

OVERVIEW:

In these conditions the following definitions are applicable;

“We” “Us” “Our” means Black Stallion Removalist Removals, the party supplying and entering into the agreement for Services.

“You” and “Your” means the client, customer or other party to whom Our quotation is addressed and the party who enters into the agreement for Services.

“Goods” means all furniture and other effects which are to be the subject of the Services;

“Services” means the whole of the work to be undertaken by Us in connection with the Goods including removal, (if applicable) assemble, dismantle and packing and storage;

“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;

Words in the singular include the plural and words in one or more genders include all genders.

1. COMMON CARRIERS

- 1.1 **WE ARE NOT COMMON CARRIERS AND ACCEPT NO LIABILITY AS SUCH.** We reserve the right to refuse to quote for the carriage of goods for any particular person and for carriage of any goods or classes of goods at Our discretion at any time.

2. YOUR OBLIGATIONS AND WARRANTIES

- 2.1 **Information supplied by You.** You warrant that any information which You have provided to Us and on which We have reasonably relied on assessing any quotation or estimate of the resources necessary to carry out the work is accurate. In the event that the information provided is not accurate, extra charges may be incurred as a result of conditions at the time of arrival. We will endeavour to advise you of the adjustment. You indemnify us and agree that any extra charges will be paid by You.
- 2.2 **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 and You indemnify Us against all such claims against Us.
- 2.3 **Presence at Loading/Unloading.** You will ensure that You or a person authorised to sign on your behalf is present when the Goods are loaded or unloaded.



- 2.4 **Dangerous Goods.** You warrant that the Goods do not include any firearms 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 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.
- 2.5 **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 objects, works of art, money, collections of items or precision equipment in any case having a value in excess of \$1,000.
- 2.6 **Goods Left Behind or Moved in Error.** You will ensure, that all Goods to be removed or stored are uplifted by Us and that none is taken in error.
- 2.7 **Any threat or perceived threat to any sub-contractor, employee or agent of Ours by You** or your agent will result in immediate termination of the contract with payment due and payable up until that time. No claim shall be made by You for loss or damage upon immediate termination.
3. METHOD OF CARRIAGE AND SUBCONTRACTORS
- 3.1 **Mode of Carriage.** We shall be entitled to carry the Goods by any reasonable route (having regard to all the circumstances including the nature and destination of any other Goods being carried on the vehicle) and by any reasonable means.
- 3.2 **Subcontractors.** We may use a Subcontractor or Subcontractors to undertake the whole or any part of the Services. We continue to be responsible to You for the performance of the Services.
- 3.3 **Liability of Subcontractors and Employees.** Any provisions in these conditions which limit Our liability also apply to Our Subcontractors and to Our employees and to the employees of Our Subcontractors. For the purposes of this sub clause, We are, or are deemed to be, acting as agent or trustee on behalf of each of the persons referred to, and each of them shall to that extent be deemed to be parties to this agreement.



4. DELIVERY

- 4.1 We shall not be bound to deliver the Goods except to You or a person authorised in writing by You to receive the Goods. If We Goods cannot be delivered because there is no authorised person to receive them or We cannot gain access to the premises, We will be entitled to unload the Goods at an alternative destination, and will be entitled to charge an additional amount for storage and for the subsequent re-delivery of the Goods.

5. CHARGES AND PAYMENTS

- 5.1 **Variation of Work Required and Delay.** If the work You ultimately require Us to do varies from the work for which a quotation or estimate has been given, or if We are prevented from or delayed in undertaking the Services or any part thereof (except where that prevention or delay results from a factor within Our control), we are entitled to charge additional charges. We will be entitled to reimbursement from You of any amount which We have been required to pay to a third party (other than a Subcontractor) to obtain or effect delivery of the Goods.
- 5.2 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 make a reasonable additional charge for any loss or additional expense occasioned by such alteration or unavailability.
- 5.3 **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 7 days of the date of invoice, You agree to pay the charges.
- 5.4 **Default Charges.** If amounts are outstanding from You for more than 30 days, We will charge interest at 2% higher than the interest rate set from time to time by the Penalty Interest Rates Act 1983, calculated daily.
- 5.5 **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, if that is not reasonably practicable, by private treaty and apply the net proceeds in satisfaction of the amount due.
- 5.6 Should payment remain outstanding beyond Our payment terms, You are liable for all costs including legal costs and mercantile agents fees incurred by us in recovering the amount outstanding.



6. LOSS OR DAMAGE - Private Removals

- 6.1 **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 will be rendered with due care and skill, and the following conditions apply.
- 6.2 **Exclusions.** We will not be liable for any loss or damage nor any delay which results from any cause beyond Our control. We are not liable for any loss or damage claimed by another removals provider carrying out services on storage which was previously packed by Us especially if there is more than 2 working days since We provided services. Clause 2.3 and 6.5 are applicable in this situation.
- 6.3 **Damage to Goods - Packaging.** If the Goods sustain damage by reason of defective or inadequate packing or unpacking, and the packing or unpacking was not undertaken by Us, We will not be liable for any loss or damage.
- 6.4 **Damage to Goods - Inherent Risk.** Certain goods (including electrical and mechanical appliances, computer equipment, scientific instruments and certain musical instruments) are inherently susceptible to suffer damage or disorder upon removal. Unless that damage results from negligence on Our part We will not be liable.
- 6.5 **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, within 2 days from the day of delivery.
- 6.6 **Maximum Value of Goods.** In any claim for loss or damage under this clause 7, any estimate of the value of the Goods which You have provided to Us, whether for the purposes of insurance or otherwise, will be prima facie evidence that the total value of the Goods did not exceed that estimate at the time of loss or damage.

7. LOSS OR DAMAGE - Commercial Removals

- 7.1 **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 7 will apply.
- 7.2 **Negligence.** The onus of proof is on You and We will only be liable for loss or damage resulting from Our negligence, and in any event that liability will be limited to \$100 per item or package, or \$1,000 in respect of all Goods moved under this agreement (whichever is the lesser).
- 7.3 **Claims.** In circumstances where We are liable under sub clause 7.2, notice of the claim must be given by You to Us as soon as possible and written notice must be given within 14 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 further liability.

8. INSURANCE

- 8.1 **Our Insurance.** We provide the assurance that we are covered by Public Liability and Goods in Transit within the furniture removals services bracket and we advise all clients to contact their insurance company for additional cover during the packing, moving and transit period. We also advise on third parties that may be able to assist to extended cover to clients for their possessions that are outside of our insurance cover.
- 8.2 **Other Insurance.** You may, arrange insurance with an insurer of Your choice which is Your responsibility entirely.
- 8.3 **Assignment.** If We, in discharge of any liability, make payment of any amount to You in respect of loss of, damage to or delay in delivery of the Goods. You hereby assign to Us all rights which You have under any policy of insurance to recover that amount and You hereby irrevocably appoint Us as your attorney with full power in Your name to claim and recover that amount and You will execute all documents and provide all information as may be necessary to enable Us to obtain the full benefit of this clause.

9. DISPUTES

- 9.1 **Notification of Dispute.** If You or We consider that a dispute has arisen in relation to this agreement (either during the Services. or after they have been completed), written notice of the dispute will be given to the other party. Even if that notice is given, any obligations outstanding under the agreement must be performed.

10. VARIATION AND NOTICE

- 10.1 **Variation.** The terms of these conditions cannot be varied other than by consent. Our consent can only be given by a proprietor, director, secretary or manager, and must be evidenced in writing.
- 10.2 **Notice.** Any notice to be given by Us to You may be given personally or by post addressed to Your last known address, or by facsimile, or by electronic mail.

11. APPLICABLE LAW

- 11.1 The law which governs this agreement will be the law in the State of New South Wales.

