

AFFORDABLE *Home & Office* **REMOVALS** *No Damage Guarantee!*

Affordable Home & Office Removals Trust T/A
Affordable Home & Office Removals - Terms & Conditions of Trade

1. Definitions

- 1.1 "Seller" shall mean Affordable Home & Office Removals Trust T/A Affordable Home & Office Removals and its successors and assigns.
- 1.2 "Customer" shall mean the Customer or any person or persons acting on behalf of and with the authority of the Customer.
- 1.3 "Guarantor" means that person (or persons), or entity who agrees herein to be liable for the debts of the Customer if a Limited Liability Customer on a principal debtor basis.
- 1.4 "Goods" shall mean Goods together with any container, packaging, or pallet(s) supplied by the Customer to the Seller for the purposes of movement from one place to another by way of the Seller's Services.
- 1.5 "Services" shall mean all services supplied by the Seller to the Customer and includes any advice or recommendations (and where the context so permits shall include any supply of Goods as defined supra).
- 1.6 "Price" shall mean the cost of the Goods or Services as agreed between the Seller and the Customer subject to clause 4 of this contract.

2. Acceptance

- 2.1 Any instructions received by the Seller from the Customer for the supply of Services shall constitute acceptance of the terms and conditions contained herein.
 - 2.2 Where more than one Customer has entered into this agreement, the Customers shall be jointly and severally liable for all payments of the Price.
 - 2.3 Upon acceptance of these terms and conditions by the Customer the terms and conditions are irrevocable and can only be rescinded in accordance with these terms and conditions or with the written consent of the manager of the Seller.
 - 2.4 None of the Seller's agents or representatives are authorised to make any representations, statements, conditions or agreements not expressed by the manager of the Seller in writing nor is the Seller bound by any such unauthorised statements.
 - 2.5 The Seller is not a Common Seller and will accept no liability as such. All articles are carried or transported and all storage and other services are performed by the Seller subject only to these conditions and the Seller reserves the right to refuse the carriage or transport of articles for any person corporation or Seller and the carriage or transport of any class of articles at its discretion.
- ## 3. Services
- 3.1 The Services shall be as described on the invoices, consignment note, sales order or any other forms as provided by the Seller to the Customer.

4. Price And Payment

4.1 At the Seller's sole discretion;

(a) The Price shall be as indicated on invoices provided by the Seller to the Customer in respect of Services supplied; or

(b) The Price of the Services shall be the Seller's quoted Price that shall be binding upon the Seller provided that the Customer shall accept the Seller's quote within twenty-eight (28) days.

4.2 The Seller may by giving notice to the Customer increase the Price of the Goods to reflect any increase in the cost to the Seller beyond the reasonable control of the Seller (including, without limitation, insurance premiums or warehousing costs).

4.3 At the Sellers sole discretion a deposit may be required. The deposit amount or percentage of the Price will be stipulated at the time of the order of the Goods/Services and shall become immediately due and payable.

4.4 Time for payment for the Services shall be of the essence and will be stated on the invoice, consignment note or any other order forms. If no time is stated then payment shall be on delivery of the Goods, before unloading of the removal vehicle.

4.5 The Seller may withhold delivery of the Goods until the Customer has paid for them, in which event payment shall be made before the delivery date.

4.6 At the Sellers sole discretion, for certain approved Customers payment will be due seven (7) days following the date of the invoice.

4.7 Payment will be made by cash on delivery, or by bank cheque, or by credit card (plus any charges that maybe applicable), or by any other method as agreed to between the Customer and the Seller.

4.8 The Price shall be increased by the amount of any GST and other taxes and duties that may be applicable, except to the extent that such taxes are expressly included in any quotation given by the Seller.

5. Delivery

5.1 Delivery of the Goods shall be made to the Customer's address. The Customer shall make all arrangements necessary to take delivery of the Goods whenever they are tendered for delivery, or delivery of the Goods shall be made to the Customer at the Sellers address.

5.2 The Customer must provide the Seller with reasonable access to the removal site.

5.3 Delivery of the Goods to a third party nominated by the Customer is deemed to be delivery to the Customer for the purposes of this agreement.

5.4 The costs of carriage and any insurance which the Customer reasonably directs the Seller to incur shall be reimbursed by the Customer (without any set-off or other withholding whatsoever) and shall be due on the date for payment of the Price. The carrier shall be deemed to be the Customer's agent.

5.5 The failure of the Seller to deliver shall not entitle either party to treat this contract as repudiated.

5.6 The Seller shall not be liable for any loss or damage whatsoever due to failure by the Seller to deliver the Product (or any of them) promptly or at all.

5.7 The Goods shall be deemed to be delivered when the Customer has accepted the Product and signed the consignment note.

5.8 A delay at delivery may result in a additional hourly rate charge and is to be paid by the customer upon delivery.

6. Dangerous Goods

6.1 The Customer or his authorised agent shall not tender for carriage any explosive, inflammable or otherwise dangerous Goods without presenting a full description of those Goods and in default of so doing shall be liable for all loss and damage caused thereby.

7. Disclaimer

7.1 The Customer hereby disclaims any right to rescind, or cancel the contract or to sue for damages or to claim restitution arising out of any misrepresentation made to him by any

servant or agent of the Seller and the Customer acknowledges that he buys the Services relying solely upon his own skill and judgement and that the Seller shall not be bound by nor responsible for any term, condition, representation or warranty other than the warranty given by the Manufacturer which warranty shall be personal to the Customer and shall not be transferable to any subsequent Customer.

8. The Commonwealth Trade Practices Act 1974 and Fair Trading Acts

8.1 Nothing in this agreement is intended to have the affect of contracting out of any applicable provisions of the Fair Trading Acts in each of the States and Territories of Australia, except to the extent permitted by those Acts where applicable.

9. Default & Consequences Of Default

9.1 Interest on overdue invoices shall accrue from the date when payment becomes due daily until the date of payment at a rate of 2.5% compounding per calendar month and shall accrue at such a rate after as well as before any judgement.

9.2 If the Customer defaults in payment of any invoice when due, the Customer shall indemnify the Seller from and against all the Seller's costs and disbursements including on a solicitor and own Customer basis and in addition all of Seller's nominee's costs of collection.

9.3 Without prejudice to any other remedies the Seller may have, if at any time the Customer is in breach of any obligation (including those relating to payment), the Seller may suspend or terminate the supply of Services to the Customer and any of its other obligations under the terms and conditions. The Seller will not be liable to the Customer for any loss or damage the Customer suffers because the Seller exercised its rights under this clause.

9.4 If any account remains unpaid at the end of the second month after supply of the goods or services the following shall apply: An immediate amount of the greater of \$20.00 or 10.00% of the amount overdue shall be levied for administration fees which sum shall become immediately due and payable.

9.5 In the event that:

(a) any money payable to the Seller becomes overdue, or in the Seller's opinion the Customer will be unable to meet its payments as they fall due, Or;

(b) the Customer becomes insolvent, convenes a meeting with its creditors or proposes or enters into an arrangement with creditors, or makes an assignment for the benefit of its creditors, Or;

(c) a receiver, manager, liquidator (provisional or otherwise) or similar person is appointed in respect of the Customer or any asset of the Customer,

then without prejudice to the Customer's other remedies at law;

(i) the Seller shall be entitled to cancel all or any part of any order of the Customer which remains unperformed in addition to and without prejudice to any other remedies; and

(ii) all amounts owing to the Seller shall, whether or not due for payment, immediately become payable.

10. Security And Charge

10.1 Notwithstanding anything to the contrary contained herein or any other rights which the Seller may have howsoever:

(a) Where the Customer and/or the Guarantor (if any) is the owner of land, realty or any other asset capable of being charged, both the Customer and/or the Guarantor agree to mortgage and/or charge all of their joint and/or several interest in the said land, realty or any other asset to the Seller or the Seller's nominee to secure all amounts and other monetary obligations payable under the terms and conditions. The Customer and/or the Guarantor acknowledge and agree that the Seller (or the Seller's nominee) shall be entitled to lodge where appropriate a caveat, which caveat shall be released once all payments and other monetary obligations payable hereunder have been met.

(b) Should the Seller elect to proceed in any manner in accordance with this clause and/or its sub-clauses, the Customer and/or Guarantor shall indemnify the Seller from and against all the Seller's costs and disbursements including legal costs on a solicitor and own client basis.

(c) To give effect to the provisions of clause [25.1 (a) and (b)] inclusive hereof the Customer and/or the Guarantor (if any) do hereby irrevocably nominate constitute and appoint the Seller or the Seller's nominee as the Customer's and/or Guarantor's true and lawful attorney to execute mortgages and charges (whether registerable or not) including such other terms and conditions as the Seller shall think fit in his/her/its/their absolute discretion against the joint and/or several interest of the Customer and/or the Guarantor in any land, realty or asset in favour of the Seller and in the Customer's and/or Guarantor's name as may be necessary to secure the said Customer's and/or Guarantor's obligations and indebtedness to the Seller and further to do and perform all necessary and other acts including instituting any necessary legal proceedings, and further to execute all or any documents in the Seller's absolute discretion which may be necessary or advantageous to give effect to the provisions of this clause.

11. Privacy Act 1988

11.1 The Customer and/or the Guarantor/s agree for the Seller to obtain from a credit reporting agency a credit report containing personal credit information about the Customer and Guarantor/s in relation to credit provided by the Seller.

11.2 The Customer and/or the Guarantor/s agree that the Seller may exchange information about Customer and Guarantor/s with those credit providers named in the Application for Credit account or named in a consumer credit report issued by a reporting agency for the following purposes:

- (a) To assess an application by Customer;
- (b) To notify other credit providers of a default by the Customer;
- (c) To exchange information with other credit providers as to the status of this credit account, where the Customer is in default with other credit providers; and

- (d) To assess the credit worthiness of Customer and/or Guarantor/s.

11.3 The Customer consents to the Seller being given a consumer credit report to collect overdue payment on commercial credit (Section 18K(1)(h) Privacy Act 1988).

11.4 The Customer agrees that Personal Data provided may be used and retained by the Seller for the following purposes and for other purposes as shall be agreed between the Customer and Seller or required by law from time to time:

- (a) provision of Goods & Services;
- (b) marketing of Goods and or Services by the Seller, its agents or distributors in relation to the Goods and Services;
- (c) analysing, verifying and/or checking the Customer's credit, payment and/or status in relation to the provision of Goods or Services;
- (d) processing of any payment instructions, direct debit facilities and/or credit facilities requested by Customer; and
- (e) enabling the daily operation of Customer's account and/or the collection of amounts outstanding in the Customer's account in relation to the Goods and Services.

11.5 The Seller may give, information about the Customer to a credit reporting agency for the following purposes:

- (a) to obtain a consumer credit report about the Customer; and or
- (b) allow the credit reporting agency to create or maintain a credit information file containing information about the Customer.

12. Cancellation

12.1 The Seller may cancel these terms and conditions or cancel delivery of Goods and Services at any time before the Goods are delivered by giving written notice. On giving such notice the Seller shall promptly repay to the Customer any

sums paid in respect of the Price for those Goods. The Seller shall not be liable for any loss or damage whatsoever arising from such cancellation.

13. Lien on Goods

13.1 Where the Seller has not received or been tendered the whole of the price, or the payment has been dishonoured, the Seller shall have:

- (a) a lien on the goods;
- (b) the right to retain them for the price while the Seller is in possession of them;
- (c) a right of stopping the goods in transit whether or not delivery has been made or ownership has passed; and
- (d) a right of resale,
- (e) the foregoing right of disposal,

provided that the lien of the Seller shall continue despite the commencement of proceedings or judgement for the price having been obtained.

14. Unpaid Seller's Rights to Dispose of Goods

14.1 The Seller shall have a lien on the Goods and any documents relating to the Goods and/or any other Goods or cargo of the Customer in the possession or control of the Seller and any documents relating to those other Goods or cargo for all sums payable by the Customer to the Seller for that purpose and shall have the right to sell such Goods or cargo by public auction or private treaty without notice to the Customer. The Seller 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.

15. Errors/Omissions

15.1 The Customer shall inspect the Goods on delivery and shall within twenty four (24) hours of delivery notify the Seller of any alleged damage or failure to comply with the quote. If the Customer shall fail to comply with these provisions the Goods shall be conclusively presumed to be in accordance with the terms and conditions and free from any damage.

15.2 The Customer is solely responsible for advising the Seller of the location of all Goods to be relocated.

16. Risk

16.1 If the Seller retains property in the Goods nonetheless all risk for the Goods passes to the Customer on delivery.

17. Nomination Of Sub-Contractor

17.1 The Seller hereby authorises the Carrier (if it should think fit to do so) to arrange with a Sub-Contractor for the carriage of any Goods the subject of the contract. Any such arrangement shall be deemed to be ratified by the Seller upon delivery of the said Goods to such Sub-Contractor, who shall thereupon be entitled to the full benefit of these terms and conditions to the same extent as the Carrier. In so far as it may be necessary to ensure that such Sub-Contractor shall be so entitled the Carrier shall be deemed to enter into this contract for its own benefit and also as agent for the Sub-Contractor.

18. Route Deviation

18.1 The Seller shall be deemed to authorise any deviation from the usual route or manner of carriage of Goods that may in the absolute discretion of the Carrier be deemed reasonable or necessary in the circumstances.

19. Conditions of Storage

19.1 Storage charges will be quoted for the first 26 weeks, after 26 weeks the storage charges may at the Sellers discretion change but the Seller undertakes to notify the Customer in writing within twenty-eight (28) days of the change.

19.2 On receipt of the Goods from the Customer an inventory of Goods will be undertaken. The Customer has seven (7) days to notify the Seller of any discrepancy within the inventory, if the Customer shall fail to advise the Seller of any such discrepancy it will be presumed that the Customer complies inventory as listed.

19.3 The Customer may inspect the Goods in store. The Customer must give reasonable notice to the Seller of such intention. At the Seller's sole discretion a fee may be charged for the inspection.

19.4 The Customer may at any time remove the Goods from storage subject to payment of the Price. The Customer must give a minimum of five (5) working days notice of such intention.

19.5 The Seller may request the Customer to remove the Goods. The Customer agrees to remove the Goods within twenty-eight (28) days written notice from the Seller.

19.6 The Customer acknowledges that during a period of storage by the Seller at the Customer's direction the goods stored are not covered by any policy of insurance held by the Seller and the Customer must take out such insurance as they consider necessary in respect of the goods so stored.

20. General

20.1 If any provision of these terms and conditions shall be invalid, void, illegal or unenforceable the validity, existence, legality and enforceability of the remaining provisions shall not be affected, prejudiced or impaired.

20.2 All Goods supplied by the Seller are subject to the laws of Queensland and the Seller takes no responsibility for changes in the law, which affect the Goods supplied.

20.3 The Customer shall not set off against the Price amounts due from the Seller.

20.4 The Seller reserves the right to review these terms and conditions at any time and from time to time. If, following any such review, there is to be any change in such terms and conditions, that change will take effect from the date on which the Seller notifies the Customer of such change.

20.5 The Customer authorizes the Seller and any Subcontractor to subcontract on any terms the whole or part of the provision of the Services.

20.6 All the rights, immunities and exemptions from liability in these terms and conditions shall continue to have their full force and affect in all circumstances and notwithstanding any breach of this contract or of any of these terms and conditions by the Seller or any other person entitled to the benefit of such provisions and irrespective of whether such may constitute a fundamental breach of contract or a breach of a fundamental term.

20.7 Neither party shall be liable for any default due to any act of God, war, terrorism, strike, lock out, industrial action, fire, flood, drought, storm or other event beyond the reasonable control of either party.

21. Cartons

21.1 From time to time the Seller may be requested by the Customer to provide packed cartons for the Customer's use. The Customer acknowledges that the cartons are loaned to the Customer only and are to be returned at the conclusion of the Service provided. The Seller may charge the Customer a \$50.00 deposit prior to providing the cartons to the Customer.

If the Customer does not return the cartons in the same or substantially the same condition as when they were loaned. (i) The deposit will be forfeited by the Customer. (ii) The Customer will be charged for the cartons at the standard carton rate.

22. Guarantee

22.1 At Affordable Home & Office Removals we offer a no Damage Guarantee. If we damage, then we will fix or replace to the best of our ability.

Refer to the terms & conditions on the "no damage guarantee" certificate.