

TERMS AND CONDITIONS OF SERVICE

1 INTRODUCTION

- 1.1 Thank you for your interest in *U Pack It's services*. We ask that you take the time to read these provisions before accepting any quotation from *U Pack It*. You should pay particular attention to clauses 3.5, 4.2, 6, 7 and 9.
- 1.2 We welcome your feedback and request for clarification on any matter relating to the following. Please direct all requests for clarification to legal.services@northline.com.au. Clarification on any matter must not be treated as legal advice.

2 QUOTATION, AGREEMENT

- 2.1 All representations of *U Pack It's fee for services* are not applicable unless such representations are confirmed by a *quotation*.
- 2.2 The *quotation* is offered on the basis of information provided by you and is valid for 30 days from the date of the *quotation*. The *quotation* is offered subject to these terms and conditions.
- 2.3 The *quotation* and these terms and conditions, once accepted by you, collectively constitute a conditional agreement between you and *U Pack It* for the provision of *services* to you by *U Pack It*. If more than one *quotation* has been supplied to you, for the purposes of your agreement with *U Pack It*, only the *quotation* accepted by you shall apply.
- 2.4 The agreement referred in clause 2.3 is conditional on *U Pack It* having provided you with a *booking confirmation*.
- 2.5 You agree that *U Pack It* is not a common carrier and that *U Pack It* has offered its *services* by agreement with you. The *quotation*, these terms and conditions and the *booking confirmation* set out the entire agreement between you and *U Pack It*. Neither you nor *U Pack It* shall be bound by any representation relating to the *services* which is not recorded in, or which is inconsistent with the *quotation*, these terms and conditions or the *booking confirmation*.

3 SERVICES

- 3.1 As part of its *services*, *U Pack It* will:
- provide you with *container* hire for 4 weeks commencing on the *commencement date* for the transportation and storage of *goods*;
 - drop off an empty *container* at the *collection location* at the time specified in the *booking confirmation*;
 - pick-up the *container* with *goods* at the *collection location* at the time specified in the *booking confirmation*;
 - deliver the *container* with *goods* to the *delivery location* at the time specified in the *booking confirmation*, or if you temporarily are unable to provide a *delivery location*, to the *storage location* specified in the *booking confirmation* for storage before delivering the *container* with *goods* to the *delivery location*;
 - pick-up the empty *container* at the *collection location* at the time specified in the *booking confirmation*; and
 - if required, store the *container* with *goods* at the *storage location* for the *storage duration*.
- 3.2 Alternatively, if you would like to supply your own *container*, *U Pack It* will:
- pick-up the *container* with *goods* at the *collection location* at the time specified in the *booking confirmation*;
 - deliver the *container* with *goods* to the *delivery location* at the time specified in the *booking confirmation*; and
 - if required, store the *container* with *goods* at the *storage location* for the *storage duration*.
- 3.3 All *containers* supplied by you:

- must be 6m x 2.4m x 2.8m (20ft) in size, unless *U Pack It* agrees otherwise in writing;
- must be insured for damage and third-party liability;
- must be safe; and
- must be rail compliant.

When requested, you must provide *U Pack It* with a copy of the certificate of rail compliance.

- 3.4 You must ensure that delivery to the *delivery location* is completed within 4 weeks of the *commencement date*. If storage is required, either by you or by *U Pack It*, the *container* with *goods* will be stored at a *storage location*. *U Pack It* will charge the *storage fee* and its applicable GST if:

- you require storage because the *services* cannot be completed within 4 weeks of the *commencement date*; or
- the *services* cannot be completed within 4 weeks of the *commencement date* for any reason other than a breach of *U Pack It's* obligations under this *agreement*, and the *container* has to be stored by *U Pack It*.

- 3.5 The provision of *services* to you is conditional on the following.

- goods* must be household goods or personal effects owned by you or by a third party from whom you have authority from to enter into this *agreement*. No living beings, motorised or unmotorized vehicles, *valuables*, trading stock, industrial goods, dangerous goods, unlawful goods, offensive goods, or any organic, liquid or waste products may be packed in the *container*.
- goods* must comply with the requirements of any law, standard, custom or policy which relates to its nature, condition, packaging, carriage or storage.
- goods* must not exceed 5,500 kgs in total.
- goods* must be safely and securely packed in the *container*; and without limiting the preceding, must be packed in accordance with guidelines provided by *U Pack It*. Please note that *goods* which are not securely packed will move as the *container* is towed on to and off a tilt tray when the *container* is collected and delivered.
- Once the *container* is filled with *goods*, it must be securely locked by you.
- Your payment of all amounts due to be paid to any third party which relate to the *services* eg. any applicable council fee which relates to the placement of the *container* on council land.
- Your payment of all amounts due to be paid to *U Pack It* in accordance with this *agreement*.

- 3.6 You warrant that at the time the filled *container* is collected from the *collection location*, you have complied with the requirements described in clauses 3.5(a), (b), (c), (d), (e) and (f) above.

4 FEE, GST, PAYMENT

- 4.1 Unless specified otherwise in writing, *U Pack It's* quotation of the *fee* in the *quotation* excludes applicable surcharges and GST.
- 4.2 *U Pack It's* quotation of the *fee* in the *quotation* is subject to change under the following circumstances. *U Pack It* reserves the right to charge all applicable surcharges.
- Surcharges may be applicable due to the actual nature of *services* required which is not disclosed or contemplated by you at the time you ask for a *quotation* (eg. an additional *container* is required because of the volume or weight of *goods*).
 - Surcharges may also be applicable if *U Pack It* has to deviate from any of *U Pack It's* standard practices (eg. *U Pack It* is unable to deliver the *container* because you or your nominated person is not in attendance at the *collection location* at the agreed time).

- 4.3 GST is payable by you. The applicable GST is calculated by multiplying the amount payable by the prevailing GST rate.
- 4.4 *U Pack It* will issue a tax invoice to you for amounts which are payable by you to *U Pack It*. You must pay all invoiced amounts by the due date for payment stipulated in the tax invoice.
- 4.5 *U Pack It* may, at its option, require you to provide *U Pack It* with authorisation for *U Pack It* to arrange a direct debit of fees from your nominated bank account.

5 COUNCIL OR LANDOWNER'S PERMIT

- 5.1 If you require the *container* to be placed on council land, or land not otherwise owned by you, you must:
- obtain a permit from the council or the landowner for the temporary placement of the *container* on such land; and
 - notify *U Pack It* before a *booking confirmation* is provided to you, and provide *U Pack It* with a copy of the permit.

6 INSURANCE

- 6.1 *U Pack It* has insurance coverage which includes cover for the *goods*. This cover is not comprehensive cover, and has the limitations described below in this clause 6. You accept *U Pack It's* insurance cover as described for the purposes of this *agreement*. You must arrange your own insurance cover for the *goods* if you consider *U Pack It's* cover to be inadequate.
- 6.2 *U Pack It's* insurance cover will only cover damage to the *goods* caused by:
- fire, explosion, lightning or flood damage, whilst the *goods* are in the *container* and the *container* is in *U Pack It's* possession;
 - the collision, overturning, jack-knifing or derailment of the vehicle transporting the *container*;
 - accidental loss or damage to *goods* occurring during loading onto the conveying vehicle or occurring during unloading of the conveying vehicle; and
 - the impact of *goods* while on the conveying vehicle with something not on or part of that vehicle (other than water).
- 6.3 Without limiting the applicability of clause 6.2, for the avoidance of doubt, *U Pack It's* insurance cover will **not** cover:
- damage to anything that does not fall within the definition of *goods*;
 - theft of the *goods*, even when the *goods* are in *U Pack It's* possession;
 - damage to the *goods* resulting from movement of the *goods* within the *container*, notwithstanding compliance by you of *U Pack It's* guidelines for the packing of *goods*;
 - damage to the *goods* resulting from your use of the *container*;
 - damage due to ordinary wear and tear, moth, vermin, normal atmospheric or climatic conditions, ordinary leakage, ordinary loss in weight or volume or inherent vice of the *goods*;
 - loss of data from any computer hardware or software;
 - the replacement cost or depreciation of any antique (only the reasonable cost of repairs will be paid); or
 - damage to *goods* resulting from any defect in the *container*.
- 6.4 *U Pack It's* insurance cover is limited to \$150,000 for each insured occurrence.

7 LIABILITY & INDEMNITY

- 7.1 *U Pack It* does not make any representation or warranty, expressly or impliedly, about its *services*. This includes any representation or warranty relating to the quality, completeness, accuracy, promptness, suitability, acceptability or fitness for purpose of the *services*. To the fullest extent permitted by law, you release *U Pack It* from any liability for any inaccuracy, error, false or misleading representation or omission relating to its

services.

7.2 IMPORTANT NOTE:

Where the Australian Consumer Law applies to any services, it will apply regardless of any provisions in these Terms and Conditions of Service.

- 7.3 Subject to clauses 7.3 and 7.4, you unconditionally, fully and irrevocably:

- release *U Pack It* from all *claims* relating to all services provided or which are to be provided to you;
- hold *U Pack It* harmless against all *claims* which you have released *U Pack It* under clause 7.2(a); and
- indemnify *U Pack It* for all losses suffered by *U Pack It* relating to all *claims* which you have released *U Pack It* under clause 7.2(a).

- 7.4 *U Pack It* shall remain liable for any *claim* which by statutory law in the applicable jurisdiction it cannot be released from, including the *ACL*. If *U Pack It* is liable to you under any of such law, *U Pack It* may at its option, in full and final settlement of that *claim*:

- refund the amount paid by you to *U Pack It* for the *services*; or
- provide the *services* again to you for replacement goods of the same quantity and type as any lost or damaged *goods*, at the sole expense of *U Pack It*

unless *U Pack It* is required by such law to compensate you or to otherwise address your *claim* in any other manner, and if so, *U Pack It* will comply with that requirement.

- 7.5 Subject to clause 7.6, *U Pack It* shall remain liable to you, and you shall not be liable to hold harmless and shall not be liable to indemnify *U Pack It* if a loss or a *claim* is caused by any:

- breach of this *agreement* by *U Pack It*;
- wilful misconduct by *U Pack It*;
- unlawful conduct of *U Pack It*; or
- negligent act or omission of *U Pack It*.

- 7.6 Subject to all guarantees and laws which cannot be excluded, or which restrict the operation of terms limiting *U Pack It's* liability, including the Australian Consumer Law, *U Pack It's* liability is **limited and excluded** on the following basis:

- the *goods* are stored and transported at your risk;
- Unless *U Pack It's* liability cannot be excluded or limited by any mandatory applicable law, *U Pack It* is fully released from all *claims* relating to the storage and transportation of *goods* for you, except to the extent that *U Pack It*, a Subcontractor, or any employee, contractor or agent of either of them is proven to have by its negligence, wilful misconduct or unlawful conduct caused any loss, damage, injury or death resulting in you incurring a direct loss, in which case, the liability of *U Pack It* is limited to the higher of:
 - supplying the *services* again;
 - five times the cost of having the *services* supplied again; or
 - AUD\$3 per kilo of *goods* lost or damaged.
 - A single total payment of AUD\$250.

- 7.7 For the purposes of calculating the value of the *services* as it is referred to in clause 7.6(b) above, it is limited to the *services provided* in relation to the *goods* lost or damaged, which are proven to have, by way of negligence, wilful misconduct or unlawful conduct caused the direct loss (in accordance with clause 7.6 above) and is inclusive of all losses and associated costs and expenses.

- 7.8 Subject to Clause 7.6, *U Pack It* shall not be liable for loss or damage howsoever caused (whether or not direct, indirect or consequential) to property other than the *goods* themselves and shall not be liable for any pure economic loss or loss of actual or anticipated profit or revenue, loss of goodwill or business or saving or opportunity, losses in connection with contracts, agreements or understandings you have with third parties, delay

or deviation howsoever arising.

7.9 Nothing in this clause 7 shall affect your entitlement to any of the consumer guarantees prescribed by the ACL. If you make any warranty *claim* against *U Pack It* under the ACL, you agree to:

- a) provide sufficient description of the claimed defect to *U Pack It*, so that it may assess the *claim* properly;
- b) be liable for your own costs in obtaining advice on your rights under the ACL, and in making the *claim*; and
- c) indemnify *U Pack It* for *U Pack It's* reasonable costs in attending to any vexatious or unsuccessful *claim*

8 FORCE MAJEURE

8.1 If a *force majeure event* prevents either you or *U Pack It* from carrying out an obligation contained herein, you or *U Pack It* (as the case may be) shall immediately notify the other party in writing of its inability to perform that obligation and include an explanation as to why it is unable to do so. Unless alternative arrangements mutually agreed by you and *U Pack It* may be made to circumvent the *force majeure event*, performance of that obligation shall be suspended until the *force majeure event* ends. If the *force majeure event* persists for more than one month after the aforesaid notice has been sent, that party shall be able to terminate that Agreement by written notification to the other party. All rights which have accrued before that release shall be preserved.

9 TITLE, RISK, RIGHT TO DISPOSE

9.1 Risk in the *goods* remains with you or the owner of the *goods* at all times. Title in the *goods* remains with you, or the owner of the *goods*, subject to *U Pack It's* rights under this clause 9.

9.2 If *U Pack It* supplies one or more *containers* as part of the *services*, risk in such *containers* passes to you whilst you have possession of the *containers*. If you supply one or more *containers* for the *services*, risk in such *containers* remains with you at all times. Title in the *containers* remains with the owner of the *containers* at all times.

9.3 The following clauses in this clause 9 apply if you are required to pay any amount to *U Pack It* whilst the *goods* are in *U Pack It's* possession.

9.4 If you are entitled in law to grant a lien or pledge on the *goods* which come into the possession or control of *U Pack It*, notwithstanding any pre-existing interest in the *goods* (including a security interest as defined by the PPSA), you hereby grant *U Pack It* a general common law lien and pledge on the *goods* to secure all payments which are payable by you to *U Pack It* for the *services*. If you fail to pay any amount which is payable to *U Pack It* under this *agreement*, *U Pack It* may, after 3 months following the provision of written notice to you, exercise its rights under this lien or pledge to retain and sell the *goods* so that proceeds from the sale may be used to pay any debt owed by you to *U Pack It*.

9.5 If the *goods* are stored by *U Pack It* in accordance with your instruction and following the end of the *storage duration*, the *goods* remain in *U Pack It's* possession, *U Pack It* will provide you with written notice, requiring you to instruct *U Pack It* on the delivery or further storage of the *goods*. If *U Pack It* does not receive a response from you within one month of such notification, *U Pack It* will deem such *goods* to be abandoned and will comply with the law applying to abandoned goods as it relates to such *goods*.

9.6 If following the sale of the *goods* in accordance with clause 9.4 or 9.5 and use of the proceeds therefrom to pay the amounts owed by you to *U Pack It* there is a balance from such proceeds, *U Pack It* will use reasonable endeavours to contact you and pay you that balance.

9.7 If you have supplied one or more *containers* for the *services*, for the purposes of this clause 9, *goods* shall include the *containers* you supplied. *U Pack It* will however make reasonable efforts to return such *containers* to the owner of the *containers*, before it disposes these *containers*.

10 CANCELLATION AND CHANGE

200731 U-Pack-It Terms and Conditions .docx

10.1 You may:

- (a) subject to clause 10.2, terminate this *agreement* in writing no later than 2 *business days* before the *commencement date*; or
- (b) postpone any scheduled dates for the delivery or collection of the *container* if you provide *U Pack It* with prior written notice no later than 2 *business days* before the scheduled date for delivery or collection.

10.2 If you choose to terminate this *agreement* in accordance with clause 10.1(a), *U Pack It* will refund you all amounts you have paid, less the *administration fee* and its applicable GST, into an account nominated by you. If you fail to notify *U Pack It* in accordance with clause 10.1(a), *U Pack It* reserves the right to retain all of the amounts paid by you for the *services*.

10.3 If you would like to make any other changes, please contact *U Pack It*. All changes to the *agreement* must be mutually agreed upon and be recorded in writing.

11 NOTICES

11.1 All notices shall be written in English and shall be delivered by hand, by prepaid express post, or by electronic transmission to the address, or e-mail address of the recipient, as described in the *quotation*.

11.2 A notice issued in accordance with clause 11.1 shall be deemed to have been received:

- (a) if it was hand delivered, at the time of delivery;
- (b) if it was posted, on the second business day after posting; or
- (c) if it was sent by electronic transmission, when the sender receives an automated message confirming delivery; or 4 hours after the time sent (as recorded on the device from which the sender sent the email) unless the sender receives an automated message that the email has not been delivered, whichever happens first.

11.3 Notwithstanding clause 11.2, if a notice is received or taken to be received under clause 11.2 after 5.00pm in the place of receipt or on a non-*business day*, it will be deemed to be received at 9.00am on the next *business day*.

11.4 All notices shall take effect from the time they are received or deemed to have been received under clause 11.2 and 11.3, whichever happens first, unless a later time is specified in the notice or herein.

12 GENERAL

12.1 This *agreement* is governed by and will be construed according to the relevant laws of South Australia.

12.2 Any failure or delay by either party in exercising any rights or remedy will not constitute a waiver.

12.3 If any part of this *agreement* is deemed to be illegal, void or unenforceable, that part of this *agreement* will be severed to the extent of that illegality, voidness or unenforceability, without invalidating the remaining provisions.

12.4 This *agreement* shall be read having regard to the provisions of the Australian Consumer Law (set out in Schedule 2 of the *Competition and Consumer Act 2010*) to the extent that those provisions are applicable to this *agreement*. This *agreement* does not have the effect of excluding, restricting or modifying rights under the Australian Consumer Law which cannot be excluded, restricted or modified by agreement. Liability of Northline arising out of any one incident, for breach of a warranty implied into this *agreement* by the Australian Consumer Law, is limited to the following as determined by Northline:

- (a) the supplying of the *services* again; or
- (b) the payment of the cost of having the *services* supplied again.

13 DEFINITIONS

13.1 Unless the context requires otherwise, the following definitions



in this clause 13 apply to this agreement.

- 13.2 *ACL* means the *Australian Consumer Law* as set out in set out in Schedule 2 of the *Competition and Consumer Act 2010 (Cth)*.
- 13.3 *administration fee* means \$50 which is *U Pack It's* fee for administering your request for *services*, and for the subsequent cancellation thereof.
- 13.4 *agreement* means the agreement described in clause 2.3.
- 13.5 *booking confirmation* means written confirmation from *U Pack It* of your booking of *services* containing details of:
- (a) the location for empty *container* drop-off, and the date and estimated time of drop-off;
 - (b) the location for filled *container* drop-off, and the estimated date and time of drop-off; and
 - (c) the location and duration of filled *container* storage, if storage is required by you.
- 13.6 *business day* means any day which is not a Saturday, Sunday, or a public holiday in any part of Australia.
- 13.7 *claims* mean liabilities, obligations, losses, damages, penalties, claims, actions, judgments, suits, costs, or expenses.
- 13.8 *collection location* means the location described in clause 13.5(a).
- 13.9 *commencement date* means:
- (a) if *U Pack It* supplies the *container*, the date on which *U Pack It* delivers the empty *container* to the *collection location*; or
 - (b) if you supply the *container*, the date on which *U Pack It* collects the filled *container* from the *collection location*.
- 13.10 *container* means:
- (a) one or more 6m x 2.4m x 2.8m (20ft) containers offered by *U Pack It* as part of its *services*;
 - (b) if clause 3.2 is applicable, one or more containers supplied by you which comply with the requirements in clause 3.3; or
 - (c) any other type of container mutually agreed by you and *U Pack It*.
- 13.11 *delivery location* means the location described in clause 13.5(b).
- 13.12 *fee* means *U Pack It's* charge for its *services*, as quoted in the *quotation* and if other amounts are payable in accordance with this agreement, such amounts. Unless specified otherwise in writing, this fee excludes GST.
- 13.13 *force majeure event* means an event including but not limited to: acts of God, fire, storm, lightning, floods, adverse weather, earthquakes, landslide; pandemic or epidemic disease; acts of a public enemy, war, rebellion, insurrection, terrorist act, sabotage, online attacks, national emergency; power failure; port block-out, blockage, embargo, strike, lockout, labour disputes or disturbances, work stoppage or other labour hindrance (protected or unprotected industrial action) other than those caused or contributed to by the party affected or which solely affects that party; or any other similar event beyond the reasonable control of the party concerned but does not include a lack of funds for any reason or any other inability to pay.
- 13.14 *goods* means those goods which are to be stored and transported in the *container* in accordance with this *agreement*.
- 13.15 *GST* means goods and services tax imposed under *A New Tax System (Goods and Services Tax) Act 1999 (Cth)* and its respective regulations, as amended from time to time.
- 13.16 *quotation* means the written quotation or service proposal from *U Pack It* for the provision of *services* you requested.
- 13.17 *services* means those services described in clause 3.1.
- 13.18 *storage duration* means the duration of storage described in clause 13.5(c), or if the filled *container* needs to be stored for any reason other than as required by you, the duration of storage determined by *U Pack It* at its absolute discretion.
- 13.19 *storage fee* means \$90 per week, exclusive of GST.
- 13.20 *storage location* means the location described in clause 13.5(c), or if the filled *container* needs to be stored for any reason other than as requested by you, at a *U Pack It* depot nominated by *U Pack It*.
- 13.21 *U Pack It* means Northline Nomineeco Pty Ltd as agent for Northline Partnership ABN 18 677 809 229 of Level 1, 62 The Parade, Norwood, South Australia 5067; and includes the successors, administrators and assigns thereof, and where not repugnant to the context, the servants, agents and subcontractors thereof.
- 13.22 *valuables* means cash, banknotes, jewellery, precious gems, bullion, stamp or other collections or documents of value.