

# TERMS AND CONDITIONS OF STORAGE

## WHAT THIS DOCUMENT DOES

This document sets out the terms and conditions of an agreement (this "Agreement") with you (the "Storer") in respect of goods ("Goods") stored by you with United Rentals New Zealand, Company No. 1062072 ("UR").

## STORAGE:

### 1. The Storer:

- (a) may store the Goods in the container made available by UR (the "Container") and only in that Container;
- (b) is deemed to have knowledge of the Goods;
- (c) warrants that they are the owner of the Goods, and/or are entitled at law to deal with them in accordance with all aspects of this Agreement;
- (d) acknowledges this Agreement does not grant the Storer a lease of the Container; and
- (e) must comply with all time limits set out in this Agreement.

### 2. UR:

- (a) does not have, and will not be deemed to have, knowledge of the Goods; and
- (b) is not a bailee nor a warehouseman of the Goods and the Storer acknowledges that UR does not take possession of the Goods except in the circumstances set out in this Agreement.

## PAYMENT:

### 3. The Storer must pay:

- (a) the deposit, as notified to the Storer, in advance and prior to storing the Goods in the Container;
  - (b) the storage fee being the amount notified to the Storer by UR 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 UR on time, and in full, throughout the period of storage;
  - (c) a cleaning fee, as notified to the Storer if UR determines the Container requires cleaning;
  - (d) a damage fee representing the full reimbursement of the value of any repairs, as notified to the Storer if UR determines the Container has been damaged by the Storer;
  - (e) a late payment fee, as notified to the Storer, which becomes payable each time a payment is late; and
  - (f) any reasonable costs incurred by UR 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 costs.
4. UR may increase the storage fee at any time after expiry of the initial fixed period of storage. UR will give the Storer not less than 30 days' notice of any increase. If the Storer does not agree to pay the increased storage fee, the Storer may terminate this Agreement as at the effective date of the proposed increase.

5. Any storage fees paid by direct deposit/direct credit will not be credited to the Storer's account unless the Storer identifies the deposit clearly and as directed by UR.

6. UR is indemnified from any claim for enforcement of this Agreement due to the Storer's failure to identify a direct deposit/direct credit.

7. 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 taxable supplies made pursuant to this Agreement. UR reserves the right to add a credit card surcharge reflecting its actual costs of offering payment by credit card (if available).

8. The parties acknowledge and agree that UR has a lien over the Goods in the Container until UR receives payment in full of any amounts owed under this Agreement and that such lien arises out of the services provided by UR in respect of the storage of the Goods and that section 93 of the PPSA applies. Subject to the terms of this Agreement, if UR does not receive full payment of any sum payable under this Agreement, UR may take any action set out in clause 11 as it deems appropriate.

## DEFAULT:

9. The Storer acknowledges that, in the event of the storage fee, or any other moneys owing under this Agreement, not being paid in full on the due date, the Storer is in "Default". If the Storer is in Default, UR may issue a notice stating the amounts owed must be paid within 14 days or the Agreement will be terminated and/or apply any remaining deposit paid by the Storer towards the payment of outstanding fees (including any cleaning fee or damage fee notified by UR to the Storer following termination).

## UNCOLLECTED GOODS:

10. This Agreement is taken to be the full agreement between the parties to the exclusion of any uncollected or unclaimed goods legislation to the extent permitted by law.

11. If this Agreement is terminated, whether as a result of a Default or otherwise, and any Goods have not been collected as required by clause 33:

- (a) The Goods are deemed to be "Uncollected Goods" for the purposes of this Agreement from the date this Agreement is terminated and the Storer acknowledges and agrees that it is not reasonable for those Uncollected Goods to remain in the Container;
- (b) UR will issue a notice to the Storer requesting that the Storer collect the Uncollected Goods within 7 days or any such period notified by UR to the Storer;
- (c) If the Storer does not remove the Uncollected Goods as requested, UR may enter the Container, by force or otherwise, retain the deposit and/or sell or dispose of any Uncollected Goods by any method including:

- (i) sale of the Uncollected Goods in one or more lots by private arrangement or public auction to offset any unpaid storage fee, cleaning fee, damage fee, late payment fee or costs associated with collection of fees and/or disposal of the Goods;
- (ii) disposal of the Uncollected Goods in any manner as UR sees fit, whether for value or not, if the Uncollected Goods are unsaleable, remain unsold after being offered for sale, pose a health and safety risk, or are of insufficient value to warrant a formal sale process;
- (iii) if UR believes in its reasonable opinion that it is a health and safety risk to conduct an inventory of the Goods in the Container, disposing of some or all of the Uncollected Goods without conducting an inventory; and/or
- (iv) appropriation, dumping or destruction at UR's discretion.

(d) For the purposes of the *Personal Property Securities Act 1999* ("PPSA"), UR is deemed to be in possession of the Goods and/or the Container from the moment UR accesses the Container.

(e) The Storer consents to and authorises the sale or disposal of all Uncollected Goods regardless of their nature or value. If Uncollected Goods are sold, UR does not guarantee that a fair price for the Uncollected Goods will be obtained.

(e) If the Uncollected Goods include a motor vehicle, UR will conduct or obtain any checks, searches or certificates required by law prior to sale of the vehicle, including reports to the Commissioner of Police and PPSR searches.

(f) UR is entitled to recover costs associated with overdue storage and disposal of Uncollected Goods, including:

- (i) costs for any carriage and storage of the goods or for any repairs, cleaning, treatment or other work done in connection with the Uncollected Goods;
- (ii) costs for any storage, maintenance or insurance of the Uncollected Goods, incurred by UR during the period between termination of the Agreement and the date when the Uncollected Goods are sold or disposed of; and
- (iii) if the Uncollected Goods are sold, any deficiency between the proceeds of the sale and the relevant charge and disposal costs, in which case UR may recover the deficiency from the Storer as a debt in any court of competent jurisdiction.

(g) If Uncollected Goods are sold, UR is entitled to retain any fees owing under this Agreement and recover any of the costs referred to in clause 11(f) from the proceeds of sale. If there is any excess of the proceeds of sale after the deduction of these amounts, UR will issue a notice to the Storer of the amount of funds with details of how the Storer can access these funds. If the Storer does not respond to this notice within 6 months, the Storer forfeits any right to the funds and UR is entitled to the excess of the proceeds of sale to the extent permitted by law.

(h) Nothing in this clause affects the amounts owed to UR by the Storer, and the Storer acknowledges that UR may enforce its right to payment by any lawful method at its sole discretion, despite any sale or disposal of Uncollected Goods as described in this clause.

12. Any items left unattended in common areas or outside the Container at any time may at UR's discretion be sold, disposed, moved or dumped immediately and at the expense and liability of the Storer.

## REQUIREMENTS FOR STORAGE:

### 13. The Storer:

- (a) will be solely responsible for the securing of the Container and must so secure the Container at all times when the Storer is not in the Container in a manner acceptable to UR, and where instructed by UR will secure the external gates and/or doors of the UR facility. The Storer is not permitted to apply a padlock to the Container in UR's overlocking position, and UR may have any such padlock forcefully cut off at the Storer's expense;
- (b) must not store any Goods that are hazardous, illegal, stolen, inflammable, explosive, environmentally harmful, living, perishable or that are a risk to the property of any person;
- (c) must ensure that any Goods stored in the Container are free of any vermin or pests and are not damp when stored in the Container;
- (d) must not store:
  - (i) currency;
  - (ii) items of significant value, such as jewellery, furs, paintings, curios or works of art;
  - (iii) items of personal sentimental value; or
  - (iv) items that are irreplaceable or otherwise uninsurable;
- (e) must use the Container solely for the purpose of storage and must not carry on any business, illegal activity or other activity in the Container including residing or dwelling in the Container;
- (f) must not physically alter the Container in any way (including, without limitation, paint, drill or attach nails, screws or any fittings or fixtures to any part of the Container);
- (g) must immediately notify UR of any damage the Storer or any person authorised by the Storer cause to the facility or the Container and the Storer is responsible for such damage and must reimburse UR on demand for the cost to UR of making good the damage;
- (h) must maintain the Container by ensuring it is clean and in a state of good repair and must not damage or alter the Container without UR's consent; and
- (i) must not allow a third party to store any goods in the Container.

## ACCESS TO CONTAINER / UR FACILITY

14. The Storer may access the UR facility during access hours as notified by UR and subject to the terms of this Agreement.

15. UR may refuse access to the Container and/or the UR facility by the Storer where moneys are owing by the Storer to UR.

16. The Storer acknowledges that health and safety at the UR facility is an important issue and:

- (a) before being given access to the Container the Storer must complete, and ensure that persons under their control who wish to access the Container complete, the UR induction process covering health and safety procedures to be followed at the UR facility;
- (b) while at the UR facility the Storer must follow, and ensure that persons under their control follow, all health and safety procedures as notified by UR and all applicable laws; and

(c) the Storer must immediately notify UR if they identify any actual or potential health and safety risk or hazard at the UR facility or any notifiable events (as defined in the *Health and Safety at Work Act 2015*) which occur at the UR facility.

17. The Storer acknowledges that access to the UR facility is at the Storer's risk, to the fullest extent legally permissible.

18. UR is not liable for any loss or damages suffered by the Storer resulting from an inability to access the UR facility or the Container.

19. UR reserves the right to relocate the Goods being stored in the Container by the Storer to another similar container or facility.

20. If the Goods are damaged due to fire, flood or other event that has rendered the Goods, in the reasonable opinion of UR, severely damaged, of no commercial value, or dangerous to the UR facility, any persons, or other storers and/or their goods, UR may dispose of the goods by dumping or destruction. UR will provide the Storer with reasonable notice and an opportunity to review the Goods, before the Goods are disposed of. UR will not be liable for any loss or damage suffered by the Storer as a result of such disposal action.

## RISK AND RESPONSIBILITY:

## TERMS AND CONDITIONS OF STORAGE

21. UR is not responsible for, and the Storer is solely responsible for, determining whether the Container is appropriate and suitable for storing the Goods.

22. To the extent permitted by law, the Goods are stored at the sole risk and responsibility of the Storer including in relation to the risk of physical loss of the Goods and/or damage to, and destruction or deterioration of the Goods for any reason and by any cause including by flood, lightning, storm, earthquake, fire or leakage or overflow of water, rust, corrosion, mildew, mould, heat, spillage of material from any other space, removal or delivery of the Goods, pest or vermin, burglary or theft by forcible entry into the Container or any defect in or failure of the Container or any lock or other security system installed in the facility or any other reason whatsoever.

23. Where loss, damage or injury is caused by the Storer, the Storer's actions or the Goods, the Storer agrees to indemnify and keep indemnified UR from all claims for any loss of or damage to the property of, or personal injury to or death of the Storer, the UR facility, UR or third parties, resulting from or incidental to the use of the Container by the Storer, including but not limited to the storage of the Goods in the Container, the Goods themselves and/or accessing the UR facility.

24. To the extent permitted by law, the Storer, at all times (and despite any earlier termination of this Agreement):

(a) releases UR (and its employees, contractors and agents) from; and

(b) indemnifies UR (and its employees, contractors and agents) against, any costs, expenses, loss, damages, claims, action or liability, to the extent it is arising (including whether in contract, tort (including negligence), under statute or otherwise) from or in connection with:

(i) loss of or damage to Goods;

(ii) damage to any device used by the Storer to secure the Container resulting from UR accessing the Container in accordance with this Agreement;

(iii) UR either refusing the Storer access to the Container or terminating this Agreement in accordance with this Agreement; or

(iv) loss of or damage to any property (including UR's property) or death of or injury to any person caused or contributed to by:

(A) the Storer's Goods;

(B) the Storer or any person accessing the Container with the Storer's authority or consent;

(C) the Storer's use of the Container or any other person authorised by the Storer;

(D) UR or any of its contractors, agents or employees in exercising any other right or power pursuant to this Agreement.

25. The Storer is responsible for (and will pay for) any loss or damage caused by a third party who enters the Container or the facility at the request or direction of the Storer.

26. The Storer agrees to comply with all relevant laws applicable to the use of the Container. This includes laws relating to the material which is stored, and the manner in which it is stored.

27. If UR reasonably believes that the Storer is not complying with any relevant laws UR may take any action UR reasonably 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, including where in UR's reasonable opinion the Storer is engaging in illegal activity in relation to the storage of the Goods.

### INSPECTION AND ENTRY BY UR:

28. Without limiting UR's rights under clauses 11, 27 and 29, the Storer consents to inspection and entry of the Container by UR provided that UR gives at least 7 days' written notice.

29. 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 reasonable opinion of UR, threatened, UR may enter the Container using all necessary force without the consent of the Storer. In this event, if it considers it necessary, UR may immediately (and without notice to the Storer) take any action considered by UR to be necessary to access, inspect or service the Container or the Goods and, if necessary to avoid the potential harm, UR may remove and dispose of the Goods and the cost of UR in so doing will be reimbursed by the Storer to UR on demand by UR. UR must thereafter notify the Storer as soon as practicable.

### TERMINATION:

30. Once the initial fixed period of storage has ended, either party may terminate this Agreement by giving the other party 30 days' notice of termination.

31. In the event of:

(a) Default;

(b) illegal or environmentally harmful activities on the part of the Storer; or

(c) any breach by this Agreement by the Storer where the Storer does not remedy the same (if capable of remedy) within 5 calendar days of being notified of such breach, UR may immediately terminate this Agreement by notice to the Storer.

32. If the Storer wishes to terminate this Agreement before the initial fixed period of storage has ended, UR is entitled to retain or charge apportioned storage fees.

33. Upon termination of this Agreement for any reason, the Storer must:

(a) remove all Goods before the close of business on the termination date and leave the Container in a clean condition and in a good state of repair to the satisfaction of UR. In the event that Goods are left in the Container after the termination date clause 11 will apply; and

(b) pay any outstanding storage fees and any expenses on default or any other moneys owed to UR up to the termination date, including any cleaning fee or damage fee notified by UR to the Storer upon inspection of the Container. Any calculation of the outstanding fees will be by UR.

34. The Storer's liability for outstanding moneys, property damage, personal injury, environmental damage and legal responsibility under this Agreement survives the expiry or termination of this Agreement.

### SEVERANCE:

35. 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 will

be severed or read down, but so as to maintain (as far as possible) all other terms of this Agreement.

### NOT LIABLE:

36. Nothing in this Agreement excludes, restricts or modifies any condition, guarantee or warranty that applies in respect of this Agreement under applicable law and which cannot be lawfully excluded, restricted or modified. Where such condition, guarantee or warranty applies (and is breached by UR), UR's sole liability will be limited to supplying the services to the Storer again or the payment of the cost of having the services supplied again, to the extent permitted by any non-excludable provision. Subject to the foregoing sentences of this clause 36, and to the extent permitted by law, where the Storer is using the Container for the purposes of a business in trade, the parties agree that the Consumer Guarantees Act 1993 and sections 9, 12A, 13 and 14(1) of the Fair Trading Act 1986 do not apply in connection with this Agreement.

37. To the extent permitted by law, UR is not liable for any indirect, economic, special or consequential loss or damage of any nature whatsoever that the Storer may suffer or incur from or in connection with the storage of the Goods, use of the Container or this Agreement.

38. Subject to clause 36, UR's maximum total liability to the Storer (whether arising in contract, tort (including negligence), breach of statutory duty or under any indemnity or otherwise) in respect of any claims brought under or in connection with this Agreement is limited to the total storage fees paid by the Storer to UR under this Agreement.

### NOTICE:

39. Notices under this Agreement will be sent electronically, by text message or email to the Storer using the details provided by the Storer.

40. Notice is deemed to have been given to the Storer by UR if UR has sent notice to the Storer's last notified address or has sent notice via any other contact method, including by SMS or email to the Storer without any electronic "bounce back" or similar notification.

### PERSONAL PROPERTY SECURITIES ACT:

41. The Storer:

(a) will not allow any "Security Interest" as defined in the PPSA to exist over the Container, its rights under this Agreement or any Goods stored in the Container;

(b) will, if the Storer is in breach of clause 41(a), remove or procure the discharge of any Security Interest over the Container or its rights under this Agreement, including by procuring the discharge of financing statements from the Personal Property Securities Register ("PPSR"), and any Goods stored in the Container, immediately on request by UR;

(c) grants UR a security interest in the Goods and any Container owned by the Storer and any proceeds of such items as collateral for the amounts owed by the Storer under this Agreement;

(d) authorises UR to register a financing statement on the PPSR in respect of the Goods and if required, the Container plus any sale proceeds;

(e) must promptly execute any documents and do anything else required by UR to obtain a security interest over the Goods, Container and their proceeds including providing any information UR reasonably requires to complete a financing statement or a financing change statement;

(f) waives any right to receive a copy of a verification statement under the PPSA;

(g) agrees that, in accordance with section 107 of the PPSA, sections 114(1)(a), 116, 120(2), 121, 125, 126, 127, 129 and 131 of the PPSA will not apply;

(h) warrants and undertakes that they have not granted, and will not grant, a security interest in the Container or Goods or their proceeds to any other person.

### STORER'S CONTAINER:

42. The Storer may supply their own container instead of using a UR container and in this situation, the term "Goods" will be deemed to include the Storer's container so that the rights of UR in relation to the Goods will also extend to the Storer's container.

### GENERAL

43. The Storer:

(a) agrees that the terms of this document and related documents issued by UR including relevant quotations constitute the whole contract with UR 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 UR and that UR 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 UR, been reduced to writing and incorporated into the terms of this Agreement. No failure or delay by UR to exercise its rights under this Agreement will operate to waive those rights.

44. The Storer must not assign this Agreement.

45. This Agreement is governed by the laws of New Zealand and the parties submit to the non-exclusive jurisdiction of the New Zealand courts.