

bigboXX.com Limited

Terms and Conditions of Records Management Service

bigboXX.com Limited (“Company”) undertakes Records Management Services described below subject to the following terms and conditions (“Conditions”):

1. Company provides the following services to Customer subject to the Conditions and Service Agreement :
 - (i) Collect Customer’s goods, such as documents, papers, discs, magnetic tapes, digital storage devices (“Goods”) contained in carton provided by or acceptable to Company (“Carton”) to any premises of Company where Carton is stored (“Warehouse”);
 - (ii) Store Carton at the Warehouse;
 - (iii) Deliver Cartons to a location designated by Customer within the territories of Hong Kong; and
 - (iv) Provide carton containers to Customer upon payment (charges are stipulated in the Service Agreement).

2. Company is not a common carrier, and the rights and liabilities of the parties hereunder shall be determined on the basis that Company is not such a common carrier.

3. The Service Agreement contains information provided by Customer on the size of Carton and their respective service charges for an agreed period. The Company reserves the rights to adjust the service charges stated in the Service Agreement if any of the information provided by the Customer is incorrect.

4. The Customer warrants that:
 - (i) The Goods are either owned by Customer, or legally in his possession or under his control, and that Customer is authorised to accept these Conditions. Customer agrees to indemnify Company against any loss, damage or claim made against Company arising from any lack of authority of Customer to enter into the agreement with Company, or breach of warranty under this sub clause.

- (ii) Before presenting the Goods for collection, Customer shall inform Company in writing of any special precautions necessitated by the nature or condition of the Goods, and of any statutory duties specific to the Goods with which Company may need to comply.
 - (iii) Customer has accurately and correctly described the Goods presented to Company for storage and delivery, and has ensured that Carton is of satisfactory condition for such purpose.
 - (iv) Goods that is illegal, dangerous, explosive, corrosive or harmful in nature shall not be presented by Customer for storage.
5. Customer or its authorised representative may enter into the Warehouse for the purposes of checking and identifying the Cartons for delivery by giving at least two weeks prior written request to Company. Such written request should stipulate the name of the authorised representative, date of visit, and reason of visit. During the course of the visit, Customer or its authorised representative shall not take any photography of the Warehouse, nor remove any Carton or rearrange the Goods of Carton without prior approval. Company shall not be liable for any loss or damage suffered by Customer as a result of the access to Carton by persons who is or appears to be Customer, or its authorised representative with similar signature or identification as stipulated in the written request unless the same has arisen due to gross negligence or default of Company.
6. Company shall be entitled, but shall not be bound, to carry out all such repairing, re-packing and other acts as it may consider necessary for the preservation of the Goods or for preventing or minimizing any loss or damage thereto.
7. Company will employ reasonable security measures to safe-keep Cartons and the Goods at the Warehouse.
8. Company has the absolute right to store Cartons in any location of Warehouse and to transfer Cartons from one location to another at its own costs.
9. Customer agrees that Company may enter into any contract with a sub-contractor (whether for removal or otherwise) to carry out the whole or any part of the Service Agreement and/or to cause all or any of the Cartons to be stored by or in the warehouse of another contractor.

10. Customer shall indemnify and keep Company and the directors, employees, agents and contractors or any of them (collectively the “Indemnified Persons”) indemnified against any action, liability, cost, claim (including any third party claims), loss, damage, proceedings, expense (including legal costs on solicitor and own client basis) suffered or incurred by any Indemnified Person in any way arising from:-
- (a) Any breach by the Customer of any of its obligations, representations or warranties under the Service Agreement;
 - (b) The provision of the service in accordance with the Service Agreement or the performance by Company of its obligations hereunder, or in any way arising out of the Goods, including any third party claiming any interest in the Goods.
11. Customer should make arrangements to cover the Goods against all risks to the full value thereof.
12. (i) Subject to clause 12(ii) below, Company shall only be responsible for any loss of or damage to Goods or for any non-delivery or misdelivery if the same has arisen due to the neglect or default of Company provided always that the liability of Company shall in no case exceed:
- (a) The value of the Goods (except where the Goods are printed matters, no value will be acknowledged); or
 - (b) HK\$100.00 per carton
- Whichever is lower.
- (ii) Company shall be under no liability howsoever arising unless notice of loss or damage be received by Company in writing within the time stipulated below (time being of essence):
- (a) Where the Goods are removed from the Warehouse by any persons other than Company, at the time of handing over.
 - (b) 14 days after delivery of Goods alleged to be damaged or, in the case of Goods alleged to be lost or which Company fails to deliver, within 14 days after the time when the Goods should in the ordinary course have been delivered alone or with other Goods.

13. Company shall not be liable for any direct, indirect or consequential loss or damage (whether in negligence or under contract) as a result of:
- (i) Delay in collecting or delivering the Goods within the agreed time;
 - (ii) Unforeseen events beyond the reasonable control of Company including but not limited to natural calamity, storm, fire, flood, explosion, theft, intended sabotage or destruction by persons;
 - (iii) Natural deterioration of Carton or Goods
- PROVIDED THAT nothing herein shall, or shall be deemed to exclude or limit the liability of Company for its negligent act or omission resulting in the death of, or personal injury to, a third party to whom the Company owes a duty of care, save to the extent such limitation or exclusion is permissible by law.
14. Upon expiry of the minimum service period as agreed in the Service Agreement, Customer may terminate Records Management Service by giving not less than one month prior written notice to Company. The Goods shall be removed by Customer from the Warehouse or delivered by Company to Customer at no more than 2000 cartons per week per Customer.
15. Company may request Customer to remove any or all Cartons from the Warehouse without reason by giving not less than 30 days written notice to Customer. Should the Customer fails to remove the Cartons in question within the prescribed time period, Company may deliver the Cartons in question to the Customer's location where the Cartons were originally collected.
16. If Customer fails to pay Company the service charge after the due date, Company shall at its sole discretion to (i) suspend the service, (ii) impose a penalty on late payment, or (iii) terminate the Service Agreement.
17. Company shall have a general as well as a particular lien on Carton and its Goods stored at the Warehouse for payment of all amounts due from Customer on any account and for all claims by Company against Customer whether or not in respect of or in relation to such Carton or Goods received for and on behalf of Customer. Should the Company exercise such right and such lien is not discharged within three months, Company is entitled to handle, destroy or dispose of all or any of the Cartons or Goods as it wishes without prior consent from or notice to Customer.

18. If these Conditions or any part thereof shall, in any case, be held to be invalid or to have failed the test of reasonableness within the meaning of the Control of Exemption Clauses Ordinance, such term or provision shall be deemed to be severed as if such term or provision had not been contained herein but without affecting the remaining conditions.

19. These Conditions are governed by and construed in accordance with the laws of Hong Kong and the parties agree to submit to the exclusive jurisdiction of the Hong Kong.