

Terms and Conditions for Freight Services

The terms and conditions set out below (“**Conditions**”), as amended from time to time, apply to all domestic freight services (“**Services**”) supplied by any Carrier to **IPLEX PIPELINES AUSTRALIA PTY LTD (ABN 56 079 613 308)** and/or its Related Body Corporates (“**Company**”). The Conditions together with any Purchase Order constitute the terms on which the Services are supplied by the Carrier to the Company.

The Company is not bound by the Carrier’s terms of sale or any other conditions the Carrier seeks to impose on, or that purport to apply to, the supply of the Services by the Carrier to the Company, regardless of whether or not provided before, during or after the provision of any Services. The parties must not amend these Conditions unless recorded in writing and signed by the Company’s Logistics Manager.

These Conditions take effect on and from 31 March 2020 (“**Effective Date**”).

1. Definitions

(a) In these Conditions, unless the context requires otherwise:

Anti-Corruption Law means any law prohibiting or relating to bribery, corruption, kickbacks, secret commissions or money laundering, including without limitation, the *Foreign Corrupt Practices Act 1977* (US), the *Bribery Act 2010* (UK), the *Criminal Code Act 1995* (Cth), the *Crimes Act 1961* (NZ), the *Secret Commissions Act 1910* (NZ), and any anti-corruption regulations and provisions applicable in the European Union or in any other locations in which the Company carries on business.

Business Day means a day (other than Saturday or Sunday) on which registered banks are open for business in Sydney, NSW.

Carrier means the Carrier specified in a Purchase Order and includes any director, officer, employee, agent, contractor, adviser, Related Body Corporate or Related Entity of the Carrier.

Collection Point means the collection address specified in any Purchase Order.

Collection Time means the collection date and time or time window (as applicable) specified in any Purchase Order.

party knows or ought to know is confidential.

Contract means an agreement between the Company and Carrier for the supply of Services to the Company in accordance with these Conditions including clauses 2(a) and 2(c).

CoR Laws means any laws in relation to safety concerning the carriage of goods by road, including as to mass, dimension, load restraint, speed, fatigue and vehicle standards, roadworthiness and maintenance and including the *Heavy Vehicle National Law and Regulations and Road Traffic (Vehicles) Act 2012* (WA).

Costs means all costs, fees, expenses, disbursements, levies, duties and taxes or other amounts which are payable in connection with the provision of the Services by the Carrier.

Delivery Point means the delivery address specified in any Purchase Order.

Delivery Time means the delivery date and time or time window (as applicable) specified in any Purchase Order.

GST means any form of goods and services tax payable under the GST Law.

GST Law means the *A New Tax System (Goods and Services Tax) Act 1999* (Cth).

Laws means any statute, ordinance, code, permit, order, licence or other law including regulations under them and any code of practice, practice notes, guidelines, rules, membership rules or standards issued by relevant regulators or industry bodies,

whether or not having the force of law and that is considered reasonable industry practice, applicable to the Contract, the Confidential Information, the provision of the Services and any other obligations to be performed under the Contract.

Load Restraint Guide means the National Transport Commission *Load Restraint Guide* (2018), including any amendment, modification or replacement thereof.

Loss means any costs, losses, penalties, damages, liabilities and expenses (including legal expenses).

Price means the price or rates payable for the Services as set out in any Purchase Order.

Products means any or all of the products specified in any Purchase Order or applicable Carrier quote.

Purchase Order means any purchase order issued by the Company to the Carrier for Services (including as varied).

Related Body Corporate and Related Entity have the same meaning as under the *Corporations Act 2001* (Cth).

Security Interest means a security interest for the purposes of the *Personal Property Securities Act 2009* (Cth).

Transit means the period (a) from the earliest of the time that loading of Products is completed by the Company or the Carrier starts loading any Products (including the performance by the Carrier of any handling of the Products in anticipation of or for the purposes of loading) (b) to the time that (where the Company is to unload or arrange for the Products to be loaded onto a Vehicle) unloading of the Products is commenced by the Company or (where the Carrier is to unload or arrange for the Products to be loaded onto a Vehicle) unloading of the Products is completed at the Delivery Point and completion of unloading is acknowledged by the Company, its customer or a representative of the Company or its customer at the Delivery Point.

Transport Activities and Transport and Journey Documentation have the same meaning as under the *Heavy Vehicle National Law*.

Vehicle means any vehicle or conveyance (including their equipment such as trailers) used to perform all or any part of the Services, including whether or not owned, leased or hired.

WHS Laws means the *Work Health and Safety Act 2011* (NSW), the *Work Health and Safety Act 2011* (Qld), the *Occupational Health and Safety Act 2004* (Vic) and any other comparable legislation in other states or territories where the Services are provided (including the model work health and safety laws).

2. Terms of Contract

(a) The Contract between the Company and the Carrier for the Services comprises:

- (i) these Conditions;
- (ii) any other terms and conditions set out in or incorporated by reference in the Purchase Order; and
- (iii) any other terms and conditions which are imposed by law and which cannot be excluded.

In the event of a conflict between these Conditions and the Purchase Order, the Purchase Order will prevail.

These Conditions, together with the documents referred to in clause (a), will apply to all orders for the purchase of Services by the Company from the Carrier, and contain the only terms and conditions of purchase to which the Company will be bound in connection with the purchase of Services from the Carrier. For the avoidance of doubt, this Contract does not apply where a current freight services contract is in place between the Carrier and the Company.

(b) Without limiting any other mode of acceptance of this Contract exercised by the Carrier, the Carrier acknowledges that by providing the Services, the Carrier by such conduct agrees to be bound by the Contract.

(c) The Company may change these Conditions from time to time. These Conditions and any changes to them will be shown on the website <https://www.iplex.com.au/> together with the date on which any new terms and conditions become effective. The Carrier must check this website before entering into a new Contract. By entering into a Contract after the date upon which the new terms and conditions become effective, the Carrier accepts and is bound by the changed terms and conditions for that Contract and future Contracts. If the Carrier does not accept the changes to the Conditions, the Carrier may give notice to the Company that it does not wish to supply any further Services.

3. Services

3.1 Carrier to provide Services

(a) The Carrier must provide the Services in accordance with the Contract including (as applicable) collecting the Products from the Collection Point by the Collection Time, loading the Products onto the relevant Vehicle at the Collection Point, delivering the Products to the Delivery Point by the Delivery Time and unloading the Products at the Delivery Point.

(b) The Company may cancel or suspend a Purchase Order at any time up to the Collection Time without any cost or liability to the Carrier.

(c) If the performance of the Services in accordance with any Purchase Order or these Conditions would give rise to a breach of any Laws, the Carrier must immediately notify the Company and not perform the Services until instructed in writing to do so by the Company.

(d) The Carrier acknowledges that the Company may purchase Services from other carriers, and there is no representation or guarantee of exclusivity or minimum quantity or volume.

3.2 Delays

(a) Subject to any other term of the Contract, the Collection Time and Delivery Time are of the essence.

(b) If the Carrier reasonably suspects that it is unlikely to be able to perform the Services by the Collection Time or Delivery Time, the Carrier must notify the Company and provide an explanation and reasons for the delay and any suggestions for any proposed alternative collection or delivery arrangements.

(c) Upon being so notified, or if the Company reasonably forms the view that the Carrier has or will not be able to or the Carrier in fact does not meet any applicable Collection Time or Delivery Time, and without prejudice to any other rights of the Company, the Company may engage another carrier to provide the Services, in which case the Carrier must at its own cost provide all reasonable assistance to the Company, will not be entitled to any payment for the Services and must indemnify the Company upon demand in respect of any additional reasonable costs incurred by the Company, including but not limited to additional freight or charges and any liquidated damages which the Company is required to pay to any customer or third party in respect of any delay.

3.3 Performance of Services

(a) The Carrier must collect the Products from the Collection Point by the Collection Time and deliver them at the Delivery Point by the Delivery Time.

(b) The Carrier must comply with any site rules or procedures applicable at the Collection Point or Delivery Point and must follow all reasonable and lawful instructions of the operator of either point.

(c) If the Company is to load or arrange for the Products to be loaded onto a Vehicle, the Carrier must, prior to the Collection Time, provide the Company with all necessary and reasonable information and instructions in relation to the loading of the Vehicle, including but not limited to a loading plan showing the placement and positioning of the load and all parts thereof on the Vehicle. The Carrier will provide the Company with any reasonable assistance requested by the Company in relation to loading, at the Carrier's cost.

(d) Prior to departure from the Collection Point, the Carrier must:

- (i) Ensure that the Products and quantity of Products loaded (where reasonably able to be visually verified) conforms to the relevant Purchase Order;
- (ii) Ensure that the Products are not loaded or carried with any other products or items of whatever nature that might damage, contaminate, taint or otherwise harm the Products;
- (iii) Check the Products, including any packaging, for any visible signs of damage. If any damage is detected, it must be recorded in writing by the Carrier and notified to supervising staff at the Collection Point and the Company;
- (iv) Ensure that the Products are loaded in accordance with the information, instruction and loading plan provided by the Carrier and do not exceed any relevant Vehicle mass limit;
- (v) Restrain the Products safely and in accordance with the Load Restraint Guide;
- (vi) Provide any written confirmation of loading, restraint and mass compliance reasonably requested by the Company; and
- (vii) Obtain and retain any proof of collection records reasonably requested by the Company.

(e) If the Products are required to be stored by the Carrier during Transit, the Carrier will ensure that any storage premises are safe and suitable for the storage of the Products and will otherwise comply with all Laws relating to the storage of the Products. Prior to storing any Products at any premises not owned or operated by the Carrier, the Carrier must obtain from the operator written confirmation that it waives and will not assert or purport to assert any lien, Security Interest or other right or interest in or over the Products.

(f) At the time of delivering the Products and prior to departure from the Delivery Point, the Carrier must:

- (i) Ensure that the Products and quantity of Products unloaded (where reasonably able to be visually verified) conforms to the relevant Purchase Order;
- (ii) Check the Products, including any packaging, for any visible signs of damage. If any damage is detected, it must be recorded in writing by the Carrier and notified to supervising staff at the Delivery Point and the Company;
- (iii) Obtain a written and signed proof of delivery of the Products and quantity of the Products which conforms to the relevant Purchase Order from the Company, its customer (as applicable) or their representative at the Delivery Point and provide an electronic copy to the Company within 1 Business Day of delivery and as a condition of payment of the Price.

3.4 Carrier warranties

(a) The Carrier warrants that any Vehicle used to perform any part of the Services are at all times - able and suitable to perform the Services, including the loading, handling, securing, carriage and unloading of the Products; maintained, operated and roadworthy, in accordance with any applicable heavy vehicle standards and all Laws; insured for comprehensive and third party liability; registered, in accordance with any applicable heavy vehicle standards and all Laws; driven and operated by a person(s) suitably licensed to operate the Vehicle, including as to the class of Vehicle, in accordance with any applicable heavy vehicle standards and all Laws; subject to regular mechanical, servicing, repair and roadworthiness inspections and works; kept clean and tidy to a high standard, inside and out.

(b) The Carrier warrants that it has and will maintain at all times during the performance of the Services and at its own cost all licences, consents, permits, registrations, approvals and accreditations which are required by Law or are otherwise necessary in order for the Carrier to provide the Services.

(c) The Carrier warrants and will ensure that:

- (i) it will perform the Services free of the influence of drugs and alcohol and while medically fit to do so; and
- (ii) all Vehicles are fitted with speed limiters and (where required at Law) vehicle monitors such as tachographs or electronic boxes.

(d) The Carrier warrants that it will provide the Services - in a proper, competent, safe and professional manner; with the degree of professional expertise, skill, care and diligence that can reasonably be expected of a professional service Carrier experienced in providing services in the nature of the Services; in accordance with any handling standards and procedures notified by the Company to the Carrier from time-to-time; in a timely and expeditious way; strictly in accordance with all applicable Laws and the requirements of all relevant authorities; in accordance with best industry practice; in accordance with the reasonable directions and requirements and to the reasonable satisfaction of Company.

(e) The Carrier acknowledges and warrants that it must at its sole cost provide all necessary resources, personnel, vehicles, equipment, training, instruction, supervision and processes necessary to provide and perform the Services in accordance with the terms of the Contract.

(f) The Carrier acknowledges and warrants that it will pay all employees and agents in accordance with all relevant Laws.

4. Price and payment

(a) The Company will pay the Price for the Services. The Carrier agrees that the Price represents the entire entitlement of the Carrier to payment, compensation or reward for the Services in all circumstances and is inclusive of all Costs.

(b) The Carrier will submit monthly GST invoices no later than the 5th working day of each month, for all work performed in the preceding month. All invoices must specify the amount payable, state the relevant Purchase Order number or numbers, and include reasonable detail of the Services supplied during the relevant period.

(c) Subject to compliance with clause 3.3(f)(iii), the Company will pay each invoice in accordance with the payment terms specified in any Purchase Order or, if no payment terms are specified, 62 days from the end of the month in which the Company received a correctly tendered invoice. Payment will be made by direct credit to a bank account nominated by the Carrier.

(d) If the Company disputes any amount contained in an invoice, it must notify the Carrier in writing of the amount and reason for the dispute. The Company will pay the undisputed portion of any invoice, but is not obliged to pay any disputed portion until the dispute is resolved to the Company's satisfaction.

(e) The Carrier irrevocably waives, releases and agrees to indemnify and keep indemnified the Company from any claim for payment of any Price not invoiced within 6 calendar months from the date of completion of the performance of the Services.

5. GST

(a) Words used in this clause that are defined in the GST Law have the meaning given in that legislation.

(b) Unless otherwise specified, all amounts payable under the Contract are exclusive of GST and must be calculated without regard to GST.

(c) If a supply made under the Contract is a taxable supply, the recipient of that taxable supply (**Recipient**) must, in addition to any other consideration, pay to the party making the taxable supply (**Supplier**) the amount of GST in respect of the supply. The Recipient will only be required to pay an amount of GST to the Supplier if and when the Supplier provides a valid tax invoice to the Recipient in respect of the taxable supply. If there is an adjustment to a taxable supply made under the Contract then the Supplier must provide an adjustment note to the Recipient. The amount of a party's entitlement under the Contract to recovery or compensation for any of its costs, expenses or liabilities is reduced by the input tax credits to which that party is entitled in respect of those costs, expenses or liabilities.

6. Safety – Work, Health and Safety & Chain of Responsibility

(a) Without limiting any other provision of these Conditions, the Carrier must at all times during the performance of the Services and warrants that it has and will:

(i) Ensure, so far as reasonably practicable, the safety of its Transport Activities (within the meaning of the CoR Laws) and other activities being conducted by its employees and contractors, both on and off any premises operated by the Carrier (within the meaning of the WHS Laws);

(ii) Not do or require or refrain from doing or requiring anything which would directly or indirectly cause or encourage any person to breach any CoR or WHS Law;

(iii) Develop and implement suitable policies and working procedures (including training/education, compliance performance monitoring and reporting) to, so far as reasonably practicable, eliminate or, where not possible, minimise, risks to safety arising from the performance of its activities and to the public arising from the conduct of its Transport Activities;

(iv) Comply with any compliance policy, working practices and policies, instructions or reasonable direction of the Company in relation to compliance with the CoR or WHS Laws;

(v) Comply with any contractor or Carrier management policies and practices implemented by the Company, including attendance and completion of any safety inductions, meetings, seminars or training workshops as required by the Company from time-to-time;

(vi) Manage and retain copies of all safety, Transport and Journey Documentation (as required under the CoR and WHS Laws);

(vii) Promptly advise the Company of any facts or circumstances which come to its attention which may give rise to any breach or allegation of breach of the CoR or WHS Laws, including without limitation any new and unidentified hazard and any warning or caution, request for information or documents, infringement notice, fine or the commencement of prosecution proceedings by any regulatory authority;

(viii) Promptly make available all information or documentation reasonably requested by the Company for the purpose of monitoring or auditing compliance with the provisions of this clause 6, including safety and Transport and Journey Documentation, Vehicles and loads;

(ix) Without limiting any other clause of these Conditions, not engage, instruct or cause any employee or contractor to perform any part of the Services unless it has first satisfied itself that any such person:

(A) has in place or is subject to policies and working procedures to ensure compliance by it with the provisions of this clause 6;

(B) has and will be provided with sufficient information, instruction, training and supervision to ensure compliance by it with the provisions of this clause 6; and

(C) has been provided with a copy of any compliance policy, working practices and policies, instructions, reasonable direction and contractor or Carrier management policies of the Company in relation to compliance with the CoR or WHS Laws.

7. Subcontracting

(a) The Carrier must not subcontract any of its obligations under this Contract.

7.2 Risk and liability

(a) The Carrier is responsible for, bears all liability for and risk of any and all Loss, damage and deterioration to and theft, failure to deliver, short delivery, misdelivery, delay in delivery of the Products and must indemnify and keep indemnified upon demand the Company against all such loss and damage which occurs during Transit or as a result of the Carrier failing to perform any Services within the time required under the Contract.

(b) The liability of the Carrier, howsoever arising under or in relation to the Contract, is not limited or excluded by the provision of any Law and the Carrier hereby waives any such applicable

limitation or exclusion, except to the extent that any such limitation or exclusion cannot be removed, varied or waived.

7.3 Indemnity and Exclusions

(a) The Carrier indemnifies the Company for any Loss resulting from, arising out of or in connection with a breach by the Carrier of these Conditions or the negligence of the Carrier.

(b) Unless expressly provided otherwise in these Conditions, neither party is liable to the other for any indirect, special or consequential loss or damage which includes loss of profit, loss of revenue, loss of use, loss of business, loss of opportunity, loss of goodwill, loss of production or business interruption or any kind of indirect, special or consequential loss or damage.

(c) Each indemnity provided under these Conditions requires the Company to mitigate its loss and the Carrier's liability will be reduced to the extent any loss or damage arises from or is in connection with any act or omission of the Company.

8. Insurance

(a) The Carrier must, at its cost, take out before the Collection Time and maintain during the performance of the Services:

(i) public liability insurance with a reputable insurer for an amount not less than \$10,000,000 in respect of any one claim; and

(ii) transit insurance for not less than the full replacement value of the Products.

(b) Without limitation, the Carrier must take out and maintain any insurance specified in any Purchase Order.

(c) The Carrier must provide to the Company, upon request, evidence of the currency of the insurance policies taken out and maintained under the Contract.

(d) Compliance with this insurance requirements of this clause 8 will in no way limit the Carrier's obligations or liabilities under the Contract.

9. Ownership and Security Interests

(a) All Products shall remain the sole and absolute property of the Company as the legal and equitable owner at all times.

(b) Nothing in the Contract creates a Security Interest in the Products for the Carrier. The Carrier must not, in any circumstances, register or seek to register an interest in the Products under the PPSA.

10. Confidential information

(a) The Carrier agrees to keep confidential all of the Company's information concerning or arising from the performance of the Purchase Order or otherwise provided by the Company to the Carrier. This clause does not apply to information which is lawfully obtained from a third party who does not owe an obligation of confidentiality to the Company, is public knowledge, is already known or is otherwise independently developed by the Carrier.

(b) The Carrier will not advertise itself as supplying services to the Company without the Company's prior written consent.

11. Anti-Corruption

(a) Each of the parties agrees to comply with the Anti-Corruption Laws and must not commit any act or omission which causes or could cause it or the other party to breach, or commit an offence under, any Anti-Corruption Laws. Each party warrants and represents that it has not been convicted of any offence, and

has not been the subject of any investigation or enforcement proceedings by any governmental, administrative or regulatory body regarding any offence or alleged offence under any Anti-Corruption Laws. Each party must, to the extent permitted by law, promptly notify the other party in writing if it becomes aware at any time during the term of the Contract that any of the representations and warranties set out in this clause are, or might reasonably be expected to be, no longer correct.

12. Termination

(a) A breach by the Company or Carrier of any of the terms of the Contract will constitute an event of default. On the occurrence of an event of default, or if a party is insolvent, the non-defaulting party may (without prejudice to any other remedy available to it) in its absolute discretion by written notice immediately terminate the Contract (including any unfilled Purchase Orders).

(b) Termination of the Contract for any reason will not affect any rights of either party against the other which accrued prior to the time of the termination or the provisions of the Contract which expressly or by their nature survive termination.

13. Other

(a) The Company is not bound by any terms or conditions of the Carrier or any third party whether issued before or after the commencement of the Contract and all of which are expressly excluded, regardless of the Company having been provided with notice of any such terms or accepted or surrendered any document subject to or on which any such terms are printed.

(b) The Carrier must not assign its rights or obligations under the Contract without the Company's prior written consent.

(c) The Carrier acknowledges that it is not the legal representative, agent, joint venturer or partner of the Company for any purpose and it has no right or authority to assume or create any obligations of any kind or to make any representations or warranties, whether express or implied, for or on behalf of the Company or to bind the Company in any respect.

(d) No waiver of any breach of, or failure to enforce any provision of, the Contract by any party will in any way limit the right of such party thereafter to enforce and compel strict compliance with the provisions of the Contract. A waiver of a right, power or remedy must be in writing and signed by the party giving the waiver.

(e) If any term of these Conditions is, or becomes, invalid or unenforceable, for any reason, the relevant term is to be considered to be modified to the extent necessary to remedy the invalidity or unenforceability. If this is not possible, the provision is to be severed from these Conditions, without affecting the validity or enforceability of any other term of these Conditions.

(f) The Company may set off any sums due to the Carrier against any costs, expenses or other losses (whether direct or indirect) incurred by the Company as a result of any breach of the Contract by the Carrier and any losses sustained as a result.

(g) The Contract will be governed by and construed in accordance with the laws of New South Wales and the parties submit to the non-exclusive jurisdiction of the courts of New South Wales.