premier box
SHIPPING CONTAINER SALES & HIRE

TERMS AND CONDITIONS – HIRE

1. INTERPRETATION

In these conditions:

"**Agreement**" means this agreement, including the Reference Schedule, these terms and conditions and any schedules, document or materials it specifies form part of it;

"**Bond**" means the amount set out in the Reference Schedule;

"**Commencement Date**" means the period set out in the Reference Schedule;

"**the Container" or "the Containers**" means the storage container(s) identified in the Reference Schedule or otherwise notified to you by Premier Box;

"**Delivery Address**" means the address set out in the Reference Schedule;

"**Dishonour Fee**" means a fee to cover the expense incurred by Premier Box should a cheque presented by You be dishonoured or any payment be declined;

"**GST**" means a goods and services tax, consumption tax, value added tax or a tax of similar nature as imposed or assessed under *A New Tax System (Goods and Services Tax) Act 1999 (Cth)* and all related ancillary legislation;

"**Guarantor/s**" means the person or persons named as such in the Reference Schedule;

"**Hire Term**" means the period set out in the Reference Schedule commencing on the Commencement Date;

"**Late Payment Fee**" means any late payment fee imposed by Premier Box which shall be the reasonable administrative costs to Premier Box resulting from a late payment and shall be payable each time a demand is made after a payment is late and shall accumulate until all amounts outstanding have been paid;

"**Non-Refundable Deposit**" means the amount set out in the Reference Schedule;

"**Other Fees**" means any reasonable costs incurred by Premier Box in collecting late or unpaid Rent, or in enforcing this Agreement in any way, including but not limited to postal, telephone, debt collection, personnel and/or any costs incurred as a result of a default by You;

"**Premier Box**" means Premier Box Pty Ltd ACN 127 648 962 and its successors and assigns;

"**Premises**" means 1 Naunton Road, Burpengary, Queensland or such other premises owned or controlled by Premier Box, including the land, buildings, hardstand and any other structure on the land;

"**Reference Schedule**" means the reference schedule to this Agreement;

"**Replacement Value**" means the amount as calculated by Premier Box and notified to you based on the reasonable cost to replace the Container/s with those of a similar quality/condition as at the Commencement Date;

"**Rent**" means the daily rental rates set out in the Reference Schedule (billed monthly) or the amount/s notified to You by Premier Box from time to time;

"**Transport Costs**" means the costs notified to You by Premier Box associated with delivering the Containers to You and collecting same;

"**You**" and "**Your**" refers to the person or persons (including a corporation or other entity such as a trust or trustee) named as the Lessee in the Reference Schedule and their successors and assigns and, if there is more than one, it refers to each severally and any two or more jointly;

"**Your Goods**" means the property from time to time stored in the Container;

1. HIRE

1.1 Premier Box agrees to hire the Container to You in accordance with the terms of this Agreement during the Hire Term.

1.2 The parties may, not later than 30 days prior to the end of the Hire Term, agree to extend the Hire Term at such Rent and other conditions as the parties may agree. Such terms must be recorded in writing. If an agreement to extend the Hire Term has not been reached by the end of the Hire Term, this Agreement shall be automatically extended on the same conditions as at the last day of the Hire Term and either You or Premier Box may terminate this Agreement at any time after the end of the Hire Period by giving not less than 14 days' notice to the other.

2. OWNERSHIP

2.1 At all times, Premier Box owns the Containers.

2.2 You are not entitled to offer, sell, assign, sub-let, charge, mortgage, pledge or create any form of security interest over, or otherwise deal with the Containers in any way unless with our express written consent on such terms as Premier Box requires.

2.3 In no circumstances will the Containers be deemed to be a fixture.

3. DELIVERY AND REDELIVERY

3.1 Premier Box will deliver the Containers to You on or before the Commencement Date.

3.2 Delivery of the Containers is taken to occur at the time Premier Box or its nominated carrier delivers or attempts to deliver the Containers to the Delivery Address even if You are not present at the address.

3.3 In the event that You are unable or refuse to take delivery of any of the Containers including where access to the Delivery Address is restricted, then Premier Box shall be entitled to charge a reasonable fee for storage of the Containers.

3.4 Upon expiration or the earlier termination of the Hire Term, You must make the Containers available for collection at a time agreeable to Premier Box. You must ensure the Containers are empty prior to return.

3.5 Any notified times for delivery or collection of the Containers are estimates only and Premier Box shall not be liable to You for any delay in delivery or collection of the Containers including if occasioned by strike, lockout or other industrial dispute, shortage of labour, delays in transit, fire, flood, hostility, civil commotion or any other cause whether or not beyond Premier Box's control. You must still accept delivery of the Containers even if they are late and Premier Box will not be liable for any loss or damage incurred by You as a result of the delivery or collection being late.

3.6 You must not move or cause the Containers to be moved from the Delivery Address without first obtaining prior written consent from Premier Box.

4. DEFECTS

4.1 The Containers will be deemed received by You in good condition unless written notice of shortages and/or defects are received by Premier Box within 2 days of the Containers being delivered to You.

4.2 If Premier Box agrees, acting reasonably, that any Containers are defective, Premier Box's liability is limited to either repairing or replacing the Containers.

5. RISK and RESPONSIBILITY

5.1 The Containers will be at Your risk from the date that the Containers are loaded onto a vehicle for transport at our Premises or the premises of any subcontractor until the Containers are returned to Premier Box.

6. PAYMENT

6.1 You agree to pay Premier Box the first month of Rent, the Non-Refundable Deposit (if applicable) and Bond (if applicable) prior to the Commencement Date.

6.2 You are responsible for all Transport Costs and must pay these costs prior to the Container being delivered to You and collected from You.

6.3 Any Non-Refundable Deposit will be retained by Premier Box in any event and applied toward the payment of Rent and any other amounts owing under this Agreement.

6.4 All Rent and other amounts owing are due and payable in accordance with the terms you have agreed with us from time to time (and if not otherwise agreed, immediately on issue of the invoice).

6.5 All payments shall be made in Australian dollars (AUD) unless otherwise stated.

6.6 You must pay all amounts payable to Premier Box by PayWay, direct debit, credit card or electronic funds transfer or such other method as approved by Premier Box.

6.7 If You fail to pay Premier Box any amount when it is due under this agreement or if any payment is dishonoured or cancelled, You agree to pay Premier Box immediately any Late Payment Fee, Dishonour Fee and any Other Fee that may be notified to you by Premier Box together with interest on the unpaid charges at a rate of 8% per annum calculated monthly.

6.8 If You only pay part of an amount that You owe Premier Box, it does not affect Your obligation to pay the balance of the amount to Premier Box. Acceptance of a part payment will not be a waiver of any kind of any right Premier Box may have under this Agreement.

7. YOUR OBLIGATIONS

7.1 You must:

(a) only use the Containers for storage and no other business or activity;

(b) ensure that the Containers are at all times stored safely and protected from theft, loss or damage;

(c) clean and maintain the Containers in good condition, order and repair, fair wear and tear excepted;

(d) not store items in the Containers which are hazardous, illegal, stolen, inflammable, explosive, environmentally harmful, perishable or which in the reasonable opinion of Premier Box may cause harm to any person, property or the environment;

(e) return the Containers empty and in clean and good condition and free of labels and graffiti unless those labels had been applied or the graffiti was written before You received possession of the Container;

(f) not carry out any alterations to or mark, paint, nail, drill, alter or damage or attach any structure to any part of the Containers without the prior written consent of Premier Box;

(g) immediately notify Premier Box of any loss, theft or damage;

(h) at your cost, comply with all laws applying to Your Goods or the storage of Your Goods in the Containers, or the use of the Containers.

(h).2 You are solely responsible for securing the Containers and must do so in a manner reasonably satisfactory to Premier Box.

(h).3 Upon return of the Containers, Premier Box will inspect and fairly assess if there are any repair costs, removal costs, disposal or cleaning costs for the Containers, fair wear and tear excepted. You must immediately pay all cleaning, repair, disposal and other costs charged to You by Premier Box. You will be responsible to continue to pay Rent and any other charges until the Containers have been returned to Premier Box and Premier Box is satisfied with the condition of all Containers and You have paid any repair, disposal and cleaning charges.

8. ACCESS

8.1 You hereby consent to Premier Box accessing or inspecting the Container and/or Your Goods:

(a) on reasonable notice for maintenance purposes or for inspection purposes on 2 days' notice;

(b) at any time for emergency purposes;

(c) if at any time Premier Box believes Your Goods or any act or omission by You in connection with the Container may cause harm to any person, property or the environment and in this event if it considers it necessary, Premier Box may immediately (and without notice to You) take any action considered by Premier Box to be necessary to access, inspect or service the Container or inspect Your Goods and, if necessary, to avoid potential harm Premier Box may remove and dispose of Your Goods and the cost of Premier Box in so doing will be reimbursed by You on demand by Premier Box. Premier Box may access the Container by force or otherwise for the purposes of 8.1(b) or (c).

8.2 You agree that in circumstances where Premier Box reasonably suspects a breach of the law, Premier Box may at its discretion and without notice to You either open the Container or may use a microprobe, CCTV camera or other viewing device to view the inside of the Container and any footage obtained which evidences a breach of the Agreement or the law may be relied upon by Premier Box to take any action authorised under this Agreement, including terminating this Agreement and/or cooperating with law enforcement agencies and other authorities without notice to You.

9. INSURANCE

9.1 You must:

(a) maintain an insurance policy with a reputable insurer covering loss or damage including but not limited to, the perils of accident, fire, theft and burglary, to the Containers for the Replacement Value and note Premier Box as an interested party on the policy;

(b) maintain an insurance policy for public liability insurance in respect of the Containers for an amount not less than $20,000,000 per occurrence and note Premier Box as an interested party on the policy;

(c) ensure that the insurer waives any right of subrogation it may otherwise have in relation to insurance of the Containers.

9.2 You must not do any act or thing which may invalidate or prejudice any such insurance or Premier Box's interest in the Containers.

9.3 You agree to provide Premier Box with a certificate of currency on request.

10. REPLACEMENT COSTS

10.1 In the event the Containers are lost, stolen, destroyed or damaged whilst in your possession or control You will be responsible to pay to Premier Box the Replacement Value for each Container.

10.2 You must continue to pay Premier Box the Rent and all other charges for the Containers until the Replacement Value together with all outstanding amounts owing by You to Premier Box, is paid in full. Payments for Rent do not reduce Your obligation to pay the Replacement Value.

11. LIABILITY, RELEASE AND INDEMNITY

11.1 You (despite any earlier termination of this Agreement) release Premier Box (and its employees, contractors and agents) from and indemnify Premier Box (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, under statute or otherwise) from or in connection with:

(a) the transport and possession and use of the Containers;

(b) loss of or damage to the Containers and/or Your Goods including as a result of loading Your Goods in the Containers;

(c) damage to any device used by You to secure the Containers resulting from Premier Box accessing the Containers in accordance with this Agreement;

(d) any wilful or negligent act or omission by You;

(e) Premier Box terminating this Agreement in accordance with this Agreement; or

(f) a breach or non-compliance with any legislation, statute, ordinance, regulation, by-law or other lawful requirement of any authority;

(g) loss of or damage to any property (including Premier Box's property) or death of or injury to any person caused or contributed to by:

i. Your Goods;

ii. the use of the Containers by You or any other person authorised by You;

iii. Premier Box or any of its contractors, agents, or employees in exercising any other right or power pursuant to this Agreement.

(g).2 To the extent that your actions or omissions in relation to Your use of the Containers or Your failure to comply with this Agreement causes any damage, expense, loss, liability ("Loss") to Premier Box or any other party, you agree and acknowledge that You are liable for such Loss and that Premier Box may recover such Loss incurred by it from You.

(g).3 Premier Box gives no warranty and makes no representation relating to the condition, quality, suitability or fitness for use of the Containers. Nothing in this Agreement excludes, restricts or modifies any rights You may have under the Australian Consumer Law (if applicable). Premier Box's liability for breach of any condition or warranty is limited to the supplying of the Containers again or the repair of the Containers.

12. DEFAULT & TERMINATION

12.1 If You fail to comply with any of Your obligations under this Agreement after Premier Box gives You not less than 7 days' notice requiring You to comply, Premier Box may immediately and without releasing you from any obligations do one or more of the following:

(a) terminate this Agreement;

(b) retain any Bond;

(c) declare the balance of any charges due and payable by You;

(d) retake possession of the Containers; and

(e) remedy any default that You commit under this Agreement, at Your cost.

12.2 On termination of this Agreement you must immediately return the Containers to Premier Box and pay to Premier Box all charges owing under this Agreement and any legal fees on a solicitor and own client full indemnity basis.

12.3 In an event of default, You authorise Premier Box at Your cost to enter upon the property where the Containers are located for the purpose of removal of the Containers, and You authorise Premier Box at Your cost to take possession of Your Goods in, on or attached to the Containers. You grant us a particular and general lien over Your Goods removed from the Containers as security for any amounts owed by You and authorise Premier Box to sell such property and apply the sale proceeds towards any amounts owed by You.

12.4 In the event that You become bankrupt, insolvent or cease business or if any of Your activities or Your use of the Containers is considered by Premier Box to be illegal or environmentally harmful or otherwise harmful to other persons, Premier Box may terminate this Agreement without notice. This will constitute a default under this Agreement.

12.5 Following termination Premier Box shall refund to You within a reasonable period of time, the amount of any Rent paid by You in advance for future whole months not yet expired, less any other amounts Premier Box is entitled to claim from You.

12.6 If You fail to return the Containers within 14 days of termination of this Agreement, You must pay to Premier Box an amount equal to the Replacement Value calculated by Premier Box.

12.7 Termination of this Agreement will not relieve or discharge You from any obligations under this Agreement incurred prior to termination.

13. BOND

13.1 If You breach any of Your obligations under this Agreement, Premier Box shall be at liberty to deduct and retain from the Bond any monies owing to Premier Box by You. The application of the Bond in accordance with the terms of this Agreement shall not prevent Premier Box from recovering from You damages for any breach if such damages are in excess of the Bond paid and shall not relieve You from any of your obligations hereunder. You must immediately make good any reduction in the Bond as a result of Premier Box's actions under this clause.

13.2 Provided that you are not in breach of any of the terms of this Agreement, the Bond will be refunded to you within 30 days of termination of this Agreement.

14. PERSONAL PROPERTY SECURITIES ACT

14.1 To the extent a lease under this Agreement creates a PPS lease, as defined in the *Personal Property Securities Act 2009 (Cth)* ("PPS Act"), Premier Box has a security interest in the Containers as well as its proceeds for the purposes of the PPS Act. For the purposes of the PPS Act the collateral is described as the Containers and related equipment.

14.2 You warrant that the Containers hired from Premier Box are not hired predominantly for personal, domestic or household purposes.

14.3 You acknowledge that Premier Box may do anything reasonably necessary, including but not limited to registering any security interest which Premier Box has over the Containers and/or any property inside the Containers including Your Goods on the Personal Property Securities Register in order to perfect the security interest as a first priority security interest and comply with the requirements of the PPS Act. You agree without charge to provide all information and do all things reasonably necessary to assist Premier Box to undertake the matters set out above. You waive pursuant to s 157(3)(b) of the PPS Act the right to receive notice of a verification statement in relation to any registration on the register.

14.4 You agree not to disclose information of the kind that can be requested under s275(1) of the PPS Act.

15. NOTICES

15.1 Notice under this Agreement may be given to You by Premier Box by email, post, SMS or by leaving it at Your address as specified in the Reference Schedule. In the event that there is more than one Lessee, notice to or by any single Lessee is agreed to be sufficient for the purposes of any notice requirement under this Agreement.

15.2 Notice under this Agreement may be given by You to Premier Box by email, post, or by leaving it at the business address for Premier Box.

15.3 Any notice given under this Agreement is deemed to have been given the day it is emailed or sent by SMS and the business day following when the notice has been delivered or posted.

16. GENERAL PROVISIONS

16.1 You must not assign, sub-licence or otherwise deal with Your rights or obligations under this Agreement without the prior written consent of Premier Box (which consent may be withheld or granted on such terms as Premier Box deems appropriate).

16.2 If You are a corporation, any change in the ownership of 50% or more of the issued shares of Your corporation shall be deemed an assignment of this Agreement and shall require the prior written consent of Premier Box. If You fail to obtain such consent this shall constitute a breach of this Agreement.

16.3 The laws of Queensland shall apply to this Agreement and the parties shall submit to the non-exclusive jurisdiction of the Courts of Queensland and shall not object to proceedings being brought in those Courts.

16.4 Any variation of this Agreement is only effective if it is in writing and signed by all parties. No oral statement made by either party shall form part of this Agreement.

16.5 A party shall not be taken to have waived a right under or in connection with this Agreement unless the party expressly does so in writing. A waiver of any right or obligation at any time shall not be taken as a waiver of the right when it arises at any other time or a waiver of any other right.

16.6 You must on demand pay and indemnify Premier Box for any transfer duty, GST or similar tax or liability imposed in connection with this Agreement or any supply under it. Unless otherwise stated all amounts are exclusive of GST and You must pay the amount of GST at the same time as the Rent and other charges.

16.7 If any provision of this Agreement is legally unenforceable or made inapplicable, it shall be severed or read down, but so as to maintain all other terms of this Agreement.

16.8 Your liability for outstanding money, property damage, personal injury, environmental damage and legal responsibility under this Agreement continues to run beyond the termination of this Agreement.

16.9 This Agreement constitutes the entire agreement between You and Premier Box for matters referred to in it and any prior arrangements, agreements, representations or undertakings are superseded.

16.10 You are responsible to pay any costs incurred by Premier Box in enforcing this Agreement in any way.

16.11 The parties must endeavour to settle any dispute with one another before either party institutes any proceedings of any kind against the other.

17. GUARANTEE AND INDEMNITY

17.1 This Guarantee and Indemnity is given by the Guarantor/s in favour of Premier Box.

17.2 The Guarantor/s guarantee to Premier Box the punctual payment of the monetary liabilities of the lessee named in the Reference Schedule (**the Lessee**) which are now owing, or may from time to time be owing, by the Lessee to Premier Box (**Amount Owing**).

17.3 The Guarantor/s acknowledge and agree that the Amount Owing includes any legal and other costs and expenses incurred or to be incurred by Premier Box in seeking payment from the Lessee or in enforcing this Guarantee and Indemnity against the Guarantor/s.

17.4 If there is more than one guarantor, the Guarantors are jointly and severally liable to Premier Box for the Amount Owing.

17.5 For the purpose of securing payment of the Amount Owing, the Guarantor/s hereby charge in favour of the Lessee all legal, equitable and beneficial interest in real property which it, he or she now or might subsequently acquire, and authorises and consents Premier Box to lodge a caveat upon title of the Guarantor/s real property.

17.6 The Guarantor/s shall not object to the lodgement or upholding of the said caveat or take any steps to have any such caveat removed from the Land Titles Office register.

17.7 The obligations of the Guarantor/s under this Guarantee and Indemnity are principal obligations and are not affected by:

(a) any variation which may be agreed by Premier Box and the Lessee in respect of the terms on which the Containers are delivered and/or provided;

(b) any waiver, extension of time or indulgence given by Premier Box to the Lessee or a Guarantor;

(c) any right or claim which the Lessee may assert to resist making payment of any part of the Amount Owing;

(d) any increase in the amount of the Amount Owing;

(e) any failure or omission by Premier Box to give notice to the Guarantor/s of any default by the Lessee; or

(f) any act, omission, matter or other thing whatsoever.

(f).8 This Guarantee and Indemnity is a continuing obligation of each Guarantor/s for the Amount Owing which may be owing from time to time and binds the successors and assigns of the Guarantor/s and will not be affected by:

(a) the death, incapacity or bankruptcy of a Guarantor or the Lessee; or

(b) a Guarantor or the Lessee which is a company becoming an externally administered company pursuant to the *Corporations Act 2001 (Cth).*

(b).9 If the obligation of any Guarantor/s in respect of any part of the Amount Owing is unenforceable, the Guarantor/s' obligations in respect of the balance of the Amount Owing will not be affected by such unenforceability.

(b).10 This Guarantee and Indemnity binds each person executing it even if another person named as Guarantor does not execute this Guarantee or is not bound or ceases to be bound by this Guarantee, or Premier Box does not execute this Guarantee.

(b).11 For the avoidance of doubt, it is expressly acknowledged by the Guarantor/s that the Guarantor/s' obligations extend to and may include the Amount Owing and other obligations of the Lessee which have arisen before or after the date of this Guarantee.

(b).12 Premier Box may at any time assign, novate or otherwise dispose of or deal with its rights and obligations under this Guarantee by notice in writing to the Guarantor/s.

(b).13 This Guarantee and Indemnity shall be governed by and construed in accordance with the laws of Queensland.