TERMS AND CONDITIONS
2025

These Vehicle Services Conditions set out the terms on which Services will be provided by Us to You and form part of the Services Agreement. We will provide the Services in accordance with the Services Agreement for the term specified in the Services Agreement.

1 Definitions

“Abandoned Goods” means vehicles which have not been accepted for delivery and remain in Our possession for 28 days after the date of arrival at the delivery destination.

“Chain of Responsibility Laws” means the National Heavy Vehicle Law and regulations or any laws of Australia that relate to road transport, including but not limited to a law or regulation relating to transport of Dangerous Goods, fatigue management, speeding, speed limiting, maintenance, load restraint, mass or dimension.

"Charges" means Our quoted Charges for the Services calculated under Our rates schedule or other agreed rates, taxes, duties and government Charges levied on the Services and any other amounts under clauses 3.2, 5,6.3,6.4 and 6.5.

“Dangerous Goods” mean any articles or substances which are, or may become a risk to health, safety, property, or the environment as defined in the Australian Dangerous Goods Code current as at the date of the Services Agreement (but not substances located in the fuel tank of a Vehicle, including petrol, diesel, and LP gas).

“Fair, Wear and Tear” means Our policy of this name.

"Force Majeure Event" means circumstances outside Our reasonable control causing delays or inability, wholly or in part, to perform any obligations under this Agreement; including without limitation, fire, storm (including hail), flood, earthquake, wildlife impact, explosion, accident, road or rail closures, road works, breakdown of equipment or infrastructure, wharf delays, war, terrorism, sabotage, epidemic, quarantine restriction, labour dispute or shortage, act or omission of any third party, person or public authority.

"Goods" means any items packed in Your Vehicle.

"Goods in Car Policy" means Our policy of this name.

"Hidden Defect" means a defect or fault in a Vehicle that is not visible at the time of inspection for the purpose of issuing Our Vehicle Image Condition Report, and which is the cause of or contributes to any damage, deterioration, or wastage to a Vehicle.

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3 Dangerous Goods

- You must not tender for Services of, and You warrant that the Vehicle does not contain any Dangerous items/goods.
- If You leave any Dangerous Goods in the Vehicle We may, at Your expense, dispose of or destroy them as We see fit in Our absolute discretion or take such other action as We consider necessary to mitigate any risk that may be caused by the Dangerous Goods.

4 Your Promises

- You promise Us that:
    - You are either the owner or the authorised agent of the owner of the Vehicle and any Goods and have authority to enter into the Services Agreement;
    - You have fully and accurately described the Vehicle (and its value where required) including appropriate handling instructions;
    - all information You have provided to Us is accurate and true and that You will provide Us with any further information We reasonably require for the purpose of providing the Services to You;

- with the exception of any Goods permitted under our Goods in Car Policy, any other Goods (including without limitation accessories (other than permanently factory fitted accessories), aerials, personal items and effects) have been removed from the Vehicle;
- all Goods are carried at Your risk at all times, and We exclude all liability for any loss or damage caused to them including any loss or damage arising from our negligence;
- the Vehicle:
  - can be safely handled and transported;
  - can be moved under its own power;
  - has working brakes, windows are intact and there are no loose panels; and
  - has a minimum ground clearance of 15 centimetres (unless otherwise agreed in writing);
- You will comply with all applicable Chain of Responsibility Laws;
- You will comply with any directions, procedures or policies advised or notified by Us or Our associates to You or Your associates with respect to packing, loading or unloading of the Vehicle or entry into, use of or egress from a site; and
- You will ensure that any Goods in the Vehicle comply with the terms Our Goods in Car Policy and these Vehicle Service Conditions (including without limitation clause 3).

- To the maximum extent permitted by law and except to the extent caused or contributed to by Our negligent act or omission, You are liable and indemnify Us and hold Us, Our officers, agents, employees and subcontractors harmless from and against all claims (including any legal costs on a full indemnity basis) resulting directly or indirectly from:
  - a breach by You or Your associates of any term of the Services Agreement;

- damage to any real and personal property and any injury to or death of any person, caused by a negligent act or omission of You or Your Associates arising out of or in connection with the Services Agreement; or
- any other liability suffered or incurred by Us arising out of or in connection with Our provision of the Services under the Services Agreement,

including any damages for indirect loss, delay, loss of profit or business opportunity, relating to any amount payable under the Services Agreement or arising out of or in any way connected with any actual or alleged breach of any promise, obligation or warranty under the Services Agreement or any breach of Law.

5 What We Can Do

- We may at Your risk and expense refuse to provide some or all of the Services or provide them in a manner other than that previously agreed if We are required to do so by law or consider it necessary in the interest of safety. If this is the case, We will promptly notify You and We will specify a reasonable period of time by which the Vehicle must be collected by
- If You fail to collect the Vehicle from Us within 2 business days of the agreed collection date or within 2 business days after We notify You that the Vehicle is ready for collection, We are entitled to charge storage fees. Additionally, We may move the Vehicle to a storage facility, return the Vehicle to You or Your associate, or treat the Vehicle and any Goods as Abandoned Goods, all at Your risk and expense. Please note, after 2 business days following notification of availability, the Vehicle will no longer be covered by any insurance provided by SMB Australia Car Transport.
- We may set-off or deduct from any payment due to You, any Charges You owe
- We can:

- deliver the Vehicle at the delivery address supplied by You or Your agent and We will be taken to have delivered the Vehicle (and any Goods) if at the delivery

address We obtain an acknowledgement of delivery or delivery occurs

under clause 4(c);

- deviate from any usual route or mode of transport to provide the Services;
- subcontract the Service If the delivery address is unattended during normal business hours or, if the delivery address is a private address, during the prearranged delivery period, We can, at Your expense, return the Vehicle to Our nearest depot which will constitute delivery; and
- conduct a physical search or inspection of the Vehicle or any Goods, remove or reposition any Goods and refuse to accept your Vehicle if we consider that the Vehicle or any Goods do not comply with the Services Agreement or our Goods in Car Policy or are otherwise dangerous.

6 Our Charges

- You must pay Our Charges in accordance with the Services Agreement or otherwise as agreed between the parties in
- The Charges are confidential, and You agree not to disclose them to any third
- You must pay:
  - any cleaning charge or cost, if cleaning of the Vehicle is required by a quarantine authority;
  - Our cost if We are unable to pick up a Vehicle during normal business hours or, for a private address for pick up, during the pre-arranged pick up period;
  - Our cost of returning the Vehicle to Our nearest depot; and
- any additional Charges incurred:
  - due to undeclared modifications that have been made to the Vehicle (including but not limited to the fitting of bull bars, roof racks, or special

fittings whether or not included on the Vehicle at the time of purchase by You) ("Modifications");
    - because the Vehicle is an oversized Vehicle;
    - because the Vehicle is a vintage, modified, non standard Vehicle;
    - because the Vehicle has not been accurately described at the time of the booking; or
    - because the Vehicle contained any Goods that were not approved by us and included in the quoted Charges.
- additional fees incurred by Us as a result including but not limited to a flat battery, insufficient fuel, or additional towing fees.
- Unless otherwise expressly stated, all Charges payable under the Services Agreement are exclusive of GST. If GST is payable, on any supply made under the Services Agreement, the recipient will pay to the supplier an amount equal to the GST payable on the supply. The recipient must pay this amount in addition to and at the same time that the consideration for the supply is to be provided under the Services
- Unless otherwise expressly stated, all prices are inclusive of a fuel levy. If a fuel levy is applicable and payable under the Services Agreement, You must pay the relevant fuel levy amount applied to the booking. If booking is postponed or booked in advance you will be subject to fuel levy's at time of vehicle movement.

7 Limitations and Exclusions on Our Liability to You

- Subject to this clause 7, Vehicles and any Goods are at Your risk at all times and We exclude all liability for any loss or damage arising from the performance or non-performance of the Services other than any physical loss or damage to the Vehicle caused by Our negligent act or omission, in which case Our liability will be limited to (at Our election):

- the repair of the Vehicle or the payment of the cost of having the goods repaired; or
- in the case of Services, the resupply of the Services or the cost of having the Services
- An excess of $600.00 is applicable for all repairs to claims approved by SMB Australia Car Transport Pty Ltd.

For the avoidance of doubt, We will not be liable for any loss or damage to any Goods arising for any reason including Our negligent act or omission and we will not be liable for any loss or damage to the Vehicle arising as a result of Goods being transported with the Vehicle.

- Before We assume or accept any liability under clause 7.1, We may appoint an independent loss adjuster to determine the quantum of any loss or liability and You agree to accept any such determination or
- If clause 1 (a) applies and the market value or purchase price of the Vehicle is less than the cost of having the Vehicle repaired (as determined by an independent loss adjuster appointed by us), We may elect to pay either the market value or the purchase price of the Vehicle, (whichever is the lesser amount minus any salvage applicable) in full satisfaction of Our liability under clause 7.1

We reserve the right to repair minor damage at an authorised repairer during the transport period at Our discretion.

Without limiting the foregoing, we have no liability for:

- Loss or damage that occurs or can be referred to a period outside the Service Period;
- Damage to the Vehicle unless the damage is noted and signed for on the delivery receipt copy of the Vehicle Image Condition Report;
- Pre-existing damage or defects in the Vehicle;
- Minor damage or markings which are not visible from one metre;

- Hidden defects or faults that are not visible at the time of inspection for the purpose of issuing Our Vehicle Image Condition Report and which cause or contribute to any damage or deterioration to a Vehicle. Including any under carriage damage;
- Fair wear and tear;
- Mechanical or electrical damage or derangement caused by the failure of a component in the Vehicle due to its age or inherit fault (including but not limited to electric or plug-in hybrid vehicles) (Including but not limited to window faults).
- Damage to windscreen or vehicle glass;
- Damage caused by the movement of objects within the Vehicle;
- Damage or loss to any standard and non standard motor vehicle accessory which is not permanently affixed to the Vehicle (including and not limited to; number plates, antennas, bulbar, awnings, roof racks, louvres, rain shields, bonnet protectors, bug protectors, sun shades, additional lights and/or sirens, eyelash or additional vehicle accessories) ;
- Insect/bug marks, bird/animal droppings, road dust, stone chip(s), Tree damage / droppings/ environmental damage, industrial fallout, rust spots, airborne objects, storm or hail damage;
- Damage to or loss of any modifications that have not been correctly installed;
- Sabotage or vandalism;
- Loss or damage to personal property or effects from or within the Vehicle;
- Interior marks and damage;
- Tape marks, adhesive or other residue, and oil or grease spills;
- Tyre damage; including punctures, blowouts, flat tyres, pressure, or wear occurring during transport.

SMB Australia Car Transport does not inspect or accept responsibility for the condition of tyres before or after transport. Tyres remain the customer's responsibility at all times.

- Loss or damage arising from a breach by You of the Chain of Responsibility Laws;
- Any indirect, special or consequential loss or damage including the request or requirement for a hire vehicle. Including and not limited to transit delays and

events.

- Loss of profits, business or anticipated savings or other economic loss, even if We know they are possible or otherwise foreseeable; or
- Loss or damage arising from or connected to a Force Majeure Event.
- Any damage to vehicles with clearance of less than 150mm;
- Modifications such as hydraulic and air suspension.
- Any under carriage damage to vehicle.
- Auction vehicles transported from Auction warehouse;
- Non driveable vehicles;
- Vehicles older than 20 years of age;
- Your right to compensation for any claim for loss or damage will be extinguished and We shall be discharged of all liability unless:
    - notice of any claim is received by Us in writing within 2 days after the date delivered,
    - Claims are to be directly emailed to support@smbaustralia.com.au with image and written detail clearly showing claim.
- For the purposes of clause 5, the applicable dates are:
    - In the case of loss or damage, the date of delivery of the Vehicle(s);
    - In the case of delay or non-delivery, the date that the Vehicle(s) should have been delivered; and
    - In any other case, the event giving rise to the
- To the maximum extent permitted by law, all conditions, warranties, guarantees, rights, remedies, liabilities and other terms implied by statute, custom or the common law are excluded from the Services Agreement. Where any legislation implies in the Services Agreement any condition or warranty and that legislation prohibits provisions in a contract excluding or modifying the application of the condition or warranty, such condition or warranty shall be deemed to be included in the Services Agreement. However, Our liability for any breach of such condition or

warranty shall if permitted by that legislation be limited in the manner set out in clause 1.

7.1 Covering of Vehicles and Trailers

For the purposes of these terms, "*trailer damage*" refers to any physical damage sustained to a trailer or any item being transported that is mounted on or towed by another vehicle, including but not limited to boat trailers, caravan trailers, box trailers, or machinery trailers.

- No Transport of Vehicles with tonne or trailer covers: SMB Australia does not accept or transport vehicles or trailers that are covered with canvas or similar materials. This is due to safety and operational concerns, including the potential for covers to come loose during transport, which may pose a hazard to other vehicles on the road.
- Removal of Covers: In the event that a vehicle or trailer is brought to SMB service facility with a cover (such as canvas) and accepted for transport, SMB Australia reserves the right to remove the cover without prior notice to the customer. This action will be taken at the discretion of SMB Australia for the safety of the vehicle, other transported vehicles, and all road users.
- Customer Responsibility: It is the customer's responsibility to ensure that no cover or other loose items are present on the vehicle or trailer prior to transport. SMB Australia is not liable for any damage or loss resulting from the presence of covers or unsecured items.

Does not provide coverage for trailer damage during transit, including but not limited to:

- Structural damage (e.g., frame cracks, axle or wheel damage)
- Damage caused by pre-existing faults or wear and tear
- Paint scratches, dents, or surface abrasions

- Damage arising from poorly secured or overloaded trailers
- By engaging our services, the customer acknowledges and accepts that any trailer transported is done so at the customer's sole risk. We do not accept liability for any loss, damage, or deterioration of trailers while in transit, including while loading, unloading, or during storage at any depot.
- While we may carry out visual inspections and record photographs upon collection or delivery, this does not constitute acceptance of liability for the trailer's condition. Customers are advised to carry out their own inspection prior to and upon delivery.

7.2 Electric Vehicles

SMB Australia Car Transport Pty Ltd does not accept liability for any electrical, mechanical, or software-related faults or failures specific to electric vehicles (EVs).

This includes, but is not limited to, battery depletion or failure (including lithium-ion battery faults or thermal events), charging system issues, damage to underbody battery enclosures, loss of vehicle settings, immobilisation due to system errors, and malfunction of electronic systems, remote access features, or regenerative braking mechanisms.

Customers are responsible for ensuring the EV has sufficient battery charge prior to pickup. Vehicles that cannot be safely driven or moved due to low battery or software lockouts may incur additional towing or storage fees. We do not guarantee access to charging facilities during transit or storage. All EVs are transported strictly at the owner's risk in relation to the above exclusions.

8 Insurance

- You acknowledge that We do not provide insurance in respect of the Vehicle and that You are responsible for obtaining any insurance You require relating to the transport movement.
- If You are not an individual seeking Our Services wholly or predominantly for personal, domestic or household use, You must at all times during the Service

Period have in place third party property insurance and public risk liability insurance to a minimum value of $20,000,000 and such other insurances as are required by law.

9 Force Majeure

- **If We cannot carry out an obligation under the Services Agreement in whole or in part because of a Force Majeure Event, the requirement on Us to carry out that obligation under the Services Agreement will be suspended for the duration of the Force Majeure Event or waived to the extent applicable.**

10 Other Matters Which Affect the Contract

- The laws of New South Wales apply to the Services Agreement and You must submit to the exclusive jurisdiction of the courts of
- The provisions of the Services Agreement prevail over any other agreement, arrangement or understanding applicable to the Services.
- The Services Agreement can only be amended, supplemented, replaced by another document signed by both
- Nothing in the Services Agreement creates a relationship of employer and employee, principal and agent or partnership between the We are not a common carrier and do not accept any liability as a common carrier.
- The Services Agreement may be executed in any number of counterparts.
- If a provision of the Services Agreement or part of such a provision is unenforceable, it must be severed from the Services Agreement, and does not make the rest of the Services Agreement
- We are not bound by any waiver, discharge or release of a provision of the Services Agreement unless it is in writing and signed by or for Us.
- You consent to Us effecting a registration on the Personal Property Securities Register (as defined in the Personal Property Securities Act 2009 (Cth) (in any manner We determine) of any security interest arising under or in connection with

the Services Agreement and You agree to provide all assistance reasonably required by Us and to sign all documents necessary to facilitate.

11 Termination

- Either party may immediately suspend or terminate the Services Agreement by written notice to the other party if the other party:
- ·fails to pay any amount owing or otherwise breaches a material provision of the Services Agreement and fails to remedy such non-payment or breach within 5 days of receiving notice to do so.

12 Claims for loss or damage to your Vehicle

If you believe we are liable to you for damage caused to a vehicle in the course of delivery, you must:

- a. note, or ensure that the driver of the delivery vehicle notes the damage electronically or on your delivery documentation at the time of delivery;
- b. notify us immediately;
- c. not repair your vehicle unless otherwise authorised by us; and
- d. send your written claim request to us within the timeframes set out in paragraph 11(b). If we do not receive a written claim request from you within that time, we will have no liability to you.

You must submit your claim for loss or damage to the vehicle to us in writing, in the case of:

- a. Visible damage to the vehicle which was not identified at the time we accepted your vehicle for delivery, prior to taking delivery of the vehicle;

- b. Visible damage to the vehicle which was notified in accordance with paragraph 11(a), no later than two (2) days after taking delivery of the vehicle;
- c. Non-delivery of the vehicle, no later than thirty (30) days from the date the vehicle is placed with us; and
- d. Any other claim, no later than two (2) days after delivery of the vehicle or the date by which the vehicle should have been delivered, and failing receipt of such notice we shall be forever discharged from any, and all liability to any person (including you) in respect of the vehicle and/or the services.

- In the event that you make a claim for damage to your vehicle in accordance with this paragraph 11, we will conduct an investigation and at our discretion we will either:

a. Undertake required repairs ourselves through our repairers, with all costs borne by us; or

b. Request you provide two (2) independent repair quotes. We reserve all rights for repair authorisation.

- Notwithstanding your claim request, you remain liable to pay our Charges under these Conditions.
- We will have no liability to you, even if you give us a written notice within the time set out in paragraph 11
- (b), if you do not commence legal proceedings against us within three (3) months after the date of delivery.
- You as the owner of the vehicle, or as the agent of any other owner(s) of the vehicle, authorise us to settle any claim for loss or damage to the vehicle with the person who has or had sustained the loss or damage to the vehicle.
- You absolutely and unconditionally release and discharge us from any and all claims, demands or causes of action of any kind, nature or description, however arising, which you have had, now have or may have in the future, that relate to the

settlement of any claim for loss or damage to the vehicle with the person who has or had sustained the loss or damage to the vehicle.

Claims are to be directly emailed to support@smbaustralia.com.au with image and written detail clearly showing claim.

13. Not a Common Carrier

- We are not a common carrier and do not accept any liability as a common carrier. We may refuse to handle, transport or store vehicles for you for any reason whatsoever.