

# CONSIGNMENT NOTE

## OFFICE COPY



### TERMS AND CONDITIONS OF REMOVAL AND STORAGE

1. IN these Terms: "Customer" means the person that is entering into this contract, being the owner of the Goods to be packed, removed, delivered and (if applicable) stored by us and includes any person delivering the Goods to us whether that person is the duly authorised agent of the Customer or otherwise and "you" has a similar meaning. "Goods" means the goods, packages, cases or articles removed by us and (if applicable) prepared by us for storage purposes.

"removal" includes packing, removing, transporting and delivering unless the context requires otherwise. The rule of legal construction known as the contra proferentem rule does not apply to these Terms. References to a party include that party's successors, personal representatives, executors, administrators and permitted assigns.

2. You warrant that you are the legal owner (or their agent) of the Goods and have full authority to authorise us to enter the premises where the Goods are located and pack, remove/store the Goods. You indemnify us against any costs and expenses resulting from any breach of this warranty.

### The Quotation

3. The quotation and resulting contract is based on the condition that:

(a) There is a suitably practical road and approach for our vehicles and workmen to the door of the building or other places to and from which the Goods are to be removed and if the Goods are to be delivered to a building that they are to be delivered on the ground floor, otherwise an extra charge will be made.

(b) All doors and stairways are adequate to allow the work to be conveniently carried out but if we consider it more practical we may at our discretion use any balcony, window and/or tackle and make an extra charge for that. You release us from any liability for damage either to Goods so handled or to the building(s) or from which Goods may be taken or delivered or to any pathway, drive, grounds or access-way leading to or serving such building(s).

(c) We will not under any circumstances be liable for any damage to any driveway, road, kerb, crossing, path or access way caused by any of our vehicles in carrying out our obligations under the contract unless prior to collection or delivery of the goods we have received a written direction from you that any such path, road, kerb, crossing, driveway or access-way is unsuitable and that notice specifically directs us not to cross any such path, driveway, kerb, crossing, road or access-way with vehicles. In the absence of any such specific written direction from you will have been deemed to have directed and authorised us to cross such path, driveway, kerb, crossing, road or access way with the appropriate vehicles.

4. The amount quoted covers the services set out in the quotation and does not include the excluded services and work (unless specifically agreed). If the excluded services and work are carried out all of the conditions of the contract apply to that work and an extra charge to cover such work will be payable. The services and work excluded are:

(a) The taking down and putting up of fixtures, gas, electric or other fittings or blinds or lifting or laying carpets, linoleums, or other floor coverings, dismantling or installing or reassembling any electrical, audio, refrigerators, washing machines or similar equipment or waterbed, and the removal and re-erecting of any television aerial.

(b) Any storage or related charges or any premiums for insurance unless such storage or insurance is expressly stipulated and referred to in the signed acceptance.

5. When a quotation is for specific items and/or a specific quantity and additional goods are removed, transported (or stored) an extra charge to be fixed by us will be made and these Terms will apply to such additional goods.

6. This contract is made on the understanding that it is carried out in ordinary working hours and a charge will be made to cover any extra cost in working outside of those hours. Ordinary hours are defined as 7:30am to 5:00pm Monday through Saturday, excluding public holidays.

7. Where a quotation is provided, it is based on rates of exchange, government levies and taxes, scales of wages, shipping rates and charges as at the date of the quotation. Any alteration in those rates after the date of the quotation will be paid by you in addition to the price in the quotation. Without limiting the above, we will be entitled to recover any increases in the costs of providing storage during the time Goods are in storage, such costs being recoverable from and payable by you upon notice being served on you in the manner provided by these Terms.

### Payment

8. Payment for any removal is due at the completion of the work on the day. Payment for any storage is on to be made on the earlier of the end of the month or the day of collection/delivery. We do not open accounts without prior notice and normal credit criteria application and acceptance apply. Accounts may attract a mandatory \$25.00 administration charge. Where credit is provided payment is due within seven days of completion of work/delivery/collection (as the case may be) unless otherwise expressly agreed in writing.

9. You will pay all removal/storage charges calculated in accordance with any quotation, our schedule of charges and these Terms along with any costs incurred by us in collecting overdue monies from you. Interest at a rate equivalent to our principal banker's overdraft rate will be payable on any accounts that remain unpaid for more than 14 days.

10. The charges for removal/storage are exclusive of other services rendered in respect of the Goods unless otherwise stated. All charges and costs in respect of the Goods shall be payable on demand and GST will be paid in addition to any charges.

11. Payment of all money will be without set-off or deduction of any kind.

12. If the charges for removal and/or storage or any other moneys payable by you to us are in arrears for 2 calendar months we may give you 14 days' notice of our intention to sell the Goods or any part of them by public auction or private contract. We may buy in at any sale by auction, rescind or vary the contract of sale or resell without being answerable for any loss to you. We will apply the proceeds of such a sale first to pay all expenses incurred by us in relation to the sale or attempted sale and secondly to pay all charges due for removal and storage and other services rendered by us (including any interest) and other moneys owing in respect of the Goods and will pay any surplus to you.

13. You grant to us a lien over the Goods removed/stored for all our charges accruing against you in respect of the Goods and for any other moneys due from you. To the extent that a common law lien is determined to not have been validly affected by the above then you grant to us a security interest in the Goods under the Personal Property Securities Act 1999 and waive any right to a verification statement or other rights that are inconsistent with these Terms.

14. For the purpose of any sale or the exercise of any of our other rights we are authorised to open and break open (without being liable for any damage caused thereby) any package or case containing the Goods.

### Removal

15. The responsibility for our vehicle and its contents remains with the driver. He has the right at all times to refuse to put his person or his vehicle and its contents at risk. If you, a consignor, consignee or shipper considers that the driver's non-acceptance of his/her instructions is unreasonable, that person has authority to place a collect call to our head office in order to discuss the matter with the furniture manager.

16. It is your responsibility to see that no article required to be removed is left behind, that no goods or fixtures are taken away in error and that articles left in unoccupied premises are protected. We accept no liability in respect of any such matter.

17. We may arrange with any other contractor to carry out all or part of the work and terms of all bills of lading consignment notes and other documents issued by such other parties may be accepted by us as your agents and will be deemed to form part of this contract. We will transfer to you at your expense the benefit of such rights (if any) as we may have against such other parties in respect of your property. You

acknowledge and agree that the benefit of any restriction or exclusion of liability on our part and the benefit to us of the covenants and obligations in these Terms apply equally for the benefit of our sub-contractor which performs any part of our obligations pursuant to the provisions of these Terms.

18. In the absence of any written information from you to the contrary and any requirement to compile an inventory, the Goods are accepted by us for removal (and storage) "quality, quantity, weight, measurement, strength, values, contents and condition unknown".

19. We may refuse to deliver all or any part of the Goods unless you or your agent is present at delivery and checks the inventory (if applicable) and gives a receipt for the Goods.

### Storage

20. Except as expressly provided in these Terms, Goods removed for storage are to be stored by us until applied for by you (or your agent) and we may withhold delivery until all amounts owing for removal and storage and other charges and expenses are paid.

21. You indemnify us against any duties, claims, damages, costs, disbursements or other moneys which we may be called upon to pay in respect of the Goods to any person or body.

22. We may at any time move the Goods from store to store at our convenience provided that the place of storage is controlled by us and that the cost of such movement is not payable by you.

23. If borer, moth or any other infestation or vermin is discovered at any time in any of the Goods stored or if in our reasonable opinion the Goods deteriorate or become objectionable, unwholesome, contaminated, a source of danger or otherwise unfit for storage we may by notice in writing require you to remove such Goods, within a specified timeframe. If you do not remove the Goods within the prescribed time we may at our sole discretion destroy, sell or otherwise dispose of those Goods without being responsible for any damage or liability. In the case of a sale of the Goods we will account for any moneys received after deducting any costs incidental to the sale and other moneys owing by you to us. Where applicable, any costs of destruction, including unstowing and removing and other incidental costs are payable by you. PLEASE NOTE WE DO NOT STORE FOOD ITEMS.

### Liability and risk

24. If an inventory is required to be prepared then our liability is limited by the inventory of the Goods compiled by us and we will not be responsible for any property not included in that inventory. No oral statements made by us or our employees form part of these Terms.

25. Goods are packed, removed, delivered and stored at your risk. Unless, at the time the quotation is accepted, you expressly request us to arrange insurance and you pay the premium for such insurance prior to shipment, we will be under no liability for any loss or damage to any Goods, either to you or to any third party save as expressly provided for in these Terms in such cases. In terms of the Carriage of Goods Act 1979 this means that we will pay no compensation if the Goods are lost or damaged unless we intentionally lose or damage them.

26. Neither we nor our insurers accept liability for the deterioration of the contents of refrigerated items in transit or in store. Whilst every care will be taken to ensure that such items remain operative whilst in transit or in store the possibility of power failure beyond our control makes such risk unacceptable. Additionally neither we nor our insurers accept liability for damage or loss of pot plants i.e. these items are carried on a "all care - no responsibility basis".

27. We will not be responsible for any plate, jewels, trinkets, bank notes, coins, pictures or other articles of special or antique value unless they are contained in a special package and we have expressly accepted responsibility for such Goods in writing.

28. We will not accept for removal or storage Goods of a dangerous, corrosive or explosive nature and if any such Goods are sent to or are stored with us we may at our discretion without notice to you immediately sell, destroy or otherwise dispose of them and you indemnify us for any loss or damage caused by such Goods.

29. To the maximum extent permitted by law, we are not responsible for loss, damage or injury of any kind: (a) to any Goods provided that where an inventory is required to be taken we will be responsible for damage where it is packed by us and negligence and/or faulty packing is proven (subject to the other limitations in these Terms).

(b) in respect of any Goods caused by sweating, evaporation, leakage, breakage, shrinkage, deterioration, fermentation, wasting, decay, contamination, vermin, damp, mildew or rust.

(c) delays in transit.

(d) any indirect loss of any kind.

(e) any act or omission which is beyond our reasonable control.

30. All claims in respect of the Goods which you are entitled to make must be made in writing to us within seven days of the delivery of the Goods to you or the specified delivery address. For the purpose of this condition delivery to any agent or carrier nominated by you will be deemed to be delivery. All claims not made within the stipulated time will be deemed to be waived.

31. Our liability under these Terms is limited to the lesser of a total of \$10,000 and the equivalent value of 1 year's storage cost of the Goods.

32. In order for you to make any claim in accordance with these Terms all moneys payable by you must have first been paid in accordance with these Terms.

33. Except to the extent that the same have been negated or modified by these Terms the provision of clauses 18-27 of the Carriage of Goods Act 1979 are deemed to apply and be incorporated in these Terms.

### Termination

34. We may, after 1 months' notice in writing to you, at you or your agent's last known address terminate this contract. You will remove any Goods stored at our premises prior to termination date. In the event that you fail to remove any Goods stored prior to the termination date we may proceed with the sale of those Goods by private treaty or public auction and the moneys received shall be similarly held and/or applied as if it were a sale under the conditions stipulated in paragraph 12 of these Terms. Termination is without prejudice to any rights accrued prior to termination.

### General

35. We may at any time increase our charges or vary any provision of these Terms with 1 months' notice in writing sent to you or your agent and you will be bound by such variation from the expiry of that notice period.

36. All time limits imposed on you by these Terms must be strictly complied with. No failure or delay by us to exercise our rights under these Terms will operate to reduce those rights.

37. We may assign our rights under these Terms to any third party on written notice to you.

38. If you are using us for the purposes of business, then the guarantees and remedies in the Consumer Guarantees Act 1993 are excluded.

39. Where we agree to establish any credit arrangement, to facilitate payment you agree to establish a direct debit (or an automatic payment) facility for those charges where requested.

40. This contract is subject to all the terms expressed or implied in any bill of lading, consignment note of contract of any carrier under which the Goods are carried and to the charges levied by such carrier and any valid variation of those terms.

41. Any notice or other communication to be given or served upon you including any receipt or inventory may be given or served to or upon you personally or by ordinary prepaid post addressed to you at your last known address. If posted notice will be deemed to have been received by you on the fifth working day following the day on which it was posted.