



TERMS AND CONDITIONS

STORAGE:

1. The Storer warrants to the Facility Owner that:
 - (a) they have the right to store Goods with the Facility Owner;
 - (b) they are deemed to have knowledge of the Goods in the Space; and
 - (c) they are the owner of the Goods in the Space, and/or are entitled at law to deal with them in accordance with all aspects of this Agreement.
2. The Storer acknowledges and agrees that the Facility Owner:
 - (a) is a bailee of the Goods; and
 - (b) is entitled to claim a lien over the Goods for any unpaid Fees, Costs or Expenses.

FEES, COSTS AND EXPENSES:

3. The Storer must, upon signing the Agreement, pay to the Facility Owner:
 - (a) the Deposit;
 - (b) the Administration Fee; and
 - (c) the first payment of the Storage Fee.
4. The Storer must pay to the Facility Owner:
 - (a) the Storage Fee (as adjusted) monthly in advance on or before the first day of each month. The Storer must ensure that payment is made directly to the Facility Owner on time and in full throughout the Storage Period. For the avoidance of any doubt, the Facility Owner will not send a monthly invoice to the Storer unless otherwise agreed in writing;
 - (b) the Cleaning Fee on demand;
 - (c) any costs or expenses incurred by the Facility Owner in connection to any late or unpaid monies from the Storer, maintaining the Goods, selling the Goods in enforcement of lien, enforcing this Agreement in any way including but not limited to postal, telephone, debt collection, advertising and/or any default action (including legal costs on a full indemnity basis) taken by the Facility Owner.

EVENTS OF DEFAULT:

5. The Storer will be in default under this Agreement if any of the following circumstances occur (each an **Event of Default**):
 - (a) **Failure to Pay:** If the Storer fails to pay the any amount by its due date.
 - (b) **Unauthorised access to third parties:** If the Storer provides access to the Space any third party without the Facility Owner's prior consent.
 - (c) **Unauthorised use of the Space:** If the Storer, or any person with the Storer's knowledge or consent, is found to be living or residing in the Space or within any stored item (e.g. a caravan or RV).
 - (d) **Misuse of fire equipment:** If fire safety equipment is used for any purpose other than a genuine emergency (i.e. a fire).
 - (e) **Empty Space:** If the Facility Owner enters the Space and finds no Goods Stored within the Space and the Storer has not notified the Facility Owner that the Space will be empty in advance.
 - (f) **Unlawful Use:** If the Storer is found to be using the Space for illegal or environmentally harmful activities.
 - (g) **Cross Default:** If the Storer is in default of any other agreement between the Storer and the Facility Owner, including any agreement for other storage spaces operated by the Facility Owner.
 - (h) **Breach:** If the Storer otherwise fails to comply with any terms of the Agreement and does not remedy that breach within seven days of the Facility Owner giving notice to remedy, or, if in the reasonable opinion of the Facility Owner, the breach is not capable of remedy.
 - (i) **Failure to Notify:** If the Storer fails to notify the Facility Owner immediately of any fire or any other emergency of any kind.

REMEDIES AVAILABLE TO FACILITY OWNER:

6. If an Event of Default occurs, the Facility Owner may (in addition to any other rights the Facility Owner may have at law) take any or all of the following actions, without further notice unless otherwise specified:
 - (a) Suspend, the Storer's access to the Space.
 - (b) Require payment of the Penalty Fee.
 - (c) Terminate this Agreement immediately by sending written notice to the Storer.

- (d) Forfeit any prepaid amounts, including the Deposit.
- (e) Require payment of the Late Payment Fee (but only if any amount owed is overdue by 14 days (the Late Payment Fee can be imposed for each 14 day period any amount is overdue)).
- (f) Enter the Space (using force if necessary), take possession of and dispose of the Goods stored therein in accordance with clause 10. The Storer waives any right or claim against the Facility Owner in relation to the entry, removal, or disposal of the Goods.

TERMINATION

- 7. Termination of this Agreement
 - (a) If an End Date is specified this Agreement will terminate on the End Date unless agreed otherwise (in writing) by both parties.
 - (b) If no End Date is specified, either party may terminate this Agreement at any time by providing the other party with at least two (2) weeks' written Notice, which must specify the date on which the Agreement will terminate (Termination Date).
- 8. Storer's Obligations upon Termination
 - Prior to the End Date or Termination Date (as the case may be), the Storer must:
 - (a) remove all Goods from the Space;
 - (b) leave the Space in a clean condition and good state of repair to the satisfaction of the Facility Owner;
 - (c) pay all outstanding amounts owing to the Facility Owner.
- 9. Ongoing Liability
 - (a) The Storer's liability for Events of Default occurring before the End Date or Termination Date (as the case may be) continues after the end of this Agreement.

FACILITY OWNER'S POWER TO SELL

- 10. Sale of Goods due to Non-Payment
 - (a) If any Storage Fees are unpaid for more than six (6) months, the Facility Owner may sell the Goods by public auction in accordance with the *Storage Liens Act 1973* (Qld).
 - (b) Prior to any sale, the Facility Owner will provide written notice of its intention to sell to the Storer and to any other person with a known legal or equitable interest in the Goods.
 - (c) The notice will include a description of the Goods, the location of storage, the amount owing, and a demand for payment within a period of not less than thirty (30) days.
 - (d) If payment is not received within the time specified in that notice, the Facility Owner will advertise the sale in a newspaper published in Brisbane and circulating throughout Queensland, and in a newspaper published in the district where the Goods are stored. The sale will then be conducted by public auction not less than twenty-eight (28) days after the date of the last such publication.
 - (e) The Facility Owner may use the sale proceeds to pay any amount owing to the Facility Owner and the costs of sale including advertising costs and auction costs.
 - (f) Any excess proceeds from such sale will be returned to the Storer. If the Storer cannot be located, the excess will be deposited with the Public Trustee.

ACCESS AND CONDITIONS:

- 11. The Storer:
 - (a) May access their Goods only during Access Hours as notified by the Facility Owner.
 - (b) Must not store any Goods that are dangerous, hazardous, illegal, stolen, inflammable, explosive, environmentally harmful, perishable or that are a risk to the property of any person.
 - (c) Must not store items which are irreplaceable, such as currency, jewelry, furs, deeds, painting, curios, works of art and items of personal sentimental value.
 - (d) Must use the Space solely for the purpose of storage and shall not carry on any business or other activity in the Space.
 - (e) Must not attach nails, screws or anything alike to any part of the Space and must maintain the Space by ensuring it is clean and in a good state of repair and must not damage or alter the Space without the Facility owner's consent. In the event of uncleanliness of or damage to the Space or Facility the Facility Owner will be entitled to retain the Storer's deposit, charge a cleaning fee, and/or full reimbursement from the Storer to the value of the repairs required.
 - (f) Cannot assign this Agreement with the prior written consent of the Facility Owner.
 - (g) Must give Notice to the Facility Owner in writing of any change of address of the Storer or the Alternate Contact Person within 14 days of the change occurring.

RELOCATION

12. Relocating Storer's Goods to another Space

- (a) The Facility Owner reserves the right to relocate the Storer's Goods, to another Space at the Facility Owner's sole discretion.
- (b) If the Facility Owner gives the Storer notice of relocation the Storer must relocate its Goods to the new location within the time specified in the notice (which will not be less than one month from the date of the notice).

RISK AND RESPONSIBILITY:

13. The Storer acknowledges and agrees that:

- (a) No failure or delay by the Facility Owner to exercise its right under this Agreement will operate to waive those rights.
- (b) The Goods are stored at the sole risk and responsibility for the Storer is be responsible for any and all theft, damage to, and deterioration of the Goods.
- (c) They bear the risk of any and all damage caused by cyclone, flood or fire or leakage or overflow of water, mildew, heat, spillage of material from any other space, removal or delivery of the Goods, pest or vermin or any other reason whatsoever including acts or omissions, negligent, deliberate or otherwise, of the Facility Owner or persons under its control.
- (d) They will comply with all relevant laws, regulations and other authorities applicable to the use of the Space. This includes laws relating to the material which is stored, and the manner in which it is stored. The liability for any and all breach of such laws rests absolutely with the Storer and includes all costs resulting from such a breach.
- (e) If the Facility Owner has reason to believe that the Storer is not complying with any relevant laws the Facility Owner may take any action the Facility Owner believes to be necessary including contacting, cooperating with and/or submitting Goods to the relevant authorities, and or immediately disposing of or removing the Goods at the Storer's expense. The Storer agrees that the Facility Owner may take such action at any time even though the Facility Owner could have acted earlier.

INSPECTION AND ENTRY BY THE FACILITY OWNER:

14. The Storer acknowledges that the Facility Owner has the right to access the Space for any purpose including the deposit or retrieval of Goods on the Storer's instructions, in the event of emergency, to allow inspection or seizure by relevant authorities, for the purpose of general inspection of the Space or the Goods, or any other purpose the Facility Owner believes necessary for the enforcement of this Agreement or the operation of the Facility.

NOTICES:

15. Serving of Notices

- (a) **Delivery of Notices:** notices must be given in writing and left at or posted to the last known address of or emailed to the Storer or the Facility Owner.
- (b) **Effective Date of Notice:**
 - (i) if delivered in person – on the date of delivery;
 - (ii) if sent by registered mail – three business days after posting; or
 - (iii) if sent by email – on the date the email is sent, provided no delivery failure notification is received.
- (c) **Notice to Facility Owner:** it is the responsibility of the Storer to confirm that the Facility Owner has received the notice.
- (d) **Notice to Storer:** notice is deemed to have been given to the Storer by the Facility Owner if the Facility Owner serves a notice to the Alternative Contact Person. If there is more than one Storer, notice on one or more Storers is sufficient.

IDEMNITY AND RELEASE:

16. Indemnity

- (a) The Storer indemnifies the Facility Owner from and against any and all liability, claim, action, loss, damage, cost and expense the Facility Owner sustains or incurs whether during the Storage Period or after because of this Agreement or performance of this Agreement.
- (b) The Storer indemnifies and keeps indemnified the Facility Owner from all claims for any loss of or damage to the property of, or personal injury to, third parties resulting from or incidental to the use of the Space by the Storer, including the storage of Goods in the Space.

17. Release

- (a) The Storer releases the Facility Owner from any action or demand due to any damage, loss, injury or death occurring in or near the Space or the facility except to the extent directly caused by the acts or omissions of the Facility Owner.
- (b) Notwithstanding anything else in this Agreement or at law the Facility Owner is not liable for any consequential losses.
- (c) The Storer specifically acknowledges that it is aware of the limitation of liability set out in clauses 16 and 17 above and that, in all circumstances, taking into account the negotiations between the parties and their relationship, such limitation on the Facility Owner's liability is reasonable.

ENTIRE AGREEMENT:

18. Acknowledgement of Agreement

- (a) The storer acknowledges and agrees that no oral statements made by the Facility owner or its employees shall form part of this Agreement.
- (b) The Storer agrees that the terms of this document constitutes the whole Agreement with the Facility Owner and that, in entering this Agreement, the Storer relies upon no representations other than those contained in this Agreement.
- (c) The Storer acknowledges that it has raised all queries relevant to its decision to enter this Agreement with the Facility Owner and that the Facility Owner has, prior to the Storer entering into this Agreement, answered all such queries to the satisfaction of the Storer. The Storer acknowledges that any matters resulting from such queries have, to the extent required by the Storer and agreed to by the Facility Owner, been reduced to writing and incorporated into the terms of this Agreement.

MEDIATION OF DISPUTES:

19. Handling Disputes

- (a) If a dispute arises in connection with this Agreement, the parties must first attempt to resolve it through mediation. The mediation will be conducted by an independent mediator agreed upon by both parties. If the parties cannot agree on a mediator within 7 days of one party giving written notice of the dispute, a mediator will be appointed by an arbitrator.
- (b) Neither party may commence court proceedings (except for urgent or interim relief) unless they have first made a genuine offer to resolve the dispute through mediation.

INSURANCE

20. Insurance Requirement

- (a) The Storer acknowledges that the Facility Owner does not provide insurance cover for any Goods stored in the Facility.

GENERAL PROVISIONS:

21. Australian Consumer Law

- (a) If the Australian Consumer Law applies to this Agreement then the goods and services come with guarantees that cannot be excluded under the Australian Consumer Law including that the Storer is entitled to a replacement or refund for a major failure and for compensation for any other reasonably foreseeable loss or damage. Where it is lawful to do so the Facility Owner limits its liability for failure to comply with a consumer guarantee to one or more of the following:
 - (i) the supplying of the services again; or
 - (ii) the payment of the cost of having the services supplied again.
- (b) If the Australian Consumer Law does not apply to this Agreement then except for any terms, conditions or warranties implied by law which are not capable of exclusion, or as otherwise expressly provided in this Agreement, all conditions, warranties, terms, undertakings, duties and obligations expressed or implied by law in any way relating to goods or services (including as to merchantability, fitness or otherwise) are hereby excluded.

22. GST

If any payment made by one party to any other party under or relating to this document constitutes consideration for a taxable supply for the purposes of GST or any similar tax, the amount to be paid for the supply will be increased so that the net amount retained by the supplier after payment of that GST is the same as if the supplier was not liable to pay GST in respect of that supply. This provision is subject to any other agreement regarding the payment of GST on specific supplies, and includes payments for supplies relating to the breach or termination of, and indemnities arising from, this document.

23. Governing Law

This Agreement is governed by and constructed under the laws of Queensland, Australia. Any legal action in relation to this Agreement must be commenced in Cairns, Queensland, Australia.

24. Severability

If any term or condition is or becomes illegal or unenforceable it will be severed and none of the remaining terms or conditions will be affected.

25. Event's Beyond Facility Owner's Control

If the Facility Owner is prevented from or restricted in carrying out its obligations on any matter beyond the Facility Owner's reasonable control, then the Facility Owner is excused from carrying out its obligations to the extent of the cause of the non-

performance but the Facility Owner must use its best endeavours to avoid or remove the cause of the non-performance as quickly as reasonably possible.

26. Waivers

Any failure by the Facility Owner to exercise any right under this agreement does not operate as a waiver and the single or partial exercise of any right by the Facility Owner does not preclude any other or further exercise of that or any other right by the Facility Owner.

27. Preservation of Legal Rights

The Facility Owner's rights under this agreement are cumulative and not exclusive of any rights provided by law.

28. Confidentiality

The Facility Owner retains information in relation to the Storer and uses it only for the purpose for which it was collected or where the Storer would reasonably expect the Facility Owner to use or disclose information as part of normal business activities, or when required by law. The Storer may access its information and correct and update that information at any time by contacting the Facility Owner.