

## 1. Definitions

In these conditions:

- 1.1 "**We**" means Worldwide Move Management Pty Ltd ABN # 34 647 362 918, and "**Us**" and "**Our**" have corresponding meanings;
- 1.2 "**You**" means the party entering into the agreement for Services with Us, and includes the party to whom Our quotation is addressed and the party by whom the acceptance is signed, and "**Your**" has a corresponding meaning;
- 1.3 "**Ancillary Services**" means Services which We do not offer or provide but which We arrange on Your behalf to be undertaken, including transportation by sea, rail or air, and transportation of vehicles, trailers, caravans, boats and animals;
- 1.4 "**Goods**" means all furniture and other effects which are to be the subject of the Services;
- 1.5 "**Nominated Agent**" means a removal contractor selected or nominated by Us who We have arranged, or will arrange, to undertake the whole or any part of the overseas portion of the removal of the Goods;
- 1.6 "**Services**" means the whole of the work to be undertaken or arranged by Us, including any Ancillary Services, in connection with the Goods including removal and (if applicable) storage;
- 1.7 "**Subcontractor**" means any person other than one of Our employees who, under any agreement or arrangement with Us (whether directly or indirectly) performs or agrees to perform the whole or any part of the Services, but does not include any Third Party Provider, nor any overseas removal contractor who is not a Nominated Agent;
- 1.8 "**Third Party Provider**" means any person who We have arranged to carry out any Ancillary Services;
- 1.9 Words in the singular include the plural, and words in one or more genders include all genders.

## 2. Terms and conditions

The terms and conditions upon which We undertake or arrange the Services are confined to the terms and conditions in this document and except where You have rights under the Australian Consumer Law, Our liability to You including in relation to loss or damage to the Goods is limited to the express terms and conditions contained in this document. We are not common carriers and accept no liability as such. We reserve the right to refuse to quote for the Services for any particular person and in respect of any Goods or any classes of Goods at Our discretion. If We agree to quote for the Services, We reserve the right to decide the method and route for carriage of any Goods, the conditions on which capacity and volumes will be utilised and the location for storage of any Goods at Our discretion.

## 3. Your Obligations and Warranties

- 3.1 **Information supplied by You.** You warrant that any information which You have provided to Us and on which We have reasonably relied in assessing any quotation or estimate of the resources necessary to carry out the work is accurate and sufficient to arrange and perform the Services.
  - 3.2 **Owner or Authorised Agent.** You warrant that, in entering into this agreement, You are either the owner of the Goods, or the authorised agent of the owner entitled on its behalf to consign the goods upon and subject to the terms of this Agreement.
  - 3.3 **Packaging of the Goods.** Except where We have packed the Goods, You warrant that You have complied with all laws and regulations relating to the packaging, labelling or carriage of the Goods, and that the Goods are packed in a manner adequate, having regard to their nature, to withstand the ordinary risks of the Services. You warrant the accuracy of all markings and brandings of the Goods, descriptions, values and other particulars furnished to Us for the Services.
  - 3.4 **Presence at Loading/Unloading.** You will ensure that You or some person on your behalf is present when the Goods are loaded or unloaded at your nominated premises for pickup and delivery of the Goods.
  - 3.5 **Authority to Import.** You warrant that the consignee of the Goods (whether You or some other person) is the holder of such entry documentation (passport, visa, etc.) for, or has such residency status in, the country of destination of the Goods as may be necessary to authorise the importation of the Goods to that country.
  - 3.6 **Dangerous Goods.** You warrant that the Goods do not include any firearms or plants or goods which are or may become of a dangerous, corrosive, highly combustible, explosive, damaging or noxious nature nor likely to encourage any vermin or pest or to cause infection unless You have disclosed to Us in writing the presence and nature of any such items prior to them being made available to Us for loading or storage. We may refuse to remove or store such items. If We discover any article or substance of this nature after the Goods have been received by Us, We may take any reasonable action, including destruction or disposal, as We may think fit without incurring any liability to You.
  - 3.7 **Fragile Goods and Valuable Items.** You will, prior to the commencement of the removal or storage, give to Us written notice of any Goods which are of a fragile or brittle nature and which are not readily apparent as such, or which comprise jewellery, precious stones, other precious objects, works of art, money, collections of items, deeds, securities or precision equipment in any case having a value in excess of \$2,000. We may either refuse to carry any such Goods or agree to carry them subject to any means/mode of carriage that We deem appropriate at Your cost and risk. In we agree to carry such Goods, You warrant that You will not make a claim against us or hold Us responsible or liable in any way in respect of the Services provided for such Goods and will indemnify us for any loss, damage, expense and/or liability occurring as a result of the provision of such Services.
  - 3.8 **Customs, Quarantine and Related Requirements.** You will, prior to the commencement of the removal or storage, give to Us written notice of any Goods which may be liable for duties or subject to quarantine restrictions.
  - 3.9 **Goods Left Behind or Moved in Error.** You will ensure, to the best of Your ability, that all Goods to be removed (other than Goods being removed from store) or stored are uplifted by Us and that none is taken in error.
- ## 4. Mode and Method of Services, Ancillary Services and Subcontractor
- 4.1 **Mode and Method of Services.** We shall be entitled to perform, or arrange the performance of, the Services by any reasonable method, mode, means or route (having regard to all the circumstances including the nature and destination of any other goods being carried on or in the conveying vehicle or container).
  - 4.2 **Ancillary Services.** Where We engage any Third Party Providers in respect of Ancillary Services, We do so on Your behalf, and as Your agent, and subject to the terms and conditions of that party. We accept no liability, including liability for any loss or damage, arising out of the provision of Ancillary Services.
  - 4.3 **Sea and Air Carriers.** You should note that the liability of air and sea carriers for loss of, damage to and delay in the delivery of goods is limited by international treaties, rules and regulations, and that if a sea carrier in an emergency, and to save such of the ship's cargo as it can, fails to deliver the Goods, or diverts them to a place other than the intended destination, You have limited rights against that carrier, and You may be liable for general average contribution (a contribution to the costs incurred by the carrier to preserve the vessel and its cargo) and salvage charges, and/or the additional cost of onward carriage to the intended destination. These may be insurable risks, and You should arrange extended warranty cover, which may be arranged through Us pursuant to the provision of Clause 10 herein.

**4.4 Services to and from the U.S.** Whenever We agree to carry, or arrange for the carriage of, the Goods into or out of the United States of America, except where you are entitled to the guarantees set out in sections 60, 61 and 62 of the *Australian Consumer Law* (as enacted as Schedule 2 of the *Competition and Consumer Act 2010*), the terms of carriage are subject to the provisions of the United States Carriage of Goods By Sea Act 1936 (US COGSA) and We are liable only for loss or damage to the Goods up to the limit per package prescribed by US COGSA (being up to US\$500), unless the nature and value of the Goods has been declared to Us prior to uplift of the Goods.

**4.5 Subcontractors.** We may contract a Subcontractor(s) to arrange or undertake the whole or any part of the Services, but if We do so, We will continue to be responsible to You for the performance of the Services to the extent provided by and pursuant to the terms of this Agreement.

**4.6 Liability of Subcontractors and Employees.** Every one of our employees, agents, Subcontractors and Subcontractor's employees shall have the benefit of all provisions herein benefiting Us as if such provisions were expressly for their benefit and entering into this agreement, We, to the extent of these provisions, do so not only for Us, but also as agent and trustee for such parties.

## 5. Delivery and Delays

**5.1 Conditions of Delivery.** We shall not be bound to deliver the Goods except to You, the owner if You are acting as agent for the owner or a person authorised in writing by You to receive the Goods. If We cannot deliver the Goods either because there is no authorised person there to receive them on Our arrival, or because We cannot gain access to the premises, or for any other reason beyond Our control, We will be entitled to unload the Goods into a warehouse at your risk and expense and will be entitled to charge You for additional amounts for storage, further transport and related expenses and for the subsequent re-delivery of the Goods.

**5.2 Storage and Handling for Non-delivery.** If We cannot deliver the Goods or there are delays in delivery, We will endeavour to contact You to ascertain whether You have any alternative instructions, and if so, We will carry out those instructions if reasonably practicable. We will be entitled to render You a reasonable additional fee/charge for any additional work or costs thereby required or entailed. The rate for additional storage and handling charges for transport or storage into or out of the United States is stated in our Export Quotation within the Storage in Transit clause.

## 6. Storage Conditions

**6.1 Inventory.** We will prepare an inventory of Goods received for storage and will ask You to sign that inventory. You will be provided with a copy of the inventory. The inventory will disclose only visible items and not any contents unless You ask for the contents to be listed, in which case We will be entitled to render You a reasonable additional fee/charge.

**6.2 Contact Address.** You agree to advise Us of an address to which We can forward any notice or correspondence, and to promptly notify Us of any change of address.

**6.3 Price Changes.** Our storage charges will be as quoted to You for the first 26 weeks of storage. After 26 weeks, We may change the storage charges from time to time on giving 28 days' written notice to You.

**6.4 Warehouse Change.** We are authorised to remove the Goods from one warehouse to another without cost to You. We will notify You of the removal and advise the address of the warehouse to which the Goods are being removed not less than 5 days before removal (except in emergency, when such notice will be given as soon as possible).

**6.5 Inspection of Goods in Store.** You are entitled, upon giving Us reasonable notice, to inspect the Goods in store, but a reasonable charge may be made by Us for this service.

**6.6 Removal from Storage.** Subject to payment for the balance of any fixed or minimum period of storage agreed, You may require the Goods to be removed from store at any time on giving Us not less than 5 working days' notice. If You give Us less notice, We will still use Our best endeavours to meet your requirement, but shall be entitled to make a reasonable additional charge for the short notice.

**6.7 Compulsory Removal and Disposal.** You agree to remove the Goods from storage within 28 days of a written notice of requirement from Us to do so. In default, We may, after 14 days' notice to You, SELL ALL OR ANY OF THE GOODS by public auction or on eBay or a similar online auction sale facility or, if that is not reasonably practicable, by private treaty and apply the net proceeds in or towards satisfaction of any amount owing by You to Us.

**6.8 Sale of Goods.** For the purposes of preparing for the sale of the Goods under clause 6.7 or otherwise as permitted by law, We are authorised by You to open any boxes in storage to inspect and identify the contents and We may at Our discretion decide which contents will be offered for sale to the general public. At Our discretion, any items we do not offer for sale may be stored by Us for such period as We consider appropriate and We may invite You to collect those items from Us once We have been paid all moneys due by You to Us for Services provided under this or any other agreement. If We fail to sell the Goods at public auction or by any other means, We may at Our option pay \$1 for the Goods and at Our discretion dispose of the Goods.

## 7. Fees, Charges and Payments

**7.1 Fees/Charges.** You shall pay our fees rendered and any charges reasonably incurred by Us in respect of arranging or performing the Services including Ancillary Services. Such fees/charges shall be deemed fully earned as soon as the Goods are loaded and dispatched from place of receipt, otherwise delivered by You to Us, Our Subcontractor or Third Party Provider or on receipt of Our Invoice whichever occurs first. Fees and charges shall be payable in accordance with the terms stated in Our invoice or if not stated, will be payable on delivery. All fees and charges are non-refundable.

**7.2 Variation of Work Required.** If the work You ultimately require Us to do varies significantly from the work for which a quotation or estimate has been given or You ask us to suspend or cease the provision of the Services, we will treat any alternative instructions You give us for the provision of Services as new instructions and provide you with a further International Moving Quotation advising you of the charges for that new work.

**7.3 Alteration of Dates.** If a date for the performance by Us of any Services is agreed upon in the quotation and acceptance or subsequently, and You require that date to be altered or the Goods are not available on that date, We will be entitled to render You a reasonable additional charge for any loss or additional expense occasioned by such alteration or unavailability.

**7.4 Payment to Third Parties, Taxes and Duties etc.** We will be entitled to reimbursement from You of any amount which we have been required to pay to a third party (other than to a Subcontractor) to obtain or effect delivery of the Goods. In addition, We will be entitled to reimbursement of any customs duties, sales tax, GST, and other similar Government costs and charges; for costs and charges associated with inspection, examination, seizure or destruction undertaken, required or authorised by any Government or other authority; and for unforeseen additional costs and charges for fumigation and steam cleaning, bonding, container demurrage and external storage.

**7.5 Payment by Third Party.** If You arrange with Us or instruct Us that Our charges are to be paid by a third party, and if that party does not pay the charges within 14 days of the date set for payment or, if no date is set for payment, within 14 days of the date of invoice, You agree to thereupon pay the charges.

**7.6 Default Charges.** If amounts are outstanding from You to Us for more than 30 days, We will be entitled to charge interest at the Commonwealth Bank maximum personal overdraft interest rate for amounts not exceeding \$100,000 from time to time, calculated on daily rates.

**7.7 Contractual Liens.** All Goods received by Us will be subject to a general lien for any moneys due by You to Us relating to any Services provided under this or any other agreement. Without prejudice to any other rights which We may have under this contract or otherwise at law, if any amounts have been outstanding for a period of 26 weeks, We may give 28 days' written notice to You of intention to sell, and if the outstanding amount is not paid within that period, We may SELL ALL OR ANY OF THE GOODS by public auction or online auction sale facility or, if that is not reasonably practicable, by private treaty and apply the net proceeds in or towards satisfaction of the amount due.

**8. Loss or Damage – Private Removals and Storage**

**8.1 Australian Consumer Law.** Except where the Services are required by You for the purposes of a business, trade, profession or occupation in which You are engaged, this agreement will be subject to the guarantees set out in sections 60, 61 and 62 of the *Australian Consumer Law* (as enacted as Schedule 2 of the *Competition and Consumer Act 2010*) being, in particular, a guarantee that the Services to be undertaken by Us (that is, the Services other than any Ancillary Services) will be rendered with due care and skill, and the following conditions of this clause 8 will apply.

**8.2 Negligence** The Goods shall at all times be at Your risk and We shall not be liable in tort (including negligence), contract, bailment, contravention of any statute or breach of statutory duty or otherwise for any loss of or damage to or failure to deliver or delay in delivery or misdelivery of the Goods or documentation whatsoever howsoever caused, except where the loss or damage was directly caused by, or in connection with the fraud, criminal conduct, recklessness or wilful misconduct of Us, our employees, agents or Subcontractors.

**8.3 Exclusions.** We will not be liable for any loss or damage nor any delay which results from any cause beyond Our control, including any loss or damage occurring in the course of the provision of Ancillary Services by Third Party Providers or in the course the provision of any overseas removal by road which is not undertaken by a Nominated Agent.

**8.4 Damage to Goods – Packaging.** We will not be liable for loss of or damage to Goods arising from defective or inadequate packing or unpacking, where the packing or unpacking (as the case may be) was not undertaken by Us or a Subcontractor.

**8.5 Damage to Goods – Inherent Risk.** We will not be liable for loss of or damage to Goods (including electrical and mechanical appliances, computer equipment, scientific instruments and certain musical instruments) arising from those Goods being inherently susceptible to suffer damage or disorder during transit and storage.

**8.6 Damage to Goods – Furniture Items.** If You have elected not to instruct Us to arrange extended warranty cover over furniture items whilst in transit or storage and We (or Our Subcontractor) did not package any furniture items for You prior to transit or storage, We will only be liable for damage to the furniture items up to an amount of \$100 per item. This cap on Our liability to You does not apply if there is evidence that We (or Our Subcontractor) failed to exercise due care and skill and this failure is what caused the damage.

**8.7 Lost, Stolen or Misplaced Items.** If You have elected not to instruct Us to arrange extended warranty cover over the Goods whilst in transit or storage, and We (or Our Subcontractor) have not packed the Goods for You, We will only be liable for lost, stolen or misplaced boxes or items up to an amount of \$100 per box. This cap on Our liability to You does not apply if You provided Us with a completed inventory including valuation of the contents of the box containing the Goods prior to commencement of transit or storage and there is evidence that We (or Our Subcontractor) failed to reasonably secure the Goods whilst in Our custody or care.

**8.8 Notification of Loss or Damage.** Any claim for loss or damage under this clause 8 is to be notified by You to Us in writing, or by telephone and later confirmed in writing, within 7 days of the date of delivery of Your Goods, or in the case of Loss, within 7 days of the date upon which the Goods would ordinarily have been delivered, failing which WE will have no further liability. We will have the best chance of locating any misplaced items, or ascertaining the cause of damage, if that notification is given to Us within 2 working days.

**8.9 Maximum Value of Goods.** In any claim for loss or damage under this clause 8, any estimate of the value of the Goods which You have provided to Us, whether for the purposes of instruct arranging extended warranty cover or otherwise, will be prima facie evidence that the total value of the Goods, or the value of any item or group of items for which a value was specified, did not exceed that estimate at the time of loss or damage.

**8.10 Liability Limitation** - to the extent that liability cannot be excluded or limited as agreed herein for breach of any condition or warranty in respect of the Services pursuant to statute or otherwise, Our liability is limited to Us providing supply of the Services again or the payment of the cost of having the Services supplied again as determine at our sole discretion.

**8.11 Consequential Loss** – Without limiting the generality of the foregoing, We shall in no circumstances be liable for loss or damage other than to the Goods, including indirect or consequential loss or damage including but not limited to loss or market, loss of profits, loss of contracts howsoever caused, unless We actually knew that such loss or damage could be incurred.

**8.12 Indemnity** – You will indemnify Us in respect of any claim, loss, damage, cost expense and/or liability incurred by Us as a result of Your breach of the terms, conditions, or warranties of this agreement.

**9. Loss or Damage – Commercial Removals and Storage**

**9.1 Application.** If the Services are required by You for the purposes of a business, trade, profession or occupation in which You are engaged, the following conditions of this clause 9 will apply.

**9.2 Notification of Claims.** Notice of Your claim against Us must be given by You to Us in writing within 7 days of the date of delivery or, in the case of loss, the date upon which the Goods would ordinarily have been delivered, failing which We will have no liability.

**9.3 Liability.** The Goods shall at all times be at Your risk and We shall not be liable in tort (including negligence), contract, bailment, contravention of any statute or breach of statutory duty or otherwise for any loss of or damage to or failure to deliver or delay in delivery or misdelivery of the Goods or documentation whatsoever howsoever caused, except where the loss or damage was directly caused by, or in connection with the fraud, criminal conduct, recklessness or wilful misconduct of Us, our employees, agents or Subcontractors.;

**9.4 Limitation of Liability.** In all cases where liability cannot be excluded or limited by this agreement for breach of any condition or warranty in respect of the Services pursuant to statute or otherwise, Our liability is limited to Us providing supply of the Services again or the payment of the cost of having the Services supplied again determined at our sole discretion.

**9.5 Consequential Losses.** Without limiting the generality of the foregoing, We shall in no circumstances be liable for loss or damage other than the goods, including direct, indirect or consequential loss or damage arising from the Services including but not limited to loss of market, loss of profits, loss of contracts howsoever caused.

**9.6 All Causes of Action.** The rights, immunities, defenses and limits provided for in these conditions shall apply in any action against Us for loss or damage whether the action be founded in contract, bailment, tort, statute or otherwise notwithstanding any breach of any term or fundamental term of this agreement.

**9.7 Indemnity.** You will indemnify us in respect of any claim, loss, damage, payment, fine, expense, duty, tax, impost, outlay, cost or other liability incurred by us howsoever caused or incurred in connection with the Services or as a result of Your breach of any of the terms, conditions and/or warranties of this agreement.

**9.8 Time Bar.** Any right You may have against Us to any legal remedy shall be extinguished unless legal proceedings are brought against us within 6 months from the date of this contract or the date the Services were completed or the date the Services should have been completed, whichever date occurs first.

**9.9 Small Business** – If You are a “Small Business” and this agreement is a “Small Business Contract” as defined under Schedule 2 of the CCA, the parties to this agreement agree that:

(a) Our right to limit or exclude liability as aforesaid is based on a low-cost rate service. Accordingly, You should obtain your own insurance to cover any loss or damage resulting from our Services or instruct Us to arrange extended warranty cover.

(b) Your indemnity referred in clause 9.7 above will not apply to the extent that the claim, loss, damage, payment, fine, expense, duty, tax impost, outlay, cost or other liability incurred by us resulted from the fraud, criminal conduct, recklessness or wilful misconduct of Us, Our servants or agents.

(c) The wording of the consequential loss clause 8.8 will replace the wording in clause 9.4 above

(d) The wording of the time bar clause 8.10 will replace the wording in clause 9.7 above.

**10. Negotiation of Extension of Responsibility/Liability/Extended Warranty Cover**

**10.1** Upon negotiation with You in writing, We may agree to greater responsibility and liability than set out in sub-paragraphs 9.3 and 9.4 of the above provision upon payment of additional charges by You as required. Applicable rates for greater responsibility and liability are subject of discussion and negotiation between the parties.

**10.2** Should You not choose nor the parties agree to Us taking greater responsibility and liability for the services for additional charge pursuant to sub-paragraph 10.1 above, the parties agree that We provide a lower cost service on the premise that We have the right to exclude or limit liability and/or seek indemnity as provided for in this Agreement.

**10.3** Additionally, or alternatively, You may choose in writing to have Us arrange extended warranty cover on the following basis in respect of each shipment of Goods:

(a) paying the fee as detailed in the International Move Quotation relative to the declared value of the Goods to be shipped for loss of or damage to the Goods during transit as transit is used and/or defined under Our Worldwide Move Management International Moving Extended Warranty Terms and Conditions and on payment of a \$500.00 deductible.

**10.4** Depending on the level of responsibility and liability or extended warranty cover agreed between You and Us pursuant to sub-paragraphs 10.1 and/or 10.3 above, You may need to consider seeking Your own insurance cover for loss or damage it may incur that is not fully indemnified by Us or insurance pursuant to subparagraphs 10.1 and/or 10.3 above. Other than the extended warranty cover agreed between You and Us as aforesaid, no insurance will be arranged or effected by Us on Your behalf.

**11. Variation and Notice**

**11.1 Variation.** The terms of these conditions cannot be varied other than by Your and Our mutual consent. Our consent can only be given by a proprietor, or director, and must be evidenced in writing.

**1.2 Notice.** Any notice to be given by Us to You may be given personally or by prepaid post addressed to Your address last known to Us, or by facsimile to a facsimile number at that address, or by electronic mail.

**12. Application Law & Jurisdiction**

The law which governs this agreement will be the laws of the the State of South Australia. The parties submit to the non -exclusive jurisdiction of the courts of South Australia in relation to any action, suit or proceeding which may arise out of or in connection with this agreement

**13. Severance & Waiver**

**13.1 Severance.** It hereby agreed that if any provision or part of any provision of this contract is unenforceable, such unenforceability shall not affect the application of any other part of such provision or any other provision hereof.

**13.2 Waiver.** Should We elect not to exercise any of Our rights under this contract, under any other contract/agreement or under law, such election shall not constitute a waiver of any rights We may have against You.

**14. Inconsistency & Priority**

**14.1 Inconsistency.** To the extent of any inconsistency, these terms will prevail over any other terms or a part thereof issued by Us or You.