

SEKO LOGISTICS (NEW ZEALAND) COMPANY LIMITED
SMALL PARCEL TERMS AND CONDITIONS

These terms and conditions of service (the "Terms and Conditions") constitute a legally binding contract among the Parties (defined below) and shall apply solely to services provided by SEKO for Small Parcel surface and air transportation (otherwise known as e-commerce). The Terms and Conditions are subject to change by SEKO upon posting on SEKO's website from time to time. Ancillary or other services performed by SEKO are subject to and provided separately from these Terms and Conditions and are published at <https://www.sekologistics.com/en/resources/terms-and-conditions-of-service/>.

1 Definitions

In this Agreement, unless the context otherwise requires, capitalised terms have the meaning given to them in this Agreement, and:

- 1.1 Agreement** means these Terms and Conditions, in conjunction with any other written agreement between the Parties (i.e., Pricing Agreement, Order, Master Service Agreement, Professional Service Agreement, or Statement of Work ("SOW"), under which the Client can request Services via specific Orders (as defined herein).
- 1.2 Client** means the Person with whom SEKO has contracted to move the shipment and any Person whom directly benefits from services performed pursuant to the Terms and Conditions.
- 1.3 Confidential Information** includes all non-public, sensitive information that is either clearly marked or otherwise identified in writing as confidential at the time of disclosure; or by its nature, reasonably understood to be confidential, and that falls within the following specifically defined categories, (i) Personally Identifiable Information that is legally protected or sensitive in nature such as social security numbers, driver's license numbers, passport numbers, government-issued identification numbers, financial account details, protected health or medical information; (ii) Proprietary business information, including pricing models, operational procedures and systems, and technology platforms, which (a) is disclosed by a Party (the "Disclosing Party") to the other Party (the "Receiving Party") in connection with the Agreement at any time; (b) is prepared or produced by the Disclosing Party under or in connection with the Agreement at any time; (c) relates to our business, assets or affairs; or (d) relates to the subject matter of, the terms of and/or any transactions contemplated by the Agreement, whether or not such information or documentation is reduced to a tangible form or marked in writing as "confidential", and howsoever the Receiving Party receives that information. Confidential Information does not include information that (a) is or becomes publicly available through no fault of the Receiving Party; (b) was lawfully known to the Receiving Party prior to disclosure; (c) is disclosed to the Receiving Party by a third party lawfully and without breach of any confidentiality obligation; and (d) is required to be disclosed by law, regulation, or court order, provided that the Receiving Party gives prompt notice to the Disclosing Party and cooperates in any efforts to limit the disclosure. Confidential Information expressly excludes information that is routinely included on shipping labels or order documentation, such as customer names, mailing addresses, phone numbers, and email addresses, unless such information is combined with other sensitive identifiers listed above.
- 1.4 CPI** means the Consumers Price Index published by Statistics New Zealand (or any successor index).
- 1.5 Effective Date** shall mean the date as ascribed in a separate agreement, or the date the provision of Services commences, whichever is sooner.
- 1.6 E-commerce** means the activity of electronically buying or selling of products on online services or over the Internet.
- 1.7 Liability** means any expense, cost, liability, loss, damage, claim, demand or proceeding (whether under statute, contract, equity, tort, indemnity or otherwise), howsoever arising, whether direct or indirect and/or whether present, unascertained, future or contingent.
- 1.8 Order** means subsequent Pricing Agreement, SOW, and other documentation subject to the Agreement issued by the Client.
- 1.9 Person** means any individual, corporation, limited liability company, joint venture, trust, partnership or other entity.
- 1.10 Parties** (each a **Party**) include the Client, the consignee, the consignor, SEKO, and any other Person having a present or future interest in a Shipment or any Person acting on behalf of any of the aforementioned with respect to a Shipment.
- 1.11 Personnel** means employees, consultants, suppliers, subcontractors, agents or any other duly authorized agent of either Party to this Agreement.

- 1.12 Price** means and is calculated using the pricing structure as outlined in the Pricing Agreement. For the avoidance of doubt, if Price is determined by weight, it will be calculated at the greater of the actual weight and CBM x 200 (for international) or CBM x 250 (for domestic).
- 1.13 Pricing Agreement** means the agreement separate to these Terms and Conditions upon which Client enters into, or has received (to the extent a bilaterally signed agreement does not exist), to include pricing terms for applicable lanes. For the avoidance of doubt and without limitation, the receipt of pricing by Client, followed by commencement of services by SEKO, constitutes a Pricing Agreement.
- 1.14 Services** means the Small Parcel transportation services to be provided to Client by SEKO.
- 1.15 Shipment** means the total of the packages and their contents furnished to SEKO for the provision of Services.
- 1.16 SEKO** means SEKO Logistics, its affiliates, employees, officers, directors, agents, subcontractors, carriers and independent contractors performing Services pursuant to the Terms and Conditions.
- 1.17 Small Parcel** means smaller boxed items that weigh 100 pounds or less and can be moved without assistance. For the avoidance of doubt, and without limitation, Small Parcel may be shipped through a variety of packages including envelopes or box packaging.
- 1.18 Term** shall mean the specific duration assigned to it in a separate agreement between the Parties (if any), or the duration in which Services are provided by SEKO, whichever is longer.

2 Arrangement

- (a) The Agreement takes effect on the Effective Date and will continue for the Term. The parties acknowledge and agree that this is an exclusive Agreement solely in respect of the Services and trade lanes expressly set out in the applicable Pricing Agreement, with exception for the countries where the Provider is not providing the services to the Client.
- (b) Client may request Services through an Application Program Interface ("API"), or other medium or platform if expressly authorized by SEKO. Until Client receives an acceptance of an Order (i.e. API transmittal containing a shipping label), SEKO has no obligation to provide any Services.
- (c) SEKO will have the ability to revise any previously invoiced Services where there have been additional charges, including, but not limited to changes in zoning, parcel dimensions and weights, or otherwise discrepancies that resulted in increased fees. Unless time barred by an applicable statute, SEKO agrees to issue all charges related to the Services, to Client, within twelve (12) months from the date of completion of performance of the Services (i.e. the date the parcel shipment is delivered to the consignee or final destination party, as the case may be).
- (d) The Client agrees that the agreed Prices has been determined based on the 'Agreed Volumes' of Services referred to, or contemplated by, the Price List. If the actual volume of Services, at any time during the Term, is inconsistent with the 'Agreed Volumes' listed in this agreement, SEKO may adjust the Price to account for the actual volume of Services which is subject to the applicable Order.
- (e) If volumes decrease to a level below the minimum pick up volumes listed in the Pricing Agreement, unless otherwise agreed, a pickup fee will be applied. Additionally, if delivery dispersions are inconsistent with the dispersions shown in the data (provided by the Client) and used by SEKO in the calculation of pricing, SEKO reserves the right to amend pricing accordingly. Weekend & public holiday pick-ups may be provided by SEKO upon request. A weekend pick-up charge will be applied.
- (f) Where pricing has been provided based on an agreed cubic dimension, SEKO reserves the right to amend the provided rate if your actual average cubic dimension exceeds that which the provided rate was based upon.
- (g) Client recognizes that, due to demand and fluctuations in volume in the industry, carriers routinely enact certain peak season surcharges which shall be recognized in your Pricing Agreement and are the responsibility of the Client.
- (h) All service times are provided and understood in business days, taking into account any national holidays. Furthermore, for purposes of tracking and delivery times, the pick up day equals day zero (0).
- (i) The actual weight & cubic meter will be reviewed upon receipt of freight into the SEKO warehouse, against the declared weight in the system. Where freight has been incorrectly declared and has resulted in pricing variance, SEKO reserves the right to amend the shipping documentation and pricing in order to remediate the error.
- (j) Pricing does not include the below non-exhaustive list of charges which will be in addition to any prices quoted:
- (1) any Government, customs or clearance fees & charges, dangerous goods associated charges, levies, duties and taxes, additional security charges;

- (2) Payment gateway charges for returned Shipments (Returns Solution);
- (3) Costs associated with obtaining or furnishing any insurance in relation to the Services (if parcel cover is requested, the Price will be adjusted by SEKO to account for the additional costs);
- (4) Any special development requests or custom development (if any such development is requested, a development scope will be agreed with the Client with a minimum payment of fifty percent (50%) total charges contemplated due in advance); and
- (5) Any additional costs introduced and or charged to SEKO by its carriers or service providers, which will be invoiced to Client without mark up and shall be Client's responsibility. Examples of possible additional charges include but are not limited to underdeclared charges, redelivery fees, mis-declared returns charges, security screenings, oversized shipment charges and any charges for futile or unsuccessful pickups.
- (k) Any out-of-scope operational work performed shall be invoiced to Client at SEKO's then current rate, in minimum increments of two (2) hours. This may include, but is not limited to, charges for re-labelling, repacking, Client support for correction of errors, and so forth.
- (l) In the event that an over label is required (i.e. label created by SEKO to place over the original submission on the parcel or shipment), SEKO has the right to apply an over label fee.
- (m) SEKO reserves the right to pass on any increase in carrier charges including fuel surcharges via a General Rate Increase (GRI) as they are passed on to SEKO, with a minimum of two (2) week notice to Client. Continued use of the associated SEKO service after this time will be deemed to be acceptance of the new rates.
- (n) SEKO reserve the right to increase carrier rates annually by an amount equal to or more than the current rate of CPI.
- (o) Exchange rates are monitored monthly. Should exchange rates fluctuate by more than three percent (3%) against the baseline, the rates will be varied commensurate to the impact of the exchange rate for the forthcoming month.
- (p) SEKO reserves the right to pass on warehouse storage fees resulting from held items, unmanifested freight or Client's failure or negligence, at the then industry standard rates.
- (q) SEKO reserves the right to charge for report requests which are considered out of scope at its then current hourly rate. Client shall request any such reports with a minimum of thirty (30) day advance notice to SEKO.
- (r) If the Client account remains unused for a period of 90 days, SEKO reserves the right to close the account and the associated carrier rates will become null and void.
- (s) Sending items with SEKO classified as Dangerous Goods is forbidden without prior written approval of each individual item. Approval must be requested via the SEKO Dangerous Goods Approval Request Document and if approved, the applicable items will be added to the SEKO Dangerous Goods Client Register and the retailer will be notified in writing. Sending Dangerous Goods via SEKO requires a special API integration.
- (t) The Client warrants that it is either the owner or the authorised agent of the person or persons owning or having any interest in the Goods or any part of the Goods and enters into this Contract on its own behalf or as authorised agent of that person or those persons. Further the Client undertakes to indemnify SEKO in respect of any liability whatsoever and howsoever arising (including without limit the foregoing from negligence or breach of contract or wilful act or default of SEKO or others) in connection with the provision of the Services and/or the Goods to any person (other than the Client) who claims to have, who has or may hereafter have any interest in the Goods or any part of the Goods.
- (u) SEKO shall have a lien on the Goods and any documents relating to the Goods and/or any other Goods or cargo of the Client in the possession or control of the Company and any documents relating to those other Goods or cargo for all sums payable by the Client to the Company for that purpose and shall have the right to sell such Goods or cargo by public auction or private treaty without notice to the Client. The Company shall be entitled to retain the sums due to it, in addition to the charges incurred in detention and sale of such Goods or cargo, from the proceeds of sale and shall render any surplus to the entitled person.

3 Our Obligations

- (a) SEKO will provide the Services in accordance with this Agreement, whether ourselves or through our employees, consultants, suppliers, subcontractors or agents (Personnel).
- (b) If the Agreement expresses a time within which the Services are to be provided, the Client acknowledges and agrees that any such time is an estimate only and creates no obligation to provide the Services by that time.
- (c) Once an Order has been accepted by SEKO under clause 2, the Client may not vary the terms of the Order unless:
 - (1) we have confirmed our acceptance of the variation in writing, including any required variation to the Price (**Price Variation**); and
 - (2) the Price has been adjusted to reflect the Price Variation.

- (d) If there is a problem with the Services which is caused by a breach of this Agreement by SEKO (**Omission**), and Client has notified SEKO of the Omission within 24 hours after completion of the Services, then, to the maximum extent permitted by law, any Liability arising from, or in connection with, the Omission will be limited to SEKO remedying the Omission, or, at SEKO absolute discretion, refunding the Client that portion of the Price paid by the Client with respect to the Omission.

4 Client Obligations

- (a) The Client must comply with the Agreement and with all reasonable requests or requirements from SEKO or its Personnel. Additionally, Client must obtain, and provide to SEKO, anything reasonably necessary to enable SEKO to provide the Services. In all cases, the Client shall:
- (1) Provide SEKO with all information and documentation relating to, the goods being handled by SEKO or SEKO Personnel to enable SEKO to provide the Services;
 - (2) warrant that each package and shipment is properly classified and thoroughly described on the documentation or other relevant shipping documentation furnished by the Client, that each package and shipment is appropriately marked and addressed, is adequately packaged to protect the contents in the ordinary course of transportation for each surface and air transport, and except as otherwise noted on the documentation, is in good order and condition. SEKO strongly recommends fragile items to be packaged in unmarked/unbranded and sealed cardboard with a minimum thickness of 3 mm and additional packaging measures be taken for items that can be considered as "fragile".
 - (3) The Client shall provide complete, accurate, and truthful shipment data for all consignments in a timely manner to ensure compliance with all applicable local, international, and destination country laws, regulations, and customs requirements. Required data includes, but is not limited to, the recipient's full name, delivery address, contact phone number, detailed and accurate commodity descriptions, declared currency and values, and correct Harmonized Tariff Schedule (HTS) Codes. The Client acknowledges and agrees that failure to provide the required data, or the submission of incomplete or inaccurate information, may result in shipment delays, regulatory fines or penalties, customs rejections, or other compliance-related issues. The Supplier shall not be held liable for any such consequences arising from the Client's failure to comply with this Clause.
 - (4) Ensure that all goods being handled by SEKO or SEKO Personnel are ready for pickup so there is no delay in providing the Services and immediately notify SEKO if the Client considers that the goods being handled by SEKO or SEKO Personnel are, or may be, considered dangerous. Any Failure to provide this notification may result in additional charges.
 - (5) Notify SEKO within a seven (7) day period from time of issuance of a shipping manifest, of any discrepancy with regard to invoice pricing, weights or volumes;
 - (6) Notify SEKO in advance of any planned sales or events that may lead to possible higher volumes of freight (failure to provide notification may result in additional charges and agreed KPI's will be deemed to not apply);
 - (7) Adhere to any and all applicable customs requirements or regulations, including but not limited to 10 digit Harmonised codes and customs compliant descriptions (United States) in a timely fashion; and
 - (8) Timely clear requests from any regulatory inquiries, to ensure goods are cleared within at least one (1) month from date received (if requests are not timely attended to by the Client, items may be re-exported with all associated charges invoiced to the Client).
- (b) The Client must pay SEKO the Price, third-party costs and GST, where applicable, incurred and invoiced by SEKO for the provision of the Services, and any other amounts payable to SEKO under this Agreement, in accordance with the Payment Terms.
- (1) A late payment surcharge of 1.5% may be charged on any overdue amounts that have not been paid according to your agreed Trading Terms with SEKO Logistics (New Zealand) Company Limited. This surcharge will be calculated on the overdue balance, and charged monthly until all outstanding amounts have been received. SEKO reserves the right to invoke section 4 subsection (b) at any time if amounts have not been received after all reasonable recovery attempts have been made.
 - (2) If any payments have not been made in accordance with the Payment Terms, we may (at our sole discretion) immediately cease providing the Services and charge the Client interest at a rate equal to the official cash rate by the Reserve Bank of New Zealand, from time to time, plus 8% per annum as legally allowed, calculated daily and compounding monthly, from the date the amount became overdue. The Client agrees that if debt collection services are required to collect on any amounts outstanding to SEKO, that the charges for such debt collection will be in addition to the amount outstanding. Client

expressly grants SEKO the right to retain the inventory or goods until all amounts due and owing have been remitted in full.

- (c) Client agrees to provide SEKO or its Personnel with accurate weights and dimensions of parcels, including the metric measurement packaging. Our measurements will prevail in the event of a discrepancy between Client supplied weights and dimensions and SEKO's measured weights and dimensions, the SEKO measurements will prevail, and Client may be invoiced for additional charges.
- (d) Client shall not tender parcels or packages of personal effects or goods of a dangerous nature, which shall include but not be limited to, items considered to be hazardous, flammable, noxious, damaging, or radioactive. If upon receipt of a parcel, SEKO determines that the parcel and or package may become a danger to any person or property, SEKO may dispose of the parcel or package without compensation or liability to Client, and Client shall indemnify SEKO and its Personnel for any loss, damages, claims or expenses however incurred as a result.
- (e) Client understands that SEKO conducts its business ethically and in compliance with all laws in the countries where it does business. Services are subject to all applicable international, federal, state and local laws and regulations, including all anti-corruption laws such as the U.S. Foreign Corrupt Practices Act of 1977, as amended and the UK Bribery Act, as amended (collectively, the "Laws"). Client shall not send any parcel in any manner that violates any Law or is in violation of SEKO's Anti-Corruption and Foreign Corrupt Practices Act Policy which can be found at: <https://www.sekologistics.com/en/downloadable-resources/>. Exporting parcels to companies, organizations, or persons listed on the Specially Designated Nationals List, the U.S. Debarred List, the U.S. Entity List, and other governmental lists are prohibited, including those on other lists of denied parties. Client agrees not to use SEKO's Services to transport cargo in any manner that violates any embargoes of countries or persons, including U.S. embargoes against Burma, Cuba, Iran, Libya, North Korea, Sudan, South Sudan, and Syria.
- (f) In the case of a Service or signature being called, by API, data transfer or otherwise, the Client shall pay for the price of that Service (including duties and taxes by calling a DDP service) or signature.
- (g) The Client will be liable and will reimburse SEKO for any postal items delivered to SEKO (or representative thereof) on behalf of the Client on an unpaid, 'Receiver Pays' terms.
- (h) Complying with international legislation associated to the shipping of the Client's product is the sole responsibility of the Client. Payment of any surcharges or penalties incurred as a result of non-compliance will be the responsibility of the Client.

5 Intellectual property

- (a) Client shall not use any SEKO intellectual property, including but not limited to that of its Personnel, that consists of its name, logo, trademark, trade names, or the like, including those in any publicity releases, promotional materials, customer lists, advertising, marketing, or business-generating efforts, whether written or oral, without first obtaining SEKO's written consent, such consent to be granted in SEKO's sole discretion. It is agreed that if permission is granted by SEKO in writing, SEKO logo shall be substantially the same size as other shippers.
- (b) As between the Parties, all intellectual property rights (including copyright) developed, adapted, modified or created by SEKO or its Personnel (including in connection with the Agreement or the provision of the Services) will at all times vest, or remain vested, in SEKO.
- (c) On the Effective Date, the Client grants SEKO a perpetual, royalty-free, worldwide, unconditional, transferable and irrevocable license to use, develop, adapt and modify (Use) all intellectual property rights (including copyright) in any materials that the Client provides to SEKO in connection with this Agreement and the Client will ensure that any such use does not infringe any intellectual property rights of any person.
- (d) If the Client or any of the Client's Personnel has any moral rights (as defined in the Copyright Act 1994) (Moral Rights) in any materials provided, used, or prepared in connection with this Agreement, Client (and ensuring that Client's Personnel) consents to the infringement of those Moral Rights by SEKO Personnel or SEKO. Subject to the Confidentiality clause, /SEKO may use the Client's names, trademarks or service marks or refer to the Client (directly or indirectly) in a media release, public announcement or public disclosure relating to this Agreement or its subject matter. The Client agrees that SEKO logo shall appear on the Client's primary shipping page. The Client agrees and recognizes that it does not and will not give exclusive rights to its' logo.

6 Limitations

Despite anything to the contrary, to the maximum extent permitted by law:

- (a) Client warrants it has not relied upon any warranty, representation, statement, offer, or documentation made or provided by or on behalf of SEKO, whether before or after the Effective Date;

- (b) Client agrees that the Agreement excludes all terms, conditions and warranties implied by statute, in fact or on any other basis, except to the extent such terms, conditions and warranties are fully expressed in the Agreement;
- (c) SEKO's maximum aggregate liability arising from or in connection with the Agreement or any Order will be limited to, and will not exceed, the portion of the Price paid by the Client to SEKO for the Services that are the subject of the relevant claim.
- (d) SEKO will have no Liability, and Client releases and discharges SEKO from all Liability, arising from or in connection with any:
 - (1) event or circumstance beyond SEKO's reasonable control;
 - (2) acts or omissions of the Client or its Personnel;
 - (3) defect, error, omission or lack of suitability or benefit (or the absence of, or reduction in, any anticipated result, outcome or benefit) with respect to the Services;
 - (4) loss of profit (including anticipated profit), loss of benefit (including anticipated benefit), loss of revenue, loss of business, loss of goodwill, loss of opportunity, loss of savings (including anticipated savings), loss of reputation, loss of use and/or loss or corruption of data; and/or
 - (5) third-party who has an interest in any shipment bringing a claim or action against the Client or SEKO in connection with the Services and, if a claim or action is made, the Client will indemnify SEKO from and against all expenses or charges incurred, including applicable cost of defence, regardless of whether a formal claim is filed.
- (e) Client warrants to SEKO that it has obtained waivers of interest from any applicable third parties, in relation to any shipment, to include full waiver of any rights, remedies or relief to which they might become entitled (by subrogation or otherwise);
- (f) Client agrees to indemnify SEKO for and against all Liability arising from or in connection with any wrongful act or omission by the Client or its Personnel; and
- (g) Client understands that in preparing and submitting export declarations, applications, security filings, documentation or other required data (collectively, "Client Documents"), that SEKO relies on the correctness of all documentation, whether in written or electronic format, and all information furnished. Client shall use reasonable care to ensure the correctness of all such information and shall indemnify and hold SEKO harmless from any and all claims asserted and/or liability or losses suffered by reason of the Client's failure to disclose information or any incorrect, incomplete or false statement by the Client or its agent, representative or contractor upon which SEKO reasonably relied.
- (h) The Client acknowledges that this is an uninsured service, however, all claims for damaged or lost goods shall be submitted through SEKO's portal on request within 30 days of the event, as further noted in the Order or SOW or as otherwise instructed to Client by SEKO. Any compensation for such claims shall be at the sole discretion of SEKO.
- (i) In no event, shall SEKO be liable for any special, incidental, consequential, statutory or punitive damages, including but not limited to, loss of profits, loss of savings or loss of market, loss of income, damages arising from loss, attorney's fees or punitive damages, wrong delivery, or damage to property, loss of use of goods, cost of substituted goods, delayed delivery or failure to attempt delivery, whether or not SEKO had knowledge that such damages or losses might occur.

7 Termination

- (a) This Agreement and all Orders will terminate upon written notice by:
 - (1) either Party, if mutually agreed in writing between the Parties;
 - (2) SEKO, if Client breaches the Agreement and that breach has not been remedied within five working days of being notified by SEKO; or
 - (3) Client, if SEKO breaches a material term of this Agreement and that breach has not been remedied or overcome within thirty (30) business days from SEKO's receipt of written notification from Client.
- (b) Upon termination of this Agreement, Client shall:
 - (1) (If this Agreement is terminated under clauses 7(a)(1) or 7(a)(2)), immediately pay to SEKO any and all charges due combined with all additional costs resulting from the termination, as well as all costs reasonably incurred in developing the systems and processes to enable SEKO to perform the Services specifically for the Client.
 - (2) (If terminated under clause 7(a)(3)), immediately pay to SEKO the Price for the Services performed up to the date of termination (and all other amounts due and payable to us under this Agreement);
 - (3) immediately return to SEKO all property, including Confidential Information, belonging to SEKO or our Personnel; and
 - (4) not use any intellectual property rights (including copyright) belonging to SEKO or its Personnel.

(c) Termination of the Agreement or any Order will not affect any rights or liabilities which a Party has accrued under it.

If this Agreement terminates for any reason, Clauses 3(d), 4, 5, 6, 7(b), 8(a) and 8(b) shall survive such termination.

8 General

- (a) **Currency:** For billing and payment purpose, the currency used will be defined in the Pricing Agreement.
- (b) **Order of Precedence:** In the event of any conflict between this Agreement and those of any Pricing Agreement, Order or other document, the following order of precedence will govern: first, this Agreement (b) second the Order or Pricing Agreement, and (c) other document.
- (c) **Confidentiality:** The Client will, and will ensure its Personnel, maintain the confidentiality of any pricing, and not use or permit any unauthorized use of, any Confidential Information without SEKO's prior written consent, except where the disclosure is required by law.
- (d) **Notices:** Any notice given under the Agreement must be in writing addressed to the relevant address specified in the written agreement between the Parties. Any notice may be sent by email, to the electronic address as noted herein, and will be deemed to have been received in the case of transmission by email (with delivery confirmation or read receipt) on the date sent, or by written acknowledgement of receipt from SEKO. Absent a separate written Agreement, Client shall notify SEKO of its address for notices, and notices to SEKO may be emailed to: legal.department@sekologistics.com with a copy to the account representative by SEKO under the Pricing Agreement.
- (e) **Support Time:** Subject to the terms of this Agreement, during the Term, SEKO shall provide reasonable technical support services to the Client according to its support guidelines then in effect for the Services. Before making any support request to SEKO, Client shall first use reasonable efforts to fix any error, malfunction, or network connectivity on its own without any escalation to SEKO. The total amount of technical support provided by SEKO shall not exceed five (5) business days per year. If technical support exceeds five (5) business days per year, out-of-scope rates will apply.
- (f) **Relationship of Parties & Subcontractors:** The Agreement is not intended to create a partnership, joint venture or agency relationship between the Parties. SEKO is authorized to select and engage carriers (i.e. subcontractors) to perform all or a portion of the Services. Subcontractors shall be entitled to the same contractual rights, limitations of liability, indemnification, and other terms in this Agreement to which SEKO is entitled. Further, the Client acknowledges that, in order to utilize various integrations, and for the benefit of the Client and the resulting service, fees are sometimes paid by SEKO to the integration partner or subcontractor in which case SEKO will invoice the Client for such fees advanced on Client's behalf.
- (g) **Severance:** If a provision of the Agreement is held to be void, invalid, illegal or unenforceable, that provision is to be read down as narrowly as necessary to allow it to be valid or enforceable, failing which, that provision (or that part of that provision) will be severed from the Agreement without affecting the validity or enforceability of the remainder of that provision or the other provisions in the Agreement.
- (h) **Entire agreement:** This Agreement contains the entire understanding and agreement between the Parties in respect of its subject matter.
- (i) **Assignment:** Neither this Agreement nor any of the rights, duties, or obligations of the Client hereunder may be assigned or delegated (by operation of law or otherwise) except with the prior written consent of SEKO. Nothing in the Agreement shall prohibit SEKO from assigning its rights under this agreement to a successor or assignee of assets of business, or to any affiliate or party under common ownership or control.
- (j) **Amendment:** This Agreement may only be amended by written instrument executed by all Parties.
- (k) **Governing law, Venue, Jurisdiction:** The Terms and Conditions, and any action or contract to which they apply, shall be governed and construed in accordance with the laws of New Zealand, and the Parties submit to the exclusive jurisdiction of the courts of New Zealand.
- (l) **Disputes:** A party may not commence court proceedings relating to any dispute arising from, or in connection with, this Agreement (**Dispute**) without first meeting with a senior representative of the other party to seek (in good faith) to resolve the Dispute (unless that party is seeking urgent interlocutory relief, or the Dispute relates to compliance with this clause).
- (m) **Force Majeure:** Except in relation to payment obligations, neither Party shall be liable to the other or be deemed to be in breach of this Agreement by any reason of any delay in performing or failing to perform any of its obligations to the extent that it has been delayed by a Force Majeure Event. A "Force Majeure Event" means any cause, event or



circumstance which is beyond the reasonable control of, and without the fault or negligence of, the Party affected, including war, invasion, act of foreign enemies, cyber-attacks, hostilities, acts of terrorism, acts of public officials, seizure, hijacking, civil war, act of God, earthquake, fire, lightning, explosion, cyclone, typhoon or other major natural physical disaster, industrial dispute or pandemic outbreak.