

Our terms and conditions for H&M Removals and Simply Store services

1. Introduction

- 1.1. 'We', 'us' or 'our' means H and M Removals CC, registration number 1992/008375/23, trading as H&M Removals and/or Simply Store, our physical address as per our websites, <https://www.hmremovals.co.za/> and <https://www.simplystore.co.za/> ("Premises").
- 1.2. 'You' or 'your' means the customer.
- 1.3. These are the terms and conditions relevant to the following:
 - 1.3.1. **H & M Removals** - removing, packing, storing or handling ("Services") of items ("Goods") we offer and provide; and/or
 - 1.3.2. **Simply Store** - the collection and/or delivery of our self-storage Mobile Storage Unit(s) ("MSU") for storage of your items ("Goods") (our "Services") at our premises ("Centre").
- 1.4. These terms and conditions ("**Terms of Services**") refer to the following additional terms which also apply to your use of our Services:
- 1.5. All information incorporated by using hyperlinks and / or other methods of reference form part of these Terms of Services.
- 1.6. **Why you should read them:** These Terms of Services tell you who we are, how we will provide Services to you, how either us or yourselves may amend or end the contract for the supply of Services, what to do if there is a problem with your order and other important information.
- 1.7. **The Terms of Services contain provisions that appear in similar text and style to this clause and which:**
 - 1.7.1. **may limit our risk or liability or the risk or liability of a third party; and/or**
 - 1.7.2. **may create risk or liability for you (as a consumer); and/or**
 - 1.7.3. **may compel you to indemnify us or a third party; and/or**
 - 1.7.4. **serve as an acknowledgement, by you, of a fact.**
- 1.8. **Your attention is drawn to these provisions in bold because they are important and should be carefully noted.**
- 1.9. Moving and storing items is risky. Please pay special attention to clause 12 in terms of our liability.
- 1.10. **Because our liability for these risks is limited, we offer insurance in our quotation against loss or damage for items being removed or stored. Additional Insurance is a separate contract between you and the insurance company and those conditions of insurance are separate from these conditions (see par. 12 below).**

2. Definitions

- 2.1. "**Goods**" means the items listed on the inventory, alternatively loaded onto any H&M Removals transport, which form the subject matter of this Contract, 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 Removals for carriage on behalf of the Customer.
- 2.2. "**Service Order Form**" means the form communicated by H&M Removals to you stating the performance dates for the removal of Goods and the final charges payable for the services.

The following terms and conditions apply to both **H&M Removals Services** and **Simply Store Services**:

3. Our quotation

- 3.1. Our quotation depends on availability of staff, equipment and/or one or more MSUs being available on the day as may be requested by you. Availability will only be confirmed within 7 (seven) days after you have accepted our quotation, which confirmation shall be in writing.
 - 3.2. The quotation is valid for 14 (fourteen) days from the date of issue.
 - 3.3. Our quotation does not include the following:-
 - 3.3.1. **H&M Removals:** insurance, custom duties, cargo dues and any other legal or government fees we must pay in connection with this Contract;
 - 3.3.2. **Simply Store:** insurance (other than insurance for loss and damage as a direct result of fire, collision, and/or overturning of the conveying vehicle or stored in our storage warehouse) and any other legal or government fees we must pay in connection with this Contract.
 - 3.4. **Our quotation is valid for 28 (twenty-eight) days from the date of issue.**
 - 3.5. Unless already included in Our quotation, reasonable additional charges will apply in the following circumstances, which You agree to pay:
 - 3.5.1. If the work does not commence within the abovementioned 28 days;
 - 3.5.2. Where We have given You a price including redelivery from store within Our quotation and the re-delivery from store has not taken place within 4 (four) months from the date of the issue of the quotation;
 - 3.5.3. **you cause any delay to the work under Contract;**
 - 3.5.4. **our costs increase as a result of any unforeseen tax, freight or foreign agent's charges or fuel increases;**
 - 3.5.5. **our costs increase because of a change in the exchange rate between the rand and any relevant foreign currency (where applicable);**
 - 3.5.6. **there is a delay that we have no control over;**
 - 3.5.7. **we pack, remove or store extra items that were not included in our H&M Removals quotation; or**
 - 3.5.8. **you ask us to do any extra work that was not included in our quotation.**
 - 3.6. **You further agree to pay extra charges where:**

H&M Removals:

 - 3.6.1. **we have to collect or deliver above a second story floor,**
 - 3.6.2. **any stairway, lift or door is too small or narrow for easy delivery,**
 - 3.6.3. **the road or approach is unsuitable for our vehicles; or**
 - 3.6.4. **you want us to pack, remove or deliver items on a weekend or public holiday,**

Simply Store:

 - 3.6.5. **we have to collect and/or deliver MSU's which are located more than a 25km radius from any of our branches nationally (the additional distance to be travelled will be charged separately),**
 - 3.6.6. **the road or approach is unsuitable for our vehicles and/or MSU's;**
 - 3.6.7. **you want us to pack, remove or deliver items or MSU's on a weekend or public holiday;**
 - 3.6.8. **you want us to pack the MSU(s) ("Labor Hire"); or**
 - 3.6.9. **you require packaging materials (chat to our sales consultant for a separate quotation for packaging materials);**
- and none of the aforesaid (Para. 3.6.1 – 2.5.9) was mentioned to us in any request for quotation or agreed to in writing before the Contract.
- 3.7. In terms of **H&M Removals**, unless otherwise agreed to in writing between you and us, the following work is not included in the quotation:
 - 3.7.1. Dismantle or assemble any furniture or fittings, except for normal beds that can easily be dismantled using normal tool.
 - 3.7.2. take down curtains or blinds;
 - 3.7.3. disconnect or reconnect appliances, fittings or equipment, such as stoves and washing machines;
 - 3.7.4. remove or lay fitted floor coverings, such as wall-to-wall carpets, or
 - 3.7.5. move or store any items we exclude in terms of clause 22.2 below.
 - 3.8. We are not responsible for any loss or damage if any work listed above is done without our written agreement or permission.

4. How is the contract formed between us:

- 4.1. By clicking on "Accept Quote" or submitting an email with instructions to proceed with the Services as per the quotation, you acknowledge that:-
 - 4.1.1. You are authorised to submit said acceptance of the quote and instruction to proceed;
 - 4.1.2. You have read and agreed to the Terms of Services;

- 4.1.3. you will be bound by these Terms of Services when utilizing the Services made available by us;
- 4.1.4. (where applicable) You have consent of the owner or anyone having a legal interest in the Goods to enter into a Contract;
- 4.1.5. You have given the owner or anyone having a legal interest in the Goods a copy of these Terms of Services and they have agreed to be bound by them; and
- 4.1.6. **you agree that if you are not authorised to act on behalf of the owner of the Goods, that you will be personally liable for all charges under a Contract and that all references to 'customer' will be amended to the 'you'.**
- 4.2. **Services description and/or pricing (including quotations from us to you) presented to you:** is our invitation to you to do business;
- 4.3. **The Offer:** your acceptance of the quotation and submission of same to us ("**Order**"), constitutes an offer by you to acquire Services from us.
- 4.4. **Acceptance of Your Order:** Our acceptance of your Order will take place at Our Premises on receipt of Your Order and when We send you an email, or other similar confirmation of Our acceptance, at which point a contract ("**Contract**") will come into existence between You and Us ("**Effective Date**") in terms of the Services as per the quote / proposal. It is important to take note that the version of the Terms of Services applicable on the day of receipt of the Your offer and Our acceptance of the offer, shall apply to the particular Services selected as per the offer.
- 4.5. Insofar as any term and condition of a proposal or quote conflicts with the Terms of Services the latter shall prevail.
- 4.6. All instructions or new orders are to be strictly communicated to us via Email, no telephone instructions will be taken or accepted.

5. Supply of Services

- 5.1. We will supply the Services to you in accordance with the description or specification of the Services provided in writing by us to the Customer from time to time ("Specification") in all material respects.
- 5.2. We will use all reasonable endeavors to meet any performance dates specified in the Service Order Form/Quotation, but any such dates shall be estimates only and time shall not be of the essence for performance of the Services.
- 5.3. We reserve the right to amend the specification if necessary, to comply with any applicable law or regulatory requirement, or if the amendment will not materially affect the nature or quality of the Services, and we will notify you in any such event.
- 5.4. We warrant to you that the Services will be provided using reasonable care and skill.
- 5.5. If our performance of any of our obligations under the Contract is prevented or delayed by any act or omission by the Customer or failure by the Customer to perform any relevant obligation (Customer Default):
 - 5.5.1. without limiting or affecting any other right or remedy available to it, we will have the right to suspend performance of the Services until the Customer remedies the Customer Default, and to rely on the Customer Default to relieve it from the performance of any of its obligations in each case to the extent the Customer Default prevents or delays the Supplier's performance of any of its obligations;
 - 5.5.2. we will not be liable for any costs or losses sustained or incurred by the Customer arising directly or indirectly from our failure or delay to perform any of its obligations as set out in this par. 5.5; and
 - 5.5.3. the Customer shall reimburse us on written demand for any costs or losses sustained or incurred by us arising directly or indirectly from the Customer Default.
- 5.6. In the event of the Customer refusing to accept delivery of Goods, then the Goods shall be held by Us 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.
- 5.7. **NOTE:** in terms of *Simply Store* Services: We may prevent you from entering our premises and having access to the MSU(s), should you be in breach of any of the provisions of this Contract and for as long as the breach remains unremedied.

6. Ownership of the goods (items)

- 6.1. You warrant (promise) that:
 - 6.1.1. you own everything that you have packed or asked us to pack in any of our MSUs to, or
 - 6.1.2. you have permission from the owner to pack and store any item that is not yours into our MSU.
 - 6.1.3. you are the only person who has authority to give us instructions or have confirmed in writing the representative who is responsible for giving instructions to us under a Contract.
 - 6.1.4. the Goods are free from any legal charge.
 - 6.1.5. The Goods are free from claims from third parties.
- 6.2. **You indemnify (promise to protect) and pay us in respect of any damages, cost or claim if any warranty is not true.**

7. Payment of our charges

- 7.1. For consideration for the Services you agree to pay the charges as confirmed under the accepted quotation (as may be amended by both parties) ("Charges").
- 7.2. The Charges payable for the Services shall be calculated in accordance with the [Service Order Form] OR [Quotation].
- 7.3. Unless otherwise stated under these Terms of Services, You must pay charges for the following Services as follows:
 - 7.3.1. **In terms of H&M Removals:**
 - 7.3.2. **direct removals:** before removal starts;
 - 7.3.3. **storage:** The storage charge for the first 4 (four) weeks of storage shall be due and payable on or before the first day of storage. Subsequent payments for storage shall be on or before the first business of each month;
 - 7.3.4. **delivery:** before we deliver;
 - 7.3.5. **international moves:** before we start packing or removal; or
 - 7.3.6. any other services: before or at the same time we perform the service.
 - 7.3.7. **In terms of Simply Store:**
 - 7.3.8. **storage:** The storage charge for the first 4 (four) weeks of storage shall be due and payable on or before the first day of storage. The Charge for each successive week period will become due and payable on the commencement of each 4 or 5 week period.
 - 7.3.9. **Charges for collection or delivery and/or Labour Hire:** before we collect and/or deliver;
 - 7.3.10. any other additional services: before or at the same time we perform the service.
- 7.4. We review our storage charges from time to time. We shall be entitled to increase the monthly charge under the Contract by giving notice in writing to you / customer at least 30 (thirty) days before such increases are to take effect.
- 7.5. All storage accounts with Us will be instructed to be on our debit order system.
- 7.6. We will invoice on completion of Services.
- 7.7. Unless otherwise agreed to in writing, you must pay each invoice submitted by us:
 - 7.7.1. within 30 days of the date of the invoice;
 - 7.7.2. in full and in cleared funds to a bank account nominated in writing by us by way of electronic fund transfer ("EFT"), and
 - 7.8. time for payment shall be of the essence of the Contract.
- 7.9. All amounts payable by you under the Contract are exclusive of amounts in respect of value added tax chargeable from time to time (VAT). Where any taxable supply for VAT purposes is made under the Contract by us to you, you will, on receipt of a valid VAT invoice from us, pay to us such additional amounts in respect of VAT as are chargeable on the supply of the Services at the same time as payment is due for the supply of the Services.

8. Consequences in terms of any unpaid Charges:

- 8.1.1. **If you fail to make a payment due to us under the Contract by the due date, then, without limiting our remedies under par. 14, we may charge you interest on the overdue sum from the due date until payment of the overdue sum, whether before or after judgment. Interest will be charged at a rate of 5% (Five) Per Cent above First National Banks's prime rate of interest.**

- 8.2. Where we have to instruct our attorneys to recover any amount you owe us, you will have to all our legal costs (on the attorney and own client scale), including commission, tracing fees and any other expenses.
- 8.3. You may not delay payment or set off (deduct) any amount you owe us if you think you have any claim against us, or if there is any dispute between you and us.
- 8.4. In terms of **Simply Store Services**:
 - 8.4.1. We reserve the right to exclude you from the Centre or accessing our premises for the duration that any Charges owed to us remain unpaid (regardless of whether the Contract was cancelled or terminated for whatsoever reason). If we exercise our right in terms of this clause it will not affect your right to pay any unpaid or future Charges.
 - 8.4.2. In the event that you fail to make payment of any Charges due to us in excess of 30 (thirty) days calculated from the due date for such payment, we will be entitled to give you written notice ("Notice") requiring you to make payment of the amount in arrears within 7 (seven) days calculated from the date of such Notice.

9. Our right to hold items as security for payment ("retention right")

- 9.1. We have a general lien (retention right) over any item or Good stored in the MSU(s) (regardless as to whether such monies are owed in respect of the contents stored in a specific MSU or any other MSU belonging to you) to cover all amounts you owe to us under any Contract. This means that under certain circumstances, we may retain such items until you pay us the debt due or sell your items in our possession and under our control to recover your debts with us.
- 9.2. If we keep any item while we wait for payment, you will further be responsible for storage charges and other costs, which charges and costs will form part of the amount due.
- 9.3. We may send a written notice to your forwarding address (in terms of clause 19 below):
 - 9.3.1. demanding that you remove your items and pay us all the money you owe us, and
 - 9.3.2. giving notice that we will sell your items if you do not remove them and pay us.
- 9.4. In the event that you do not make payment within 3 (three) days (for **Simply Store Services**) or within 28 (twenty-eight) days (for **H&M Removals Services**) calculated from the date of any Notice to you for payment of the amount in arrears and any other sums due and payable under this Contract, we have the right to (at our sole discretion) dispose of such Goods (including Goods in our MSU(s)) either by public auction or private treaty or as otherwise by destroying same without notice to you as per this clause.
- 9.5. We will charge you for the cost of selling or disposing of any of your items.
- 9.6. We will pay you anything left over after deducting the money you owe us, without interest. You will continue to be liable for the balance that may remain due and payable as per your account after the sale of your items.
- 9.7. You do not have the right to make any claim of any nature whatsoever against us resulting from the sale or destruction of the Goods.

10. Claims against us by third parties (people other than you and us)

- 10.1. You must pay any charge, expense, damages or penalty that any third party claims against us in connection with any of your Goods/items or the Services we provide to you, unless we were negligent or we agreed in writing to pay relevant amount.
- 10.2. Claims by third parties included (but not limited to), parking charges that we may have to pay to do the work or expenses and damages that we may incur as a result of a third party claim that the Goods do not belong to you and has taken action to claim it from us. On receipt of said claim we will notify you promptly.

11. Our right to sub-contract the work

- 11.1. We may at any time assign, mortgage, charge, subcontract, delegate, declare a trust over or deal in any other manner with any or all of its rights and obligations under the Contract.
- 11.2. If we sub-contract any work, the Contract will continue to apply to you and us.
- 11.3. You agree to the written terms and conditions on any bill of lading, consignment note or similar document issued by any other carrier or organization chosen by us to be involved in the removal, and those terms and conditions form part of this contract and in this regard you authorize us to accept such terms and conditions on your behalf.
- 11.4. You may ask us for a copy of the terms and conditions of any of our sub-contractors involved in our contract with you, and we will use reasonable efforts to send these to you where available.
- 11.5. if no written terms and conditions for a particular sub-contractor are available, our own liability will still be limited as set out in clause 12 below.

12. Limitation of Liability

- 12.1. This clause 12 sets out the entire financial liability of the parties in connection with a Contract.
- 12.2. **Indirect, special or consequential damages excluded.** To the extent permitted by applicable law, neither party shall be liable for any indirect, incidental, special, punitive or consequential damages, losses and costs (including but not limited to loss of profits; loss of sales or business) whether arising from the Contract, delict or any other theory of liability, even if a party (including its affiliates, suppliers and subcontractors) has been advised of the possibility of such damages, or they are foreseeable.
- 12.3. **Direct damages limited.** To the extent permitted by applicable law each Party's maximum liability for direct damages for anything giving rise to any legal action shall be equal to [50% (fifty per cent)] of the fees already paid by the Customer to H&M Removals.
- 12.4. **Excluded Damages:** the following damages are excluded:
 - 12.4.1. Customer goods packed or unpacked by you or others; the cost of replacing Goods lost or damaged as new; Pre-existing damage to the Goods; fragile or brittle item; key left in furniture; lack of maintenance to the Goods prior to packing; loss or damage caused by changes in atmospheric conditions including but not limited to rusting, tarnishing, fading, corrosion, shrinkage, expansion, warping, movement, splitting, gradual deterioration or mustiness; worsening quality or condition of any food, plant or perishable item; Damages to Goods as a result of fire, burglary or flood while items are in storage; Goods left inside a cupboard or other furniture; mechanism in any clockwork, electronic or motor – driven item (unless there is any visible sign of impact damage on the outside of the item); sensitive equipment, or any item that is not suitable for being transported; Goods seized by police, customs, or other legal, local or government enforcement agencies; Loss or damage caused by insects, vermin, birds, or any infestations; Electrical or mechanical failure or derangement, unless directly attributable to obvious external physical damage that has occurred as a result of Our negligence or breach of contract; loss of agreements or contracts; item delivered to or received from an auctioneer, auction room, communal (shared) storage area, or other similar business or area; loss of anticipated savings; loss of use or corruption of software, data or information including relating to the remove or deletion of any code, configuration, or any other deliverable produced by us relating to any unpaid invoices; loss of or damage to goodwill; and indirect or consequential loss.
 - 12.4.2. All Services provided in terms of a Contract, including the loading, off-loading, packing, storing, and/or safekeeping of the Goods, are performed at the risk of the Customer.
 - 12.4.3. We only move frozen items at your own risk and are not liable for any death, injury, or sickness following the removal or storage of any food, drink or other perishable item.
 - 12.4.4. Unless you notify us that you intend to make a claim in respect of an event within the notice period, we shall have no liability for that event. The notice period for an event shall start on the day on which you became, or ought reasonably to have become, aware of the event having occurred and shall expire 2 (two) months from that date. The notice must be in writing and must identify the event and the grounds for the claim in reasonable detail.

Claim Management (subject to limitations above):

12.5. Delays in transit

- 12.5.1. If there is a delay that is a direct result of our negligent actions and/or omissions, which is within our reasonable control, then Our liability for said breach or delays will be limited to your reasonable expenses up to a maximum of R2000.00.

- 12.5.2. **IMPORTANT:** If the delay is not our fault, we will put the item or complete consignment (all items together as a load or loads) into storage and you will be

responsible for any extra service charges, such as storage and/or delivery charges.

12.6. **Damage to premises and time limit**

- 12.6.1. If we (Ops team) damage your premises as a result of our negligent actions Our liability for damage to premises will be limited to R3000.00.
- 12.6.2. You must write this on our worksheet at the time and submit a written notice (see par. 19 to us within 7 (seven) days from the day of damages.
- 12.6.3. We may arrange to repair any damage ourselves, and you must give us the chance to do this.

12.7. **Damage to Goods or lost Goods (during delivery or storage)**

- 12.7.1. If any Goods are damaged or lost as a result of our negligent actions and/or omissions our liability will be limited to a maximum of R500 per carton or R350.00 for each cubic meter of the lost or damaged item's volume (even if it is part of a pair or set).
- 12.7.2. We may pay for the repair or replacement of an item.

12.8. **You must:**

- 12.8.1. notify us about a claim in writing at the same time as you or your agent comes to collect any item, or
- 12.8.2. send us your claim in writing, which we must receive within 7 (seven) days of the actual or estimated delivery date.
- 12.9. the time limits are essential in both cases (collection or delivery).

12.10. **The limitations in this clause 19) shall not apply to:-**

- 12.10.1. any liability arising from willful conduct.
- 12.10.2. death or personal injury caused by negligence;
- 12.10.3. fraud or fraudulent misrepresentation.

12.11. **Nothing in this clause 19, shall limit the Customer's payment obligations under a Contract.**

12.12. **Notice: Unless you notify us that you intend to make a claim in respect of an event within the notice period, we shall have no liability for that event. The notice period for an event shall start on the day on which you became, or ought reasonably to have become, aware of the event having occurred and shall expire 2 (two) months from that date. The notice must be in writing and must identify the event and the grounds for the claim in reasonable detail.**

12.13. **You agree:**

- 12.13.1. that we may make such enquires as We consider necessary to satisfy Ourselves of the validity of the claim and to establish whether We are liable for the claim;
- 12.13.2. that we may take a reasonable amount of time to undertake Our enquires into the circumstances of the claim and where necessary to conduct searches for Items reported as missing;
- 12.13.3. to co-operate with Us in Our enquiries, as is reasonable in the circumstances, and to provide any additional information We may reasonably require;
- 12.13.4. to provide any relevant information about the Goods such as, but not limited to, proof of value, proof of ownership, estimates for repair costs, receipts, photographs including photographs' taken at our direction, video footage, and serial numbers, in order to substantiate Your claim;
- 12.13.5. to retain packaging or other evidence if requested;
- 12.13.6. to allow Us or Our agents to collect Items for inspection or assessment by a restorer or third party;
- 12.13.7. Damaged Items should not be disposed of until We have had a reasonable opportunity to inspect if We consider inspection necessary.

13. **Privacy and Confidentiality**

- 13.1. Where we process any personal information our [Privacy Policy](#) will apply.
- 13.2. Each party undertakes that it shall not at any time disclose to any person any confidential information concerning the business, affairs, customers, clients or suppliers of the other party, except as permitted under par. 13.3 below.
- 13.3. Each party may disclose the other party's confidential information: (i) to its employees, officers, representatives, subcontractors or advisers who need to know such information for the purposes of carrying out the party's obligations under the Contract. Each party shall ensure that its employees, officers, representatives, subcontractors or advisers to whom it discloses the other party's confidential information comply with this clause 13; and (ii) as may be required by law, a court of competent jurisdiction or any governmental or regulatory authority.
- 13.4. Neither party shall use the other party's confidential information for any purpose other than to perform its obligations under the Contract.

14. **Intellectual property**

All patents, rights to inventions, copyright and related rights, trademarks and service marks, business names and domain names, rights in get-up, goodwill and the right to sue for passing off rights in designs, rights to use, and protect the confidentiality of, confidential information (including know-how), and all other intellectual property rights, in each case whether registered or unregistered and including all applications and rights to apply for and be granted, renewals or extensions of, and rights to claim priority from, such rights and all similar or equivalent rights or forms of protection which subsist or will subsist now or in the future in any part of the world in or arising out of or in connection with the Services (other than intellectual property rights in any materials provided by the customer) shall be owned

15. **Cancellation or Delay**

- 15.1. You have a right to cancel any of our Services or delay the delivery of the Services. Any delay or cancellation in terms of Services are subject to our [Cancellation and Delay Policy](#).

With regards to Simple Store Services:

- 15.2. Should you require transportation of the Goods/ MSU after the termination of this Contract and we are not able to do so on the preferred date for any reason whatsoever, the storage charges will continue to be applied until the date the MSU and/or Goods leave our premises/ the Centre.
- 15.3. Upon termination of this Contact, you will be obliged to remove all Goods from the MSU(s) and leave the MSU(s) clean and tidy and in the same condition as you received it.
- 15.4. We may charge you if at our sole discretion we decide that it is necessary to clean and/or repair the MSU or dispose of any Goods or rubbish left in the MSU or at the Centre or in the trailer after cancellation/termination of the Contract.
- 15.5. Any Goods left in the trailer and/or MSU after cancellation/termination of this Contract will be treated as abandoned Goods and we may dispose of such Goods as we see fit.
- 15.6. We reserve the right to charge any delivery or collection Charges in full if delivery and/or collection is cancelled less than 2 (two) working days before the delivery and/or cancellation is scheduled to take place.

16. **Force majeure.**

- 16.1. Neither party shall be in breach of the Contract nor liable for delay in performing, or failure to perform, any of its obligations under the Contract if such delay or failure result from events, circumstances or causes beyond its reasonable control. Force Majeure Event means any circumstance not within a party's reasonable control including, without limitation: (a) acts of God, flood, drought, earthquake or other natural disaster; (b) epidemic or pandemics; (c) terrorist attack, civil war, civil commotion or riots, war, threat of or preparation for war, armed conflict, imposition of sanctions, embargo, or breaking off of diplomatic relations; (d) nuclear, chemical or biological contamination or sonic boom; (e) any law or any action (or inaction) taken by a government or public authority, including without limitation imposing an export or import restriction, quota or prohibition, government imposing any form of lockdown or restrictions of movement of people or opening of business premises or failing to grant a necessary license or consent; (f) collapse of buildings, fire, explosion or accident; and (g) any labour or trade dispute, strikes, industrial action or lockouts (other than in each case by the party seeking to rely on this clause, or companies in the same group as that party); and (h) non-performance by suppliers or subcontractors (other than by companies in the same group as the party seeking to rely on this clause); and (i) interruption or failure of utility service.
- 16.2. Provided it has complied with par. 16.5 below, if a party is prevented, hindered or delayed in or from performing any of its obligations under this

Contract by a Force Majeure Event (Affected Party), the Affected Party shall not be in breach of the Contract or otherwise liable for any such failure or delay in the performance of such obligations. The time for performance of such obligations shall be reasonably extended accordingly.

- 16.3. The corresponding obligations of the other party will be suspended, and its time for performance of such obligations extended, to the same extent as those of the Affected Party.
- 16.4. An event shall not be a Force Majeure Event if, and to the extent that, it arises, directly or indirectly, from the act or omission of the party claiming Force Majeure Event or from such party's lack of funds.
- 16.5. The Affected Party shall:
 - 16.5.1. as soon as reasonably practicable after the start of the Force Majeure Event notify the other party in writing of the Force Majeure Event, the date on which it started, its likely or potential duration, and the effect of the Force Majeure Event on its ability to perform any of its obligations under the Contract; and
 - 16.5.2. use all reasonable endeavours to mitigate the effect of the Force Majeure Event on the performance of its obligations.
 - 16.5.3. If the Force Majeure Event prevents, hinders or delays the Affected Party's performance of its obligations for a continuous period of more than 2 months the party not affected by the Force Majeure Event may terminate this Contract by giving 4 weeks' written notice to the Affected Party

17. Complaints and disputes

- 17.1. **Complaint / Issue:** We kindly request that you contact us first should you have any complaints or any other service related issues. It is important to us that you are satisfied with our Services. You may use the contact information as per our Contact Us-page. Please ask for a reference number if you speak to any of our representatives/consultants. We will of course reply to your complaint as soon as practically possible.
- 17.2. **Informal dispute resolution:** If the complaint or issue cannot be resolved and there is a dispute, then we shall first attempt to resolve the dispute informally by referring the dispute to our senior management. Senior management shall discuss the problem and attempt to resolve the dispute, without the necessity of any formal proceeding, within 7 (seven) days of the dispute having been referred from the complaint department.
- 17.3. **Informal dispute resolution does not reduce Parties' rights:** Proceedings in terms of this clause 12 shall not be construed to prevent a Party from instituting formal proceedings in the agreed court (see clause 20.7 below) earlier to obtain urgent or interim relief, avoid the expiration of any applicable limitations period, or preserve a superior position with respect to other creditors.
- 17.4. **Institution of Formal Proceedings:** Subject to the provisions of clauses 17.1 and 17.2, the aggrieved party may elect to refer the dispute which may arise to the applicable court as per par. 20.7 below.
- 17.5. **Rapid resolution of disputes:** The Parties shall use commercially reasonable efforts to resolve disputes arising as rapidly as possible.
- 17.6. **Confidentiality:** All disputes will be dealt with in confidentiality to protect the reputation of the parties;

18. Insurance

- 18.1. We strongly advise you to insure your stored Goods against as many risks of packing, moving, shipping and storage as possible.
- 18.2. We advise that you insure items for their full replacement value at your destination.
- 18.3. **H and M Removals is not a financial services provider (FSP) in terms of the Financial Advisory and Intermediary Services Act, 37 of 2002 (FAIS Act), but we can arrange cover for you through (an independent) insurance company, but only if you give us a properly completed insurance proposal (application) form before we start the Services.**
- 18.4. You will not have any insurance cover until we, alternatively the independent insurance company, have received the completed insurance proposal form from you and you have paid the premium to us or the independent insurance company and given us proof of said payment.
- 18.5. **Any insurance arranged by us is a separate contract between you and the insurance company. We are not a party to this contract.**
- 18.6. You are free to take out insurance with any insurance company of your choice.

19. Notices

- 19.1. We select the Premises and email: notices@hmremovals.co.za, as our address for the service of all formal notices and legal processes in connection with these Terms of Services ("legal address"). We may change this address from time to time by updating these Terms of Services.
- 19.2. You must give us a forwarding address in writing and notify us in writing immediately if it changes.
- 19.3. You hereby select the delivery address / forwarding address and the email address provided on the inventory as your legal address, but you may change it to any other address by giving us not less than 7 (seven) days' notice in writing.
- 19.4. Notices must be sent either by hand, prepaid registered post or email and must be in English. All notices sent –
 - 19.4.1. by hand will be deemed to be received on the date of delivery;
 - 19.4.2. by prepaid registered post, will be deemed to have been received 10 (ten) days after the date of mailing; and
 - 19.4.3. by email to the addressee shall be deemed to be received, unless the contrary is proven and in the absence of any administrator or mail server error messages, the next business day.

20. General

- 20.1.1. **Whole Agreement:** These Terms of Services contain the whole agreement between you and H & M Removals and no other warranty or undertaking is valid, unless contained in this document between the parties.
- 20.2. **Cession:** You agree not to cede, transfer or assign or in any way part with the benefit of this Contract which shall be reserved to you.
- 20.3. **Variation:**
 - 20.3.1. **The Contract (excl. Privacy Policy):** No variation of these Terms of Services (including a quotation) shall be effective unless confirmed in writing under a separate addendum (H&M Removals Addendum) and signed (including submission of a party's expression of intent by a by electronic means) by an authorised representative of the parties. The H&M Removals Addendum shall only apply to the specific Contract.
 - 20.3.2. **Privacy Policy:** We keep our Privacy Policy under regular review and may amend it from time to time. Archived versions (if available) can be obtained by contacting us. Any changes made to our Privacy Policy in future will be posted on our website or made available during your engagement with us. The new version will apply the moment it is published on our website or incorporated by reference in any of our other policies or other communications or published on any of our Services. Where any of your rights may be affected by any amendment we will notify you where reasonably possible.
- 20.4. **Waiver:** No failure or delay by a party to exercise any right or remedy provided under a Contract or by law shall constitute a waiver of that or any other right or remedy, nor shall it prevent or restrict the further exercise of that or any other right or remedy. No single or partial exercise of such right or remedy shall prevent or restrict the further exercise of that or any other right or remedy.
- 20.5. **Severance:** If any provision (or part of a provision) of a Contract is found to be invalid, unenforceable or illegal, the other provisions shall remain in force. If any invalid, unenforceable or illegal provision would be valid, enforceable or legal if some part of it were deleted, the provision shall apply with whatever modification is necessary to give effect to the commercial intention of the parties.
- 20.6. **The Applicable law:** South African law applies to this Contract unless otherwise agreed to in writing by an authorised representative of H&M removals.
- 20.7. **Jurisdiction:** You hereby consent and submit to the jurisdiction of the South African courts regarding all proceedings, transactions, applications or the like instituted by either party against the other, arising from any of these Terms of Services. In the event of any dispute arising between you and us, you hereby consent to the non-exclusive jurisdiction of the High Court of the Republic of South Africa which is closest to our Premises from where the Services are provided, notwithstanding that the quantum in the action or proceedings may otherwise be fall below the monetary jurisdiction of that court. Nothing in these Terms of Services limits your right to approach any court, tribunal or forum of competent jurisdiction in terms of the CPA.

21. The following terms and conditions apply to H&M Removals Services only:

- 21.1. **Route, mode of transport, packing and warehousing**

- 21.1.1. We may choose any route for delivery.
- 21.1.2. We may choose any type of packing and transport, unless we agreed to something specific in writing.
- 21.1.3. We may use other space or capacity on our vehicles or in shipping containers for other customers' items, unless our written quotation says that we will not do this.
- 21.1.4. We may unload and reload your Goods from or into a vehicle or shipping container.
- 21.1.5. We may store Goods in any of our or our agents' warehouses.

21.2. Your responsibilities

You agree to:

- 21.2.1. Provide Us with complete and accurate information regarding the Your Goods, including but not limited to the weight, volume and quantity of the Goods and any specialist handling/ storage which may be required;
- 21.2.2. Provide Us with complete and accurate information in regards to any changes or alterations to your premises (collect and/or forwarding address "Customer Premises") which may affect the removal or delivery of Goods;
- 21.2.3. Provide Us with complete and accurate information regarding the Customer Premises including but not limited to, parking arrangements or restrictions for the weight, size, and parking of commercial vehicles, whether the access road or drive is shared with third parties or neighbours (who may require access to their own properties whilst the Services are being provided), difficulties with regard to road access to the delivery address, the presence of obstacles such as, but not limited to, low tree branches, steps, uneven ground, electricity or telephone cables, narrow or restricted access into the Customer Premises, and whether floor protection is required for wooden or laminate floors;
- 21.2.4. Obtain consent from neighbours or third parties who own or have rights to shared drive ways, rights of way, access roads or footpaths, for Us to use the drive way, right of way, access road or footpath in order to carry out the Services;
- 21.2.5. Ensure that pets such as dogs or cats are kept in a secure part of the Customer Premises away from our team executing the removal Services (Ops Team)'s activities so that they do not present a health and safety hazard or disrupt the Services in any way;
- 21.2.6. Point out to the Ops Team any hazards which may pose a risk to the Ops Team's health and safety while they are on the Customer Premises;
- 21.2.7. Be present or represented at all times throughout the collection and delivery of the goods and arrange for security for your items when they are collected and delivered;
- 21.2.8. Check the Customer Premises so that nothing to be removed is left behind in error or removed in error.
- 21.2.9. Arrange protection for the goods left in unoccupied or unattended Customer Premises or where other people, including but not limited to, tenants or workmen are or will be present;
- 21.2.10. Ensure that inventories, receipts, job sheets, or other documents are signed by You or Your authorised representative (see par. 21.3 below);
- 21.2.11. Be fully responsible at all times during the Services for the safekeeping and security of Your money and valuables (including items which have sentimental value to you). We recommend that such items are not kept on the Customer Premises during the Services to ensure that they are not packed or removed in error.
- 21.2.12. Empty and defrost refrigerators and freezers. We are not responsible for their contents or for any loss or damage to the contents caused by defrosting or changes in temperature.
- 21.2.13. Properly preparing any appliance or equipment before it is removed, including but not limited to ensure that all domestic and garden appliances including but not limited to washing machines, dishwashers, fridges, freezers hose pipes, liquid fuel garden equipment or similar, are clean and dry and have no residual fluid left in them.

21.3. List of goods or receipt (inventory)

- 21.3.1. Any list or receipt we provide for Goods we have packed, moved, shipped, handled or stored will be final, unless you write to us within seven days about any mistake or item that you think we have left out.
- 21.3.2. You may not make a claim for any item not on the list or receipt we gave you.

21.4. Goods not to be submitted for removal or storage

- 21.4.1. The following items may not form part of the Goods to be moved and will not be moved by us:
 - 21.4.1.1. valuable item, such as any item of jewellery, watch, precious stone, money, stamp collection, title deed, share certificate, or any similar item or collection;
 - 21.4.1.2. animal or its cage or tank, including any pet, bird or fish;
 - 21.4.1.3. plant or flowers, including pot plants and dried flower arrangements;
 - 21.4.1.4. abnormal item, for example, an item that is too large or too heavy to be moved by a team of removal men without special machinery, and any
 - 21.4.1.5. item that cannot be moved because any stairway, passage or door is not strong or wide enough.
- 21.4.2. Further, the following items may not form part of the Goods to be moved and in the event such items form part of the Goods we may throw away discard or destroy these items without telling you:
 - 21.4.2.1. any potentially dangerous, damaging or explosive item;
 - 21.4.2.2. any item that might attract vermin or other pests or cause an infestation, and
 - 21.4.2.3. any partly used liquid or any food or drink from the fridge or freezer.
- 21.4.3. We are not responsible for any loss or damage you suffer in connection with any of the items excluded in this clause.

21.5. Storage specific terms and conditions

- 21.5.1. If you wish to end this storage contract, you should write to us at least 15 (Fifteen) working day's notice before you want us to release your consignment. However, we will release a consignment earlier if we can.
- 21.5.2. You will owe us storage charges until the end of the month in which your 15 (Fifteen) working day's notice to us ends, or in which we release your consignment, whichever is later.
- 21.5.3. Our removal charges exclude any charges for storage, Warehouse handling and delivery into or from our storage facilities.
- 21.5.4. We may charge extra for delivery into or from storage (if needed or involved), unless we clearly included these charges in our quotation.
- 21.5.5. If you arrange to deliver or collect a consignment, we will charge you for any work done by us for handling items into or out of storage.
- 21.5.6. If we wish to end the storage contract and your payments are up to date, we will give you at least 3 (three) full calendar months notice in writing.

21.6. Charges for handling over items to your agent

- 21.6.1. If you choose someone else (your agent) to collect your items from our warehouse, the notice period and payment terms in the previous clause apply.
- 21.6.2. We may charge you for handling your items over to your agent.
- 21.6.3. Our responsibility for any item ends when we hand it over to your agent.

22. The following terms and conditions apply to **Simply Store Services**:

22.1. Collection, storage, delivery of and access to the MSU(s)

- 22.1.1. Upon payment of the agreed storage charge, we will make available to you (the Customer) a MSU or multiple MSUs (where required) for the sole purposes of storage of the Goods.
- 22.1.2. You will be required to inspect the MSU(s) prior to commencing the loading of Goods. Upon inspection, should there be any damage to the MSU(s) (in any manner whatsoever) you are required to inform us with a description of such damage, in writing, failing which the MSU(s) will be deemed to be in good working order and condition as at the commencement date of the Contract.
- 22.1.3. You may have access to the contents as stored in the MSU(s) in our storage center ("**Centre**") at any time during our normal business trading hours (access outside of these hours is not permitted). We may change these trading hours at any time without giving notice to you.
- 22.1.4. You will be required to supply us with a minimum of 24 (twenty-four) hours notice should you wish to access the MSU(s) on our premises.
- 22.1.5. We may elect to move the MSU(s) either within the Centre or to another location at any time. You are required to ensure that the contents of the MSU(s) is packed in a manner that will not damage the contents when being moved.
- 22.1.6. We (and our agents or servants) reserve the right to enter the MSU(s) without your permission to remove all or any of the Goods for the purpose of inspection, cleaning and repairs to the MSU(s) or in an emergency or to establish whether such entry is required in the interests of safety or to prevent damage or injury to persons or property or to remove dangerous and/or prohibited items in the circumstances we are required to do so by any Statutory and/or Regulatory Authority or Court Order, or to comply with any other clause in this Contract. We shall not be liable for any damage caused to the Goods as a result of such entry and / or removal.
- 22.1.7. **We may, in our sole discretion, refuse to permit storage of any Goods or items regardless of the reason.**

22.2. Your responsibilities:

22.2.1. You agree not to:

- 22.2.1.1. Use the MSU(s) or the Centre to do anything which may become or is a nuisance to our employees, agents or other Customers.
- 22.2.1.2. Store anything which may render void or voidable or increase the rate of premium of any insurance carried by us or our occupiers or employees liabilities.
- 22.2.1.3. Use the MSU(s) or the Centre as an office location or living accommodation or as a home, business or domicilium address.
- 22.2.1.4. Spray paint or do mechanical work of any kind to the MSU(s) and/or Centre.
- 22.2.1.5. Attach anything to the walls, ceiling or floor MSU(s) or Centre or make any alterations to the MSU(s).
- 22.2.1.6. Cause any damage to the MSU(s) or Centre or to any of our property or possessions or the property or possessions of our customers. If you are in breach of this clause 22.2.1.6 you will be required (as requested by us) to repair, restore or replace such damaged items, or reimburse our reasonable costs in making necessary repairs, restoration and/or replacement.
- 22.2.1.7. Cause any obstruction or undue hinderance in any passageway, stairway, service area, access area or other part of the Centre.

22.2.2. You agree to:

- 22.2.2.1. Provide us, in writing, with a description of the Goods to be stored in the MSU(s).
- 22.2.2.2. Obtain (at your own expense) all permits, permissions and licenses necessary for delivery and/or collection of any MSU.
- 22.2.2.3. Provide us with a contact address and contact number while the Goods are in store and ensure that such details are accurate and up to date.
- 22.2.2.4. Ensure that all items of a personal nature (wallets, jewellery, laptops, cameras etc.) are packed away prior to the arrival of the MSU(s).
- 22.2.2.5. Provide Us with complete and accurate information in regards to any changes to your address for delivery and collection of the MSU(s) ("Customer Premises") which may affect the collection or delivery of MSU(s).
- 22.2.2.6. Be present or represented at all times throughout the collection and delivery of the MSU(s) and arrange for security for your items when they are collected and delivered,
- 22.2.2.7. Arrange for pre-approval for us to enter any estate before arrival (if applicable) for the delivery and/or collection of MSU(s).
- 22.2.2.8. Ensure that all furniture is ready for loading, if loading and Labour Hire is requested.
- 22.2.2.9. Ensure that all Goods stored are adequately packaged.

22.3. What cannot be stored in our MSUs

22.3.1. This Contract specifically excludes any:

- 22.3.1.1. valuable item, such as any item of jewellery, watch, precious stone, money, stamp collection, title deed, share certificate, or any similar item or collection;
- 22.3.1.2. animal, including any pet, bird, fish or livestock;
- 22.3.1.3. plants;
- 22.3.1.4. perishable food;
- 22.3.1.5. Goods that constitute gas bottles or aerosols; or
- 22.3.1.6. Goods that emit fumes or odours.

22.3.2. This Contract also specifically excludes any of the following items, which we may throw away discard or destroy without telling you:

- 22.3.2.1. any potentially dangerous, damaging, corrosive or explosive item;
- 22.3.2.2. any item that might attract vermin or other pests or cause an infestation;
- 22.3.2.3. drugs;
- 22.3.2.4. firearms or ammunition;
- 22.3.2.5. stolen goods;
- 22.3.2.6. any other item/good which could contaminate or otherwise damage or effect our premises or other goods stored therein or not, and
- 22.3.2.7. any partly used liquid or any food or drink from the fridge or freezer.

22.3.3. We are not responsible for any loss or damage you suffer in connection with any of the items excluded in this clause.

22.4. Compliance with instructions regarding our premises

- 22.4.1. You must comply and adhere to all fire, safety and security precautions and/or instructions about our premises or instructions as directed by a member of our staff, including but not limited to:
 - 22.4.1.1. Making yourself available to receive any deliveries or collections.
 - 22.4.1.2. Ensuring that the MSU is secure when not in use by attaching security seals or a padlock.
 - 22.4.1.3. Exercising courtesy to others when using any part of the Centre or when on our premises.
 - 22.4.1.4. Informing us as soon as reasonably possible of any damage to a MSU.
 - 22.4.1.5. Complying with all directions of our staff/employees or agents at the Centre and any further regulations for use of the MSU, which we may issue from time to time.