

DELIVERY KINGS PTY LTD
TRANSPORT AND MOVING SERVICE BUSINESS
TERMS AND CONDITIONS

Terms and Conditions

These Terms are entered into between **Delivery Kings Pty Ltd** (ABN 31 652 864 803) of 2/14 George Young Street Auburn NSW 2144 (**we, us or our**) and you, the person, organisation or entity making the Booking Enquiry, as described in the Quotation (**you or your**), together the **Parties** and each a **Party**.

Background

- A. We specialise in removalist, relocation and storage services in Australia including the provision of packing services and packing materials.
- B. You have requested for us to provide the Services, and we agree to provide the Services, in accordance with these Terms.

1. Acceptance and Term

- 1.1 You accept these Terms by the earlier of:
 - (a) confirming that you accept these Terms via the platforms or applications through which we provide these Terms to you, including our Website;
 - (b) submitting a Booking Enquiry;
 - (c) instructing us (whether orally or in writing) to proceed with the provision of the Services; and
 - (d) making part or full payment of the Price.
- 1.2 These Terms will commence on the later of:
 - (a) the Commencement Date; and
 - (b) receipt of the Deposit (if any),and will continue until the date we have completed the provision of the Services to you (as reasonably determined by us), unless earlier terminated in accordance with its terms (**Term**).
- 1.3 Please read these Terms carefully. By accepting these Terms, you warrant to us that you have:
 - (c) read, understood and agree to be legally bound by these Terms; and
 - (d) that you have full legal authority to enter into these Terms.
- 1.4 These Terms are available on our Website. You acknowledge and agree that we may amend any part of these Terms at any time, and in our absolute discretion, and such amendment will apply to Services that you request us to perform after the date of the amendment. If we change the Price and Payment terms, we will give you at least 1 month advance notice in writing or via email.

2. Services

- 2.1 In consideration of your payment of the Price, we will provide the Services in accordance with these Terms, whether ourselves or through our Personnel.
 - 2.2 If these Terms express a time within which the Services are to be provided (including any Delivery Date or Start Time), you agree that such time is an estimate only, and creates no obligation on us to provide the Services on or by that time.
 - 2.3 You agree that we may determine the appropriate modes and means of providing the Services, including but not limited to:
 - (a) determining the timing and method of collection and packing of the Goods; and
 - (b) determining the appropriate routes to be taken between the Premises.
 - 2.4 You understand that your preferred Start Time is an estimate only and you will allow additional time should we be running late for any reason outside our control including traffic.
 - 2.5 We may, at our absolute discretion, agree to provide you with packing materials at the prices listed on our Website. Packing materials are provided on an "as is" basis and may not be new. Packing materials will be delivered by us as soon as possible following your request and will be provided in accordance with these Terms.
 - 2.6 We may, at our absolute discretion, agree to provide you with packing (including unpacking) Services at the hourly rate prices listed on our Website. If we provide packing Services, you must pay for packing materials at the prices listed on our Website. Packing Services will be provided in accordance with these Terms.
- ### 3. Booking process
- 3.1 You agree:
 - (c) that you may make a Booking Enquiry with us by our instant booking functionality available on our Website;
 - (d) that by submitting a Booking Enquiry you are bound by these Terms;
 - (e) to provide us with all information that we require in relation to the Booking Enquiry, including but not limited to:
 - (i) the type of Services required;
 - (ii) the types and quantities of Goods to be moved or relocated (including any Excluded Goods or Precious Goods);
 - (iii) your preferred Delivery Date and Start Time;

- (iv) your preferred Delivery Slot;
 - (v) the intended pick-up and delivery Premises;
 - (vi) your contact name and number; and
 - (vii) any particularities with respect to the pick-up and delivery Premises (including but not limited to any limitations on accessing the Premises, and the number of stairs or flights of stairs at the Premises);
- (f) that we may, at our absolute discretion, notify you whether:
- (i) we accept the Booking Enquiry, in which case we will notify you of the Booking by email;
 - (ii) any adjustments need to be made to the Booking Enquiry, in which case we will work with you to finalise the Booking (which, if finalised, we will notify you of by email); or
 - (iii) are unable to assist you with the Booking Enquiry, in which case these Terms will automatically terminate;
- (g) no Booking Enquiry will be a confirmed until we have received all information that we require in relation to the Booking Enquiry, we have issued a Booking to you by email, **(Confirmed Booking)**; and
- (h) we are not a common carrier and we may, at our absolute discretion, refuse to accept any Booking Enquiry for the carriage of Goods for any particular person and for carriage of any particular Goods or classes of Goods.
- 4. Rescheduling and cancellations**
- 4.1 You may cancel or request changes to a Booking Enquiry up until a Confirmed Booking is created.
- 4.2 If you wish to cancel a Confirmed Booking, we may, in our absolute discretion, charge you the Deposit as a cancellation fee. You agree that this cancellation fee represents a genuine pre-estimate of our likely losses as a result of the Confirmed Booking being cancelled.
- 4.3 If you need to change a Confirmed Booking prior to the Start Date, you agree to notify us immediately in which case:
- (a) if you notified us within 48 hours of the Start Time in the Confirmed Booking, we may, in our absolute discretion, charge you the Deposit as a re-scheduling or cancellation fee. You agree that this re-scheduling or cancellation fee represents a genuine pre-estimate of our likely losses as a result of the Confirmed Booking being amended or cancelled;
 - (b) if we are able or willing to amend the Confirmed Booking, we will notify you of any amendments to the Confirmed Booking that we consider necessary; and
 - (c) if we are unable or unwilling to amend the Confirmed Booking to your preferred date or time, we will notify you and you may cancel the Confirmed Booking.
- 4.4 If we are required to cancel or re-schedule a Confirmed Booking for any reason, we will use our best endeavours to give you as much notice as possible and to reach agreement

on any adjustments to the Confirmed Booking. If we are unable to re-schedule the Confirmed Booking, clauses 18.1 or 18.2(e)(5) will apply, as applicable.

5. Variations

- 5.1 You agree to provide us with as much notice as possible if you request a variation or change to the Services, including the timing for the provision of the Services or the types and quantities of Goods, with details of the variation or change, **(Variation Request)**.
- 5.2 We will not be obliged to comply with a Variation Request unless we:
- (a) accept the Variation Request, including any variation to the Price to effect the Variation Request **(Price Variation)**, in writing; and
 - (b) the Price has been adjusted to reflect the Price Variation.
- 5.3 If we consider that any instruction or direction from you constitutes a variation, then we will not be obliged to comply with such instruction or direction unless a Variation Request has been issued in accordance with clause 5.1.
- 5.4 Where the Services are varied or changed, or the costs of providing the Services increases, **(Variation Event)** and the cause of that Variation Event relates to, or is connected with, an event or circumstance beyond our reasonable control, you agree to pay us our reasonable additional costs and expenses that we may suffer or incur as result of the Variation Event, as a debt due and immediately payable.

6. Your Obligations

- 6.1 You agree to:
- (a) comply with these Terms, our reasonable requests or requirements, and all applicable Laws; and
 - (b) provide all assistance, information, documentation, access, facilities, authorities, consents, licences and permissions reasonably necessary to enable us to comply with our obligations under these Terms or at Law.

7. Price and Payment

- 7.1 Unless otherwise specified in our Quotation, the Price is calculated on the following basis:
- (a) a Deposit;
 - (b) an amount for packing materials required by you, at the prices listed on our Website;
 - (c) a lump sum call out fee for packing Services, determined by us according to the travel required from our premises to the packing Premises, and back to our premises;
 - (d) a lump sum call out fee for removalist Services, determined by us according to the travel required from our premises to the pick-up Premises, and from the delivery Premises back to our premises;
 - (e) the Minimum Booking amount for packing Services, which is determined according to the Minimum Booking Period, which is based on the number of our

- Personnel required for the Confirmed Booking, as follows:
- (i) 2 persons, Minimum Booking Period of 2 hours;
 - (ii) 3 or more persons, Minimum Booking Period of 4 hours;
- (f) a quarter-hourly rate charge on each additional quarter-hour spent providing the packing Services in relation to a Confirmed Booking in excess of the Minimum Booking Period. For the avoidance of doubt, when charging this rate any such period of time that exceeds the Minimum Booking Period will be rounded up to the next quarter-hour interval;
- (g) the Minimum Booking amount for removalist Services, which is determined according to the Minimum Booking Period, which is based on the number of our Personnel required for the Confirmed Booking, as follows:
- (iii) 2 persons, Minimum Booking Period of 2 hours;
 - (iv) 3 or more persons, Minimum Booking Period of 4 hours;
- (h) a quarter-hourly rate charge on each additional quarter-hour spent providing the removalist Services in relation to a Confirmed Booking in excess of the Minimum Booking Period. For the avoidance of doubt, when charging this rate any such period of time that exceeds the Minimum Booking Period will be rounded up to the next quarter-hour interval;
- (i) an additional charge for any of the following items:
- (i) large or cumbersome Goods, or Goods that weigh in excess of 80kgs (such as pianos (excluding royal pianos which we do not provide Services for), safes, marble furniture and billiard tables);
 - (ii) Special Goods (as defined in clause 10.1 (a));
 - (iii) extra/ odd work that requires more skilled labour, effort, and time including tricky narrow access to lift large items, lifting items over the balcony (we cannot lift items over the balcony above 2nd floor), rubbish removal, cleaning, taking off blind or curtains, disconnect or reconnect appliances, fittings or equipment, such as stoves, remove or lay fitted floor coverings, such as wall-to-wall carpets; and
- (j) any other amounts payable by you under these Terms including those particularised in clause 7.7.
- 7.2 You acknowledge and agree that where the Services are provided on an hourly (or quarter-hourly) rate basis, any estimated price in the Quotation or otherwise notified by us to you is an estimate only, and creates no obligation on us to provide the Services for the estimated price.
- 7.3 You agree to pay us for any toll charges, parking fees, tickets or fines incurred by us in the provision of the Services.
- 7.4 Unless the Deposit is payable by you under clause 4 as a cancellation or rescheduling fee or under clause 7.3, the Deposit will be subtracted from the Price.
- 7.5 You agree to pay us the Price, the Deposit (if any) and any other amount payable to us under these Terms, in accordance with this clause 7 and the payment terms set out in our Quotation or as otherwise agreed between the Parties (**Payment Terms**).
- 7.6 The actual Price payable by you for the Services will be finalised upon completion of the Services and confirmation by us of the time spent by us or our Personnel in providing the Services. Upon completion of the Services, we or our Personnel will provide you with an invoice stating the amount payable for the Price. You must provide payment of the Price within 24 hours of our completion of the Services.
- 7.7 We may require you to provide a credit card pre- authorisation at or around the time the Confirmed Booking is made. You agree that the pre-authorization may be used to cover incidentals, including parking fees, tickets and fines, and to settle amounts payable by you (including the balance of the Price) where you fail to make payment in accordance with the Payment Terms. The pre-authorized amount will be set aside by your credit card issuer for a period of up to 14 days, which may affect your available balance or spending limit. For more information please contact your credit card issuer. Once a pre- authorisation has been made, we are unable to release, remove or lower the pre-authorized amount, until we process the final payment of the Price.
- 7.8 If we require you to provide your credit card details for pre- authorisation, you must notify us in writing within 24 hours if your credit card details change and immediately re-authorise us to use your new credit card details to ensure there is no default in payment.
- 7.9 If you pay by credit card, we may charge you a credit card transaction fee of 2% of the Price.
- 7.10 If any payment has not been made in accordance with the Payment Terms, we may (at our absolute discretion) to the maximum extent permitted by law, and without limiting any other right or entitlement that we may have:
- (a) take steps to recover payment of the relevant amount, including by engaging a debt recovery agency, and recover from you our additional costs of doing so, as a debt due and immediately payable from you; and/or
 - (b) charge interest at a rate equal to the Reserve Bank of Australia's cash rate, from time to time, plus 8% per annum, calculated daily and compounding monthly, on any such amounts unpaid 7 days after the due date for payment in accordance with the Payment Terms.
8. Premises and parking
- 8.1 You agree to:
- (a) ensure someone is present at the Premises when the Goods are being picked up and delivered to the respective Premises;

- (b) if applicable, liaise with the building manager at the Premises to ensure that access (including lift access) is available at the Premises:
 - (i) at the times and on the dates requested by us; and/or
 - (ii) to enable us to comply with our obligations under these Terms or at Law;
- (c) provide us (and our Personnel) with necessary access to the Premises (and the facilities at the Premises), and any other premises reasonably necessary for us to provide the Services, free from harm or risk to health or safety:
 - (iii) at the times and on the dates requested by us; and/or
 - (iv) to enable us to comply with our obligations under these Terms or at Law;
- (d) pay us any additional costs that we may suffer or incur if you fail to meet your obligations in clause 8.1(a)(a) and (c) (including delay costs and costs for delivery and storage of the Goods at an alternate location and costs for us to return to the depot), as a debt due and immediately payable to us; and
- (e) use your reasonable endeavours to arrange for parking for our vehicle/s at the Premises including arranging a space at the loading dock or obtaining parking permits if applicable, and if you have failed to do so, any parking fees, tickets or fines will be payable by you or reimbursable by you to us.

8.2 We have a commitment to our Personnel to provide a safe work environment. You must not engage in any behaviour that violates this commitment at your Premises. You must ensure that the Premises is safe for us and our Personnel. We reserve the right to immediately cease providing Services to you if you violate this commitment or at any time our Personnel feel unsafe.

8.3 We will not tolerate bullying or discrimination against any of our Personnel. You must not engage in this behaviour. We reserve the right to immediately cease providing Services to you if you, your Personnel or any person accompanying you engages in bullying or discriminatory behaviour.

9. Excluded Goods

- 9.1 You represent, warrant and agree that the Goods do not include (**Excluded Goods**):
- (a) any plants or animals;
 - (b) any firearms or items which are or may become of a dangerous, corrosive, highly combustible, flammable, hazardous, gaseous, explosive, damaging or noxious nature, or Goods which are dangerous, poisonous, odorous, noxious or unlawful or Goods which are or may be likely to encourage any vermin or pest (**Dangerous Goods**); and /or
 - (c) any royal pianos.
- 9.2 You represent, warrant and agree that:
- (a) we will not provide the Services in relation to Excluded Goods; and

- (b) if we discover that any Excluded Goods have been packed or collected by us as part of the Services, we may:
 - (i) take any steps that we determine necessary (acting reasonably) in relation to Excluded Goods, including arranging for the destruction or disposal of the plants and Dangerous Goods and you agree to reimburse us for any costs or expenses suffered or incurred by us in taking such steps;
 - (ii) immediately terminate these Terms under clause 18.2 and stop providing you the Services.

9.3 Unless we agree otherwise in writing, we will not provide packing Services for jewellery, precious objects, works of art, money, collections of items or precision equipment, valued in excess of \$300 (**Precious Goods**). If we discover that any Precious Goods have been packed by us as part of the packing Services, we may take any steps that we determine necessary (acting reasonably) in relation to the Precious Goods including immediately terminating our Services and you agree to reimburse us for any costs or expenses suffered or incurred by us in taking such steps.

10. Goods

10.1 You agree:

- (a) prior to the commencement of the Services, to give us written notice of any Goods that (**Special Goods**):
 - (iii) are of a fragile or brittle nature; or
 - (iv) Precious Goods;
- (b) that we may refuse to provide the Services in relation to large or cumbersome Goods, or Goods that weigh in excess of 80kgs (such as pianos, safes, large potted plants, marble furniture and billiard tables), where you have not notified us of such Goods prior to the Confirmed Booking being made. You agree that if we agree to provide the Services in relation to such Goods, this may require an additional removalist and an additional charge, payable by you;
- (c) to clearly instruct us as to which Goods are the subject of the Services, and to take due care and diligence to ensure no Goods are taken by us, or left by us at the pick-up Premises, by mistake;
- (d) before we leave the pick-up Premises, to check the pick-up Premises to ensure no Goods have been left behind;
- (e) to be present at the pick-up and delivery Premises at all times during our provision of the Services; and
- (f) once the job is complete, to inspect the Goods and advise us in writing within 48 hours of the Delivery Date of any damage to or loss of Goods caused by our negligence in providing the Services.

11. Other services

11.1 We may, at our absolute discretion, agree to provide you with storage services at the prices listed on our Website. Storage will be provided in accordance with storage terms available on our Website.

12. Warranties

- 12.1 You represent, warrant and agree that:
- (a) there are no legal restrictions preventing you from entering into these Terms;
 - (b) all information and documentation that you provide to us in connection with these Terms is true, correct and complete;
 - (c) you are the owner of the Goods or have the necessary authority of the owner of the Goods to engage and allow us to provide the Services;
 - (d) you are the owner of the Premises or have the necessary authority of the owner of the Premises to engage and allow us to provide the Services;
 - (e) you have not relied on any representations or warranties made by us in relation to the Services (including as to whether the Services are or will be fit or suitable for your particular purposes), unless expressly stipulated in these Terms;
 - (f) you are not and have not been the subject of an Insolvency Event;
 - (g) if applicable, you hold a valid ABN which has been advised to us; and
 - (h) if applicable, you are registered for GST purposes.

13. Australian Consumer Law

- 13.1 Certain legislation, including the Australian Consumer Law, and similar consumer protection laws and regulations, may confer you with rights, warranties, guarantees and remedies relating to the provision of the Services by us to you which cannot be excluded, restricted or modified (**Statutory Rights**).
- 13.2 Our Services come with guarantees that cannot be excluded under the Australian Consumer Law. For major failures with the Services, you are entitled:
- (a) to cancel these Terms; and
 - (b) to a refund for the unused portion, or to compensation for its reduced value.
- You are also entitled to be compensated for any other reasonably foreseeable loss or damage. If the failure does not amount to a major failure you are entitled to have problems with the Services rectified in a reasonable time and, if this is not done, to cancel these Terms and obtain a refund for the unused portion of these Terms.
- 13.3 If the ACL applies to you as a consumer, nothing in these Terms excludes your Statutory Rights as a consumer under the ACL. You agree that our Liability for the Services provided to an entity defined as a consumer under the ACL is governed solely by the ACL and these Terms.
- 13.4 Subject to your Statutory Rights, we exclude all express and implied warranties, and all material, work and services (including the Services) are provided to you without warranties of any kind, either express or implied, whether in statute, at Law or on any other basis.
- 13.5 This clause 13 will survive the termination or expiry of these Terms.

14. Insurance

- 14.1 We agree to effect and maintain public liability insurance for the duration of the Term. You acknowledge and agree that you may not be entitled to the benefit of our public liability insurance policy, including where you and your Personnel cause any damage to property.
- 14.2 We recommend that you effect and maintain your own insurance to cover the Goods including insurance to protect against any damage to the Goods in transit, and to check with your insurer or insurance broker that such insurance will cover the Goods during the period of our provision of the Services.
- 14.3 You acknowledge and agree that:
- (a) we may refer a third party insurance provider to you, but we are not an insurance provider;
 - (b) you should seek your own independent insurance advice and rely on your own investigations before purchasing any such insurance.

15. Exclusions to liability

- 15.1 Despite anything to the contrary, to the maximum extent permitted by Law, we will not be liable for, and you waive and release us from and against, any Liability caused or contributed to by, arising from or connected with:
- (a) any direction by you in relation to how we move or pack the Goods or the speed at which we provide the Services;
 - (b) your or any of your Personnel's acts or omissions;
 - (c) any breach of these Terms by you or any of your Personnel;
 - (d) any loss or damage to the Goods caused by your use of any of the packing materials provided to you under these Terms, such materials being provided on an "as is" basis;
 - (e) any loss or damage to the Goods other than loss or damage to the Goods directly caused or contributed to by our or our Personnel's negligence in the performance of the Services;
 - (f) any loss or damage to any property or the Goods caused or contributed to by you or your Personnel (including but not limited to a failure by you to properly pack the Goods), or any third party (including but not limited to any motor vehicle accident);
 - (g) any Goods packed, unpacked or moved by any person other than us or our Personnel (including you or your Personnel);
 - (h) any loss or damage to any perishable or brittle Goods, or any loss or damage as a result of any latent or patent defects in any Goods;
 - (i) any damage to the Goods occurring after the time and date of delivery to your Premises;
 - (j) any works, services, goods, materials or items which do not form part of the Services (as expressed in these Terms), or which have not been provided by us;

- (k) any Third Party Inputs;
- (l) the Services being unavailable, or any delay in us providing the Services to you, for whatever reason;
- (m) any decisions or steps taken by us pursuant to clause 8.2; and/or
- (n) any event outside of our reasonable control.

15.2 This clause 15 will survive the termination or expiry of these Terms.

16. Indemnity

16.1 Despite anything to the contrary, to the maximum extent permitted by Law, you are liable for, and agree to indemnify us and hold us harmless in respect of, any Liability that we may suffer, incur or otherwise become liable for, arising from or in connection with:

- (a) any personal injury or death to any person, except to the extent caused or contributed to by us or our Personnel in providing the Services; and
- (b) any loss or damage to any property or the Goods caused or contributed to by you or your Personnel (including but not limited to a failure by you to properly pack the Goods), or any third party (including but not limited to any motor vehicle accident).

16.2 Your liability to indemnify us under clause 16.1 will be reduced proportionately to the extent the relevant Liability was caused or contributed to by the acts or omissions of us or any of our Personnel.

16.3 Subject to these Terms, we agree to indemnify you for any liability that you suffer or incur directly arising from any loss or damage to any property or the Goods directly caused or contributed to by our or our Personnel's negligence in the performance of the Services.

16.4 Our liability to indemnify you under clause 16.3 will be reduced proportionately to reflect the extent to which our or Personnel's negligence in the performance of the Services caused or contributed to the relevant liability.

16.5 Subject to these Terms and any Statutory Rights you have, if you wish to make a claim under clause 16.3, you must advise us in writing within 48 hours of the Delivery Date.

16.6 Despite anything to the contrary, to the maximum extent permitted by Law, we will not be liable for, and you waive and release us from and against, any Liability if you do not meet the timing requirement in clause 16.5.

16.7 This clause 16 will survive the termination or expiry of these Terms.

17. Limitations on liability

17.1 Despite anything to the contrary, to the maximum extent permitted by Law:

- (a) neither Party will be liable for any Consequential Loss;
- (b) a Party's liability for any Liability under these Terms will be reduced proportionately to the extent the relevant Liability was caused or contributed to by the

acts or omissions of the other Party (or any of its Personnel); and

- (c) our aggregate liability for any Liability arising from or in connection with these Terms or the provision of our Services will be limited to us resupplying the Services to you or, in our sole discretion, to us repaying you the amount of the Price paid by you to us in respect of the supply of the relevant Services to which the Liability relates.

17.2 This clause 17 will survive the termination or expiry of these Terms.

18. Termination

18.1 Either Party may terminate these Terms at any time by giving 72 hours notice in writing to the other Party.

18.2 These Terms will terminate immediately upon written notice by:

- (d) either Party, if mutually agreed in writing between the Parties;
- (e) us, if:
 - (1) you (or any of your Personnel) breach clauses 8.2 or 8.3 of these Terms;
 - (2) we find you in breach of clause 9;
 - (3) you (or any of your Personnel) breach any provision of these Terms and that breach has not been remedied within 2 Business Days of being notified by us;
 - (4) you fail to provide us with clear or timely instructions or information to enable us to provide the Services;
 - (5) for any other reason outside our control which has the effect of compromising our ability to provide the Services; or
 - (6) you are unable to pay your debts as they fall due; and
- (f) you, if we:
 - (1) are in breach of a material term of these Terms, and that breach has not been remedied within 2 Business Days of being notified by you; or
 - (2) are unable to pay our debts as they fall due.

18.3 Upon expiry or termination of these Terms (or the cancellation of any Confirmed Booking):

- (a) we will immediately cease providing the Services;
- (b) you agree that any payments made by you to us are not refundable to you, and you are to pay for all Services provided prior to termination, including Services which have been provided and have not yet been invoiced to you, and all other amounts due and payable under these Terms;
- (c) pursuant to clauses 18.2(d)(e), (4) or (6), you also agree to pay us our additional costs arising from, or in connection with, such termination; and

- (d) immediately return to us (where possible), or delete or destroy (where not possible to return), any of our property (including any of our Confidential Information or intellectual property).
- 18.4 Unless otherwise agreed between the Parties, if these Terms are terminated, then any Confirmed Booking will also terminate on the date of termination.
- 18.5 We will retain your documents (including copies) as required by law or regulatory requirements. Your express or implied agreement to these Terms constitutes your authority for us to retain or destroy documents in accordance with the statutory periods, or on expiry or termination of these Terms.
- 18.6 Termination of these Terms will not affect any rights or liabilities that a Party has accrued under it.
- 18.7 This clause 18 will survive the termination or expiry of these Terms.
- 19. Confidential Information**
- 19.1 Subject to clause 19.2, you must (and must ensure that your Personnel do) keep confidential, and not use or permit any unauthorised use of, all Confidential Information.
- 19.2 Clause 19.1 does not apply where the disclosure is required by law or the disclosure is to a professional adviser in order to obtain advice in relation to matters arising in connection with these Terms and provided that you ensure the adviser complies with the terms of clause 19.1.
- 20. General**
- 20.1 **Amendment:** These Terms may only be amended by written instrument executed by the Parties.
- 20.2 **Subcontract:** We reserve the right to subcontract any part of this agreement in part or whole.
- 20.3 **Assignment:** A Party must not assign or deal with the whole or any part of its rights or obligations under these Terms without the prior written consent of the other Party (such consent is not to be unreasonably withheld).
- 20.4 **Counterparts:** These Terms may be executed in any number of counterparts that together will form one instrument.
- 20.5 **Disputes:** A Party may not commence court proceedings relating to any dispute, controversy or claim arising from, or in connection with, these Terms (including any question regarding its existence, validity or termination) (**Dispute**) without first meeting with a senior representative of the other Party to seek (in good faith) to resolve the Dispute. If the Parties cannot agree how to resolve the Dispute at that initial meeting, either Party may refer the matter to a mediator. If the Parties cannot agree on who the mediator should be, either Party may ask the Law Society of New South Wales to appoint a mediator. The mediator will decide the time, place and rules for mediation. The Parties agree to attend the mediation in good faith, to seek to resolve the Dispute. The costs of the mediation will be shared equally between the Parties. Nothing in this clause will operate to prevent a Party from seeking urgent injunctive or equitable relief from a court of appropriate jurisdiction.
- 20.6 **Entire agreement:** These Terms contain the entire understanding between the Parties, and supersedes all previous discussions, communications, negotiations, understandings, representations, warranties, commitments and agreements, in respect of its subject matter.
- 20.7 **Further assurance:** Each Party must promptly do all things and execute all further instruments necessary to give full force and effect to these Terms and their obligations under it.
- 20.8 **Force Majeure:** We will not be liable for any delay or failure to perform our obligations under these Terms if such delay or failure is due to any circumstance beyond our reasonable control.
- 20.9 **Governing law:** These Terms are governed by the laws of New South Wales. Each Party irrevocably and unconditionally submits to the exclusive jurisdiction of the courts operating in New South Wales and any courts entitled to hear appeals from those courts and waives any right to object to proceedings being brought in those courts.
- 20.10 **GST:** If and when applicable, GST payable on the Price will be set out in our Quotation. You agree to pay the GST amount at the same time as you pay the Price.
- 20.11 **Intellectual property:** As between the Parties, all Intellectual Property Rights developed, adapted, modified or created by or on behalf of us or our Personnel (including in connection with these Terms or the provision of the Services), whether before or after the date of acceptance of these Terms, will at all times vest, or remain vested, in us.
- 20.12 **Notices:** Any notice given under these Terms must be in writing addressed to the relevant address last notified by the recipient to the Parties. Any notice may be sent by standard post or email, and will be deemed to have been served on the expiry of 48 hours in the case of post, or at the time of transmission in the case of transmission by email.
- 20.13 **Online execution:** These Terms may be executed by means of such third party online document execution service as we nominate subject to such execution being in accordance with the applicable terms and conditions of that document execution service.
- 20.14 **Publicity:** You agree that we may advertise or publicise the broad nature of our provision of the Services to you, including on our Website or in our promotional material.
- 20.15 **Relationship of Parties:** These Terms are not intended to create a partnership, joint venture, employment or agency relationship between the Parties.
- 20.16 **Severance:** If a provision of these Terms is held to be void, invalid, illegal or unenforceable, that provision is to be read down as narrowly as necessary to allow it to be valid or enforceable, failing which, that provision (or that part of that provision) will be severed from these Terms without affecting the validity or enforceability of the remainder of that provision or the other provisions in these Terms.
- 21. Definitions**
- In these Terms, unless the context otherwise requires, capitalised terms have the meanings given to them in the body of these Terms, and:
- ACL or Australian Consumer Law** means the Australian consumer laws set out in Schedule 2 of the *Competition and Consumer Act 2010* (Cth), as amended, from time to time.

Booking means an email from us confirming that we accept the Booking Enquiry, in accordance with clause 3.

Booking Enquiry means an enquiry submitted by you in accordance with clause 3(c).

Business Day means a day on which banks are open for general banking business in New South Wales, excluding Saturdays, Sundays and public holidays.

Commencement Date means the date these Terms are accepted in accordance with its terms.

Confidential Information includes information which:

- (a) is disclosed to you in connection with these Terms at any time;
- (b) is prepared or produced under or in connection with these Terms at any time;
- (c) relates to our business, assets or affairs; or
- (d) relates to the subject matter of, the terms of and/or any transactions contemplated by these Terms,

whether or not such information or documentation is reduced to a tangible form or marked in writing as "confidential", and howsoever you receive that information.

Consequential Loss includes any special loss, consequential loss, indirect loss, real or anticipated loss of profit, loss of benefit, loss of revenue, loss of business, loss of goodwill, loss of opportunity, loss of savings, loss of reputation, loss of use and/or loss or corruption of data, whether under statute, contract, equity, tort (including negligence), indemnity or otherwise.

Dangerous Goods has the meaning given in clause 9.

Delivery Date means the estimated date for delivery of the Goods or the delivery date of the Goods, whichever is appropriate in the circumstances.

Delivery Slot means the estimated time we will start providing Services being either 9.00am or 2.00pm.

Deposit means the deposit set out in the Quotation and forming part of the Price (if any).

End Date means the delivery date of the Goods.

Excluded Goods has the meaning given in clause 9.

Goods means all furniture and other items which are to be the subject of the Services.

Insolvency Event means any of the following events or any analogous event:

- (a) a Party disposes of the whole or any part of the Party's assets, operations or business other than in the ordinary course of business;
- (b) a Party ceases, or threatens to cease, carrying on business;
- (c) a Party is unable to pay the Party's debts as the debts fall due;
- (d) any step is taken by a mortgagee to take possession or dispose of the whole or any part of the Party's assets, operations or business;

(e) any step is taken for a party to enter into any arrangement or compromise with, or assignment for the benefit of, a Party's creditors or any class of a Party's creditors; or

(f) any step is taken to appoint an administrator, receiver, receiver and manager, trustee, provisional liquidator or liquidator of the whole or any part of a Party's assets, operations or business.

Laws means all applicable laws, regulations, codes, guidelines, policies, protocols, consents, approvals, permits and licences, and any requirements or directions given by any person with the authority to bind the relevant Party in connection with these Terms or the provision of the Services.

Liability means any expense, cost, liability, loss, damage, claim, notice, entitlement, investigation, demand, proceeding or judgment (whether under statute, contract, equity, tort (including negligence), indemnity or otherwise), howsoever arising, whether direct or indirect and/or whether present, unascertained, future or contingent and whether involving a third party or a Party to these Terms or otherwise.

Minimum Booking Period means the minimum period for a Confirmed Booking as set out in clause 7.1 (g).

Personnel means, in respect of a Party, any of its employees, consultants, suppliers, subcontractors or agents.

Precious Goods has the meaning given in clause 9.

Premises means all premises required for us to provide the Services, including the pick-up and delivery locations.

Price means the price set out in the Quotation and includes the Deposit (if any).

Quotation means our quotation for the Services, in relation to which these Terms are incorporated by reference.

Services means the services that we agree to perform under these Terms, as further particularised in the Quotation being the provision of packing materials, packing services and removalist services.

Special Goods has the meaning given in clause 10.1 (a).

Start Time means the estimated start time for the delivery of the Goods or the actual start time for the delivery of the Goods, whichever is appropriate in the circumstances.

Term means the term of these Terms, commencing on the Commencement Date and ending on the earlier of the End Date or the date on which these Terms are terminated in accordance with its terms.

Terms means these terms and conditions and any documents attached to, or referred to in, each of them (including an Quotation).

Third Party Inputs means third parties or any goods and services provided by third parties, including customers, end users, suppliers, transportation or logistics providers or other subcontractors which the provision of the Services may be contingent on, or impacted by.

Website means <https://www.deliverykings.com.au/>.

22. Interpretation

In these Terms, unless the context otherwise requires:

- (a) a reference to these Terms or any other document includes the document, all schedules and all annexures as novated, amended, supplemented, varied or replaced from time to time;
- (b) a reference to any legislation or law includes subordinate legislation or law and all amendments, consolidations, replacements or re-enactments from time to time;
- (c) a reference to a natural person includes a body corporate, partnership, joint venture, association, government or statutory body or authority or other legal entity and vice versa;
- (d) no clause will be interpreted to the disadvantage of a Party merely because that Party drafted the clause or would otherwise benefit from it;
- (e) a reference to a party (including a Party) to a document includes that party's executors, administrators, successors, permitted assigns and persons substituted by novation from time to time;
- (f) a reference to a covenant, obligation or agreement of two or more persons binds or benefits them jointly and severally;
- (g) a reference to time is to local time in New South Wales; and
- (h) a reference to \$ or dollars refers to the currency of Australia from time to time.

