled hire equipment or containers used for the transport of goods will be accepted to any ScottsRL pallet or other equipment account. Any such transfers will be rejected outright and ScottsRL will not take responsibility for any hire or other cost incurred by the customer. When placing an Order for Transport involving such equipment, the equipment type must be shown as "Other".

Orders for Transport placed with ScottsRL must show the correct pallet quantity and type. ScottsRL will not be responsible for differences between booked and actual pallet quantity and type and any such variances arising will be the responsibility of the customer. All transfer dockets onto ScottsRL must be provided at time of pick up and are to be on a per order basis. Transfers reflecting more than one order or an entire load will be rejected. Each pallet transfer docket and transaction uploaded to CHEP or Loscam must contain at least one reference from the 'customer reference' field used on the Order for Transport. Failure to do this may result in the transfer being rejected as unmatchable.

Transfers to ScottsRL not processed to CHEP or Loscam within 90 days of despatch date will only be accepted or corrected onto a ScottsRL pallet account with a new movement date representing the date of invoice from CHEP or Loscam.

Transfers onto ScottsRL not processed within 180 days of despatch date will only be investigated where the signed pallet docket and relevant paperwork can be provided (i.e. Order for Transport, job number or consignment number). Items must be listed in a Claim Form that will be provided on request.

Transfers rejected by ScottsRL must be queried within 90 days of rejection or correction. Failure to do so will result in reinstatements being effective as at the date of the query. Any correction or rejection not queried within six (6) months will not be investigated.

Continual rejection or querying of valid and accurate pallet transfers from ScottsRL by a receiver or receiving location shown in the Order for Transport may result in ScottsRL refusing to accept transfers from the customer. In such cases ScottsRL will advise the customer that no further transfers will be accepted from the customer in respect of Orders for Transport to those receivers or receiving locations.

ScottsRL will not provide empty pallets to exchange on pickup. The customer is responsible for sourcing their own equipment.

ScottsRL will not accept empty pallets in exchange on delivery. Pallets transferred to ScottsRL that cannot after delivery be transferred to a receiver or receiving location due to the receiver or receiving location not having an active pallet account with CHEP or Loscam will be transferred back to the customer. Alternatively, a Pallet Loss Fee will apply.

Scott's Refrigerated Logistics Pty. Ltd  
ACN 009 180 983  
atf the ScottsRL Unit Trust  
ABN 72 730 876 913

Scott's Refrigerated Freightways Pty. Ltd  
ACN 162 034 326  
ABN 41 162 034 326

Scott's Refrigerated Logistics (Qld) Pty. Ltd  
ACN 148 136 270  
ABN 18 148 136 270



The customer agrees that ScottsRL has the authority to amend a transfer quantity and equipment type if such is deemed incorrectly recorded on arrival at a ScottsRL site or a receiving delivery point.

The contact email for any pallet related matter or query is [palletcontrol@scottsrl.com.au](mailto:palletcontrol@scottsrl.com.au)

**By signing this pallet process agreement you agree to the process set out above.**

\_\_\_\_\_  
Customer Representative Name

\_\_\_\_\_  
Position

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

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### Customer Pallet Control Contact Details

\_\_\_\_\_  
Contact Name

\_\_\_\_\_  
Phone

\_\_\_\_\_  
Email address

### Scott's Refrigerated Logistics Pallet Account Numbers

CHEP	Loscam
National Transport 4000 1596 55	National Transport 202 900

### Customer Pallet Account Numbers

CHEP	Loscam