

TERMS AND CONDITIONS

1. SERVICES

- 1.1 H&M Removals CC (Reg no: CK1992/08375/23) ("H&M") agrees to provide all forms of commercial or residential removal and/or logistic services and/or storage facilities ("the services") required by the party ("the Customer") and in respect of the Goods ("the Goods") described in the carriage agreement, subject to the terms and conditions herein.
- 1.2 It is agreed that H&M is not a public or common carrier.
- 1.3 H&M is entitled to select the appropriate method of transport and handling to be used in the carriage, but in so doing, will have regard to the service level requested and/or expected by the Customer.
- 1.4 The Customer shall complete H&M's Waybill document fully and accurately at the time that the Goods are received by H&M and the person signing such document, if someone other than the Customer, confirms that he/she is duly authorized to do on behalf of the Customer.
- 1.5 H&M shall, in its sole and absolute discretion, determine the means, route and procedure to be followed in the handling and transportation of the Goods.

2. THE GOODS

- 2.1 The Goods means the Goods forming the subject matter of this agreement, whether contained in one or more parcels or packages, and whether consigned singly or separately and in parcels or in bulk, taken into possession by H&M for carriage on behalf of the Customer, but excludes ammunition, antiques, bank notes, bills of exchange, bonds, ceramics, coins, explosives, fire-arms, livestock, perishables, plants, precious stones, securities, unpacked cargo.
- 2.2 The Customer warrants that the Goods are fit to be carried in the ordinary way and are not dangerous.
- 2.3 Unless otherwise agreed in writing, H&M shall not handle any dangerous, corrosive, noxious, hazardous, inflammable or explosive Goods, or any Goods which in its opinion are likely to cause damage.
- 2.4 The Customer hereby indemnifies and holds harmless H&M against all loss, damage and injury, howsoever caused, arising out of the carriage of the dangerous goods, whether declared as such or not.
- 2.5 If, in the opinion of H&M, any Goods that are dangerous, whether they have been declared as dangerous or not, becomes a danger to any person or property, H&M shall be entitled immediately and without notice to the Customer to take such steps as it, in its sole discretion, deems prudent to avert danger, and in this regard H&M shall:
 - 2.5.1 not be liable under any circumstances for any loss or damage (whether direct or consequential) sustained by the Customer as a result of such steps; and
 - 2.5.2 shall be entitled to recover from the Customer its remuneration for the carriage of those Goods, together with any costs incurred by it in taking the steps necessary.
- 2.6 The Customer warrants that:
 - 2.6.1 all the descriptions, values, and other particulars furnished to H&M in respect of the Goods are accurate;
 - 2.6.2 the carriage of the Goods will not violate or infringe any statute, regulation or law;
 - 2.6.3 the Goods are the Customer's sole property or, alternatively, that the Customer is authorised by the person owning the Goods to enter into this agreement subject to these terms and conditions, and the Customer hereby indemnifies H&M against all losses, damages, expenses, fines, claims or other costs which may be suffered by it arising directly or indirectly from any breach of the aforesaid warranties.
- 2.7 In the event of the Customer refusing to accept delivery of Goods, then the Goods shall be held by H&M at the sole risk of the Customer and, if necessary, a re-delivery charge will be levied upon the Customer, and the Customer shall be responsible for storage and/or holding costs.

3. PAYMENT FOR SERVICES

- 3.1 Payment for the services rendered by H&M on behalf of the Customer is payable in accordance with H&M's standard tariff (plus Value-Added Tax), unless otherwise agreed in writing and signed by the parties.
- 3.2 Payment in full by the Customer to H&M is due upon presentation of statement.
- 3.3 Where the Customer is granted an account, the full amount reflected on the statement shall be paid by the Customer without any deductions or set off on or before the last day of the month following upon the date of the statement in which Goods are delivered and/or services are rendered (*i.e* 30 days net).
- 3.4 In the event of the Customer failing to pay an account on the due date, then the full amount of the statement will thereafter become due and payable without further notice to the Customer.
- 3.5 The Customer shall be deemed to have accepted the correctness of any statement, in all respects, unless H&M is notified in writing of any queries or discrepancies within 5 (five) days of such statement. If queries are raised by the Customer, which are not resolved within the 30 (thirty) day period, the Customer shall remain liable to pay all undisputed items on the statement within the said 30 (thirty) day period.
- 3.6 The Customer is not entitled to withhold payment of any amount due to H&M beyond the due date for payment, or to set-off any alleged damages or loss which the Customer may have suffered against any amount due, owing and payable to H&M.
- 3.7 Accounts are payable within 7 (seven) days of posting. [???

4. INSURANCE

The services are provided by H&M entirely at the Customer's risk. It is incumbent upon the Customer to insure the Goods against loss or damage. H&M will effect insurance on behalf of the Customer, provided that the Customer furnishes written instructions to H&M in this regard and the premium is timeously paid

5. LIABILITY FOR DAMAGE TO OR LOSS OF GOODS AND/OR DELIVERY DELAYS

- 5.1 All services provided in terms of this Agreement, including the loading, off-loading, packing, storing, and/or safekeeping of the Goods, are performed at the risk of the Customer.
- 5.2 H&M shall not be liable for any damages (direct or indirect, consequential or otherwise) suffered by the Customer or any other person arising in any manner whatsoever, directly or indirectly arising out of the loading, off-loading, transporting, storing, non-delivery or late-delivery of the Goods or storing of the Goods by H&M, and the Customer hereby indemnifies H&M against any such claim for damages which may be made against H&M by any person whatsoever.
- 5.3 H&M is not liable for any delays in delivery or failure to perform services, which are caused by acts of God (*force majeure*), including but not limited to floods, fires, earthquakes, abnormal weather conditions, strikes, labour unrest, embargos, civil commotion, war, riots, acts of terrorism, hijackings, pandemics with or without lockdowns, or any other acts beyond the reasonable control of H&M.
- 5.4 If H&M is unable to effect delivery of the Goods, for reasons outside its control, H&M will take reasonable steps to return the Goods to the Customer at the cost of the Customer.

6. STORAGE AND OTHER CHARGES

H&M shall not be liable for demurrage or storage charges of any nature whatsoever, and howsoever arising. Should any such charges be paid by H&M, such charges shall be refunded to H&M by the Customer on demand. The Customer hereby appoints H&M irrevocably and *in rem suam* its agent and in its name, place and stead, to contract for storage of the Goods upon such terms and conditions as H&M, in its sole discretion, elects, and without any liability whatsoever attaching to H&M to attend to such storage

7. SUB-CONTRACTORS

H&M reserves the right to employ sub-contractors or agents on such terms and conditions as H&M deems fit for the purposes of fulfilling the whole or any part of this Agreement, and any such other carrier shall have the same rights and protections as are contained herein.

8. PERSONAL INFORMATION

- 8.1 The parties agree that in as much as they may receive any personal information arising out of their relationship with one another, that they will adhere to all data privacy laws, applicable at the time, and that in the event of any unauthorized, unlawful or unintended processing of such personal information each party will immediately notify the other thereof and take all reasonable steps to investigate and remedy such incident as soon as reasonably possible.
- 8.2 Insofar as the Customer may provide personal information as defined by data privacy laws to H&M, the Customer consents to the H&M storing and processing such information for the specific business purpose for which it was provided and the Customer indemnifies H&M against any claims in this regard.

9. NO WARRANTIES

H&M furnishes no warranties and makes no representations other than those contained herein. The provisions of these terms and conditions shall govern the relationship between the parties to the exclusion of all other conditions whether implied by law or stipulated by the Customer, unless accepted by H&M in writing

10. CARRIER'S LIEN

- 10.1 H&M shall have a general lien over all Goods in its possession for carriage, which shall endure for as long as any amounts due, owing and payable to H&M remains unpaid.
- 10.2 In addition to the aforesaid lien H&M shall be entitled to charge the Customer reasonable market related storage on a daily basis in respect of all Goods in its possession forming part of the lien.

11. BREACH

Should the Customer breach this agreement and fail to remedy such breach within 5 (five) days of receiving written notice to remedy such breach from H&M, H&M shall be entitled to either terminate this agreement and claim damages from the Customer as a consequence of such termination, alternatively claim specific performance of the Customer's obligations in terms hereof, as well as any damages suffered.

12. DOMICILIUM / NOTICES

- 12.1 For the purposes of these terms and conditions, the Customer chooses as its *domicilium citandi et executandi* the physical address stated in the carriage agreement or in the account application, as the case may be.
- 12.2 Any notice to be given pursuant to these terms and conditions shall be given in writing and shall be deemed to have been received by the addressee:
 - 12.2.1 within 7 (seven) days after it is posted, if posted by registered or ordinary mail; or
 - 12.2.2 upon the day of receipt, if hand delivered during office hours; or
 - 12.2.3 on the day of transmission, if sent by way of telefax or e-mail, provided proof of transmission is provided.
- 12.3 The Customer may change its *domicilium* address to any other address in the Republic of South Africa by way of written notice sent by registered post to H&M at P O Box 3286, Cape Town, 8000 or mail@hmremovals.co.za

13. MISCELLANEOUS

- 13.1 The Customer will be liable for H&M's costs on an attorney and client scale should H&M institute legal proceedings against the Customer arising out of the provisions of these terms and conditions.
- 13.2 H&M shall be entitled to apply any amount received from the Customer to the liquidation, in whole or part, of any obligation whether arising out of these terms and conditions or otherwise owed by the Customer to H&M, irrespective of whether the final amount of the obligation has been determined.
- 13.3 No relaxation, extension of time or indulgence granted by H&M to the Customer shall be deemed to affect, prejudice or abrogate or be a waiver of any of H&M's rights in terms hereof, nor shall any such relaxation, giving of time, indulgence or judgment taken be deemed to be a novation of any of the terms and conditions hereof.
- 13.4 Any amendment or variation of these terms and conditions shall be in writing and signed by both parties.
- 13.5 The Customer shall comply with all laws, including all statutes, ordinances, by-laws, proclamations, regulations and other enactments, which are required to be complied with by the Customer or H&M for the purposes of the contract and the Customer hereby indemnifies H&M against any loss, damage, costs or other liabilities incurred by H&M as a result of the Customer failing to comply with any such laws.
- 13.6 A certificate signed by any manager for the time being of H&M, whose appointment it shall not be necessary to prove, as to the amount of the indebtedness to H&M by the Customer or the surety at any time, the fact that such amount is due and payable, the rate of interest payable (if any) on such indebtedness and the date from which such interest is reckoned shall be *prima facie* proof of such facts stated therein and shall constitute a liquid document for the purpose of obtaining provisional sentence or judgment against the Customer thereon
- 13.7 this Agreement and its interpretation is subject to laws of the Republic of South Africa

14. CREDIT/DEBIT CARD AUTHORITY (IF APPLICABLE)

In the event that the Customer agrees to payment of any amounts due to H&M by way of a credit and/or debit card, the Customer's signature below shall constitute authority for the issuer of the card/s to debit the Customer with the total amount due in respect of services rendered and/or deposits required, inclusive of all costs, charges and damages of whatsoever nature arising out of this agreement.

15. SURETYSHIP

The person signing these terms and conditions confirms that he has read and understands these Terms and Conditions and hereby binds himself as surety and co-principal debtor, jointly and severally with the Customer, for the due performance of the Customer's obligations pursuant to these terms and conditions. The aforesaid party hereby specifically renounces the benefits of excursion as well as all other legal exceptions available to him in law.

SIGNED: _____

PRINT NAME: _____

ID NUMBER: _____

POSITION: _____

DATE: _____