

WINTON STORAGE - STORAGE CONTRACT

Phone: 027 TO STORE (027 867 8673)

GST No: 093-566-874

Owner - Blair Jonathan Irwin and Robin Mary Irwin as trustees of the Ad Summum Trust trading as Winton Storage (Owner)
Hirer named in Schedule A (Hirer)

SCHEDULE A

Hirer: _____
Limited Liability Company Partnership Sole Trader Other _____

Company Number: _____ GST Number: _____

Hirer's Address: _____

Cell Phone: _____ Business: _____

Email Address: _____

Alternative Contact Person (Not at Same Address): _____

Phone: _____

Storage Unit: _____ Period of Hire: _____

Commencement Date: _____ Termination Date: _____

Hire Charge \$ _____ /month Bond to be Paid \$ _____

Purpose of Hire: _____

Business Hire: Yes/No _____ Maximum Value of Goods Stored: \$ _____

Bank Account Name: *Winton Storage* **Bank Account No:** *03 0960 0188303 00*

Main Points

- All payments are to be made in advance for a storage unit or lock up bay
- Minimum hire term – one month
- Either party may terminate this Agreement by giving not less than 7 days' written notice to the other party.
- Insurance for the goods stored within the storage unit are the sole responsibility of the Hirer.
- You must not store perishable food items, anything that may encourage rodents, dangerous, flammable, explosive or toxic goods.
- The contents of the storage unit must at all times not exceed 3m in height.
- If you fail to comply with the terms set out below, the Owner reserves the right to terminate this Contract and take possession of goods within the unit and to sell the same.
- The Owner takes no responsibility for any loss or damage to the Hirer's goods while in storage.
- If the purpose of hire is for the Hirer's business, the guarantees in the Consumer Guarantees Act 1993 do not apply.

In consideration of the Hirer hiring the storage unit to us at our request, I the Hirer, or on behalf of the Hirer:

1. Agree to the terms and conditions as set out on the preceding pages;
2. Declare that the information supplied in this form is true and correct.

Signed by the Hirer _____ Date _____

Signed by the Owner _____ Date _____

GUARANTEE AND INDEMNITY:

In consideration of **the Owner** agreeing to hire the storage shed to the Hirer at the Hirer's request, I/we:

1. unconditionally guarantee to **the Owner** the due and punctual payment by the Hirer of all moneys payable in respect of the storage unit and the performance of all obligations of the Customer in respect of the storage unit in accordance with the terms and conditions set out on the reverse side of this form as and when the same become due and payable by the Hirer.

2. agree to be deemed as principal debtor for all accounts held by the Hirer with **the Owner**.

3. agree that this guarantee and indemnity shall be a continuing guarantee and indemnity and shall not be discharged by any settlement or payment of account and that this guarantee and indemnity is both joint and several.

4. agree that our liability under this guarantee and indemnity shall not be discharged, abrogated, prejudiced or affected by:
a. the granting of time, credit or the indulgence or other concession to the Hirer;
b. any alteration, modification, variation or addition to any agreement in respect of the supply of goods and services; or
c. any other act, omission or event which but for this provision might operate to discharge, impair or otherwise affect, my/our obligations under this guarantee and indemnity or any powers or remedies conferred upon **the Owner** by this guarantee and indemnity or by law.

5. indemnify **the Owner** against all losses **the Owner** may incur or suffer should the Customer default in the performance of any obligations to be performed by the Hirer under the attached Terms of Trade.

6. I/We confirm that I/we have been advised by **the Owner** that I/we should seek legal advice before signing this guarantee and indemnity.

Name: Signed: Designation:

Witness Name: **Witness** Signed: Date:

Name: Signed: Designation:

Witness Name: **Witness** Signed: Date:

We also have available to purchase:

- ✓ **Locks**
- ✓ **Cardboard Boxes**

Winton Storage Terms and Conditions

In these Terms and Conditions we have used "we", "us" and "our" to refer to the Owner and "you" and "your" to refer to the Hirer.

- 1. Hire**
 - 1.1 You will take on hire of the Storage Unit specified in Schedule A of this Agreement for the Period of Hire from the Commencement Date to the Termination Date or such earlier date as this Agreement is terminated in accordance with the below Terms and Conditions.
- 2. Hire Charge/Debt Collection**
 - 2.1 You will pay the Hire Charge as specified in Schedule A, in advance on the first day of each calendar month by direct credit to our nominated bank account. This first payment is due on or before the Commencement Date and shall be apportioned for the month where necessary.
 - 2.2 The Hire Charge and all prices under this Agreement are plus GST and other taxes which are payable by you in New Zealand dollars.
 - 2.3 If you do not make payment of any moneys when due under this Agreement ("Due Date") you are in default and shall pay to us interest on any overdue amount at the rate from time to time equal to our bank's base rate plus 5% per annum, which shall accrue on a daily basis on the total amount outstanding from the Due Date for payment until the actual date of payment (both dates inclusive).
 - 2.4 You will pay us an administration fee of \$25.00 for any amount not paid on Due Date.
 - 2.5 All other costs incurred by us in the collection of overdue accounts will be payable by you.
 - 2.6 All payments to be made under this Agreement shall be made without setoff or deduction of any kind by you.
- 3. Purpose of Hire**
 - 3.1 You will use the storage unit solely for the purposes specified in Schedule A.
 - 3.2 The storage unit shall not be used for the storage of any living animals, goods or material of any toxic nature, explosive, inflammable, combustible, corrosive, noxious or any other hazardous illegal or dangerous goods or for an illegal purpose. No work is to be undertaken in or from the storage unit.
 - 3.3 The contents of the storage unit must at all times not exceed 3m in height.
 - 3.4 If we or our agents believe on reasonable grounds that you are in breach of Clause 3.1 or 3.2, we or our agent may, at any time, without notice, inspect the contents of the storage unit. For this purpose, we shall be entitled to break any lock attached to the storage unit. The cost of replacing the lock shall be payable by you.
 - 3.5 You will always comply with such storage, entry and exit procedures as are advised to you from time to time. You will pay any costs incurred by us for your failure to follow these procedures.
- 4. Security**
 - 4.1 You will be responsible for ensuring that the storage unit is securely locked at all times (except when you are accessing the storage unit).
 - 4.2 Any security devices which we may install and maintain at the premises are for our convenience alone. We may modify or discontinue wholly or partially at any time without notice, any of our security devices.
 - 4.3 In the event you lose or break a key tag, a \$30.00 replacement fee will be charged and be payable by you prior to issue.
- 5. Insurance**
 - 5.1 You are responsible for insuring any goods stored in the storage unit throughout the Period of Hire.
 - 5.2 You will not do or allow to be done anything which may in any way prejudice any policy of insurance taken out by us in respect of the storage unit or any other property of ours situated on or about the premises.
- 6. Property and Risk**
 - 6.1 You warrant that all property placed or stored in the storage unit is owned by you and that the value of the property does not exceed the maximum value as stated in Schedule A.
 - 6.2 You are responsible for and assume all risk in and to the property placed or stored in the storage unit including, but not limited in any way to, the risk of any damage or loss of property of whatsoever nature and however arising, and release us to the full extent permitted under law from any liability in this regard.
- 7. Lock Maintain and Repair and Clean**
 - 7.1 You will keep the storage unit securely locked throughout the term of the hire. You will keep and maintain the storage unit and the area immediately around the storage unit clean and tidy in good order at your expense. If cleaning is required when the storage unit is vacated then this will be at your sole cost which we can deduct from any bond held, and if any balance is owing after utilisation of any bond, you will be invoiced accordingly.
 - 7.2 You will not store any object which, because of its weight, nature or for any other reason may cause damage to the storage unit.
 - 7.3 You will not paint, fix items to, or load on the roof, or lean against or alter or in any other way deface the storage unit.
 - 7.4 You will make good and repair at your own cost any damage caused to the storage unit from time to time during the term of hire.
- 8. Destruction**
 - 8.1 If the storage unit is, at any time during the period of hire, totally or partially destroyed and as a result is unfit for storage, then subject to these Terms and Conditions and any insurance held by us not being vitiated by any act or omission of you in breach of this agreement, we shall make good any such destruction. If such destruction shall render the storage unit unusable for a period of no less than 4 weeks either party can terminate this Agreement by written notice to the other.
- 9. Default**
 - 9.1 The security interests created by these Terms and Conditions become enforceable if any of the following events occur:
 - (a) You fail to pay any money owing under this Agreement on the Due Date;
 - (b) We believe you have committed or will commit an act of bankruptcy, have had or about to have a receiver or liquidator appointed, or are declared insolvent;
 - (c) You are otherwise in breach of your obligations under these terms and conditions.
 - 9.2 If any of the events described in clause 9.1 occur, in addition to any remedies we may have at law, we may do one or more of the following:
 - a) charge penalty interest in accordance with clause 2.3;
 - b) immediately terminate this Agreement by notice in writing to you;
 - c) place our own locks on the storage unit, deny you access to our premises and the storage unit until the hire charge and any other costs or expenses payable by you pursuant to this Agreement have been paid;
 - d) give you written notice of the breach and the actions which we require you to take in order to remedy the breach. The notice shall specify a period not less than 5 days, within which the breach is to be remedied. If you do not remedy the breach within the time specified in the notice, we will be entitled to sell the goods contained in the storage unit in the manner set out in this section;
 - e) You irrevocably appoint us as your agent and attorney to sell all or any of the goods or any item or any material left in the storage unit or on our premises;
 - f) We may sell goods pursuant to this section either by advertising them for sale in any newspaper or other distribution circulating within the Southland area or by public auction by a licensed public auctioneer or otherwise in such manner and on such term and conditions as we, in our sole discretion, may deem appropriate. The proceeds of sale of the goods will be applied first towards the costs of sale including any advertising, commissions or other expenses incurred in conducting the sale and then towards the payment of all moneys outstanding pursuant to this agreement. Any shortfall shall remain due and owing by you to us.
- 10. Lien**
 - 10.1 You hereby irrevocably grant to us as additional security for your performance of all or any of your obligations, a lien over the contents of the storage unit at any time and from time to time.
 - 10.2 We are not obliged to ascertain the ownership or origin of the contents of the storage unit.
 - 10.3 We will not be liable to you for any loss or damage of whatever nature and however arising occasioned by the exercise of our powers pursuant to this Agreement.
- 11. WARRANTIES**
 - 11.1 The Consumer Guarantees Act 1993, the Fair Trading Act 1986, and other statutes may impose warranties, conditions or obligations upon us which cannot by law (or which can only to a limited extent by law) be excluded. We exclude all such imposed warranties, conditions or obligations to the extent permitted by law and exclude any warranty, condition or obligation imposed or implied under common law, equity or otherwise.

- 11.2 Where you acquire goods and/or services from us for the purposes of a business, it is acknowledged and agreed that:
- a) you are acquiring the goods and/or services covered by these Terms and Conditions for the purposes of a business in terms of sections 2 and 43(2) of the Consumer Guarantees Act 1993;
 - b) the goods and/or services are both supplied and acquired in trade from the purposes of the Fair Trading Act 1986 and the parties agree to Agreement out of sections 9 (Misleading and deceptive conduct generally), 12A (Unsubstantiated representations), and 13 (False or misleading representations); and
 - c) you agree that all warranties, conditions, and other terms implied by the Consumer Guarantees Act 1993 or sections 9, 12A, and 13 of the Fair Trading Act 1986 are excluded from these Terms and Conditions to the fullest extent permitted by law and the parties further acknowledge and agree that it is fair and reasonable that the parties are bound by this clause.

12. LIMITATION OF LIABILITY

- 12.1 The guarantees contained in the Consumer Guarantees Act 1993 are excluded where you acquire services and/or Goods from us for the purposes of a business in terms of sections 2 and 43 of that Act.
- 12.2 Except to the extent that the law prevents us from excluding liability and as expressly provided for in clause 12.3, we shall not be liable for any loss or damage or liability of any kind whatsoever (including consequential loss or lost profit or business) whether suffered or incurred by you or another person and whether in Agreement, or tort (including in negligence), or otherwise and whether such loss or damage arises directly or indirectly from good or services provided by us to you.
- 12.3 You shall indemnify us against all claims and loss of any kind whatsoever however caused or arising which is brought by any person in connection with any matter, act, omission, or error by us, our agents or employees in connection with the storage unit.
- 12.4 To the extent that we are liable for any reason for any loss suffered or liability incurred by you arising from any breach of these Terms and Conditions or for any other reason, such liability is limited to the amount of the hire charge for the Period of Hire. If you make a claim in writing to us in relation to services provided under this Agreement, we may, in our discretion, re-perform the services, or refund the amount of these services to you, provided that:
- a) the claim must be made in writing to us within fourteen (14) days of the services being provided; and
 - b) you must supply the date and number of any invoice relating to the Hire; and
 - c) we must have a reasonable opportunity to respond to such claim.

13. PRIVACY OF INFORMATION

- 13.1 You authorise us:
- a) to collect, retain and use information about you from any person for the purpose of assessing your creditworthiness;
 - b) to disclose information about you:
 - a) to any person who guarantees, or who provides insurance, or who provides any other credit support, in relation to your obligations to us;
 - b) to such persons as may be necessary or desirable to enable us to exercise any power or enforce or attempt to enforce any of our rights, remedies and powers under these Terms and Conditions.

14. NOTICES

- 14.1 Any notice may be given by phone, in person, posted, or sent by fax or email to you (or where you are a company, to any of your directors).

15. VARIATION

- 15.1 We shall be entitled at any time by notice in writing to you to vary any provision of these Terms and Conditions and you shall be bound by such variation.

16. CONFIDENTIALITY

- 16.1 You shall at all times treat as confidential all non-public information and material received from us and shall not publish, release, or disclose the same without our prior written consent. For clarity, confidential information includes any new Intellectual Property and prices.

17. COSTS

- 17.1 You must pay our costs (including legal costs, as between solicitor and client) of and incidental to the enforcement or attempted enforcement of our rights, remedies and powers under these Terms and Conditions.

18. CREDIT INFORMATION

- 18.1 You consent to us and any financier or credit-rating agency making enquiries of and obtaining any information about your financial standing and creditworthiness.

19. TERMINATION

- 19.1 Either party may terminate this Agreement by giving not less than 7 days' written notice to the other party.

20. JURISDICTION

- 20.1 These Terms and Conditions are governed by and construed in accordance with the current laws of New Zealand and the parties agree subject to clause 22 to submit to the non-exclusive jurisdiction of the Courts of New Zealand for any disputes or proceedings arising out of or in connection with these Terms and Conditions.

21. ASSIGNMENT

- 21.1 You must not subcontract or assign any of your rights, powers or obligations under these Terms and Conditions.

22. DISPUTES

- 22.1 Any claim or dispute arising under these Terms and Conditions shall be determined by arbitration under the Arbitration Act 1996 if the parties are unable to resolve such dispute themselves within one (1) month of the dispute arising. However, nothing in this clause prevents either party from taking immediate steps to seek any equitable relief before the New Zealand Courts.

23. FORCE MAJEURE

- 23.1 We shall not be liable for delay or failure to perform our obligations under this Agreement if the cause of delay or failure is beyond our control.

24. SURVIVAL

- 24.1 The provisions of these Terms and Conditions will survive the termination or expiration of these Terms and Conditions or completion of the Agreement.

25. DEFINITIONS

- 25.1 In these Terms and Conditions:
"Goods" shall have the meaning given to it in the Personal Property Securities Act 1999.
- 25.2 The rule of construction known as the contra proferentem rule does not apply to these Terms and Conditions.
- 25.3 Words importing the singular include the plural and vice versa.
- 25.4 Headings are for convenience only and do not form part of, or affect the interpretation of, these Terms and Conditions.
- 25.5 References to a party include that party's successors, personal representatives, executors, administrators and permitted assigns.
- 25.6 References to a statute include references to:
 - a) regulations, orders, rules or notices made pursuant to that statute;
 - b) all amendments to that statute and those regulations, orders, rules or notices, whether by subsequent statute or otherwise; and
 - c) any statute passed in substitution of that statute.References to "us" include our employees, contractors and agents.