

# CONDITIONS OF AGREEMENT

## STORAGE:

- 1) The Storer:
  - a) has the right to store Goods in the Space allocated to the Storer by the Owner;
  - b) is deemed to have knowledge of the Goods in the space;
  - c) warrants that 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 Owner:
  - 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 Owner does not take possession of the Goods.

## COST:

- 3) The Storer must upon signing the Agreement pay to the Owner:
  - a) the Deposit (which 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 the amount notified to the Storer in writing by the Owner from time to time. The Storage Fee is payable in advance and it is the Storer's responsibility to see that payment is made directly to the Owner, on time, in full, throughout the period of storage. The Owner does not normally bill for fees;
  - b) the Cleaning fee as indicated on the front on this Agreement, is payable at the Owner'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 Owner in collecting late or unpaid Storage Fees or in enforcing this Agreement in any way, including but not limited to postal, telephone, debt collection, and/or the default action 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 18, the Storer acknowledges that, in the event of the Storage Fee, or any other monies owing under this Agreement, not being paid in full **within 42 days of the due date**, the Owner 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 Owner may determine. The Owner 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 monies recovered by the Owner on disposal will be returned to the Storer.

## ACCESS AND CONDITIONS:

- 7) The Storer:
  - a) has the right to access the Space during Access Hours as posted by the Owner;
  - 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 Owner, and where applicable will secure the external gates or doors of the premises;

- c) must not store any Goods that are hazardous, illegal, stolen, inflammable, explosive, 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;
  - 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 Owner's consent; in the event of uncleanliness of or damage to the Space or Facility the 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.
  - g) cannot assign this Agreement;
  - h) must give Notice to the Owner in writing of the change of address of the Storer or the Alternate Contact Person within 48 hours of any change.
  - i) grants the Owner entitlement to discuss any default by the Storer with the Alternate Contact Person registered on the front of the Agreement.
- 8) The Owner may refuse access to the Space by the Storer where moneys are owing by the Storer to the Owner, whether or not a formal demand for payment of such moneys has been made.
  - 9) The Owner reserves the right to relocate the Storer to another Space under certain circumstances.
  - 10) No oral statements made by the Owner or its employees shall form part of this Agreement, and no failure or delay by the Owner to exercise its rights under this Agreement will operate to waive those rights.

## RISK AND RESPONSIBILITY:

- 11) 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 of vermin or any other reason whatsoever including acts or omissions, negligent deliberate or otherwise, of the Owner or persons under its control.
- 12) The Storer agrees to indemnify and keep indemnified the 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.
- 13) 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.

- 14) If the Owner has reason to believe that the Storer is not complying with all the relevant laws the Owner may take any action the Owner believes to be necessary, including the action outlined in clauses 16 & 18, contacting, cooperating with and/or submitting Goods to the relevant authorities and immediately disposing of or removing the Goods at the Storer's expense. The Storer agrees that the Owner may take such action at any time even though the Owner could have acted earlier.

**INSPECTION AND ENTRY BY THE OWNER:**

- 15) Subject to clause 16 the Storer consents to inspection and entry of the Space by the Owner provided that the Owner gives 21 days written Notice.
- 16) In the event of an emergency, that is where property, the environment or human life is, in the opinion of the Owner threatened, the Owner may enter the Space using all necessary force without the written consent of the Storer, but the Owner shall notify the Storer as soon as practicable. The Storer consents to such entry.
- 17) Notices will usually be given in writing and left at, or posted to, or faxed to the address of the Storer or the Owner. In relation to the giving of Notices to Owner, Notices must actually be received to be valid. In the event of not being able to contact the Storer, Notice is deemed to have been given to the Storer by the Owner if the Owner serves that Notice on the Alternate Contact Person as identified on the front of this Agreement, or has sent Notices to the last notified address of the Storer or Alternate Contact Person. 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:**

- 18) Once the initial fixed period of storage has ended, either party may terminate this Agreement by giving the other party Notice as indicated on the front of this Agreement. In the event of illegal or environmentally harmful activities on the part of the Storer, the Owner may terminate the Agreement without Notice. The Owner is entitled to retain a portion of the deposit if less than the requisite Notice is given by the Storer. Upon termination the Storer must remove all Goods in the Space and leave the Space in a clean condition and in a good state of repair to the satisfaction of the Owner on the date specified. The Storer must pay any outstanding monies and any expenses on default or other monies owed to the Owner up to the date of termination, or clause 6 may apply. Any calculation of the outstanding fees will be by the Owner and such calculation will be final. If the Owner enters the Space for any reason and there are no Goods stored therein, the Owner may terminate the Agreement without giving prior Notice, but the Owner will send Notice to the Storer in writing within 7 days.
- 19) 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.

**TRADE PRACTICES ACT:**

- 20) The Storer:
- a) agrees that the terms of this document constitute the whole contract with the Owner and that, in entering this contract, the Storer relies upon no representations 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 Owner and that the 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 Owner been reduced to writing and incorporated into the terms of this Agreement.

21)

- a) Any damages, whether for physical or economic loss, which the Owner is liable to pay to the Storer pursuant to this Agreement or performance of this Agreement (including damages for negligence or damages for consequential loss) are limited in all cases other than cases of damages relating to the provision of services of a kind ordinarily acquired for personal, domestic or household use or consumption to:
- i) the further supply of storage equivalent to that undertaken by the Owner as set out in the terms and conditions of this Agreement; or
- ii) the payment of the cost for further storage equivalent to that undertaken by the Owner under the terms and conditions of this Agreement; or
- iii) the payment of the cost of further supply of storage equivalent to that undertaken by the Owner under the terms and conditions of this Agreement.
- b) The Storer specifically acknowledges that it is aware of the limitation of liability set out in clause 21(a) above and that, in all the circumstances, and taking into account the negotiations between the parties and their relationship, such limitation on the Owner's liability is a reasonable one.

**MEDIATION OF DISPUTES:**

- 22) The parties must endeavour 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 or, failing agreement within 7 days of receiving any party's notice of dispute, by a person appointed by the Chair of LEADR, ACN 008 651 232, Level 9, 15-17 Young Street, Sydney; phone: 02 9251 3366, fax: 02 9251 3733, email: [leadr@leadr.com.au](mailto:leadr@leadr.com.au), or the Chair's designated representative. The LEADR Mediation Rules shall apply to the mediation, arbitration or litigation. It is a condition precedent to the right of either party to commence arbitration or litigation other than for interlocutory relief, that it has first offered to submit the dispute to mediation.