

Conditions of Agreement

STORAGE

1. THE STORER:

- (a) may store Goods in the Space allocated to the Storer by the Facility Owner ("FO") and only in that space;
- (b) is deemed to have knowledge of the Goods in the Space;
- (c) warrants that the Storer is the Facility 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 FO

- (a) does not have and will not be deemed to have, knowledge of the Goods;
- (b) is not a bailee nor a warehouseman of the Goods and the Storer acknowledges that the FO does not take possession of the Goods.
- (c) claims a contractual lien over the Goods in the event any moneys are owing under the Agreement.

COST

The Storer must upon signing the Agreement pay to the FO:

- (a) the Deposit (which, when applicable, will be refunded by cheque within 30 days of termination of this Agreement), and/or
 - (b) the Administration Fee.
4. The Storer is responsible to pay:
- (a) the Storage Fee being the amount indicated in this Agreement or any reasonable increase as notified to the Storer by the FO. The FO will provide no less than 28 days' notice of any intended increase. Where the Storer objects to the increase, the Storer may, before the expiration of the 28 days' notice, terminate the Agreement and move out giving no less than 1 Month's notice. The Storage Fee is payable in advance and it is the Storer's responsibility to make payment directly to the FO on time, and in full, throughout the period of storage. Any Storage Fees paid by direct deposit/direct credit (Direct Payment) will not be credited to the Storer's account unless the Storer identifies the deposit clearly and as directed by the FO. The FO is indemnified from any claim for enforcement of the Agreement due to the Storer's failure to identify a deposit, including the sale or disposal of Goods due to the Storer's failure to identify correct a Direct Payment;
 - (b) the Cleaning fee, as indicated on the front of this Agreement, is payable at the FO's discretion;
 - (c) a late payment fee, as indicated on the front on this Agreement, which becomes payable each time a payment is late.
 - (d) any costs incurred by the FO in collecting late or unpaid Storage Fees, or in enforcing this Agreement in any way, including but not limited to postal, telephone, debt collection, personnel and/or the default action legal costs.

5. The Storer will be responsible for payment of any government taxes or charges (including any goods and services tax) being levied on this Agreement, or any supplies pursuant to this Agreement.

DEFAULT

6. Notwithstanding clause 23, the Storer acknowledges that, in the event of the Storage Fee, or any other moneys owing under this Agreement, not being paid in full within 45 days of the due date, the FO may, without further notice, enter the Space, by force or otherwise, retain the Deposit and/or sell or dispose of any Goods in the Space on such terms that the FO may determine. For the purposes of the *Personal Property Securities Act 2009*, the FO is deemed to be in possession of the Goods from the moment the FO accesses the Space. The Storer consents to and authorises the sale or disposal of all Goods regardless of their nature or value. The FO may also require payment of default action costs, including any costs associated with accessing the Storer's Space and disposal or sale of the Storer's Goods. Any excess funds will be returned to the Storer within 6 months of the sale of goods. In the event that the Storer cannot be located, excess funds will be deposited with the Public Trustee or equivalent authority. In the event that the Storer has more than one Space with the FO, default on either Space authorizes the FO to take Default Action against all Spaces. At least 14 days before the FO can take any Default Action the FO will provide the Storer with Notice that the Storer is in Default. The FO will provide the Storer with reasonable time to rectify the Default before any Default Action is taken.

RIGHT TO DUMP

7. If, in the opinion of the FO and entirely at the discretion of the FO, a defaulting Storer's Goods are either not saleable, fail to sell when offered for sale, or are not of sufficient value to warrant the expense of attempting to sell, the FO may dispose of all Goods in the Storer's Space by any means.
8. Further, upon Termination of the Agreement (Clause 23) by either the Storer or the FO, in the event that a Storer fails to remove all Goods from the Storer's Space or the Facility the FO is authorised to dispose of all Goods by any means 7 days from the Termination Date, regardless of the nature or value of the Goods.
9. Any items left unattended in common areas or outside the Storer's Space at any time may at the FO's discretion be sold, disposed, move or dumped immediately and at the expense and liability of the Storer.

ACCESS AND CONDITIONS

10. The Storer:

- (a) has the right to access to Space during Access Hours as posted by the FO and subject to the terms of this Agreement;
 - (b) will be solely responsible for the securing of the Space and shall so secure the Space at all times when the Storer is not in the Space in a manner which is acceptable to the FO, and where applicable will secure the external gates or doors of the Facility. The Storer is not permitted to apply a padlock to the Storer's Space in the FO's overlocking position, and the Storer may have any such padlock forcefully cut off at the Storer's expense;
 - (c) must not store any Goods that are hazardous, illegal, stolen, inflammable, explosive (including any batteries), environmentally harmful, perishable or that are a risk to the property of any person;
 - (d) must not store items which are irreplaceable, such as currency, jewellery, furs, deeds, paintings, curios, works of art and items of personal sentimental value and/or any items that are worth more than \$2000AUD in total unless they are itemized and covered by insurance;
 - (e) will use the Space solely for the purpose of storage and shall not carry on any business or other activity in the Space;
 - (f) must not attach nails, screws etc to any part of the Space and must maintain the Space by ensuring it is clean and in a state of good repair and must not damage or alter the Space without the FO's consent; in the event of uncleanliness or damage to the Space or Facility the FO 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;
 - (g) cannot assign this Agreement;
 - (h) must give Notice to the FO in writing of the change of address, phone numbers or email address of the Storer or the Alternate Contact Person ("ACP") within 48 hours of any change;
 - (i) grants the FO entitlement to discuss any default by the Storer with the "ACP" registered on the front of this Agreement. Further, where the FO reasonably believes that the Storer is unwilling or unable to remove Goods from the Space upon termination or default of the Agreement, despite reasonable notice under these terms, the Facility Owner may allow the ACP to remove the Goods on such terms as agreed between the FO and the ACP without the need for further consent from the Storer. Further, where the FO has reasonable proof that the Storer is deceased, the FO is authorized to force access to the Space and release all Goods to the ACP;
 - (j) is solely responsible for determining whether the Space is appropriate and suitable for storing the Storer's Goods, having specific consideration for the size, nature and condition of the Space and Goods;
 - (k) must ensure that the Storer's goods are free of food scraps and are not damp when placed into storage.
11. The FO may refuse access to the Space and/or the Facility by the Storer where moneys are owing by the Storer to the FO, whether or not a formal demand for payment of such moneys has been made.
 12. The FO will not be liable for any loss or damage suffered by the Storer resulting from inability to access the Facility or the Space, regardless of the cause.
 13. The FO reserves the right to relocate the Storer to another Space under certain circumstances, including but not limited to unforeseen extraordinary events or redevelopment of the Facility.
 14. The FO may dispose of the Storer's Goods in the event that Goods are damaged due to fire, flood or

other event that has rendered the Goods, in the opinion of the FO, severely damaged, of no commercial value, or dangerous to the Facility, any persons, or other Storers and/or their Goods. The FO does not need the prior approval of the Storer to take this action but will send Notice to the Storer within 7 days.

15. The Storer :

- (a) agrees that the terms of this document constitute the whole contract with the FO and that, in entering this contract, the Storer relies upon no representations, oral or otherwise, other than those contained in this Agreement.
- (b) acknowledges that it has raised all queries relevant to its decision to enter this Agreement with the FO and that the FO 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 FO, been reduced to writing and incorporated into the terms of this Agreement. No failure or delay by the FO to exercise its rights under this Agreement will operate as a waiver to those rights.

RISK AND RESPONSIBILITY

16. The FO's services come with non-excludable guarantees under consumer protection law, including that they will be provided with due care and skill. Otherwise, to the extent permitted by law, the Goods are stored at the sole risk and responsibility of the Storer who shall be responsible for any and all theft, damage to, and deterioration of the Goods, and shall bear the risk of any and all damage caused by 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.
17. The Storer agrees to indemnify and keep indemnified the FO from all claims for any loss of or damage to the property of, or personal injury to or death of the Storer, the Facility, the FO or third parties resulting from or incidental to the use of the Space by the Storer, including the storage of Goods in the Space, the Goods themselves and/or accessing the Facility.
18. The Storer acknowledges and agrees to comply with all relevant laws, including Acts and Ordinances, Regulations, By-laws, and Orders, as are or may be 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 any and all costs resulting from such a breach.
19. If the FO has reason to believe that the Storer is not complying with all relevant laws the FO may take any action the FO believes to be necessary, including the action outlined in clauses 21 & 23, 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 FO may take such action at any time even though the FO could have acted earlier.

INSPECTION AND ENTRY BY THE FO

20. Subject to clause 21 the Storer consents to inspection and entry of the Space by the FO provided that the FO gives 21 days written Notice.
21. In the event of an emergency, that is where obliged to do so by law or in the event that property, the environment or human life is, in the opinion of the FO, threatened, the FO may enter the Space using all necessary force without the written consent of the Storer, but the FO shall notify the Storer as soon as practicable. The Storer consents to such entry.

NOTICE

22. Notices will usually be given by email or SMS, or otherwise will be left at, or posted to, or faxed to the address of the Storer. In relation to the giving of Notices to the FO, Notices must be in writing and actually be received to be valid, and the FO may specify a required method. In the event of not being able to contact the Storer, Notice is deemed to have been given to the Storer by the FO if the FO serves that Notice on the ACP as identified on the front of this Agreement, and/or has sent Notices to the last notified address of the Storer or other contact including SMS or email of the Storer or ACP. In the event that there is more than one Storer, Notice to or by any single Storer is agreed to be sufficient for the purposes of any Notice requirement under this agreement

TERMINATION

23. Once the initial fixed period of storage has ended, either party may terminate this Agreement by giving the other party Notice of the Termination Date in accordance with period indicated on the front of this Agreement. In the event of illegal or environmentally harmful activities on the part of the Storer the FO may terminate the Agreement without Notice. The FO is entitled to retain or charge apportioned storage fees if less than the requisite Notice is given by the Storer. The Storer must remove all Goods in the Space before the close of business on the Termination Date and leave the Space in a clean condition and in a good state of repair to the satisfaction of the FO. In the event that Goods are left in the Space after the Termination Date, clause 8 will apply. The Storer must pay any outstanding storage fees and any expenses on default or other monies owed to the FO up to the date of termination, or clause 6, 7 or 8 may apply. Any calculation of the outstanding fees will be by the FO and such calculation will be final. If the FO enters the Space for any reason and there are no Goods stored therein, the FO may terminate the Agreement without giving prior Notice, but the FO will send Notice to the Storer in writing within 7 days
24. The Parties' liability for outstanding monies, property damage, personal injury, environmental damage and legal responsibility under this Agreement continues to run beyond the termination of this Agreement.

SEVERANCE

25. If any clause, term or provision of this Agreement is legally unenforceable or is made inapplicable, or in its application would breach any law, that clause, term or provision shall be severed or read down, but so as to maintain (as far as possible) all other terms of the Agreement.

MEDIATION AND ARBITRATION OF DISPUTES

26. The parties must endeavor to settle any dispute in connection with this Agreement by mediation. Such mediation is to be conducted by a mediator who is independent of the parties and appointed by agreement of the parties. It is a condition precedent to the right of either party to commence arbitration or litigation other than for urgent interlocutory relief that it has first offered to submit the dispute to mediation. If the dispute has not been resolved by mediation within 10 working days of a mediation, either party may require that the dispute shall be determined by the arbitration of a sole arbitrator in accordance with the *Commercial Arbitration Act 2011 (SA)*. The determination of the arbitrator will be final and binding on the parties.

INSURANCE AND INDEMNITY

27. If the Storer decides not to take out Insurance Cover for the Storer's goods, the Storer agrees to indemnify the FO for all Loss and damage to the goods caused by the Storer's failure to keep the goods insured. The FO will not be held responsible for any loss, injury or damage, direct or indirect, suffered by the Storer or any third party associated with the Storer, whether in contract, tort, (including without limitation, negligence or breach of statutory duty) or otherwise, arising from any act or default on the part of the FO or arising from the Storer's failure to keep the goods insured.

FORCE MAJEURE

28. The FO will have no liability to the Storer in relation to any loss, damage or expense caused as a result of an act of God, lightning, fire, flood, tempest, earthquake, riot, civil disturbance, industrial dispute, theft, crime, strike, lock-out, work stoppage or other labour hindrance, breakdown, act of war (whether declared or not), sabotage, insurrection, epidemic (including the current Covid 19 – Coronavirus pandemic), national emergency (whether in fact or law), requirements of restriction of, or failure to act by government, local body or judicial entity, or any government restraint, or any other matters beyond the FO's control.

GOVERNING LAW

29. This Agreement is governed by the Laws of South Australia.