

## DELIVERY KINGS PTY LTD STORAGE 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 Storage Request, 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.
- B. You have requested for us to provide Storage Services, and we agree to provide the Storage 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 Storage Request;
  - (c) instructing us (whether orally or in writing) to proceed with the provision of the Storage 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 Storage 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 (including Price and Payment Terms) at any time, and in our absolute discretion, and such amendment will apply to Storage Services that you request us to perform after the date of the amendment. If we change the Storage Location or the Price and Payment of Storage Services, we will give you 3 months advance notice in writing.

### 2. Storage Services

- 2.1 In consideration of your payment of the Price, we will provide the Storage Services in accordance with these Terms, whether ourselves or through our Personnel.
- 2.2 If these Terms express a time within which the Storage Services are to be provided (including any Start Time), you agree that such time is an estimate only, and creates no obligation on us to provide the Storage Services on or by that time.
- 2.3 You agree that we may determine the appropriate modes and means of providing the Storage Services, including but not limited to moving the Goods from one warehouse to another (provided that we notify you of the updated Storage Location) or changing the location of the Storage Space.

### 3. Other services

- 3.1 We may, at our absolute discretion, agree to provide you with removalist services including the provision of packing materials and packing/unpacking services. These services will be provided in accordance with our Removalist Terms.
- 3.2 If we, in our absolute discretion, agree to collect the Goods from your Premises for delivery to our Storage Location or to deliver the Goods to your Premises from our Storage Location, these services will be provided by us in accordance with our Removalist Terms.

### 4. Booking process

- 4.1 You agree:
  - (a) that you may make a Storage Request with us by email, over the phone or via any instant booking functionality available on our Website;
  - (b) that by submitting a Storage Request you are bound by these Terms;
  - (c) to provide us with all information that we require in relation to the Storage Request, including but not limited to:
    - (i) the type of Storage Services required;
    - (ii) the types and quantities of Goods to be stored (including any Excluded Goods or Precious Goods);
    - (iii) your preferred Start Time and End Time;
    - (iv) the intended pick-up and delivery Premises (if applicable);
    - (v) if you intend to deliver the Goods to our Storage Location, the intended delivery time;
    - (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);
- (d) that we may, at our absolute discretion, notify you whether:
  - (i) we accept the Storage Request, in which case we will notify you of the Booking by email;
  - (ii) any adjustments need to be made to the Storage Request, 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 Storage Request, in which case these Terms will automatically terminate;
- (e) no Storage Request will be a confirmed until we have received all information that we require in relation to the Storage Request, we have issued a Booking to you by email, (**Confirmed Booking**); and
- (f) we are not a common carrier and we may, at our absolute discretion, refuse to accept any Storage Request for the storage of Goods for any particular person and for storage of any particular Goods or classes of Goods.

## 5. Rescheduling and cancellations

- 5.1 You may cancel or request changes to a Storage Request up until a Confirmed Booking is created.
- 5.2 If you wish to cancel a Confirmed Booking prior to the Start Date, we may, in our absolute discretion, charge you the Deposit as a cancellation fee. The Deposit is equal to the Minimum Hire Period of 2 months. You agree that this cancellation fee represents a genuine pre-estimate of our likely losses as a result of the Confirmed Booking being cancelled.
- 5.3 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.
- 5.4 If we need to cancel or amend a Confirmed Booking prior to the Start Date 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, clause 20.2(b)(4) will apply.

## 6. Variations to the Storage Services after the Start Date

- 6.1 The minimum hire period is 2 months from the Start Time.
- 6.2 Subject to clause 6.1, if you need to change a Confirmed Booking after the Start Date (including the timing for the provision of the Storage Services or the types and quantities of Goods), you agree to provide us with as much notice as possible and with details of the variation or change, (**Variation Request**).
- 6.3 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.
- 6.4 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 6.2.
- 6.5 Where the Storage Services are varied or changed, or the costs of providing the Storage 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.

## 7. Removal and Picking Requests

- 7.1 You may request that we give you access to your Goods at the Storage Location including to enable you to collect individual items or part of the Goods from the Storage Space. Subject to this clause, access is available on a 24 hour basis. We will not charge you for access. Your request must be in writing or via our Website and must be provided to us at least 48 hours before your requested release date and time, and must detail (as a minimum):
  - (a) the proposed date and time that you would like to access our Storage Location; and
  - (b) any other information that we may reasonably request, (**Access Request**).
 We will either confirm your Access Request, or reject your Access Request where we are permitted to do so under these Terms. Any access granted to you in accordance with these Terms and clause 8.
- 7.2 You may request that we release individual items or part of the Goods to you from our Storage Location for a Picking Fee. Your request may be given in writing or via our Website, must be provided to us at least 48 hours before your requested release date and time, and must detail (as a minimum):
  - (a) a description of the relevant Goods that you would like released;
  - (b) the number and quantity of Goods that you would like released;

- (c) the proposed date and time that you would like to pick up the relevant Goods from our Storage Location; and
- (d) any other information that we may reasonably request, **(Picking Request)**.

We will either confirm your Picking Request (**Picking Confirmation**), or reject your Picking Request where we are permitted to do so under these Terms. If we accept a Picking Request, we will provide you with the relevant Goods within the timeframe specified in the Picking Confirmation email and for the Picking Fees set out in the Picking Confirmation email.

7.3 From time to time during the term and at the End Time, you may request that we collect from the Storage Location the Goods or individual items or part of the Goods and deliver them to your Premises. Your request must be given in writing or via our Website, must be provided to us at least 14 days before your requested release date and time, and must detail (as a minimum):

- (a) a description of the delivery Premises to where the Goods are to be delivered;
- (b) the number and quantity of Goods that you would like released;
- (c) the proposed date and time that you would like delivery of the relevant Goods to your Premises; and
- (d) any other information that we may reasonably request, **(Delivery Request)**.

We will either confirm your Delivery Request, or reject your Delivery Request where we are permitted to do so under these Terms. Any Goods delivered to you pursuant to a Delivery Request will be provided by us in accordance with our Removalist Terms and for the price set out in those terms.

7.4 We will only be bound to comply with an Access Request, Picking Request or Delivery Request where we have confirmed such request and you have paid the agreed price.

## 8. Conditions of Storage

8.1 You acknowledge and agree:

- (a) that all Goods that stored at our Storage Location must be in good order and condition, free from defect or spoilage, and appropriately packaged to enable us to store the Goods at our Storage Location;
- (b) not to store any Excluded Goods at the Storage Location;
- (c) not to store any Precious Goods at the Storage Location except with our prior consent in writing;
- (d) not do anything that would in any way prejudice the continuing use of the Storage Location for the provision of Storage Services by us;
- (e) that notwithstanding any information as to the Goods as may be disclosed to us or our Personnel by you (or your Personnel) (including under clause 13), or which may be ascertained by us in the ordinary course of us providing the Storage Services, we (and our Personnel):

- (i) do not, (and will be deemed not to have), knowledge of the Goods;
- (ii) do not take possession of, or any responsibility for, the Goods except as provided for in clauses 11, 20 and 21; and
- (iii) are not a common carrier or bailee.

8.2 You acknowledge and agree:

- (a) to the maximum extent permitted by Law, we will bear no responsibility or Liability for the delivery by you of Goods to our Storage Location;
- (b) any Liability arising from or connected with the delivery or pick up of the Goods to or from your Premises to the Storage Location will be in accordance with our Removalist Terms and you agree to the Removalist Terms as part of the provision of the Storage Services;
- (c) you agree to sign (or to have one of your Personnel sign on your behalf) our "Storage In Form" for all Goods kept at our Storage Location including any additions from time to time; and
- (d) if we action a Removal Request or Picking Request, or if you pick up any Goods from our Storage Location, you agree to sign (or to have one of your Personnel sign on your behalf) our "Storage Out Form";
- (e) at the End Time, you agree to sign (or to have one of your Personnel sign on your behalf) our "Storage Out Form".

8.3 You acknowledge and agree:

- (a) to comply with any rules regarding conduct at the Storage Location posted on our Website or at our Storage Location;
- (b) not to convey any Goods or other materials to or from the Storage Location unless we have given our prior consent to the conveyance, and only through the entrance or service area designated by us for this purpose;
- (c) not to load or unload any Goods or other materials from any vehicle at the Storage Location, unless we have given our prior consent to the loading or unloading, and the relevant vehicle is parked in a designated loading dock or area designated by us for this purpose;
- (d) to secure your Storage Space in accordance with our directions;
- (e) to use the Storage Space solely for the purpose of storage of the Goods and not for any other activity;
- (f) if you access the Storage Space, not to attach nails, screws or any fittings or fixtures to any part of the Storage Space or otherwise alter the Storage Space; and
- (g) if you access the Storage Space, to keep the Storage Space in a clean and good state of repair.

8.4 You consent to entry and inspection of the Storage Space by us (or our Personnel) by any means and without notice to you including obtaining CCTV or other footage.

8.5 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 our Storage Location. We

reserve the right to immediately cease providing Storage Services to you violate this commitment or at any time our Personnel feel unsafe.

- 8.6 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 Storage Services to you if you, your Personnel or any person accompanying you engages in bullying or discriminatory behaviour.

## 9. Your Obligations

9.1 You agree:

- (a) to comply with these Terms, our reasonable requests or requirements, and all applicable Laws;
- (b) to 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;
- (c) to ensure the Goods are capable of and suitable for storage at the Storage Location;
- (d) nothing in these Terms creates or provides you with any possessory interest in the storage space and these Terms do not create a lease;
- (e) we may, in our absolute discretion and at any time, substitute the storage space for another space at our Storage Location;
- (f) subject to clause 18.3 and your Statutory Rights, the Goods are the sole responsibility and stored at the sole risk of you, including in relation to the risk of physical loss of the Goods and/or damage to, destruction or deterioration of the Goods for any reason or cause; and
- (g) to ensure that all information and documentation that you provide to us is current, correct and complete.

## 10. Price and Payment

10.1 Unless otherwise specified in our Quotation, the Price for Storage Services is calculated on the following basis:

- (a) the Deposit being the Minimum Hire Period of 2 months from the Start Time;
- (b) the container unloading fee for the unloading of each container at the Storage Location. This fee is based on the number of containers you require; and
- (c) an hourly Picking Fee rate for all Goods released by us, and picked-up from our Storage Location, following a Picking Request;
- (d) the fortnightly storage fee rate which is based on the number of containers/ volume of Storage Space used for all Goods stored at our Storage Location;
- (e) delivery fees payable under the Removalist Terms for any delivery of Goods to our Storage Location from your Premises or delivery of Goods to your Premises from the Storage Location; and
- (f) any other amounts due and payable to us under these Conditions,

(together, **Price**) in accordance with any applicable schedule of rates set out on our Website (or as otherwise provided to you by us).

10.2 You acknowledge and agree that any estimated price in the Quotation or otherwise notified by us to you for the Storage Services is an estimate only, and creates no obligation on us to provide the Storage Services for the estimated price. The actual Price payable for you for the Storage Services will be finalised upon completion of the Storage Services and confirmation by us of the time spent by us or our Personnel in providing the Storage Services and the services provided to you.

10.3 You agree to pay us the Price, the Deposit and any other amount payable to us under these Terms, in accordance with this clause 10 and the payment terms set out in our Quotation or as otherwise agreed between the Parties (**Payment Terms**).

10.4 The fortnightly storage fee payable under clause 10.1(d) must be paid by you by direct debit from your bank account or credit card fortnightly in advance starting at the Commencement Date. You must provide us with your credit card details and authorise us to debit your credit card for this amount. You must clearly reference your details to enable us to identify any direct debit payable by you.

10.5 If you pay by credit card, we may charge you a credit card transaction fee of 2% of the Price.

10.6 If the Storage Services are terminated under clause 20, we will give you a pro-rata refund for any storage charges paid in advance of the minimum notice period of 2 months. There will be no discount for part fortnight. There will be no refund of the Deposit within the first 2 months of the Commencement Date as this is the Minimum Hire Period.

10.7 We may require you to provide a credit card pre-authorization at or around the time the Confirmed Booking is made. You agree that the pre-authorization may be used to settle amounts payable by you (including the balance of the Price) where you fail to make payment in accordance with the Payment Terms. Once a pre-authorization has been made, we are unable to release, remove or lower the pre-authorized amount, until we process the final payment of the Price. For more information about how preauthorization will affect your card and balance, please contact your credit card issuer.

10.8 If your bank account or credit card details change, you must advise us immediately of the new credit card details and re-authorise us to use your new credit card or bank account details to ensure there is no default in payment of the Price.

10.9 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) call upon the Deposit to be used as a security by us for the performance of your obligations, and satisfaction of your liabilities under these Terms;
- (b) 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;

- (c) 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 30 days after the due date for payment in accordance with the Payment Terms;
- (d) cease providing Storage Services to you until such amounts are paid, and/or obligations satisfied, in accordance with these Terms;
- (e) refuse to release all or part of any Goods stored at our Premises until such amounts are paid, and/or obligations satisfied, in accordance with these Terms; and or
- (f) exercise our rights under clause 11.

10.10 Subject to your compliance with these Terms, we will refund you the balance of the Deposit (if any) within a reasonable time after the End Time.

## 11. Lien & Disposal

11.1 You acknowledge and agree that:

- (a) we hold a general lien over all Goods held in our possession under these Terms for the satisfactory performance of your obligations under these Terms; and
- (b) these Terms and your obligations under these Terms create a registrable security interest in our favour, and you consent to the security interest (and any other registrable interest created in connection with these Terms) being registered on any relevant securities register (and you must do all things to enable us to do so).

11.2 If you fail to pay any amounts due and payable to us in accordance with these Terms, then we may, after giving you 15 working days' written notice, do one or more of the following (at our sole and absolute discretion, to the maximum extent permitted by law, and without limiting any other right or entitlement that we may have):

- (a) remove all or any of the Goods from our Storage Location and store them as we think fit, and at your sole risk and expense; or
- (b) open and sell all or any of the Goods, and apply the proceeds, as we think fit.

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

## 12. Excluded Goods

12.1 You represent, warrant and agree that the Goods do not include (**Excluded Goods**):

- (a) perishable goods such as food;
- (b) any plants or animals;
- (c) 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
- (d) any royal pianos.

12.2 You represent, warrant and agree that:

- (a) we will not provide the Storage Services in relation to Excluded Goods; and
- (b) if we discover that any Excluded Goods have been stored by us as part of the Storage Services, we may:
  - (i) take any steps that we determine necessary (acting reasonably) in relation to the Excluded Goods, including arranging for the destruction or disposal of perishable Goods, plants and Dangerous Goods and you agree to reimburse us for any costs or expenses suffered or incurred by us in taking such steps; and / or
  - (ii) immediately terminate these Terms under clause 20.2 and stop providing you the Storage Services.

12.3 You agree that unless we agree otherwise in writing, we will not provide Storage Services for jewellery, precious objects, works of art, money, collections of items or precision equipment, valued in excess of \$300 (**Precious Goods**).

## 13. Goods

13.1 You agree:

- (a) prior to the commencement of the Storage Services, to give us written notice:
  - (iii) of any Goods that are of a fragile or brittle nature;
  - (iv) of any Goods that comprise of jewellery, precious objects, works of art, money, collections of items or precision equipment, valued in excess of \$300;
  - (v) of any Goods that are large or cumbersome, or Goods that weigh in excess of 80kgs (such as pianos, safes, large pots, marble furniture and billiard tables);
- (b) that we may refuse to provide the Storage Services in relation to Goods under clause 13.1(a);
- (c) to clearly instruct us as to which Goods are the subject of the Storage Services, and if we collect the Goods from your premises for removal to the Storage Location, 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; and
- (d) within 48 hours of the End Time, to inspect the Goods and advise us in writing of any damage to or loss of Goods caused by our negligence in providing the Storage Services.

## 14. Warranties

14.1 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 Storage Services;
- (d) if you collect the Goods from our Storage Location, you are solely responsible for checking the Goods (or any part thereof) are in order prior to picking them up from our Storage Location and/or signing a Storage Out Form for the relevant Goods (or any part thereof);
- (e) if we collect the Goods from our Storage Location, you are solely responsible for checking the Goods (or any part thereof) are in order within 48 hours of delivery to your Premises from our Storage Location and/or you signing a Storage Out Form for the relevant Goods (or any part thereof);
- (f) you have not relied on any representations or warranties made by us in relation to the Storage Services (including as to whether the Storage Services are or will be fit or suitable for your particular purposes), unless expressly stipulated in these Terms;
- (g) you are not and have not been the subject of an Insolvency Event;
- (h) if applicable, you hold a valid ABN which has been advised to us; and
- (i) if applicable, you are registered for GST purposes.

#### 15. Australian Consumer Law

- 15.1 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 Storage Services by us to you which cannot be excluded, restricted or modified (**Statutory Rights**).
- 15.2 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.
- 15.3 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 Storage Services provided to an entity defined as a consumer under the ACL is governed solely by the ACL and these Terms.
- 15.4 Subject to your Statutory Rights, we exclude all express and implied warranties, and all material, work and services (including the Storage Services) are provided to you without warranties of any kind, either express or implied, whether in statute, at Law or on any other basis.
- 15.5 This clause 15 will survive the termination or expiry of these Terms.

#### 16. Insurance

- 16.1 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.
- 16.2 We recommend that you effect and maintain your own insurance to cover your own public liability if you attend our Storage Location.
- 16.3 We recommend that you effect and maintain your own insurance to cover any damage to the Goods at our Storage Location during the period of our provision of the Storage Services, and to check with your insurer or insurance broker that your insurance coverage is sufficient.
- 16.4 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.

#### 17. Exclusions to liability

- 17.1 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) your or any of your Personnel's acts or omissions;
  - (b) any breach of these Terms by you or any of your Personnel;
  - (c) 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;
  - (d) 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 Storage Services;
  - (e) 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);
  - (f) any Goods packed, unpacked or moved by any person other than us or our Personnel (including you or your Personnel);
  - (g) 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;
  - (h) the Goods (or any part thereof) after you have picked them up from our Storage Location and/or after you have signed a Storage Out Form for the relevant Goods (or any part thereof);
  - (i) any works, services, goods, materials or items which do not form part of the Storage Services (as

expressed in these Terms), or which have not been provided by us;

- (j) any Third Party Inputs;
- (k) the Storage Services being unavailable, or any delay in us providing the Storage Services to you, for whatever reason;
- (l) any decisions or steps taken by us pursuant to clause 12; and/or
- (m) any event outside of our reasonable control.

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

## 18. Indemnity

18.1 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 Storage 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).

18.2 Your liability to indemnify us under clause 18.1 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.

18.3 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 Goods directly caused or contributed to by our or our Personnel's negligence in the performance of the Storage Services.

18.4 Our liability to indemnify you under clause 18.3 will be reduced proportionately to reflect the extent to which our or Personnel's negligence in the performance of the Storage Services caused or contributed to the relevant liability.

18.5 Subject to these Terms and any Statutory Rights you have, if you wish to make a claim under clause 18.3, you must advise us in writing as soon as you become aware and not after 48 hours of the End Time. This includes any negligent damage to or loss of Goods.

18.6 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 18.5.

18.7 This clause 18 will survive the termination or expiry of these Terms.

## 19. Limitations on liability

19.1 Despite anything to the contrary, to the maximum extent permitted by law:

- (c) neither Party will be liable for any Consequential Loss;

(d) 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

(e) our aggregate liability for any Liability arising from or in connection with these Terms will be limited to us resupplying the Storage 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 Storage Services to which the Liability relates.

19.2 This clause 19 will survive the termination or expiry of these Terms.

## 20. Termination

20.1 Either Party may terminate these Terms at any time by giving 2 months prior notice in writing to the other Party.

20.2 These Terms will terminate immediately upon written notice by:

(a) either Party, if mutually agreed in writing between the Parties;

(b) us, if:

- (1) us if you breach clause 12 of these Terms;
- (2) you (or any of your Personnel) breach any provision of these Terms and that breach has not been remedied within 10 Business Days of being notified by us;
- (3) you fail to provide us with clear or timely instructions or information to enable us to provide the Storage Services;
- (4) for any other reason outside our control which has the effect of compromising our ability to provide the Storage Services; or
- (5) you are unable to pay your debts as they fall due; and

(c) you, if we:

- (1) are in breach of a material term of these Terms, and that breach has not been remedied within 10 Business Days of being notified by you; or
- (2) are unable to pay our debts as they fall due.

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

(a) we will immediately cease providing the Storage Services;

(b) you agree that any payments made by you to us are not refundable to you, and you are to pay for all Storage Services provided prior to termination, including Storage Services which have been provided and have not yet been invoiced to you, and all other amounts due and payable under these Terms;

(c) you must comply with clause 21;

- (d) pursuant to clauses 20.2(a)(1), (3) or (5), you also agree to pay us our additional costs arising from, or in connection with, such termination; and
  - (e) 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).
- 20.4 Unless otherwise agreed between the Parties, if these Terms are terminated, then any Confirmed Booking will also terminate on the date of termination.
- 20.5 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.
- 20.6 Termination of these Terms will not affect any rights or liabilities that a Party has accrued under it.
- 20.7 This clause 20 will survive the termination or expiry of these Terms.

## 21. Obligations at End Time

- 21.1 At the End Time you must ensure that:
- (a) the Goods are removed from the Storage Location; and
  - (b) if you have had access to the Storage Space during the period in which we have provided Storage Services to you, the Storage Space is left in a clean condition and good state of repair.
- 21.2 If you fail to comply with clause 21.1(a), after 15 working days from either the date of termination under clause 20 or the End Time, any Goods remaining in the Storage Space or at the Storage Location, will be deemed abandoned by you and may be ceased by us and sold or disposed of in accordance with clause 11.
- 21.3 If you fail to comply with clause 21.1(b) we may charge you additional costs arising from, or in connection with cleaning the Storage Space.
- 21.4 This clause 21 will survive the termination or expiry of these Terms.

## 22. Confidential Information

- 22.1 Subject to clause 22.2, you must (and must ensure that your Personnel do) keep confidential, and not use or permit any unauthorised use of, all Confidential Information.
- 22.2 Clause 22.1 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 22.1.

## 23. General

- 23.1 **Amendment:** These Terms may only be amended by written instrument executed by the Parties.
- 23.2 **Subcontract:** We reserve the right to subcontract any part of this agreement in part or whole.
- 23.3 **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).

- 23.4 **Counterparts:** These Terms may be executed in any number of counterparts that together will form one instrument.
- 23.5 **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.
- 23.6 **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.
- 23.7 **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.
- 23.8 **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.
- 23.9 **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.
- 23.10 **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.
- 23.11 **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 Storage Services), whether before or after the date of acceptance of these Terms, will at all times vest, or remain vested, in us.
- 23.12 **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.
- 23.13 **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.

23.14 **Publicity:** You agree that we may advertise or publicise the broad nature of our provision of the Storage Services to you, including on our Website or in our promotional material.

23.15 **Relationship of Parties:** These Terms are not intended to create a partnership, joint venture, employment or agency relationship between the Parties.

23.16 **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.

## 24. 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 Storage Request, in accordance with clause 4.

**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 12.

**Deposit** means the deposit set out in the Quotation and forming part of the Price. The Deposit is equal to the Minimum Hire Period.

**End Time** means the end date of the Storage Services.

**Excluded Goods** has the meaning given in clause 12.

**Goods** means all furniture and other items which are to be the subject of the Storage 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 Storage 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 Hire Period** means the minimum period for a Confirmed Booking for Storage Services being 2 months.

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

**Picking Fee** means the hourly fee for picking services provided by us as set out on our Website.

**Premises** means the pick-up and delivery locations.

**Price** means the price set out in the Quotation and includes the Deposit.

**Precious Goods** has the meaning given in clause 12.

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

**Removalist Terms** means the removalist terms available on our Website.

**Storage Location** means 50 Cosgrove Road, Strathfield South, NSW 2136 or any alternative address we advise you in writing.

**Storage Services** means the services that we agree to perform under these Terms, as further particularised in the Quotation.

**Storage Request** means an enquiry submitted by you in accordance with clause 4(a).

**Storage Space** means the number of containers/ volume of storage space required by you in accordance with the sizes set out on our Website.

**Start Time** means the start time for the delivery of the Goods to the Storage Location.

**Term** means the term of these Terms, commencing on the Commencement Date and ending on the earlier of the End Time 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 a 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 Storage Services may be contingent on, or impacted by.

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

## 25. 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.

