

## RATES PROPOSAL

**LBY Construction New Zealand**

**30/10/2019**

**Presented by: Daniel Zhang**

<b>Company</b>	<b>LBY Construction</b>	<b>Service</b>	<b>STANDARD</b>
<b>Contact name</b>	Jan	<b>Freight Mode</b>	LOCAL DOOR TO DOOR
<b>Contact phone</b>	0211808866	<b>Service Type</b>	Supplier Chain
<b>Address</b>	129 BEAUMONT ST, WYNARD QUARTER, 1010	<b>Insurance Type</b>	<ul style="list-style-type: none"> <li>LIMITED CARRIERS RISK</li> <li>BAILEES INSURANCE</li> <li>FORWARDER AND PUBLIC LIABILITY</li> </ul>
<b>Email Address</b>	janlaw@lbyint.co.nz	<b>Payment Terms</b>	GST, C.O.D Service Cost 20 <sup>th</sup> of Following Month
<b>Sending Location</b>	Auckland	<b>Account Manager</b>	Daniel Zhang

The Total price estimate does not include any Duty, GST, Storage Inspection Fees, and Fumigation, Government levies, permit and any unforeseen charge. Any additional fee will be passed on at cost to the customer

- **Services Offered By AUSLINK AKL and CHC**

<i>Description</i>	<b>Chargeable</b>	<b>Service Standard</b>
<i>Destination Port handling</i>	40HC/20GP	\$695/\$475
<i>Shipping line Docs</i>	Per Shipment	\$85.00
<i>Import NZ Customs Docs</i>	Per Entry(include 5 Lines)	\$65.00
<i>Extra Line</i>	Per Line	\$5.00
<i>EDI</i>	Per Entry	\$15.00
<i>BACC</i>	Per Entry	\$35.00
<i>Customs D.O</i>	Per Entry	\$35.00
<i>Container Cartage</i>	40HC/20GP	\$330/\$250
<i>VBS</i>	Per Container	\$35.00
<i>Over weight (24T to 27.99T)</i>	Per Container	\$100.00
<i>Cartage FAF</i>	Per Container	9.9%
<i>Devanning (Pallets Only</i>	40HC/20GP	\$250/\$180
<i>    Oversize)</i>		
<i>Devanning( Loose Cargo)</i>	40HC/20GP	\$350/\$250
<i><b>Forklift up and Down</b></i>		
<i>Pallets Deliver(single pallet)</i>	Per CBM/W	\$22.50
<i>    Over 5 CBM</i>	Per CBM/W	\$19.50
<i>    Over 10 CBM</i>	Per CBM/W	\$17.50
<i>    Over 20 CBM</i>	Per CBM/W	\$15.50
<i>One load per Truck(Only Class 2 and 4, No Class 5 and Truck and Trailer)</i>	Per Truck Load	\$750.00
<i><b>Storage</b></i>		
<i>Storage By CBM</i>	Per CBM/Week	\$2.50
<i>Admin and System</i>	Per Month	\$85.00
<i>Handling In and Out</i>	Per Pallet	\$2.50
<i>Order Fee</i>	Per Order	\$5.50

Conversion Factor (charged on weight or cubic, whichever is greater)

North Island = 3m3:1tonne; South Island = 1m3:330KG

Rural Deliveries may incur an additional charge

Special Service Requests

- Incur a minimum additional charge
- South Island SSR's (excluding Blenheim/Nelson) to travel via Platinum which incur special Platinum rates

Any unlisted and on forwarding destinations are rated at the current Outbound Schedule

Over length/oversized items will be subject to additional charges

**Rates are not reciprocal**

Rates only valid from specified Sending Location

All rates exclude current Fuel Adjustment Factor, and GST

Presented Rates have an acceptance period of 1 month

# AUSLINK International New Zealand Ltd - Freight Forwarding and Warehousing

## Terms and Conditions

### 1. Definitions

In these AUSLINK NZ Warehousing and Transport Terms and Conditions (the 'Conditions'), the below terms have the following meanings:

- (a) 'Carriage' means carriage of Goods by sea, air, road transport and/or rail transport including without limitation wharf cartage.
- (b) 'AUSLINK NZ', means AUSLINK International Logistics NZ Limited (NZBN 9429030133853).
- (c) 'AUSLINK NZ's Warehouse' means the warehouse(s) where the Goods are stored as specified in Schedule 1.
- (d) 'Chain of Responsibility Legislation' means any law or regulation relating to chain of responsibility obligations, including laws and regulations relating to driver fatigue, mass, dimension, load restraint and dangerous goods.
- (e) 'Charges' means the amounts payable by the Customer to AUSLINK NZ for the Services as specified in Schedule 3.
- (f) 'Customer' means the person who engages AUSLINK NZ to perform the Services as specified in Schedules 1 and 2.
- (g) 'Dangerous Goods' means cargo which is or may become noxious, hazardous, inflammable, explosive, offensive or radioactive, and may become liable to cause damage, loss or injury to any person or property.
- (h) 'Goods' means any goods or items which are the subject of the Services provided by AUSLINK NZ to the Customer under this or any other agreement together with any container, packing or pallet(s) supplied by or on behalf of the Customer.
- (i) 'GST' has the same meaning as in *A New Tax System (Goods and Services Tax) Act 1999*.
- (j) 'Insolvency Event' means any circumstance in which the Customer is unable to pay any amounts that have become due and payable and includes liquidation, official management, administration compromise, arrangement merger, amalgamation, reconstruction, winding up, dissolution, deregistration, assignment for the benefit of creditors, scheme, composition or arrangement with creditors, insolvency, bankruptcy, or a similar procedure or, where applicable, changes in the constitution of any partnership or person, or death.
- (k) 'Payment Terms' means seven (7) days from the date of invoice unless otherwise agreed to by the parties.
- (l) 'Person' means any individual or legal entity.
- (m) 'Proof of Delivery' means a document in an agreed form that is to be signed by the Consignee (or its representative, subcontractor or nominee) (or any person who AUSLINK NZ, acting reasonably, believes fulfils that description).
- (n) 'Rates' means AUSLINK NZ's fees and charges set out in Schedule 3 or otherwise properly incurred for any reason in the Carriage of the Goods or provision of the Services, including without limitation any mechanism for review, calculation or pass through of such fees and charges.
- (o) 'Services' means the services more particularly described in Schedules 1 and 2 which may include but is not limited to all or any of the following: Carriage of Goods, other services incidental to the Carriage of Goods, container packing, de-stuffing and deconsolidation, storage, handling of Goods on behalf of the Customer and any other services offered by AUSLINK NZ.
- (p) 'Subcontractor' means any third party appointed by AUSLINK NZ to assist in the provision of the Services.
- (q) 'Transport Services' means the movement of Goods on the Site between production and the Warehouse as specified in Schedule 2.
- (r) 'Warehouse Services' means the services provided by AUSLINK NZ to the Customer as specified in Schedule 1.

### 2. Application of Conditions & Nature of Services

- (a) The terms and conditions set out below ("Conditions") govern the provision of Warehouse Services and Transport Services by AUSLINK NZ to the Customer.
- (b) These Conditions prevail over any terms in the Customer's documents and constitute the entire agreement between AUSLINK NZ and the Customer.

### 3. Not a Common Carrier

AUSLINK NZ is not a common carrier and accepts no liability as such. All Services are performed by AUSLINK NZ subject to these Conditions. No Person has the authority of AUSLINK NZ to waive or vary these Conditions and AUSLINK NZ reserves the right to refuse at its sole discretion any Service for any Customer whether before or after the Service has commenced and further reserves the right to open and inspect all Goods at its discretion and at the Customer's expense.

### 4. Customer Obligations and Warranties

- (a) The Customer will use all reasonable care when preparing, packing, palletising, stowing and labelling the Goods for Carriage.
- (b) The Customer will comply with all laws in relation to the Services, applicable in the relevant state or territory, all reasonable instructions from AUSLINK NZ and the Chain of Responsibility Legislation.
- (c) The Customer undertakes to provide AUSLINK NZ with monthly forecasts of volumes of Goods for which it requires Warehouse Services and Transport Services. For the avoidance of doubt, AUSLINK NZ is not committed to providing Warehouse Services and Transport Services for the forecast volume of Goods.
- (d) The Customer warrants that:
  - (i) it is the owner of the Goods or authorised agent of the owner of the Goods and has full power and authority to deal with the Goods;
  - (ii) the person delivering the Goods to AUSLINK NZ is authorised to deliver the Goods on behalf of the Customer and will comply with these Conditions;
  - (iii) all label, descriptions, markings and brandings of the Goods, and any other information in relation to the Goods provided by the Customer to AUSLINK NZ (including that the Goods are not classified as dangerous goods) is true and correct;
  - (iv) it has complied with all laws and regulations in relation to the Goods, including but not limited to the nature, condition, packaging, handling, storage and carriage of the Goods; and
  - (v) the Goods to not have any particular storage or handling requirements that must be observed by AUSLINK NZ and may be stored in ordinary and usual warehouse conditions.
- (e) Subject to clause 11 herein, the Customer is required to declare Dangerous Goods. The Customer warrants that except as may be otherwise agreed by AUSLINK NZ in writing, the Goods are not Dangerous Goods and will not become Dangerous Goods as a result of the proper performance by AUSLINK NZ of its obligations under these Conditions or as result of Carriage.
- (f) The Customer grants consent to AUSLINK NZ and its agents the right to make enquiries to investigate the credit-worthiness of the Customer, including (without limitation) making enquiries from persons nominated as trade referees, the bankers of the Customer or any other credit providers (Information Sources) and the Customer authorises the Information Sources to disclose to AUSLINK NZ all information concerning the Customer which is within their possession and which is requested by AUSLINK NZ.
- (g) The Customer acknowledges and agrees that any credit facility or credit limit that AUSLINK NZ provides to the Customer may be

varied or withdrawn by AUSLINK NZ at any time at AUSLINK NZ's discretion and without any liability to the Customer.

## 5. Term and Termination

- (a) These Conditions commence on the date that the Customer signs these Conditions or places an order for Freight forwarding and Warehouse Services with AUSLINK NZ.
- (b) These Conditions may be terminated by either party upon 30 days written notice.
- (c) These Conditions may be terminated immediately by AUSLINK NZ:
  - (i) upon a breach of any of these Conditions by the Customer; or
  - (ii) if the Customer becomes insolvent.
- (d) Upon termination of these Conditions, the Customer must immediately pay any amounts owing to AUSLINK NZ under these Conditions.
- (e) Subject to the Customer having paid all amounts outstanding to AUSLINK NZ, AUSLINK NZ will make available for collection any Goods which AUSLINK NZ is storing at AUSLINK NZ's Warehouse as soon as reasonably practicable after termination of these Conditions.
- (f) Clauses 4, 9, 13, 16 and 17 survive termination of these Conditions.

## 6. Delivery and Collection

- (a) Where AUSLINK NZ is not providing the Freight forwarding and warehousing Services:
  - (i) The Customer must deliver the Goods to AUSLINK NZ's Warehouse and collect the Goods from AUSLINK NZ's Warehouse during the hours of operation set out in Schedules 1 and 2 or, if not set out in Schedules 1 and 2, as may be notified by AUSLINK NZ to the Customer from time to time.
  - (ii) The Customer must provide AUSLINK NZ with an itemised list of all Goods delivered to AUSLINK NZ at or before the time of delivery.
  - (iii) In the absence of a manifest error, AUSLINK NZ's records of the Goods at AUSLINK NZ's Warehouse are deemed to be true and correct and will prevail and take precedence over the Customer's records.
  - (iv) Where AUSLINK NZ is not providing the Warehouse Services and Transport Services, AUSLINK NZ is authorised to hand over the Goods to a carrier nominated by the Customer at AUSLINK NZ's Warehouse and AUSLINK NZ will be deemed to have delivered the Goods in accordance with this Agreement if AUSLINK NZ obtains a receipt or signed delivery document for the Goods from the carrier.
- (b) Where AUSLINK NZ is providing the Warehouse Services and Freight forwarding Services:
  - (i) AUSLINK NZ is authorised to deliver the Goods to the consignee or his agent at the Delivery Address and it is expressly agreed that AUSLINK NZ shall be deemed to have delivered the Goods in accordance with these Conditions if AUSLINK NZ obtains a Proof of Delivery for the Goods from any person at that Delivery Address.
  - (ii) Nothing in this clause 6 obliges AUSLINK NZ to verify the identity of the person receiving the Goods and AUSLINK NZ will not be liable for any failure to perform such verification.
  - (iii) If the nominated Delivery Address is unattended or if delivery cannot otherwise be effected, AUSLINK NZ in its sole discretion may temporarily store the Goods at the risk and expense of the Customer; or unload the Goods at the address nominated by the Customer to AUSLINK NZ at the Customer's sole risk.
  - (iv) The Customer shall make payments of all costs and expenses incurred by AUSLINK NZ in connection with the temporary storage and redelivery of the Goods prior to delivery or immediately upon request by AUSLINK NZ.
  - (v) If the Customer or Consignee has not accepted delivery of the Goods within 30 days after the scheduled date of delivery of the Goods, AUSLINK NZ can dispose of the Goods in any manner, provided that AUSLINK NZ gives at least 14 days'

written notice to the Customer of AUSLINK NZ's intention to do so.

## 7. Responsibility for Goods

- (a) AUSLINK NZ's responsibility for the Goods commences when the Goods are unloaded at AUSLINK NZ's Warehouse.
- (b) AUSLINK NZ's responsibility for the Goods ends when AUSLINK NZ loads the Goods onto the Customer's transport for collection.
- (c) AUSLINK NZ reserves the right at its discretion to open and inspect all Goods and at the Customer's expense.
- (d) If, in the opinion of AUSLINK NZ, the Goods are or are likely to become of a noxious, dangerous, hazardous, flammable, explosive, volatile, offensive or damaging nature, they may at any time, at the Customer's cost, be destroyed, disposed of, abandoned or rendered harmless by AUSLINK NZ without compensation to the Customer.

## 8. Insurance

- (a) The Goods are stored entirely at the risk of the Customer and AUSLINK NZ accepts no liability for the Goods whatsoever.
- (b) The Customer must obtain adequate insurance coverage for the Goods, including without limitation, insurance against any loss or damage to the Goods whilst in AUSLINK NZ's possession or control.

## 9. Customer Indemnity

The Customer must indemnify AUSLINK NZ from and against any claims, actions, damages, costs, expenses (including legal costs on a full indemnity basis), fines, losses, liabilities and penalties of any kind whatsoever suffered or incurred by AUSLINK NZ as a result of, in connection with, or arising out of:

- (a) any negligence or wilful act or omission of the Customer or the Customer's officers, employees, agents or subcontractors;
- (b) any breach by the Customer of these Conditions (including the Customer's warranties);
- (c) any injury or death of any third party or any damage to, or destruction of, any property of any third party as a result of any negligence, or wilful default of the Customer or the Customer's officers, employees, agents or subcontractors; or (d) any inherent defect, quality or vice of the Goods.

## 10. Security and Lien

- (a) From the time AUSLINK NZ, or its servants or agents, receive the Goods into its custody, the Goods, and all of the Customer's present and future rights in relation to the Goods, are subject to a continuing security interest in favour of AUSLINK NZ for the payment of all amounts for freight, demurrage, container detention charges, tax and duty, fines, penalties, salvage, average of any kind whatsoever and without limitation and for any and all debts, charges, expenses or any other sums due and owing by the Customer or the Customer's principals, servants or agents. In addition, the continuing security interest shall cover all the costs and expenses of exercising the lien in clause 10 herein, including the costs of a public or private sale or auction, including Legal Costs and Administration Costs.
- (b) AUSLINK NZ shall be deemed to have custody and possession of the Goods whether the Goods are in the actual physical custody and possession of AUSLINK NZ or of any subcontractors, servants or agents, and whether or not AUSLINK NZ is in possession of any documents of title relating to the Goods. The Customer and AUSLINK NZ agree that AUSLINK NZ has possession of the Goods within the meaning of section 24 of the *Personal Properties Securities Act 2009* (PPSA), even if the Goods are in the possession of AUSLINK NZ's subcontractors, servants or agents.
- (c) The Customer acknowledges that AUSLINK NZ may, at the Customer's cost, register its security interest in the Goods, and all of the Customer's present and future rights in relation to the Goods, on the Personal Property Securities Register established under PPSA.

- (d) From the time AUSLINK NZ, or its servants or agents, receive the Goods into its custody, AUSLINK NZ, its servants or agents shall have a special and general lien on the Goods and a right to sell the Goods whether by public or private sale or auction without notice, for any unpaid amounts for freight, demurrage, container detention charges, tax and duties, fines, penalties, salvage, average of any kind whatsoever and without limitation and for any and all debts, charges, expenses or any other sums due and owing by the Customer or the Customer's principals, servants or agents whether in relation to the Services provided in respect to the Goods or any other Services provided to the Customer in relation to any other service or carriage. In addition, the lien shall cover all costs and expenses of exercising the lien, including the costs of a public or private sale or auction, including legal costs and administration costs. The lien and rights granted by this clause shall survive delivery of the Goods and AUSLINK NZ shall be entitled to retain the proceeds of sale of the Goods in respect of any outstanding amounts whatsoever referred to in this clause. The Customer accepts that any sums due and owing by the Customer are secured debts and that any payment made to AUSLINK NZ in discharge of the AUSLINK NZ's lien does not amount to a preference, priority or advantage in any manner or turn. AUSLINK NZ sells or otherwise disposes of such Goods pursuant to this clause as principal and not as agent and is not the trustee of the power of sale.

#### 11. Dangerous Goods

- (a) Subject to clause 4(e) herein, AUSLINK NZ will not accept any Dangerous Goods likely to cause damage unless special arrangements and conditions of the contract have previously been made in writing with the Customer and AUSLINK NZ will not accept any liability whatsoever for such Goods except pursuant to the terms of such written contract. If, in the opinion of AUSLINK NZ, the Goods are or are liable to become Dangerous Goods, they may at any time be destroyed, disposed of or abandoned or rendered harmless by AUSLINK NZ without compensation to and at the cost of the Customer.
- (b) If Dangerous Goods are carried without the knowledge or consent of AUSLINK NZ, in accordance with clause 9 herein the Customer will indemnify AUSLINK NZ in respect of any losses suffered by AUSLINK NZ or liabilities to third parties due to the hazardous nature of Goods, including any claims for consequential losses.

#### 12. Charges and Invoicing

- (a) The Charges for the freight forwarding and warehousing services applicable at commencement of these Conditions are attached as Schedule 3.
- (b) Unless otherwise stated, the Charges exclude any GST.
- (c) AUSLINK NZ may vary the Charges at any time in its sole discretion upon giving 30 days' written notice to the Customer.
- (d) AUSLINK NZ shall submit weekly invoices to the Customer for the Warehouse Services and Transport Services. The invoices shall specify the Warehouse Services and Transport Services performed and the Charges payable for those Warehouse Services and Transport Services. The Customer must pay each invoice within 30 days of the date of the invoice by electronic funds transfer to a bank account nominated by AUSLINK NZ. If the electronic funds transfer facility is not available, payment must be made by cheque.
- (e) If the Customer does not pay each invoice in accordance with this clause 12, AUSLINK NZ may charge interest at a rate of 2.0% per calendar month on any overdue Charges, including Charges unreasonably disputed, from the due date of payment until actual payment is made.
- (f) The Customer must not defer or withhold payment or deduct any amount from the Charges by reason of any claim it alleges against AUSLINK NZ.
- (g) For the avoidance of doubt, the Customer is responsible for all charges incurred in relation to the carriage of the Goods.
- (h) Any credit facility or credit limit that AUSLINK NZ provides to the Customer is an indication only of AUSLINK NZ's intention at the relevant time. AUSLINK NZ may vary or withdraw credit at any

time at its sole and absolute discretion and without any liability to the Customer.

- (i) AUSLINK NZ may conduct a credit check of the Customer at any time and if AUSLINK NZ reasonably considers that the Customer is a credit risk, AUSLINK NZ may request that the Customer provide security in respect of payment for the Warehouse Services and Transport Services.
- (j) AUSLINK NZ may suspend the Warehouse Services and Transport Services if the Customer does not pay the Charges in accordance with these Conditions.

#### 13. Liability and Risk

- (a) To the extent permitted by law, AUSLINK NZ excludes all terms, conditions, representations, warranties and undertakings (express or implied by law, statutory or otherwise). Where a condition or warranty referred to in this clause cannot be excluded by law, AUSLINK NZ's liability in respect of the supply of the Warehouse Services and Transport Services under these Conditions is limited to:
- (i) supplying the Warehouse Services and Transport Services again; or
  - (ii) the payment of the cost of having the Warehouse Services and Transport Services supplied again.
- (b) Subject to this clause 13, AUSLINK NZ is not liable in tort, contract or otherwise for any loss or damage the Customer may suffer or incur arising out of or in connection with the Warehouse Services and Transport Services (including for any personal injury, illness or death to any person, loss or damage to the Goods or damage to any property or any other loss or damage of any kind whatsoever) except to the extent the loss or damage is caused by AUSLINK NZ's negligence or wilful act or omission.
- (c) Without limiting any other provision of these Conditions, AUSLINK NZ is not liable for any loss or damage to the Goods caused:
- (i) whilst the Goods are not in AUSLINK NZ's possession or control;
  - (ii) by the acts, omissions, negligence or default of the Customer (or the Customer's officers, employees, agents or subcontractors) or any third party;
  - (iii) as a result of AUSLINK NZ acting on instructions from the Customer;
  - (iv) as a result of a force majeure event;
  - (v) as a result of any manufacturing faults or defects in the Goods;
  - or (vi) as a result of unauthorised access to AUSLINK NZ's Warehouse.
- (d) AUSLINK NZ is not liable for any indirect, incidental, economic, special or consequential loss or damage (including loss of profit, revenue or anticipated savings, economic loss, loss of production, loss of data, loss of business opportunity or loss of goodwill).
- (e) Subject to any applicable law, the right of the Customer to bring a claim against AUSLINK NZ for loss or damage to Goods is barred if the claim is not made within 30 days from the date that the Goods are collected by the Customer.
- (f) The Customer agrees to provide a stock loss and damage allowance of 0.5% of the value of all Goods received by AUSLINK NZ in respect of loss or damage to Goods.
- (g) The Good remain at the risk of the Customer at all times unless otherwise provided for therein or agreed by the parties in writing. The obligation to insure the Goods shall at all times be the responsibility of the Customer.

#### 14. Trade Sanctions

AUSLINK NZ's policy prohibits directly or indirectly engaging in or facilitating activities and transactions with Iran, Cuba, Syria, and North Korea ("Sanctioned Countries"). The prohibited activities include shipping and warehousing activities such as labeling, picking, packing, and loading goods that are shipped to or from Sanctioned Countries. Customer agrees that the Services do not obligate AUSLINK NZ or its Affiliates to perform any transactions related to Sanctioned Countries, and agrees that it will not request or cause AUSLINK NZ or its affiliates to perform any such transactions. AUSLINK NZ shall have the right to reject any request for service, new service, or change in scope which include such prohibited activities.



## 15. Severance

- (a) It is hereby agreed that if any provision or part of any provision of this contract is unenforceable such unenforceability shall not affect any other part of such provision or any other provision hereof.
- (b) Any relief from liability contained in these Conditions is to be read subject to any restriction on contracting out of liability provided in any legislation binding on AUSLINK NZ so that the provisions for relief contained in these Conditions are limited or rendered ineffective only to the extent required to give effect to that legislation but are otherwise fully effective.

## 16. Privacy and Confidentiality

The Customer agrees that AUSLINK NZ may collect the Customer's personal information as defined in the *Privacy Act 1988*. AUSLINK NZ may use and disclose personal information to third parties, including agents, servants, employees and Subcontractors for the purpose of providing the Services and for other legitimate functions, including promotions. AUSLINK NZ will not disclose the Customer's personal information to a third party except as required to perform the Services and functions or if required to do so by any other Commonwealth, state or territory law. AUSLINK NZ will only use third party information relating to the receiver for the purpose of delivering particular Goods. Third party information will then be stored as part of AUSLINK NZ's record keeping process.

The parties acknowledge that:

- (c) they may obtain access to, or become aware of, the confidential information of the other party ("**Confidential Information**"). Subject to clause 16(b), each party must not, and must procure that its employees or subcontractors do not, without the prior consent in writing of the other party, disclose or use any Confidential Information of the other party unless such disclosure or use is required to perform the obligations under these Conditions.
- (d) Neither party is obliged to maintain confidence in Confidential Information:
  - (i) for which express approval from the party who disclosed the information has been obtained, provided that any conditions attaching to the approval are observed;
  - (ii) which is independently developed or acquired by a party; or
  - (iii) which it is compelled by law, in accordance with any court proceedings or by order, direction or ruling of any competent government authority or stock exchange with jurisdiction to disclose.

## 17. Anti-Trust

Each party confirms its intent that only confidential information relevant for the services should be disclosed by that party to the other and accordingly each party agrees that it will not request or disclose such confidential information which would result in the breach of anti-trust or competition laws by either the party. The Supplier must immediately notify AUSLINK NZ if it becomes aware of a representative or any other third party in the Supplier's supply chain being convicted pursuant to clause (a)(i) or if any such person or entity becomes the subject of any investigation, inquiry or proceedings pursuant to clause (a)(ii).

- (e) The Supplier must report in writing to AUSLINK NZ, upon request by AUSLINK NZ, on its compliance with the requirements of this clause. The Supplier acknowledges and agrees that AUSLINK NZ will be entitled to audit the Supplier's records, including any representatives' records to the extent that they relate to the Services delivered under the Agreement, for the purposes of determining compliance with this clause.
- (f) For the avoidance of doubt, a failure to comply with this clause will constitute a material breach pursuant to clause 5.

## 18. Intellectual Property

The Customer acknowledges that any intellectual property created, made, discovered or reduced to practice by AUSLINK NZ (whether solely or jointly with others) pursuant to these Conditions are the property of AUSLINK NZ. The terms of this clause continue to bind the Customer despite the termination or expiration of these Conditions.

## 19. Force Majeure

- (h) A party is not liable for failure to perform, or delay in performing, an obligation under these Conditions (except an obligation to pay money) if each of the following conditions is satisfied:
  - (i) the failure or delay arose from a cause beyond the reasonable control of that party (including but not limited to industrial disputes);
  - (ii) the party took all reasonable precautions against that cause and used reasonable endeavours to mitigate its consequences; and
  - (iii) the party gave the other party notice of the cause as soon as practicable after becoming aware of it, including details of the nature and extent of the cause, the anticipated period of any suspension of the obligation(s) under these Conditions and the actions proposed to remove the existence or impact of the cause.
- (i) The parties must resume their obligations promptly on termination of the cause beyond their reasonable control or abatement of the cause beyond their reasonable control to an extent that allows resumption of the performance of obligations under these Conditions.

## 20. Governing Law

- (a) These Conditions are governed by and construed according to the laws of the state or territory in which the Goods are stored and the parties submit to the non-exclusive jurisdiction of the courts of that state or territory and any courts which may hear appeals from that state or territory.
- (b) If the Goods are stored in multiple states or territories, the laws of New Zealand will apply.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Print Name

\_\_\_\_\_  
Print Company Name (Customer)

Dated \_\_\_\_/\_\_\_\_/\_\_\_\_

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Print Name

AUSLINK International NZ Limited  
Print Company Name (AUSLINK NZ)

Dated \_\_\_\_/\_\_\_\_/\_\_\_\_

