



PLEASE READ THESE TERMS AND CONDITIONS CAREFULLY

1. SCOPE OF APPLICATION

- 1.1 The Terms and Conditions (“Terms”) are limited to those contained herein. Any additional or different terms in any forms delivered by you (“Customer”) are hereby deemed to be material alterations and notice of objection to them and rejection of them is hereby given.
- 1.2 These Terms shall apply to all quotations and offers made by, and all purchase orders accepted by, MKE MOVERS LLC (“Company”). By requesting or accepting the Products and/or Services described in an invoice or other documentation (including, without limitation, a bill of lading) presented by Company and/or its Contractors, Customer agrees to be bound by and accepts these Terms unless Customer and Company have signed a separate agreement, in which case the separate agreement will govern any conflicts between the documents.
- 1.3 These Terms apply in lieu of any clearly established course of dealing between the parties or any clearly established usage of trade in the industry. These Terms may in some instances conflict with some of the terms and conditions affixed to the purchase order or other procurement document issued by the Customer. In such case, any conflicting terms so affixed to any document issued by the Customer is hereby rejected and acceptance of Customer’s order is conditioned upon Customer’s acceptance of the Terms, irrespective of whether the Customer accepts these Terms by a written acknowledgement, by implication, or acceptance and payment of Products and/or Services ordered hereunder. Company’s failure to object to provisions contained in any communication from Customer shall not be deemed a waiver of the provisions herein.

2. DEFINITIONS

- 2.1 “Contract” means a legally binding agreement based on either a written agreement between the parties or “offer and acceptance” procedure, in which case the offer submitted by Company must be accepted without additional conditions. Company’s offer shall be binding upon Company only if, and to the extent Company receives a purchase order from Customer based on

Company’s offer and Company unconditionally acknowledges such purchase order in writing.

- 2.2 “Contractor(s)” means, individually and collectively, any carrier, common carrier, mover, shipper, freight forwarder, or other individual or entity which the Company has engaged on a subcontract basis to perform Services for Customer.
- 2.3 “Products” means all moving and packing supplies provided to Customer by or through the Company and/or its Contractors under a Contract.
- 2.4 “Services” means all packing, unpacking, loading, unloading, transportation and other moving related services provided by or through the Company and/or its Contractors under a Contract.

3. FEES; PAYMENT; TAXES

- 3.1 The fees for Products shall set out in the Contract, and shall be based on the quantity of Products ordered. The fees for Services shall be based on a per hour of service per mover. The Company’s current hourly rates are as follows:
 - 1. The Standard Rate (“Standard Rate”) is the rate charged for each Mover per hour
 - a. There is a minimum charge of 2 hours per Mover.
 - b. For moves from March 1st through October 31st each hour past 2 hours up to 8 hours is charged an additional \$20 per mover per hour on top of the Standard Rate.
 - c. Overtime (any time over 8 hours), Sundays and Holidays are billed at time and a half or 1.5 times the Standard Rate.
 - d. If required, additional hours are prorated to the nearest ¼ hour at the agreed upon rate for that move.
 - 2. The “Standard Rate” will be set as follows:
 - a. \$65 per Mover per hour on Wednesdays throughout the calendar year excluding holidays.
 - b. \$85 per Mover per hour on Tuesdays and Thursdays throughout the calendar year excluding holidays.



- c. \$95 per Mover per hour on Mondays throughout the calendar year excluding holidays.
- d. \$95 per Mover per hour on Fridays and Saturdays throughout the calendar year excluding holidays.
- e. \$100 per Mover per hour on Prime Dates to include, but not limited to, the last 2 dates of the month and the first 2 dates of the month.

Start time for Services shall begin when the movers arrive at the Customer's initial location (for packing and/or pick-up) and the stop time for Services shall end when the Services are completed and/or the Products Delivered and/or Mover(s) return to a Company Office.

- 3.2 Unless otherwise agreed in writing, payment of the fees is due upon completion of the Services and/or delivery of the Products. All payments are to be made in readily available United States dollars. A deposit ("Deposit") equal to the minimum charge of 2 hours per mover shall be required at the time the Contract is entered into. Company shall accept payment by cash, certified check, or credit/debit card. Credit/Debit card payments may be made online or over the phone at the time the Contract is entered into. Payment by cash or certified check shall be delivered to Company's office at 2735 N Calhoun Road, Brookfield, WI 53005 at least 72 hours prior to scheduled date for delivery of Services and/or Products.
- 3.3 Customer authorizes MKE Movers to charge all valid charges for Services and/or Products to the credit/debit card used by Customer to pay the Deposit. If additional valid charges are incurred after the Services and/or Products have been rendered or delivered, MKE Movers is authorized to charge such credit/debit card for such additional charges without further consent from Customer.
- 3.4 Customer agrees to pay a finance charge of one and five tenths percent (1.5%) per month on the unpaid balance from the date when such payment was due until paid. In the event that Company is required to bring legal action to collect delinquent accounts, Customer agrees to pay reasonable attorneys' fees and costs of suit.
- 3.5 Customer is solely responsible for, and will indemnify and hold Company harmless from, any and all applicable sales, use, transaction, excise,

value added or similar taxes (but not taxes imposed or measured by Company's income or profits), and from any governmental fees or charges (including, but not limited to, environmental or similar fees), resulting from or otherwise associated with any Contract or other transaction between the Company and Customer, or the sale or delivery of Products and/or Services in connection therewith.

4. SERVICES

- 4.1 Customer acknowledges and agrees that the Company shall subcontract with its Contractors to perform any and all Services and/or Products under these Terms and any Contract hereunder.
- 4.2 Customer represents and warrants that it is the legal owner or in lawful possession of all personal property that is to be the subject of the Services and/or Products, and has the legal right and authority to contract for the Services and/or Products with respect to all such property, subject to these Terms and any Contract hereunder. In addition to, and not in lieu of, any other rights or remedies of the Company hereunder, the Customer shall indemnify and hold harmless the Company and its Contractors from any liability for loss, cost, expenses, and damages which Company or its Contractors may incur as a result of any breach of this representation and warranty.
- 4.3 Customer shall not present any Hazardous Materials (as defined below), flammable materials, explosives, or other inherently dangerous material to be the subject of the Services and/or Products under these Terms or any Contract hereunder. The term "Hazardous Materials" shall include, but not be limited to, any hazardous or toxic chemical, gas, liquid, substance, material or waste that is or becomes regulated under any applicable local, state or federal law or regulation. In addition to, and not in lieu of, any other rights or remedies of the Company hereunder, the Customer shall indemnify and hold harmless the Company and its Contractors from any liability for loss, cost, expenses, and damages which Company or its Contractors may incur as a result of any such prohibited items.
- 4.4 With reference to Article 8, below, if Customer has any high value items (including, without limitation, business or legal documents, artwork, etc.) Customer should consider excluding such



- items from the Services or notifying its own insurance agent to obtain additional coverage for the transit of such items, at Customer's own expense.
- 4.5 If Customer does not engage the Company to provide packing services, Customer shall be solely responsible for safely and securely packing its items so that they will not be damaged during transit and storage. Company shall not be responsible for any damage caused by or arising from Customer's own failure to properly pack its items.
- 4.6 Company reserves the right to refuse to accept any boxes that appears insufficiently sturdy for transit or occasional movement. Additionally, Company reserves the right to refuse to accept any single items over 400 pounds or items that are particularly bulky (e.g. pianos, safes, etc.). Customer should identify any such items. If Company refuses to accept any such items, it will make an appropriate referral to a specialty mover for such items.
- 4.7 Pick-up and delivery times indicated in a Contract are estimates only and the Company reserves the right to modify or delay the pick-up and delivery times. Company will make a good faith effort to complete delivery as indicated in a Contract, but Company assumes no responsibility or liability for any loss or damage due to delay or inability to deliver, whether or not such loss or damage was made known to Company.
- 4.8 If delay in delivery is caused by the circumstances of force majeure (including, but not limited to, an act or omission on the part of the Customer), the time for delivery shall be extended by a period which is reasonable having regard to all the circumstances of the case. If the Customer requires any change to content of delivery and/or Product after the date of the Contract, Company has a right to reschedule delivery time based on free capacity.
- 4.9 If Customer causes or requests a shipment delay, or if Company ships or delivers the products erroneously as a result of inaccurate, incomplete or misleading information supplied by Customer or its agents or employees, storage and all other additional costs and risks shall be borne solely by Customer.

- 4.10 In the event Customer needs to cancel or reschedule any pick-up or delivery date or time, Customer shall provide the Company at least 72 hours' notice prior to such scheduled pickup or delivery day. In the event Customer does not provide such prior notice, the Company reserves the right to charge a cancellation fee of fifty percent of the prepaid Deposit.

5. REMEDIES OF COMPANY

- 5.1 Customer agrees that any of the following shall constitute an "event of default" which shall enable Company, at its option, to cancel the unfulfilled portion of any Contract or other transaction between Company and Customer, and/or to exercise any right or remedy which it may have by law: (i) the failure of Customer to perform any term or condition contained herein or in any Contract; (ii) any failure of Customer to give required notice; or (iii) if Company, in good faith, believes that Customer's prospect of performance under these Terms or any Contract hereunder is impaired.
- 5.2 All rights and remedies of Company herein are in addition to, and not in lieu of, any rights or remedies that Company may have under other law.
- 5.3 In the event it becomes necessary for Company to incur any expense for the collection of any unpaid amounts due from Customer, such collection expenses, including reasonable attorneys' fees and court costs, will be added to the balance due and Customer shall pay all such expenses.

6. INSURANCE; WAIVER OF SUBROGATION

- 6.1 Company maintains, and requires its Contractors to maintain, liability insurance. Company can confirm insurance coverage upon request.
- 6.2 Company does not insure any of Customer's personal property. It is the Customer's sole responsibility to obtain and maintain insurance on Customer's personal property equal to the actual full value of such personal property against loss, damage and/or destruction. Said insurance shall contain a waiver of subrogation clause wherein the insurer waives its rights to any and all claims against Company and/or its Contractors.

7. INDEMNIFICATION



- 7.1 Customer shall indemnify, defend and hold harmless Company and its Contractors from and against any and all losses, liabilities, costs, expenses, attorneys' fees, fines, damages, claims, demands, causes of action and lawsuits of any kind whatsoever in any way arising from, or as a result of, or in connection with, any breach of Customer's obligations hereunder or any Contract entered into hereunder.
- 8. LIMITATION OF LIABILITY AND DAMAGES**
- 8.1 Neither the Company nor any Contractor shall be liable for any loss or destruction of or damage to any personal property of Customer, however caused, unless such loss, damage or destruction resulted from Company's or its Contractors' failure to exercise such care in regard to the personal property as a reasonably careful person would exercise under like circumstances. Neither Company nor its Contractors shall be liable for damages which could not have been avoided by the exercise of such care. In addition, Customer hereby releases Company and its Contractors from any responsibility for any loss, liability, claim, expense, damage to personal property that could have been insured against by Customer. Customer expressly agrees that the carrier of any insurance obtained by Customer shall not be subrogated to any claim Customer have against the Company or its Contractors.
- 8.2 The limited warranty granted under Section 8.1 is the sole and exclusive remedy given by Company and/or its Contractors to Customer in respect of the Products and/or Services, and is further subject to the other limitations of this Article 8. NEITHER COMPANY NOR ITS CONTRACTORS MAKES ANY OTHER WARRANTY, EXPRESS OR IMPLIED, RESPECTING ANY OF THE PRODUCTS AND/OR SERVICES, INCLUDING, WITHOUT LIMITATION, ANY IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE OR FREEDOM FROM CLAIMS FOR INFRINGEMENT. ANY SUGGESTIONS, TECHNICAL ASSISTANCE OR OTHER INFORMATION PROVIDED BY COMPANY AND/OR ITS CONTRACTORS REGARDING USE, SELECTION, APPLICATION OR SUITABILITY OF THE PRODUCTS AND/OR SERVICES SHALL NOT BE CONSTRUED AS SUCH A WARRANTY.
- 8.3 TO THE MAXIMUM EXTENT PERMITTED BY LAW, NEITHER COMPANY NOR ITS CONTRACTORS SHALL BE LIABLE FOR ANY DAMAGES WHATSOEVER UNDER ANY CONTRACT, NEGLIGENCE, STRICT LIABILITY OR OTHER LEGAL OR EQUITABLE THEORY FOR ANY INDIRECT, SPECIAL, INCIDENTAL OR CONSEQUENTIAL DAMAGES (INCLUDING, BUT NOT LIMITED TO, DAMAGES FOR LOSS OF BUSINESS PROFIT, BUSINESS INTERRUPTION, LOSS OF BUSINESS INFORMATION, OR ANY OTHER PECUNIARY LOSS) ARISING OUT OF THE USE OF, OR INABILITY TO USE, THE PRODUCTS AND/OR SERVICES SOLD HEREUNDER, EVEN IF COMPANY OR ITS CONTRACTORS HAVE BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.
- 8.4 In no case will the liability of Company and its Contractors exceed the lesser of: (1) \$0.60 per pound per each article of personal property claimed to be lost, damaged and/or destroyed, or (2) \$2,000 aggregate per Contract.
- 8.5 The following categories of items present an inherent risk that, even with the exercise of ordinary care, they may become damaged, altered and/or otherwise rendered inoperable as intended after moving and/or storage: (i) unsturdy or other discount furniture comprised primarily of particle board and/or other similar economy materials; (ii) electronics, including, but not limited to, televisions, computers, tablets, or monitors, not in their original packaging; (iii) large or heavy items requiring calibration, tuning or technical installation, including, but not limited to, exercise equipment, pianos, pool tables, and (iv) items the primary purpose of which is to hold infants or children, including, but not limited to, cribs and "play pens," if fully or partially assembled and not in their original packaging (collectively, the "Sensitive Freight"). Customer hereby acknowledges and agrees that Company and/or Contractors may decline to move and/or store any Specialized Freight. Moreover, to the extent that the Customer requests the Company and/or Contractors to move and/or store any Specialized Freight, and the Company and/or Contractors do so, the Customer specifically assumes the risk that such item(s) of Specialized Freight such item(s) may become damaged, altered and/or otherwise rendered inoperable as intended after moving and/or storage, and Customer HEREBY WAIVES ANY AND ALL CLAIMS WITH RESPECT THERETO.



8.6 Valuables, including, but not limited to, jewelry, cash, securities, collectibles, art or other art objects will not knowingly be moved and/or stored by the Company and/or Contractors, and the Company and its Contractors hereby disclaim any and all liability with respect to same.

8.7 Customer hereby acknowledges and agrees that any and all claims hereunder must be made to Company within thirty (30) days of the delivery date, and any suits with respect thereto must be brought within two (2) years of Company's denial of all or part of any such claims.

9. GOVERNING LAW & ARBITRATION

9.1 These Terms and any Contract or other transaction between Company and Customer hereunder will be governed by the laws of the State of Wisconsin.

9.2 Except as provided in Section 9.6 hereof, any dispute, controversy or claim arising out of or relating to these Terms or any Contract or other transaction between Company and Customer hereunder shall be settled by arbitration administered by the American Arbitration Association under its Commercial Arbitration Rules, and judgment on the award rendered by the arbitrators may be entered in any court having jurisdiction thereof. Any and all such arbitration proceedings shall take place in Milwaukee, Wisconsin, U.S.A. and shall be conducted in English. The arbitrator shall be such person(s) as are mutually agreed upon by the parties hereto or, if they fail to so agree within ten (10) days after any party proposes any such person(s), arbitrator(s) selected in accordance with the American Arbitration Association procedure for that purpose. There shall be only one (1) arbitrator.

9.3 The arbitrator(s) may award all or any portion of the attorneys' fees, arbitration costs and/or other expenses to a prevailing party in such proceedings if the arbitrator(s) determine that an opposing party was not acting in good faith or was acting without substantial justification with respect to the arbitration and/or the matters to which said fees, costs and expenses relate. Otherwise, the costs of the arbitrator(s) shall be borne equally by all parties, and each party shall pay its own legal and other fees and expenses in connection with such arbitration.

9.4 The award rendered by the arbitrator(s) shall be final and binding on all parties and may be entered and enforced by any court of competent jurisdiction.

9.5 In the event that any party fails to cooperate with arbitration proceedings instituted pursuant to this Section, an aggrieved party shall be entitled to recover reasonable attorneys' fees and expenses in connection with enforcing its rights under this Section, in addition to such other legal and/or equitable relief as may be appropriate.

9.6 With regard to any matter which cannot be determined by arbitration, the parties hereto consent to jurisdiction in the Wisconsin courts to hear any suit, action or proceeding, and to settle any disputes, which may arise out of or in connection with these Terms or any Contract or other transaction between Company and Customer hereunder. The parties further agree that venue for any such suit, action or proceeding shall be proper in Milwaukee County, Wisconsin with regard to a suit, action or proceeding brought in a state court and the United States District Court for the Eastern District of Wisconsin with regard to a suit, action or proceeding brought in a federal court, and each party hereby agrees not to assert in any such action or proceeding that either of such courts lacks personal jurisdiction or is not a convenient forum and hereby waives, to the fullest extent permitted by law, any other right to contest the jurisdiction and/or venue thereof.

10. FORCE MAJEURE

Company shall not be liable for any damages or in default hereunder for any delay or failure to perform to the extent that such delay or failure was attributable to acts of God, civil or military action, terrorism, acts of a public enemy, war, accident, fire, explosion, earthquake, flood, failure of transportation, strike or other work interruption or any other cause beyond the reasonable control of Company (including, without limitation, acts of Customer).

11. NOTICES

11.1 Any notice or communication permitted or required under any Contract or other transaction between Company and Customer hereunder shall be in writing and shall either be hand delivered, sent by certified mail or reputable overnight delivery service, faxed or sent via



electronic mail to the other party at the addresses indicated in the Contract.

- 11.2 Notices hand delivered as provided above shall be deemed given upon such delivery. Notices sent via facsimile transmission or electronic as provided above shall be deemed given upon their successful transmission. Notices mailed or sent via courier as provided above shall be deemed given on the date of their Deposit in the mail.
- 11.3 Any party hereto may change the facsimile number, e-mail address and/or street address to which notices thereto should be given hereunder by giving notice of such change to the other party hereto in accordance with the provisions of this Section.

12. MISCELLANEOUS

- 12.1 Any amendments or modification to these Terms or any Contract or other transaction between Company and Customer hereunder shall only be valid when made in writing and signed by both parties.
- 12.2 In the event that any provision these Terms or any Contract or other transaction between Company and Customer hereunder is ever finally determined to be wholly or partially illegal, invalid or unenforceable, either in all jurisdictions and circumstances or in particular jurisdictions or circumstances, such provision shall be deemed severed therefrom in those jurisdictions and circumstances as to which it is so determined to be wholly illegal, invalid or unenforceable and shall be deemed limited to the extent required in those jurisdictions and circumstances as to which it is so determined to be partially illegal, invalid or unenforceable, and such severance or limitation shall not affect the legality, validity or enforceability of any of the other provisions thereof or of such provision to the extent not so severed or limited.
- 12.3 The headings of these Terms are for convenience of reference only and shall not in any way limit or affect the meaning or interpretation of the provisions of these Terms. In interpreting these Terms, whenever the context so permits, (a) the singular shall include the plural and the plural shall include the singular, (b) any gender shall include all genders and (c) the term "including" shall mean "including, without limitation." The word

"including" shall mean "including, without limitation,"

- 12.4 No failure or delay on the part of either party hereto in the exercise or enforcement of any of its rights under any provision hereof shall be deemed to constitute a waiver or other relinquishment of any of such rights or of such provision in the absence of a written waiver signed by such party. Any such written waiver shall be effective only with respect to the specific matters covered thereby and shall not affect the parties' respective rights and obligations with respect to other or future items.
- 12.5 A Contract or any rights or obligations based thereon may not be assigned by Customer to any third party without prior written consent of Company. However, Company shall be entitled at all times to assign its rights under a Contract (in whole or in part), or to subcontract any part of the Services and/or Products to be provided under the Contract, as it deems necessary or desirable.
- 12.6 Any Contract between the parties hereunder may be executed in two (2) or more counterparts, each of which shall be deemed an original and all of which together shall constitute one and the same instrument. Transmission of a copy of a signature by e-mail or other electronic means (including clicking the "accept" button on any digital interface in which Customer has had an opportunity to review the Contract terms, including these Terms) shall be treated by both parties as the equivalent of physical delivery by such party to such other party of a complete original of such Contract executed by such party.