

GENERAL TERMS AND CONDITIONS

HORIZON REMOVALISTS PTY LTD (ACN 638 509 618)

These terms and conditions shall apply to all services offered by Horizon Removalists Pty Ltd, which are delivered or provided entirely or partially to the Client.

1. DEFINITIONS

In these General Terms and Conditions, the following words have the following meanings: -

- 1.1 **Business Days** means the hours of 9.00am to 5.00pm on any day which is not a weekend, public holiday or bank holiday.
- 1.2 **Client** means the individual(s), company, business or organisation to which the Consultant is engaged to provide the Services.
- 1.3 **Confidential Information** means any information related to the Services disclosed by the Client to Horizon Removalists and by Horizon Removalists to the Client, respectively, either directly or indirectly. Confidential Information may include products, specifications, formulae, equipment, formulas, models, employee information, records, quality monitoring schemes/programs, training materials, business strategies, customer lists, know-how-drawings, pricing information, inventions, ideas, and other information, or its potential use, that is owned by or in possession of the Client and/or Horizon Removalists.
- 1.4 **Dangerous Goods** means any goods including firearms, explosives, or goods that are likely to become of a dangerous, corrosive, highly combustible, explosive or damaging nature or likely to encourage any vermin or pest.
- 1.5 **Fees** means the fees due and payable for services conducted by Horizon Removalists Pty Ltd.
- 1.6 **Fragile Goods** includes any Goods that are fragile, brittle or easily broken and/or damaged, including electronics, glass, sentimental items, jewellery or Goods with a monetary value in excess of \$1,000.
- 1.7 **Fuel Surcharge Fee** means a fuel surcharge of \$3.55 per kilometre which is charged to the Client
 - (a) if the starting destination is greater than 10km from the Horizon Removalists Depot; and
 - (b) between pickup and drop off.
- 1.8 **Goods** means the items the Client wishes to have removed, stored and/or transported, which the Removalists have agreed to move, store and transport.
- 1.9 **Horizon Removalists** means Horizon Removalists Pty Ltd (ACN 638 509 618) and any officer, employee, agent or sub-contractor.
- 1.10 **Horizon Removalists Depot** means the depot located in Clayton, Victoria.
- 1.11 **Move** means the relocation of the Client's Goods from one location to another as performed by Horizon Removalists.
- 1.12 **Removalists** means Horizon Removalists Pty Ltd.
- 1.13 **Removalist Fee** means the fee of payable in accordance with the Fee Structure on Horizon Removalist's website as payment for Horizon Removalists performing the Services during the Move.
- 1.14 **Services** include, without limitation, the removal, storage and transportation of the Goods from one location to another.

2. PERFORMANCE OF SERVICES

- 2.1 Horizon Removalists shall complete the Services with reasonable skill, care and diligence in accordance with these Terms and Conditions.
- 2.2 The Client hereby accepts that the time schedule allocated to performance of the Services may be subject to change and/or delay through no fault of Horizon Removalists,

such as traffic, inability to park, weather and the like.

- 2.3 Horizon Removalists will park anywhere safe that the Client asks them to, except in a clearway zone or permit parking space. If the parking space is not legal, the Client may ask Horizon Removalists to find a legal spot further away. Any parking fees or infringements incurred by Horizon Removalists in providing the Services will be added to the Fee for the Services.

3. DAMAGE TO GOODS

- 3.1 **Horizon Removalists' Possession:** In the event the Goods are damaged whilst in the possession of Horizon Removalists, Horizon Removalists:

- a. will only be liable for the portion to which the loss or damage to the Goods was caused or contributed to by their negligence and will not be liable for any loss or damage caused or contributed to by the Client or any third party; and
- b. will not be liable for any loss or damage nor any delay which results from any caused beyond the control of Horizon Removalists.

- 3.2 **Packing/unpacking:** If the Goods sustain damage by reason of defective or inadequate packing or unpacking, and the packing or unpacking was not undertaken by Horizon Removalists, Horizon Removalists will not be liable, in any way, for any damage caused.

- 3.3 **Fragile Goods:** the Client acknowledges and agrees that Fragile Goods are inherently susceptible to suffer damage upon removal. Unless the damage to Fragile Goods was caused from the inherent failure of Horizon Removalists to exercise due care and skill, Horizon Removalists are not liable.

- 3.4 **Lost, Stolen or Misplaced Goods:** If the Client has elected not to take out any insurance over the Goods or Fragile Goods while in transit or storage, Horizon Removalists will only be liable for lost, stolen or misplaced boxes or items up to an amount of \$100 per box or otherwise at the discretion of Horizon Removalists Pty Ltd.

4. FEES AND EXPENSES

- 4.1 Fees are charged as follows: -

- a. at an hourly rate payable for our Services provided during the Move; and
- b. a Fuel Surcharge Fee; and
- c. a Removalist Fee.

- 4.2 Unless otherwise stated, the Fees do not include insurance, customs duties, inspections, port charges or any taxes payable.

- 4.3 The Fees must be paid in full seven (7) days from Horizon Removalists rendering their invoice.

- 4.4 All GST and disbursements are in addition to the Fees.

- 4.5 Horizon Removalists may ask for a deposit or credit card payment for all Fees to secure payment.

5. CLIENT OBLIGATIONS

The Client warrants that:

- 5.1 it is the owner of the Goods and any Fragile Goods;

- 5.2 any information which the Client provided to Horizon Removalists and on which they have reasonably relied upon in carrying out the work is true and accurate;

- 5.3 the Goods or Fragile Goods do not include any Dangerous Goods. Dangerous Goods must be disclosed to Horizon Removalists prior to them being made available for loading and storage. Horizon Removalists reserve the right to not include them in the move, destroy or dispose of such Dangerous Goods that have not been previously disclosed;

- 5.4 it will disclose to Horizon Removalists prior to the commencement of removal or storage, any Fragile Goods or Goods which are or a brittle nature.

- 5.5 Horizon Removalists reserve the right to charge an additional fee for the removal, storage and transport of Dangerous Goods.

6. CANCELLATION & NOTICE

6.1 Horizon Removalists has a 48-hour cancellation policy. Should the Client need to cancel or postpone the Services for whatever reason, provided the Client gives Horizon Removalists at least 48 hours' written or verbal notice before the time the Services were scheduled to begin, 25% of the Fee will be charged.

6.2 Should the Client cancel or postpone the Services within 48 hours, Horizon Removalists reserve the right to charge the Client 100% of the Fee.

7. LIEN OVER GOODS

To the fullest extent permitted by law and in addition to any other rights Horizon Removalists may have with respect to these Terms and Conditions and at law, all goods received are subject to a general lien for any moneys due by the Client to Horizon Removalists relating to the Services provided during the Move.

8. INSURANCE

8.1 Horizon Removalists is certified for Public Liability Insurance for up to \$20 million.

8.2 Should the Client require comprehensive insurance cover, this must be arranged with an insurer of their choice at their cost.

8.3 If Horizon Removalists, in discharge of any liability, make payment of any amount to the Client in respect of loss of, damage to or delay in delivery of the Goods, the Client hereby assigns to Horizon Removalists all its rights which they may have under any insurance policy to recover that amount. In addition, the Client irrevocably appoints Horizon Removalists as their attorney with full power in their name to claim and recover that amount, and the Client will execute all documents and provide all information as may be necessary to enable Horizon Removalists to obtain the full benefit of this insurance provision.

9. GUARANTEE & LIABILITY

9.1 Horizon Removalists warrants that should damage occur to the Goods as a result of negligence of Horizon Removalists or a failure to perform the Services with due care, Horizon Removalists will, at their sole discretion:

- a. repair the damaged goods to as near the condition prior to the damage occurring as possible;
- b. replace the damaged goods if a repair cannot be performed; or
- c. compensate the Client for the damage caused to the Goods to a maximum amount of \$1,000.00 per item, provided proof is given as to the value of the item

9.2 To the fullest extent and subject to the law, the Client released Horizon Removalists from all claims, losses, actions and damages occurring as a result of the Move.

10. DISPUTE RESOLUTION

a. Application of procedures

The procedures set out in this term 10 must be followed in relation to the resolution of any dispute in respect of these Terms and Conditions.

b. Notice in writing

If a party claims that an issue or dispute has arisen, the party must give written notice within five (5) Business Days to the other party. The written notice must specify the nature of the issue or dispute.

c. Negotiation in good faith

Within ten (10) Business Days of a notice delivered in accordance with term 10.2, the parties must, in good faith and acting reasonably, do their best to resolve the difficulty quickly and efficiently through negotiation.

d. Mediation

- (i) If the parties do not resolve the issue or dispute in accordance with term 10.3, each party agrees that the dispute must be referred to mediation at the request of any party and the parties must, in good faith and acting reasonably, do their best to resolve the difficulty by participating in

- mediation with an independent mediator;
- (ii) if the parties do not agree on a mediator acting reasonably, then the mediator will be appointed by the President of the Law Institute of Victoria;
- (iii) the parties must mediate the issue or dispute in accordance with principles agreed between them or, if no agreement can be reached, the principles determined by the mediator;
- (iv) the mediator will be deemed not to be an arbitrator but an expert and the law relating to arbitration will not apply to the procedures by which the mediator makes a determination. The determination of the mediator is not binding on the parties unless each party as so agreed in writing;
- (v) unless the parties agree otherwise, the mediator's fee and any other costs of the mediation itself, including venue hire and refreshments, will be shared equally between the parties, but the parties will each pay their own costs of preparing for and participating in the mediation, such as for travel and legal representation.

11. FORCE MAJEURE

- a. Horizon Removalists shall not be liable in any way for any damage, loss, cost or expense arising out of or in connection with a Force Majeure Event. Upon the occurrence of any Force Majeure Event, the party suffering thereby shall promptly inform the other party by written notice thereof specifying the cause of the Force Majeure Event and how it will affect its performance.
- b. For the purposes of this term 11, Force Majeure Event means an event that:
 - (i) is beyond the reasonable control of Horizon Removalists;

- (ii) materially affects the performance of any of Horizon Removalist's obligations under this agreement, and
- (iii) could not reasonably have been foreseen or provided against.

12. VARIATION

Horizon Removalists reserve the right to vary these Terms and Conditions at any time subject to written notice being given to you prior to or at the Move.

13. WAIVER

Subject to any express consent in writing of the parties, no waiver, delay, omission, relaxation, indulgence or forbearance on the part of any party in respect of any right or power conferred upon such party by the terms of these Terms and Conditions and shall operate as a waiver of such power or right, nor shall any single or partial exercise of any such power or right preclude such party or future exercise of such power or right, or the exercise of any other power or right under these Terms and Conditions.

14. SET-OFF

The Client must duly and punctually make all payments under these Terms and Conditions without set off, counter claim or other deduction.

15. CLERICAL ERRORS

Clerical errors are subject to correction by Horizon Removalists without notification.

16. SEVERANCE

- a. Each provision of these Terms and Conditions is individually severable. If a clause or part of a clause can be read in a way that makes it illegal, unenforceable and invalid but can also be read in a way that makes it legal, enforceable and valid, it must be read in the latter way; and
- b. If any clause or part of a clause is illegal, unenforceable or invalid, that clause or part is to be treated as removed from this document, but the rest of the document is not affected.

17. ASSIGNMENT

The obligations imposed and the benefits conferred on Horizon Removalists and the Client shall not be sold, assigned, transferred or otherwise deal with or disposed of by any party without the prior written consent of the other party. Horizon Removalists may use subcontractors and agents.

18. GOVERNING LAW AND JURISDICTION

These Terms and Conditions shall be governed by and construed in accordance with the law for the time being in force in the State of Victoria and Horizon Removalists and the Client irrevocably submit to the jurisdiction of the Courts of that State including any Court having appellant jurisdiction.

19. EXCLUSION OF IMPLIED TERMS

The Client may have the benefit of consumer guarantees under the Australian Consumer Law. To the extent permissible by law, all terms, conditions and warranties that would have been, or may in the future be, implied into these Terms and Conditions or in connection with the supply of any goods or services by Horizon Removalists by law, custom or convention are hereby excluded.

20. PERSONAL GUARANTEE

If the Client is a company, its officers and the person signing shall be personally liable for all Fees to Horizon Removalists.