

- ✓ BREAKDOWN TOWING
- ✓ ACCIDENT RECOVERY
- ✓ FORKLIFTS
- ✓ 24 HOUR SERVICE



24 Hour Service  
**SNOWY TOWING**  
Accident & Breakdown

- ✓ SHIPPING CONTAINERS
- ✓ CARAVANS
- ✓ MACHINERY
- ✓ ALL INSURANCE TOWING

## 24 HR TILT TRAY SERVICE

### Terms and Conditions of Transport

#### 1. DEFINITIONS

1.1 **"Agreement"** means this document.

**"Carriage"** means the whole of the operations and services undertaken by the Carrier as specified on the face of this document including storage, packaging or handling or other services where this is applicable. This term includes the towing of vehicles, trailers, mobile health clinics and vessels.

**"Carrier"** means **SNOWY TOWING & TRANSPORT PTY LTD (ABN 48 602 839 252)** trading as; **Snowy Towing of 169 CAPPER STREET, TUMUT, NSW, 2720** on whose behalf this agreement has been signed.

**"Container"** includes any container, trailer, tilt, igloo, wagon, transportable tank, flat pallet or any other unit load device used to consolidate goods.

**"Customer"** includes the sender, shipper, Consignor, Consignee, receiver of the goods, any person owning or entitled to the possession of the goods, and anyone acting on behalf of such persons.

**"Dangerous Goods"** means goods which are or may become dangerous, inflammable or damaging including radioactive material(s), or which are or may become liable to damage any property whatsoever.

**"Freight"** includes all charges payable to the Carrier.

**"Goods"** means the goods accepted from the Customer and includes any container not supplied by or on behalf of the Carrier. The term includes motor vehicles, trailers, machinery and site sheds.

**"Place of Receipt"** means the place designated as such on the face of this Agreement.

**"Place of Delivery"** means the place designated as such on the face of this Agreement.

**"Storage"** means the whole of the operations and services undertaken by the Carrier in respect of the goods in receiving, storing and subsequently making the goods available for collection.

**"Storage Period"** means the period of storage (if any) indicated on the face of this Agreement.

**"Sub-Contractor"** means any sub-contractor of the Carrier and the sub-contractor's servants, agents or sub-contractors, indirect and direct sub-contractors.

#### 2. INTERPRETATION

2.1 Headings are inserted for ease of reference only and shall be disregarded in the interpretation of this Agreement.

2.2 The parties acknowledge and agree that:-

2.2.1 All the provisions of this agreement are reasonable in all the circumstances and that each provision is and shall be deemed to be severable and independent.

2.2.2 This agreement is subject to all compulsory rules and requirements of law to which the carriage is subject to the intent and effect: that if any provision hereof is to any extent repugnant to or inconsistent with any such rules or requirements or if all or

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any part of any provision is judged invalid or unenforceable, such provision shall to that extent, but no further, be deemed not to form part of these Conditions of Carriage and Storage and shall not affect the validity enforceability of the remaining provisions.

2.2.3 Notwithstanding anything herein contained, the Carrier shall continue to be subject to any condition or warranty implied by the Trade Practices Act 1974 (Cth) or the Fair Trading Act 1989 (NSW), if and to the extent that the said Acts are applicable to this agreement and prevent the exclusion, restriction or modification of any such Condition or warranty.

2.3 This agreement contains the entire understanding of the parties as to its subject matter. There is no other understanding, agreement, warranty or representation whether express or implied in any way defining or extending or otherwise relating to these provisions or binding on the parties with respect to the storage and carriage or the matters to which this agreement relates.

2.4

2.4.1 This agreement is governed by and is to be construed in accordance with the laws of the State of New South Wales.

2.4.2 Each party irrevocably and unconditionally submits to the non exclusive jurisdiction of the Courts of New South Wales and Courts entitled to hear appeals from those Courts.

2.4.3 No action arising out of this agreement may be brought by a party more than one (1) month after the cause of action has arisen except in the case of non payment where the appropriate statutory limitation to an action for recovery of a simple contractual debt will apply.

2.5 Where discretion is given to the Carrier by any provision hereof, the exercise of that discretion by the Carrier shall be absolute and unfettered. Such an exercise of discretion may be unreasonable or arbitrary.

### 3. CARRIAGE/DEMISE

3.1 The Carrier is not a common carrier and will accept goods for carriage only on these conditions.

3.2 The Carrier undertakes to:

3.2.1 Procure the carriage of the goods from the place of receipt to the place of delivery; and/or

3.2.2 Procure the storage of the goods for the storage period.

3.3 The Carrier at its discretion may sub-contract on any terms all or any part of its undertaking herein.

### 4. CUSTOMERS WARRANTIES ACKNOWLEDGMENTS AND INDEMNITIES

4.1 The Customer warrants that –

4.1.1 The goods are fit for carriage and storage.

4.1.2 The Customer has the authority of all persons owning or interested in the goods to enter into the contract on their behalf.

4.1.3 the person delivering any goods to the Carrier for carriage and/or storage is authorised to sign this document for the Customer and by such signature or by the signature of any other person acting for the Customer, the Customer accepts these terms and conditions.

4.2 The Customer acknowledges that:

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4.2.1 No agent or employee of the Carrier is permitted to alter or vary these conditions.

4.2.2 No representations have been made by any employee or agent of the Carrier to the Customer.

4.2.3 the Carrier enters into this Agreement for and on behalf of itself and its servants, agents and sub-contractors, all of whom shall be entitled to the benefit of the Agreement and shall be under no liability whatsoever to the Customer or anyone claiming through him in respect of the goods, in addition to or separately from that of the Carrier under this Agreement.

4.3 The Customer shall indemnify the Carrier against –

4.3.1 Any loss or damage which may be suffered by the Carrier as a result of any breach by the Customer of the warranties and acknowledgments herein.

4.3.2 any loss or damage to the Carrier's containers or other equipment which occurs while in the possession or control of the Customer or which occurs due to the nature or condition of the goods in such containers.

4.3.3 For the purpose of this clause, "loss" expressly includes:-

4.3.3.1 Consequential loss; and

4.3.3.2 any fine, levy, charge or other monetary imposition to which the Carrier may become liable as an incident to the carriage, and resultant from any breach by the Customer of this agreement.

### 5. SUB-CONTRACTING

5.1 Where the Customer is not the Owner of some or all of the goods the Customer shall be deemed for all purposes to be the agent of the Owner.

5.2 The Customer undertakes that no claim or allegation shall be made against any servant, agent or sub-contractor of the Carrier which imposes or attempts to impose upon any of them any liability whatsoever in connection with the goods, whether or not arising out of negligence or a wilful act or omission on the part of any of them, and if any such claim or allegation should nevertheless be made to indemnify the Carrier against all consequences thereof.

5.3 Every such servant, agent and sub-contractor, shall have the benefit of all provisions herein benefiting the Carrier as if such provisions were expressly for their benefit.

5.4 The Customer shall save harmless and keep the Carrier indemnified against all claims or demands whatsoever by whomsoever made in excess of the liability of the Carrier under these conditions in respect of any loss, damage or injury however caused, whether or not by the negligence of wilful act or omission of the Carrier, his servants, agents or sub-contractors.

### 6. ROUTE AND DEVIATION

6.1 The Customer authorises any deviation from the Carrier's usual route or manner of carriage which may in the Carrier's discretion be necessary.

6.2 The Customer shall take delivery of the goods as soon as the Carrier is ready to deliver them and if the Customer fails to take delivery of the goods the Carrier may without notice unload the goods and/or store the same in the open or undercover, and with or without refrigeration. Such storage shall constitute delivery and thereupon all liability whatsoever of the Carrier in respect of the goods shall cease.

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### 7. LIABILITY

7.1 At all times and in all circumstances and for all purposes the goods shall be and remain at the sole risk of the Customer, and the Carrier shall be under no liability whatsoever for any loss, or mis-delivery of or damage to goods occasioned during carriage and/or storage arising from any reason whatsoever, including without limiting the foregoing, any negligence or breach of contract or wilful act or default on the part of the Carrier, its servants and agents, or otherwise.

7.2 The defences and exclusions or liability provided for in this Clause and throughout this Agreement generally shall apply in any action against the Carrier for loss or damage to the goods whether the action be founded in contract or in tort or otherwise.

7.3 The Carrier shall be entitled to the benefit of the exclusion of liability provided for herein even if it is proved that the loss or damage resulted from an act of omission of the Carrier done with intent to cause damage or recklessly and with knowledge that damage would probably result.

7.4 Nothing whatsoever done or omitted to be done or other conduct by the Carrier in breach of the contract or otherwise howsoever lawfully or unlawfully, shall under any circumstances constitute a breach going to the root of this agreement, or a deviation or departure there from or repudiation thereof such as to have the effect of disentitling the Carrier from obtaining the benefit of and enforcing all rights, defences, exceptions, immunities and limitation of liability and other like protections on the Carrier contained in those conditions and all such rights, defences, exceptions, immunities, limitations of liability and like protections shall continue to have full force and effect in any event whatsoever.

7.5 The customer agrees and accepts sole responsibility that in the event that the contents of the container are not packed incorrectly by the customer and the contents sustain damage during transit or during the loading/unloading of the container, the carrier shall be under no liability for these damages incurred.

### 9. GENERAL LIEN

9.1 Goods are received and held by the Carrier subject to:

9.1.1 A lien for moneys due to the Carrier for the carriage and/or storage of and other proper charges or expenses upon or in connection with the goods; and

9.1.2 A general lien for all moneys or charges due to the Carrier from the Customer and the Owner of such goods for any services rendered or accommodation provided by the Carrier to the Customer or Owner.

9.2 Where any lien remains unsatisfied within seven (7) days from the date on which the Carrier gave notice of the exercise of his lien to the Customer (or Owner as the case may be), the goods may at the Carrier's discretion be sold by public auction or private treaty and the proceeds of sale applied in or towards the satisfaction of every such lien and all proper charges and expenses in relation thereto (including the expenses of the sale) and the Carrier shall account to the Customer or the Owner of the goods for any surplus.

### 10. STORAGE

10.1 Any storage of goods shall be as agent of the Customer and solely at the Customer's risk and expense, but the provisions of clause 7 hereof shall nevertheless apply.

10.2 At the Carrier's discretion the goods may be stored at any place and at any time and be removed from any place at which they may be stored or otherwise held to any other place to be stored.

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### 11. CARRIERS CHARGES

11.1 Freight is payable by the Customer without prejudice to the Carrier's rights against any other person.

11.2 Freight shall be deemed fully earned on receipt of the goods by the Carrier, or if sufficient notice is not received in the event of cancellation (Clause 12) and is non refundable in any event.

11.3 All fees and charges (where applicable) for Snowy Towing & Transport Pty Ltd providing the above mentioned Services, including all credit card fees and other surcharges including daily storage charges that may apply will be due immediately, unless Snowy Towing & Transport Pty Ltd has allocated prior credit terms.

11.4 All debt collection costs will be added to the total on invoice for unpaid accounts.

### 12. CANCELLATIONS & CHARGES

12.1 Upon booking of a transport service, the customer agrees to pay a minimum non-refundable deposit of 20% of the total invoice amount unless otherwise agreed by Snowy Towing & Transport.

12.2 Where cancellation of services, bookings or transport is to occur, the customer agrees to provide a minimum of 48 hours notice to the carrier.

12.3 Failure to provide Snowy Towing & Transport with 48 hours notice in writing will result in the total invoice amount being fully payable.

12.4 If 48 hours notice is provided to Snowy Towing & Transport, the remaining balance of the invoice will be cancelled and the 20% deposit paid will be forfeited.

### 13. REFUND POLICY

13.1 Snowy Towing & Transport Pty Ltd does not issue refunds under any circumstances other than services payed in advance via cash or credit card specifically related to Cancellation Charges (see 12).

### 14. FORCE MAJEURE

14.1 Where a party is unable, wholly or in part, by reason of any fact, circumstance, matter or thing beyond the reasonable control of the party affected ("force majeure"), to carry out any obligation under this agreement, and the party:

14.1.1 gives the other party prompt notice of such force majeure with reasonably full particulars thereof, and insofar as known, the probable extent to which it will be unable to perform or be delayed in performing that obligation; and

14.1.2 uses all possible diligence to remove the force majeure as quickly as possible; that obligation is suspended, so far as it is affected by force majeure, during the continuance thereof.

14.2 Any obligation to pay money under this agreement shall not be excused by force majeure.

14.3 The requirement that any force majeure shall be removed with all possible diligence shall not require the settlement of strikes, lockouts or other labour disputes, or claims or demands by any government on terms contrary to the wishes of the party affected.

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### 15. INSURANCE

15.1 The Carrier will not affect any insurance of the goods for the benefit of the Customer or otherwise, except:

15.1.1 On the prior written instruction of the Customer; and

15.1.2 at the Customer's sole expense.

15.2 Should the Customer fail to specify the class of any insurance to be effected pursuant to clause 13.1, the Carrier may affect that class of insurance which the Carrier in its discretion considers most appropriate to the goods..

### 16. DURATION

16.1 This agreement shall continue in full force until otherwise terminated in writing by the carrier.